

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 592*

Short Title: Preserving Value of Property/Paving of Roads. (Public)

Sponsors: Senator Kinnaird.

Referred to: Transportation.

April 14, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO MAINTAIN OR
3 PAVE CERTAIN ROADS IN A MANNER CONSISTENT WITH THE ORIGINAL
4 CONSTRUCTION OF THE ROAD TO PRESERVE THE HISTORIC APPEARANCE
5 AND VALUE OF HISTORIC PROPERTIES ADJOINING THE ROAD OR TO
6 PRESERVE HIGH SCENIC VALUE PROPERTIES OR ENHANCE LOW-VOLUME
7 BUSINESS OR AGRIBUSINESS VENTURES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 2A of Chapter 136 of the General Statutes is amended by
10 adding a new section to read:

11 "**§ 136-44.13. Paving or maintenance of certain roadways.**

12 (a) Notwithstanding the provisions of G.S. 136-44.5 and G.S. 136-44.7, the Department
13 shall not pave or maintain that portion of a roadway that adjoins a property designated as
14 historic or of any roadway that has been designated as having high scenic value or where
15 leaving the road unpaved enhances a low-volume business or agribusiness venture, unless the
16 owner of the adjoining property consents to having the road paved or maintained at the
17 Department's current standards.

18 (b) If the owner of property adjoining the roadway does not consent to the upgrade of
19 the roadway to the Department's current standards, the Department may pave or maintain the
20 road in a manner and to a standard that preserves the historic value and appearance of the
21 adjoining historic property, preserves the scenic value, or enhances a low-volume business or
22 agribusiness venture by using different standards, by maintaining the original roadbed, by using
23 the standards in place at the time the road was laid out or constructed, or by not paving or
24 maintaining the roadway at all.

25 (c) The Department may reevaluate the road conditions at any time to determine if the
26 road should remain unpaved or paved or maintained in a nonstandard way. In choosing
27 between the improvement of an existing highway and complete reconstruction, the Department
28 shall weigh the following factors:

- 29 (1) Disruption to homes and businesses.
30 (2) Environmental impacts.
31 (3) The benefits attainable by designing and constructing the improvement as a
32 limited access facility.
33 (4) The potential effects on the local and State economies.
34 (5) Cost-effectiveness of the project.
35 (6) Mobility.
36 (7) Safety, as determined by factors such as accident history for motorists,
37 pedestrians, and bicyclists.



- 1 (8) Local or regional plans as interpreted by the adopting entity, and the
2 Department's transportation plans.
- 3 (9) The impact on the historic, scenic, and aesthetic values of the property, as
4 interpreted by the county in which the highway is located.
- 5 (10) If it is a highway under federal jurisdiction.
- 6 (d) The Department may, without the consent of the owner of property adjoining the
7 road, pave the road in a standard way if the Department determines that the condition of the
8 road places the lives of the motoring public in jeopardy based on all of the following:
 - 9 (1) The number of vehicles traveling the road.
 - 10 (2) The condition of the road.
 - 11 (3) The speed limit on the road.
 - 12 (4) The number of crashes occurring on the unpaved portion of the road.
 - 13 (5) The potential effects on the local and State economies based on the use of
14 the road.
- 15 (e) If the Department acts under subsection (d) of this section, the Department shall pay
16 to the owner or owners of property adjoining the road the depreciation in the historic, scenic, or
17 business goodwill value of the property caused by the paving of the road to the current
18 standard.
- 19 (f) Notwithstanding the provisions of G.S. 136-44.5, roads that are removed from the
20 secondary roads annual work program under the provisions of this section shall be excluded
21 from the number of unpaved miles of State-maintained roads and shall not be considered for
22 the purposes of determining the amount of funding for roads in the county in which the road is
23 located."

24 **SECTION 2.** This act is effective when it becomes law.