

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 483
SENATE BILL 64

AN ACT TO CREATE A RAIL COUNCIL WITHIN THE DEPARTMENT OF
TRANSPORTATION AND TO BROADEN THE AUTHORITY OF THE BOARD
OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 9. North Carolina Rail Council.

"§ 143B-361. Findings.

The General Assembly finds that:

- (1) The rail system in North Carolina is an irreplaceable transportation resource;
- (2) The promotion and preservation of railroads operating within North Carolina as transportation resources and economic development tools is vital to the State's economy, and the continued economic viability of railroads is a necessary part of the free enterprise system;
- (3) A healthy rail system is vital to a competitive State economy, and railroads must be allowed, through effective public policy, to compete fairly in the transportation marketplace and to provide those transportation services for which rail is suitable;
- (4) The preservation of rail corridors, through branch line rehabilitation and State acquisition of strategic corridors, is in the public interest and is an integral and necessary part of a balanced transportation system; and
- (5) As the owner of the majority interest in the North Carolina Railroad Company, the State has a vested interest in the preservation, development, and well-being of the North Carolina Railroad.

"§ 143B-362. North Carolina Rail Council – creation; powers and duties.

There is created the North Carolina Rail Council of the Department of Transportation. The Rail Council shall:

- (1) Advise the Governor, Secretary of Transportation, Board of Transportation, and General Assembly on policy concerning the preservation and enhancement of the State's rail system, including the acquisition and management of existing rail corridors, revitalization and rehabilitation of active freight and passenger railways,

- improvements in rail safety, and promotion of competitive rail passenger services;
- (2) Designate a Strategic Rail System, with the North Carolina Railroad as its foundation, to be approved by the Board of Transportation;
 - (3) Recommend to the Board of Transportation funding sources and levels to accomplish the purposes of this act;
 - (4) Plan and recommend the distribution of financial assistance for the revitalization of railroads and conservation of rail corridors as authorized in G.S. 136-44.36;
 - (5) Plan and recommend the acquisition of rail corridors for future use as authorized in G.S. 136-44.36A and oversee the protection and maintenance of preserved rail corridors;
 - (6) Otherwise assist in the preservation of the rail system in North Carolina through branch line rehabilitation and revitalization and through corridor acquisition by the Department of Transportation, and encourage cooperation between the Department of Transportation and railroad companies in preserving the linear integrity of strategic corridors;
 - (7) Advise the Department of Transportation on the reinvestment in the State's rail system of the annual dividends received by the State from its ownership of stock in the North Carolina Railroad and appropriated to the Department in G.S. 136-16.6;
 - (8) Promote and assist in the preservation of rail access to the facilities operated by the State Ports Authority and to passenger and cargo airport facilities; and
 - (9) Perform any other duties relating to the promotion and preservation of railroads which the Secretary may recommend.

The Council shall report its activities to the General Assembly by March 1 in odd-numbered years and to the Joint Legislative Commission on Governmental Operations by March 1 in even-numbered years.

"§ 143B-363. North Carolina Rail Council – members; selection; compensation.

(a) The North Carolina Rail Council shall consist of 18 members, 14 of which shall be appointed by the Governor, who, in making the appointments, shall designate one person from each of the 14 transportation engineering divisions of the State. Of the members appointed by the Governor, at least two members shall possess broad knowledge of railroad operations, at least two members shall represent local government interests, and at least two members shall represent the interests of shippers or passengers using rail service. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint two members, who may be members of the General Assembly. All members of the Council should have an interest in developing policy for the promotion and preservation of railroads as part of a balanced transportation system.

(b) Nine of the initial members appointed by the Governor shall serve on the Council for terms of three years beginning July 1, 1993. The remaining members shall

be appointed for terms of two years beginning July 1, 1993. Upon the expiration of each member's term, a successor shall be appointed for a term of two years. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, or death of a member shall be for the balance of the unexpired term.

(c) Each appointing officer may remove any member of the Council appointed by him for the reasons that members of boards, councils, or committees may be removed by the Governor pursuant to G.S. 143B-16.

(d) The Governor shall designate a member of the Council to serve as chairman at his pleasure.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Members of the Council shall be subject to the provisions of G.S. 136-13, 136-13.1, and 136-14.

(g) All clerical and other services required by the Council shall be supplied by the Secretary of Transportation."

Sec. 2. G.S. 136-14.1 reads as rewritten:

"§ 136-14.1. Highway Transportation engineering divisions.

For purposes of administering ~~the highway transportation~~ activities, the Department of Transportation shall have authority to designate boundaries of ~~highway transportation~~ engineering divisions for the proper administration of its duties."

Sec. 3. G.S. 136-17.2 reads as rewritten:

"§ 136-17.2. Members of the Board of Transportation represent entire State.

The chairman and members of the Board of Transportation shall represent the entire State in ~~highway transportation~~ matters and not represent any particular person, persons, or area. The Board shall, from time to time, provide that one or more of its members or representatives shall publicly hear any person or persons concerning ~~highway transportation~~ matters in each of said geographic areas of the State."

Sec. 4. G.S. 143B-350(b), (c), and (h) read as rewritten:

"(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.

(c) The Board of Transportation shall have ~~24~~20 members appointed by the Governor. One member shall be appointed from each of the 14 ~~highway transportation~~ engineering divisions and ~~seven~~six members shall be appointed from the State at large. One at-large member shall be a registered voter of a political party other than the political party of the Governor. At least one at-large member shall possess a broad knowledge of public transportation matters. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years

thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.

(h) Each member of the Board of Transportation ~~representing who is appointed to represent a highway transportation engineering division, or residing in that highway engineering division if the member is appointed from the State at large, division or who resides in a division~~ shall be consulted before the Board makes a decision affecting that division."

Sec. 5. Notwithstanding G.S. 143B-350(b) and (c), as amended by this act, if the chairman of the North Carolina Rail Council is not already a member of the Board of Transportation on the effective date of this act, that chairman shall not become a member of the Board until a vacancy occurs in the at-large membership of the Board, and there shall continue to be seven at-large members of the Board until the vacancy occurs.

Sec. 6. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives