

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 82

Short Title: State Historic Properties.

(Public)

Sponsors: Representatives Perdue; Hasty, DeVane, Gibson, Warner, R. Thompson, Rogers, and Colton.

Referred to: Basic Resources.

January 25, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE PROTECTION OF NORTH CAROLINA HISTORIC  
3 PROPERTIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 121 of the General Statutes is amended by adding a new  
6 Article to read:

7 **“ARTICLE 1A.**

8 **“PROTECTION OF NORTH CAROLINA HISTORIC PROPERTIES.**

9 **“§ 121-13.5. North Carolina Advisory Council on Historic Preservation.**

10 (a) There is established a North Carolina Advisory Council on Historic  
11 Preservation (‘Council’), which shall be composed of 13 members, to be appointed as  
12 follows:

- 13 (1) A chairman appointed by the Governor from the general public;  
14 (2) The Chairman of the North Carolina Historical Commission;  
15 (3) The Secretaries of the Departments of Administration, Commerce,  
16 Cultural Resources, Natural Resources and Community Development,  
17 and Transportation, or their designees;  
18 (4) One elected head of a unit of local government, appointed by the  
19 General Assembly, upon recommendation of the Speaker of the House  
20 of Representatives;  
21 (5) Four experts in the field of historic preservation from the disciplines of  
22 Architecture, History, Archaeology, and other appropriate disciplines,  
23 two of whom shall be appointed by the General Assembly upon

1 recommendation of the Speaker of the House of Representatives and  
2 two of whom shall be appointed by the General Assembly upon  
3 recommendation of the President Pro Tempore of the Senate; and

4 (6) One individual from the general public, appointed by the General  
5 Assembly upon recommendation of the President Pro Tempore of the  
6 Senate.

7 All members are voting members. A majority constitutes a quorum. The chairman  
8 shall vote in all issues requiring a vote.

9 (b) All appointed members serve four-year terms, except for the member  
10 appointed pursuant to subdivision (4) of subsection (a) of this section, who shall serve  
11 for the term of elected office, but no longer than four years. Each member may be  
12 reappointed to serve an additional consecutive term. After being off the Council for a  
13 four-year term, a member may be reappointed. Vacancies in membership shall be filled  
14 under the authority that the member leaving the vacancy was appointed. An appointed  
15 member whose term has expired shall serve until the member's successor has been  
16 appointed.

17 (c) The Council shall:

18 (1) Facilitate the protection of historic properties in State planning and  
19 development pursuant to this Chapter;

20 (2) Provide, in cooperation with the State Preservation Officer, training  
21 and education in the field of historic preservation to appropriate  
22 officials and personnel of State agencies; and

23 (3) Encourage and develop in cooperation with the Secretaries of the  
24 Departments of Administration and Cultural Resources, and in  
25 consultation with the Secretaries of the Departments of Transportation,  
26 Commerce, and Natural Resources and Community Development, and  
27 the League of Municipalities and the Association of County  
28 Commissioners, and the North Carolina Historic Preservation  
29 Foundation, a central clearing house for information on historic  
30 preservation for the benefit and use of public and private agencies and  
31 individuals in North Carolina.

32 (d) Financial and administrative services shall be provided by the Department of  
33 Cultural Resources. The Council shall submit its budget as a related agency of the  
34 Department of Cultural Resources. The Executive Secretary of the Council shall be the  
35 State Historic Preservation Officer.

36 (e) The North Carolina Historical Commission in consultation with the  
37 Department of Administration shall adopt rules to implement the provisions of this  
38 Article.

39 (f) Until such time as the North Carolina Advisory Council on Historic  
40 Preservation is funded and in full force and effect, its duties and responsibilities shall be  
41 undertaken by the North Carolina Historical Commission, to the extent possible.

42 **"§ 121-13.6. North Carolina Advisory Council on Historic Preservation; agency**  
43 **cooperation, consultation.**

1       The Council shall, meeting at such times and according to such procedures as it  
2 prescribes by rule, to provide an advisory and coordinative mechanism in and by which  
3 State undertakings of every kind that are potentially harmful to the cause of historic  
4 preservation within the State may be discussed, and when possible, resolved, giving due  
5 consideration to the competing public interests that may be involved. To this end, the  
6 head of any State agency having direct or indirect jurisdiction over a proposed State or  
7 State-assisted authorized undertaking, or the head of any State department, board,  
8 commission, or independent agency, having authority to build, construct, operate,  
9 license, authorize, assist, or approve any undertaking, shall, prior to the approval of any  
10 State funds for the undertaking, or prior to any approval, license, or authorization, as the  
11 case may be, take into account the effect of the undertaking on any district, site,  
12 building, structure, or object that is listed in or eligible for the North Carolina Register  
13 of Historic Places, established pursuant to G.S. 121-4.1.

14       When, in the judgment of the Council, an undertaking will have an effect upon any  
15 listed district, site, building, structure, area, or object, the head of the appropriate State  
16 agency shall afford the Council a reasonable opportunity to comment with regard to the  
17 undertaking.

18       The Council shall act with reasonable diligence to ensure that all State departments,  
19 boards, commissions, or agencies potentially affected by the provisions of this section  
20 be kept currently informed with respect to the name, location, and other significant  
21 particulars of any district, site, building, structure, or object listed or placed upon the  
22 North Carolina Register of Historic Places. Each affected State department or agency  
23 shall furnish, either upon its own initiative or at the request of the Council such  
24 information as may reasonably be required by the Council for the proper  
25 implementation of this section.

26       **"§ 121-13.7. State agencies' responsibilities for protection of historic properties.**

27       Consonant with G.S. 121-5 and G.S.121-6, the heads of all State agencies shall:

- 28           (1)       With the advice of the State Preservation Officer, locate, inventory,  
29                   and provide to the Department of Cultural Resources a listing of all  
30                   buildings, structures, sites, districts, and objects under their jurisdiction  
31                   or control that qualify for inclusion in the North Carolina Register of  
32                   Historic Places, established pursuant to G.S. 121-4.1. This listing shall  
33                   be completed by July 1, 1992;
- 34           (2)       Exercise caution during the interim period until inventories and  
35                   evaluations required by subdivision (1) of this section are completed to  
36                   assure that any State-owned property that might qualify for listing is  
37                   not inadvertently transferred, sold, demolished, or substantially altered.  
38                   The agency shall refer any questionable actions to the State Historic  
39                   Preservation Officer for an opinion respecting the property's eligibility  
40                   for inclusion in the North Carolina Register of Historic Places;
- 41           (3)       Initiate measures to assure that, when as a result of State action,  
42                   assistance, or license, a property listed in the North Carolina Register  
43                   of Historic Places is to be substantially altered or demolished, timely  
44                   steps be taken to make or have made records, including measured

1 drawings, photographs, and maps of the property, and that copies of  
2 these records then be deposited in the State archives for future  
3 reference and use. Agencies may call on the State Historic  
4 Preservation Officer for advice and technical assistance in the  
5 completion of these records;

6 (4) Initiate measures to assure that, when as a result of State action,  
7 assistance, or license, as archaeological property listed in or eligible  
8 for the North Carolina Register of Historic Places is to be substantially  
9 damaged or destroyed, timely steps be taken for data recovery and that  
10 a report of this recovery be submitted to the North Carolina SHPO.  
11 Agencies may call upon the North Carolina SHPO for advice and  
12 technical assistance in the completion of this data recovery and report.

13 (5) Initiate measures and procedures to provide for the maintenance,  
14 through preservation, rehabilitation, or restoration, of State-owned and  
15 registered sites to professional standards prescribed by the North  
16 Carolina Historical Commission;

17 (6) Designate a qualified official to be known as that agency's  
18 'Preservation Officer' who shall be responsible for coordinating that  
19 agency's activities under this section. Each agency's preservation  
20 officer may, in order to be considered qualified, satisfactorily complete  
21 an appropriate training program established by the State Historic  
22 Preservation Officer;

23 (7) When appropriate, allocate funds appropriated for their agency's  
24 authorized programs for the purposes of activities carried out pursuant  
25 to this section, except to the extent that appropriations legislation  
26 expressly provides otherwise. Each State agency may include the  
27 costs of preservation activities under this section as eligible project  
28 costs in all undertakings of that agency or assisted by that agency.  
29 These eligible project costs may also include amounts paid by a State  
30 agency to any other State agency, corporation, institution of higher  
31 education, of professional education, to be used in carrying out the  
32 preservation protection activities of that State agency under this  
33 Article. These eligible project costs may also include reasonable costs  
34 charged to State licensees and permittees as a condition of the issuance  
35 of the license or permit;

36 (8) In consultation with the North Carolina Historical Commission,  
37 institute procedures to assure that agency plans and programs  
38 (including those under which any State assistance is provided or any  
39 State license, permit, or other approval is required), contribute to the  
40 preservation and enhancement of non-State-owned properties of  
41 historical, architectural, or archaeological significance; and

42 (9) After consultation with the State Historic Preservation Officer,  
43 withhold from public disclosure information relating to the location or  
44 character of historic resources whenever the head of the agency or the

1                    State Historic Preservation Officer determines that the disclosure of  
2                    this information may create substantial risk of harm, theft, or  
3                    destruction to these resources or to the place or area where these  
4                    resources are located. Each agency that so withholds information shall  
5                    ensure that this information is shared on a confidential basis with those  
6                    people that require it in order to participate in the review of  
7                    undertakings under G.S.121-44 and under this Article."

8                    Sec. 2. There is appropriated from the General Fund to the Department of  
9 Cultural Resources the sum of fifteen thousand dollars (\$15,000) for the 1989-90 fiscal  
10 year and the sum of fifteen thousand dollars (\$15,000) for the 1990-91 fiscal year, to  
11 fund the Council established by this act.

12                    Sec. 3. This act shall become effective October 1, 1989.