

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 83\*

Marine Resources & Wildlife Committee Substitute Adopted 5/3/89

Short Title: Ports Authority Appoint Director.

(Public)

Sponsors:

Referred to:

February 1, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE BOARD OF THE STATE PORTS AUTHORITY TO APPOINT THE EXECUTIVE DIRECTOR OF THE AUTHORITY, TO AUTHORIZE THE EXECUTIVE DIRECTOR TO APPOINT, EMPLOY, DISMISS AND FIX THE COMPENSATION OF OTHER PORTS AUTHORITY EMPLOYEES, AND TO APPOINT THE SECRETARY OF COMMERCE AS A MEMBER OF THE AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-454 reads as rewritten:

§ 143B-454. Powers of Authority.

(a) In order to enable it to carry out the purposes of this Part, the said Authority shall:

- (1) Have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
(2) Have the authority to make all necessary contracts and arrangements with other port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the business of the North Carolina State Ports Authority;
(3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or person, as said Authority may deem proper to carry out the purposes and provisions of this Part, all or any of them;

- 1 (4) Be authorized and empowered to acquire, construct, maintain, equip  
2 and operate any wharves, docks, piers, quays, elevators, compresses,  
3 refrigeration storage plants, warehouses and other structures, and any  
4 and all facilities needful for the convenient use of the same in the aid  
5 of commerce, including the dredging of approaches thereto, and the  
6 construction of beltline roads and highways and bridges and  
7 causeways thereon, and other bridges and causeways necessary or  
8 useful in connection therewith, and shipyards, shipping facilities, and  
9 transportation facilities incident thereto and useful or convenient for  
10 the use thereof, excluding terminal railroads;
- 11 (5) ~~The Secretary of Commerce with the approval of the~~ Authority shall  
12 appoint an Executive Director, whose salary shall be fixed by the  
13 ~~General Assembly in the Current Operations Appropriations Act,~~ Authority,  
14 to serve at ~~his~~ its pleasure. ~~The Secretary of Commerce~~ Executive  
15 Director or his designee shall appoint, employ, dismiss and, within the  
16 limits of available funding, fix the compensation of such other  
17 employees as he deems necessary to carry out the purposes of this Part.  
18 There shall be an executive committee consisting of the chairman of  
19 the Authority and two other members elected annually by the  
20 Authority. The executive committee shall be vested with authority to  
21 do all acts which are authorized by the bylaws of the Authority.  
22 Members of the executive committee shall serve until their successors  
23 are elected;
- 24 (6) Establish an office for the transaction of its business at such place or  
25 places as, in the opinion of the Authority, shall be advisable or  
26 necessary in carrying out the purposes of this Part;
- 27 (7) Be authorized and empowered to create and operate such agencies and  
28 departments as said board may deem necessary or useful for the  
29 furtherance of any of the purposes of this Part;
- 30 (8) Be authorized and empowered to pay all necessary costs and expenses  
31 involved in and incident to the formation and organization of said  
32 Authority, and incident to the administration and operation thereof,  
33 and to pay all other costs and expenses reasonably necessary or  
34 expedient in carrying out and accomplishing the purposes of this Part;
- 35 (9) Be authorized and empowered to apply for and accept loans and grants  
36 of money from any federal agency or the State of North Carolina or  
37 any political subdivision thereof or from any public or private sources  
38 available for any and all of the purposes authorized in this Article, and  
39 to expend the same in accordance with the directions and requirements  
40 attached thereto, or imposed thereon by any such federal agency, the  
41 State of North Carolina, or any political subdivision thereof, or any  
42 public or private lender or donor, and to give such evidences of  
43 indebtedness as shall be required, provided, however, that no  
44 indebtedness of any kind incurred or created by the Authority shall

1 constitute an indebtedness of the State of North Carolina, or any  
2 political subdivision thereof, and no such indebtedness shall involve or  
3 be secured by the faith, credit or taxing power of the State of North  
4 Carolina, or any political subdivision thereof;

5 (10) Be authorized and empowered to act as agent for the United States of  
6 America, or any agency, department, corporation, or instrumentality  
7 thereof, in any matter coming within the purposes or powers of the  
8 Authority;

9 (11) Have power to adopt, alter or repeal its own bylaws, rules and  
10 regulations governing the manner in which its business may be  
11 transacted and in which the power granted to it may be enjoyed, and  
12 may provide for the appointment of such committees, and the  
13 functions thereof, as the Authority may deem necessary or expedient in  
14 facilitating its business;

15 (12) Be authorized and empowered to do any and all other acts and things  
16 in this Part authorized or required to be done, whether or not included  
17 in the general powers in this section mentioned; and

18 (13) Be authorized and empowered to do any and all things necessary to  
19 accomplish the purposes of this Part: Provided, that said Authority  
20 shall not engage in shipbuilding.

21 The property of the Authority shall not be subject to any taxes or assessments  
22 thereon.

23 Prior to taking any action under this subsection, the Authority may consult with the  
24 Advisory Budget Commission.

25 (b) In order to execute the powers enumerated in subsection (a), the Authority  
26 shall determine the policies of the North Carolina State Ports Authority by majority vote  
27 of all members of the Authority present and voting. Once a policy is determined, the  
28 Authority shall communicate it to the Executive Director, who shall have the sole and  
29 exclusive authority to execute the policy of the Authority. No member of the Authority  
30 shall have responsibility or authority to give operational directives to any employee of  
31 the North Carolina State Ports Authority other than the Executive Director."

32 Sec. 2. G.S. 143B-452 reads as rewritten:

33 **"§ 143B-452. Creation of Authority – membership; appointment, terms and**  
34 **vacancies; officers; meetings and quorum; compensation.**

35 The North Carolina State Ports Authority is hereby created. It shall be governed by a  
36 board composed of nine members and hereby designated as the Authority. Effective  
37 July 1, 1983, it shall be governed by a board composed of 11 members and hereby  
38 designated as the Authority. The General Assembly suggests and recommends that no  
39 person be appointed to the Authority who is domiciled in the district of the North  
40 Carolina House of Representatives or the North Carolina Senate in which a State port is  
41 located. The Governor shall appoint seven members to the Authority, and the General  
42 Assembly shall appoint two members of the Authority. Effective July 1, 1983, the  
43 Authority shall consist of seven persons appointed by the Governor, and four persons  
44 appointed by the General Assembly. Effective July 1, 1989, the Governor shall appoint

1 six members to the Authority, in addition to the Secretary of Commerce, who shall  
2 serve as a voting member of the Authority by virtue of his office. The Secretary of  
3 Commerce shall fill the first vacancy occurring after July 1, 1989, in a position on the  
4 Authority over which the Governor has appointive power.

5 The initial appointments by the Governor shall be made on or after March 8, 1977,  
6 two terms to expire July 1, 1979; two terms to expire July 1, 1981; and three terms to  
7 expire July 1, 1983. Thereafter, at the expiration of each stipulated term of office all  
8 appointments made by the Governor shall be for a term of six years. The members of  
9 the Authority appointed by the Governor shall be selected from the state-at-large and  
10 insofar as practicable shall represent each section of the State in all of the business,  
11 agriculture, and industrial interests of the State. Any vacancy occurring in the  
12 membership of the Authority appointed by the Governor shall be filled by the Governor  
13 for the unexpired term. The Governor shall have the authority to remove any member  
14 appointed by the Governor.

15 The General Assembly shall appoint two persons to serve terms expiring June 30,  
16 1983. The General Assembly shall appoint four persons to serve terms beginning July 1,  
17 1983, to serve until June 30, 1985, and successors shall serve for two-year terms. Of the  
18 two appointments to be made in 1982, one shall be made upon the recommendation of  
19 the Speaker, and one shall be made upon the recommendation of the President of the  
20 Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be  
21 made upon the recommendation of the President of the Senate, and two shall be made  
22 upon the recommendation of the Speaker. Appointments by the General Assembly shall  
23 be made in accordance with G.S. 120-121, and vacancies in those appointments shall be  
24 filled in accordance with G.S. 120-122.

25 The Governor shall appoint from the members of the Authority the chairman and  
26 vice-chairman of the Authority. ~~The Secretary of Commerce or his designee shall serve as~~  
27 ~~secretary of the Authority.~~ The members of the Authority shall appoint a treasurer and  
28 secretary of the Authority.

29 The Authority shall meet once in each 60 days at such regular meeting time as the  
30 Authority by rule may provide and at any place within the State as the Authority may  
31 provide, and shall also meet upon the call of its chairman or a majority of its members.  
32 A majority of its members shall constitute a quorum for the transaction of business. The  
33 members of the Authority shall not be entitled to compensation for their services, but  
34 they shall receive per diem and necessary travel and subsistence expense in accordance  
35 with G.S. 138-5."

36 Sec. 3. This act is effective upon ratification.