

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1716

State Personnel and State Government Committee Substitute Adopted 6/20/94

Short Title: Transfer Ports Authority.

(Public)

Sponsors:

Referred to: Appropriations.

June 13, 1994

A BILL TO BE ENTITLED

**AN ACT TO TRANSFER THE NORTH CAROLINA STATE PORTS AUTHORITY
AND THE NORTH CAROLINA PORTS RAILWAY COMMISSION TO THE
DEPARTMENT OF TRANSPORTATION AND TO AMEND THE
RESPONSIBILITIES OF THE BOARD OF TRANSPORTATION.**

The General Assembly of North Carolina enacts:

Section 1. The North Carolina State Ports Authority, as set forth in Part 10 of Article 10 of Chapter 143B of the General Statutes, is transferred to the Department of Transportation in accordance with this act. Except as otherwise provided in this act, this transfer has all the elements of a Type II transfer as defined by G.S. 143A-6(b).

Sec. 2. Part 10 of Article 10 of Chapter 143B of the General Statutes is recodified as Part 10 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-363.1 through G.S. 143B-363.16.

Sec. 3. The North Carolina Ports Railway Commission, as set forth in Part 11 of Article 10 of Chapter 143B of the General Statutes, is transferred to the Department of Transportation in accordance with this act. This transfer has all the elements of a Type II transfer as defined by G.S. 143A-6(b).

Sec. 4. Part 11 of Article 10 of Chapter 143B of the General Statutes is recodified as Part 11 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-364.1 through G.S. 143B-364.4.

Sec. 5. The terms of the appointed members of the Board of the North Carolina State Ports Authority and the members of the North Carolina Ports Railway Commission serving on June 30, 1994, shall terminate on that date. New members of

1 the Board of the North Carolina State Ports Authority shall be appointed as provided in
2 Section 6 of this act. New members of the North Carolina Ports Railway Commission
3 shall be appointed as provided in Section 11 of this act.

4 Sec. 6. G.S. 143B-452, as recodified as G.S. 143B-363.1 by Section 2 of this
5 act, reads as rewritten:

6 **"§ 143B-363.1. Creation of Authority – membership; appointment, terms and**
7 **vacancies; officers; meetings and quorum; compensation.**

8 The North Carolina State Ports Authority is hereby created. The North Carolina
9 State Ports Authority shall be located within the Department of Transportation, but the
10 power of the Authority to employ, direct, and supervise personnel shall be as provided
11 in this Part. It shall be governed by a board composed of nine members and hereby designated
12 as the Authority.—Effective July 1, 1983, ~~1994,~~ it shall be governed by a board composed
13 of ~~11~~ 12 members and hereby designated as the Authority. ~~The General Assembly~~
14 ~~suggests and recommends that no person be appointed to the Authority who is domiciled in the~~
15 ~~district of the North Carolina House of Representatives or the North Carolina Senate in which a~~
16 ~~State port is located. The Governor shall appoint seven members to the Authority, and the~~
17 ~~General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the~~
18 ~~Authority shall consist of seven persons appointed by the Governor, and four persons appointed~~
19 ~~by the General Assembly.~~—Effective July 1, 1989, ~~1994,~~ the Governor shall appoint six
20 four members to the Authority, in addition to the Secretary of ~~Commerce,~~ Commerce
21 and the Secretary of Transportation, who shall serve as a voting member voting members
22 of the Authority by virtue of his office. ~~their offices.~~ ~~The Secretary of Commerce shall fill~~
23 ~~the first vacancy occurring after July 1, 1989, in a position on the Authority over which the~~
24 ~~Governor has appointive power.~~

25 The ~~initial~~ appointments by the Governor shall be made on or after ~~March 8, 1977,~~
26 ~~two~~ July 1, 1994, ~~two~~ terms to expire ~~July 1, 1979;~~ ~~two~~ March 1, 1997; and ~~two~~ terms to
27 expire ~~July 1, 1981;~~ and ~~three~~ terms to expire ~~July 1, 1983.~~ March 1, 1998. Thereafter, at
28 the expiration of each stipulated term of office all appointments made by the Governor
29 shall be for a term of ~~six~~ four years.

30 ~~To stagger further the terms of members:~~

- 31 (1) ~~Of the members appointed by the Governor to replace the members~~
32 ~~whose terms expire on July 1, 1991, one member shall be appointed to~~
33 ~~a term of five years, to expire on June 30, 1996; the other member~~
34 ~~shall be appointed for a term of six years, to expire on June 30, 1997;~~
35 (2) ~~Of the members appointed by the Governor to replace the members~~
36 ~~whose terms expire on July 1, 1993, one member shall be appointed to~~
37 ~~a term of five years, to expire on June 30, 1998; the other member~~
38 ~~shall be appointed to a term of six years, to expire on June 30, 1999;~~
39 (3) ~~Of those members appointed by the Governor to replace the members~~
40 ~~whose terms expire on July 1, 1995, one member shall be appointed to~~
41 ~~a term of five years, to expire on June 30, 2000; the other member~~
42 ~~shall be appointed to a term of six years, to expire on June 30, 2001.~~

43 Thereafter, at the expiration of each stipulated term of office all appointments made
44 by the ~~governor~~ shall be for a term of six years.

1 The members of the Authority appointed by the Governor shall be selected from the
2 State-at-large and insofar as practicable shall represent each section of the State in all of
3 the business, agriculture, and industrial interests of the State. Any vacancy occurring in
4 the membership of the Authority appointed by the Governor shall be filled by the
5 Governor for the unexpired term. The Governor may remove a member appointed by
6 the Governor only for reasons provided by G.S. 143B-13.

7 ~~The General Assembly shall appoint two persons to serve terms expiring June 30,~~
8 ~~1983. The General Assembly shall appoint four persons to serve terms beginning July~~
9 ~~1, 1983, to serve until June 30, 1985, and successors shall serve for two year terms. Of~~
10 ~~the two appointments to be made in 1982, one shall be made upon the recommendation~~
11 ~~of the Speaker, and one shall be made upon the recommendation of the President of the~~
12 ~~Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be~~
13 ~~made upon the recommendation of the President of the Senate, and two shall be made~~
14 ~~upon the recommendation of the Speaker. To stagger further the terms of members:~~

- 15 (1) ~~Of the members appointed upon the recommendation of the Speaker to~~
16 ~~replace the members whose terms expire on June 30, 1991, one~~
17 ~~member shall be appointed to a term of one year, to expire on June 30,~~
18 ~~1992; the other member shall be appointed to a term of two years, to~~
19 ~~expire on June 30, 1993;~~
20 (2) ~~Of the members appointed upon the recommendation of the President~~
21 ~~of the Senate to replace the members whose terms expire on June 30,~~
22 ~~1991, one member shall be appointed to a term of one year, to expire~~
23 ~~on June 30, 1992; the other member shall be appointed to a term of~~
24 ~~two years, to expire on June 30, 1993.~~

25 Effective July 1, 1994, the General Assembly shall appoint six persons to serve as
26 members of the Authority. Of the six appointments, two shall be upon the
27 recommendation of the President Pro Tempore of the Senate, two shall be upon the
28 recommendation of the President of the Senate, and two shall be upon the
29 recommendation of the Speaker of the House of Representatives. To stagger further the
30 terms of members:

- 31 (1) Of the members appointed effective July 1, 1994, upon the
32 recommendation of the Speaker of the House of Representatives, one
33 member shall be appointed to a term of one year, to expire on June 30,
34 1995; the other member shall be appointed to a term of two years, to
35 expire on June 30, 1996;
36 (2) Of the members appointed effective July 1, 1994, upon the
37 recommendation of the President of the Senate, one member shall be
38 appointed to a term of one year, to expire on June 30, 1995; the other
39 member shall be appointed to a term of two years, to expire on June
40 30, 1996;
41 (3) Of the members appointed effective July 1, 1994, upon the
42 recommendation of the President Pro Tempore of the Senate, one
43 member shall be appointed to a term of one year, to expire on June 30,

1 1995; the other member shall be appointed to a term of two years, to
2 expire on June 30, 1996.

3 Thereafter, at the expiration of each stipulated term of office all appointments made
4 by the General Assembly shall be for terms of two years.

5 Appointments by the General Assembly shall be made in accordance with G.S. 120-
6 121, and vacancies in those appointments shall be filled in accordance with G.S. 120-
7 122. Members appointed by the General Assembly may be removed only for reasons
8 provided by G. S. 143B-13.

9 The Governor shall appoint from the members of the Authority the chairman and
10 vice-chairman of the Authority. The members of the Authority shall appoint a treasurer
11 and secretary of the Authority.

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

19 Sec. 7. G.S. 143B-453, as recodified as G.S. 143B-363.2 by Section 2 of this
20 act, reads as rewritten:

21 "**§ 143B-363.2. Purposes of Authority.**

22 Through the Authority hereinbefore created, the State of North Carolina may engage
23 in promoting, developing, constructing, equipping, maintaining and operating the
24 harbors and seaports within the State, or within the jurisdiction of the State, and works
25 of internal improvements incident thereto, including the acquisition or construction,
26 maintenance and operation at such seaports or harbors of watercraft and highways and
27 bridges thereon or essential for the proper operation thereof. Said Authority is created
28 as an instrumentality of the State of North Carolina for the accomplishment of the
29 following general purposes:

- 30 (1) To develop and improve the harbors or seaports at Wilmington,
31 Morehead City and Southport, North Carolina, and such other places,
32 including inland ports and facilities, as may be deemed feasible for a
33 more expeditious and efficient handling of waterborne commerce from
34 and to any place or places in the State of North Carolina and other
35 states and foreign countries.
- 36 (2) To acquire, construct, equip, maintain, develop and improve the port
37 facilities at said ports and to improve such portions of the waterways
38 thereat as are within the jurisdiction of the federal government.
- 39 (3) To foster and stimulate the shipment of freight and commerce through
40 said ports, whether originating within or without the State of North
41 Carolina, including the investigation and handling of matters
42 pertaining to all transportation rates and rate structures affecting the
43 same.

- 1 (4) To cooperate with the United States of America and any agency,
 2 department, corporation or instrumentality thereof in the maintenance,
 3 development, improvement and use of said harbors and seaports in
 4 connection with and in furtherance of the war operations and needs of
 5 the United States.
- 6 (5) To accept funds from any of said counties or cities wherein said ports
 7 are located and to use the same in such manner, within the purposes of
 8 said Authority, as shall be stipulated by the said county or city, and to
 9 act as agent or instrumentality, of any of said counties or cities in any
 10 matter coming within the general purposes of said Authority.
- 11 (6) To act as agent for the United States of America, or any agency,
 12 department, corporation or instrumentality thereof, in any matter
 13 coming within the purposes or powers of the Authority.
- 14 (7) And in general to do and perform any act or function which may tend
 15 or be useful toward the development and improvement of harbors,
 16 seaports and inland ports of the State of North Carolina, and to
 17 increase the movement of waterborne commerce, foreign and
 18 domestic, to, through, and from such harbors and ports.

19 The enumeration of the above purposes shall not limit or circumscribe the broad
 20 objective of developing to the utmost the port possibilities of the State of North
 21 Carolina.

22 The Authority shall develop a long-range, 10-year capital plan which identifies its
 23 total capital needs, available resources, and external funding requirements. The plan
 24 shall analyze the competitive position of the Authority relative to ports in other states
 25 and shall establish strategic objectives. The plan shall identify capital investments and
 26 highway, rail, and navigation channel improvements needed to achieve the strategic
 27 objectives established. The Authority shall include within the plan a program that will
 28 reflect a good faith effort in the recruitment and selection of minority businesses for
 29 participation in contracts for goods or services necessary to carry out the purposes of
 30 this section. The plan shall be submitted to the Board of Transportation for approval on
 31 or before April 1, 1995, and shall thereafter be reviewed, updated, and submitted to the
 32 Board of Transportation on or before January 1 of each year. The Department of
 33 Environment, Health, and Natural Resources shall provide information on navigation
 34 channels and on potential navigation improvements to the State Ports Authority and to
 35 the Department of Transportation, and shall provide other assistance as needed in
 36 developing the long-range capital plan for the Authority. The Department of
 37 Environment, Health, and Natural Resources shall review the plan as approved by the
 38 Board of Transportation when the Department develops the annual Water Resources
 39 Development Plan required by G.S. 143-215.73A, and shall set priorities for navigation
 40 improvement projects consistent with the approved plan for the Authority."

41 Sec. 8. G.S. 143B-454, as recodified as G.S. 143B-363.3 by Section 2 of this
 42 act, reads as rewritten:

43 "**§ 143B-363.3. Powers of Authority.**

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

- 1 (1) Have the powers of a body corporate, including the power to sue and
2 be sued, to make contracts, and to adopt and use a common seal and to
3 alter the same as may be deemed expedient;
- 4 (2) Have the authority to make all necessary contracts and arrangements
5 with other port authorities of this and other states for the interchange
6 of business, and for such other purposes as will facilitate and increase
7 the business of the North Carolina State Ports Authority;
- 8 (3) Be authorized and empowered to rent, lease, buy, own, acquire,
9 mortgage, otherwise encumber, and dispose of such property, real or
10 personal, as said Authority may deem proper to carry out the purposes
11 and provisions of this Part, all or any of them;
- 12 (4) Be authorized and empowered to acquire, construct, maintain, equip
13 and operate any wharves, docks, piers, quays, elevators, compresses,
14 refrigeration storage plants, warehouses and other structures, and any
15 and all facilities needful for the convenient use of the same in the aid
16 of commerce, including the dredging of approaches thereto, and the
17 construction of beltline roads and highways and bridges and
18 causeways thereon, and other bridges and causeways necessary or
19 useful in connection therewith, and shipyards, shipping facilities, and
20 transportation facilities incident thereto and useful or convenient for
21 the use thereof, excluding terminal railroads. Prior approval of the
22 Board of Transportation shall be required for all capital improvement
23 projects, equipment purchases, and facility maintenance projects
24 requiring the expenditure of funds in excess of fifty thousand dollars
25 (\$50,000). Requests for appropriations from the General Fund shall be
26 approved by the Board of Transportation and submitted to the
27 Governor through the Department of Transportation;
- 28 (5) The Authority shall appoint an Executive Director, whose salary shall
29 be fixed by the Authority, to serve at its pleasure. The Executive
30 Director or his designee shall appoint, employ, dismiss and, within the
31 limits of available funding, fix the compensation of such other
32 employees as he deems necessary to carry out the purposes of this Part.
33 There shall be an executive committee consisting of the chairman of
34 the Authority and two other members elected annually by the
35 Authority. The executive committee shall be vested with authority to
36 do all acts which are authorized by the bylaws of the Authority.
37 Members of the executive committee shall serve until their successors
38 are elected;
- 39 (6) Establish an office for the transaction of its business at such place or
40 places as, in the opinion of the Authority, shall be advisable or
41 necessary in carrying out the purposes of this Part;
- 42 (7) Be authorized and empowered to create and operate such agencies and
43 departments as said board may deem necessary or useful for the
44 furtherance of any of the purposes of this Part;

- 1 (8) Be authorized and empowered to pay all necessary costs and expenses
2 involved in and incident to the formation and organization of said
3 Authority, and incident to the administration and operation thereof,
4 and to pay all other costs and expenses reasonably necessary or
5 expedient in carrying out and accomplishing the purposes of this Part;
- 6 (9) Be authorized and empowered to apply for and accept loans and grants
7 of money from any federal agency or the State of North Carolina or
8 any political subdivision thereof or from any public or private sources
9 available for any and all of the purposes authorized in this Article, and
10 to expend the same in accordance with the directions and requirements
11 attached thereto, or imposed thereon by any such federal agency, the
12 State of North Carolina, or any political subdivision thereof, or any
13 public or private lender or donor, and to give such evidences of
14 indebtedness as shall be required, provided, however, that no
15 indebtedness of any kind incurred or created by the Authority shall
16 constitute an indebtedness of the State of North Carolina, or any
17 political subdivision thereof, and no such indebtedness shall involve or
18 be secured by the faith, credit or taxing power of the State of North
19 Carolina, or any political subdivision thereof;
- 20 (10) Be authorized and empowered to act as agent for the United States of
21 America, or any agency, department, corporation, or instrumentality
22 thereof, in any matter coming within the purposes or powers of the
23 Authority;
- 24 (11) Have power to adopt, alter or repeal its own bylaws, rules and
25 regulations governing the manner in which its business may be
26 transacted and in which the power granted to it may be enjoyed, and
27 may provide for the appointment of such committees, and the
28 functions thereof, as the Authority may deem necessary or expedient in
29 facilitating its business;
- 30 (12) Be authorized and empowered to do any and all other acts and things
31 in this Part authorized or required to be done, whether or not included
32 in the general powers in this section mentioned; and
- 33 (13) Be authorized and empowered to do any and all things necessary to
34 accomplish the purposes of this Part: Provided, that said Authority
35 shall not engage in shipbuilding.

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

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

40 (b) In order to execute the powers enumerated in subsection (a), the Authority
41 shall determine the policies of the North Carolina State Ports Authority by majority vote
42 of all members of the Authority present and voting. Once a policy is determined, the
43 Authority shall communicate it to the Executive Director, who shall have the sole and
44 exclusive authority to execute the policy of the Authority. No member of the Authority

1 shall have responsibility or authority to give operational directives to any employee of
2 the North Carolina State Ports Authority other than the Executive Director.

3 (c) Notwithstanding any other provision of this section, the Authority shall
4 submit its annual operating budget and plan to the Board of Transportation on or before
5 May 15 of each year. Approval of the budget and plan by the Board of Transportation
6 shall only be required: (i) when the Authority's debt service coverage ratio from the
7 previous fiscal year was in excess of five percent (5%) below budget; or (ii) the
8 Authority's operating ratio of the previous fiscal year was in excess of five percent (5%)
9 below budget; or (iii) the Authority's operating revenues declined in excess of five
10 percent (5%) in the previous fiscal year. For purposes of this section, 'debt service
11 coverage ratio' means the long-term and short-term debt service, including both
12 principal and interest, divided by operating income, before depreciation. For purposes
13 of this section, 'operating ratio' means operating expenses, before depreciation, divided
14 by operating revenues."

15 Sec. 9. G.S. 143B-455, as recodified as G.S. 143B-363.4 by Section 2 of this
16 act, reads as rewritten:

17 **"§ 143B-363.4. Approval of acquisition and disposition of real property.**

18 Any transactions relating to the acquisition or disposition of real property or any
19 estate or interest in real property, by the North Carolina State Ports Authority, shall be
20 subject to prior review by the Governor and Council of State, and shall become
21 effective only after the same has been approved by the Governor and Council of State.
22 Upon the acquisition of real property or other estate therein, by the North Carolina State
23 Ports Authority, the fee title or other estate shall vest in and the instrument of
24 conveyance shall name the 'North Carolina State Ports Authority' as grantee, lessee, or
25 transferee. Upon the disposition of real property or any interest or estate therein, the
26 instrument of conveyance or transfer shall be executed by the North Carolina State Ports
27 Authority. The approval of any transaction by the Governor and Council of State may
28 be evidenced by a duly certified copy of excerpt of minutes of the meeting of the
29 Governor and Council of State, attested by the private secretary to the Governor or the
30 Governor, reciting such approval, affixed to the instrument of acquisition or transfer,
31 and said certificate may be recorded as a part thereof, and the same shall be conclusive
32 evidence of review and approval of the subject transaction by the Governor and Council
33 of State. The Governor, acting with the approval of the Council of State, may delegate
34 the review and approval of such classes of lease, rental, easement, or right-of-way
35 transactions as he deems advisable, and he may likewise delegate the review and
36 approval of the severance of buildings and timber from the land.

37 In addition to the above requirements, any acquisition or disposition of any interest
38 in real property involving fifty thousand dollars (\$50,000) or more shall require the
39 prior approval of the Board of Transportation."

40 Sec. 10. G.S. 143B-456(b), as recodified as G.S. 143B-363.6(b) by Section 2
41 of this act, reads as rewritten:

42 "(b) Prior to the sale and delivery of any bonds or notes by the Authority, the
43 Governor and the Board of Transportation shall approve the general purposes of and the
44 general security provisions for any such bonds or notes. Such bonds or notes may be

1 sold in such manner, either at public or private sale, and for such price as the Authority
2 shall determine. Bonds or notes may be issued under the provisions of this Part without
3 obtaining, except as otherwise expressly provided in this Part, the consent of any
4 department, division, commission, board, body, bureau or agency of the State, and
5 without any other proceedings or the happening of any conditions or things other than
6 those proceedings, conditions or things which are specifically required by this Part and
7 the provisions of the resolution authorizing the issuance of such bonds or notes or the
8 trust agreement securing the same. Prior to taking any action under this subsection, the
9 Governor may consult with the Advisory Budget Commission."

10 Sec. 11. G.S. 143B-469, as recodified as G.S. 143B-364.1 by Section 4 of
11 this act, reads as rewritten:

12 **"§ 143B-364.1. Creation of Commission.**

13 (a) The North Carolina Ports Railway Commission is hereby created. It shall be
14 governed by a board composed of ~~five~~three members appointed by the Governor, and
15 hereby designated as the Commission.

16 (b) Members of the Commission shall serve for terms of four years, except that
17 the ~~original~~ members appointed for terms beginning July 1, 1994, shall be appointed as
18 follows: one shall be appointed ~~for a term of one year,~~ one for a term of two years, one for
19 a term of three years, and one for a term of four years, ~~and one for a term of five years.~~
20 Thereafter, all appointments shall be for terms of four years. Any vacancy occurring in
21 the membership of the board for any cause shall be filled by the Governor for the
22 unexpired term. The Governor shall appoint a chairman from the membership to serve
23 at his pleasure. The board shall elect one of its members as vice-chairman and shall
24 also elect a secretary and a treasurer who need not be a member of the Commission.
25 The board shall meet upon the call of its chairman. A majority of its members shall
26 constitute a quorum for the transaction of its business.

27 (c) Members of the Commission shall not be entitled to compensation for their
28 services but shall be reimbursed for actual expenses necessarily incurred in the
29 performance of their duties and shall be compensated as provided in G.S. 138-5(a)(1)."

30 Sec. 12. G.S. 143B-431(a) reads as rewritten:

31 "(a) The functions of the Department of Commerce, except as otherwise
32 expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina,
33 shall include:

34 (1) All of the executive functions of the State in relation to economic
35 development including by way of enumeration and not of limitation,
36 the expansion and recruitment of environmentally sound industry,
37 labor force development, the promotion of and assistance in the
38 orderly development of North Carolina counties and communities, the
39 promotion and growth of the travel and tourism industries, the
40 development of our State's ports, energy resource management and
41 energy policy development;

42 (2) All functions, powers, duties and obligations heretofore vested in an
43 agency enumerated in Article 15 of Chapter 143A, to wit:

44 a. The State Board of Alcoholic Control,

- 1 b. The North Carolina Utilities Commission,
2 c. The Employment Security Commission,
3 d. The North Carolina Industrial Commission,
4 e. State Banking Commission and the Commissioner of Banks,
5 f. Savings and Loan Association Division,
6 g. The State Savings Institutions Commission,
7 h. Credit Union Commission,
8 i. The North Carolina Milk Commission,
9 j. The North Carolina Mutual Burial Association Commission,
10 k. The North Carolina Rural Electrification Authority,
11 ~~l. The North Carolina State Ports Authority,~~ all of which enumerated
12 agencies are hereby expressly transferred by a Type II transfer,
13 as defined by G.S. 143A-6, to this recreated and reconstituted
14 Department of Commerce; and,
- 15 (3) All other functions, powers, duties and obligations as are conferred by
16 this Chapter, delegated or assigned by the Governor and conferred by
17 the Constitution and laws of this State. Any agency transferred to the
18 Department of Commerce by a Type II transfer, as defined by G.S.
19 143A-6, shall have the authority to employ, direct and supervise
20 professional and technical personnel, and such agencies shall not be
21 accountable to the Secretary of Commerce in their exercise of quasi-
22 judicial powers authorized by statute, notwithstanding any other
23 provisions of this Chapter, ~~provided that the authority of the North~~
24 ~~Carolina State Ports Authority to employ, direct and supervise personnel~~
25 ~~shall be as provided in Part 10 of this Article-Chapter."~~
- 26 Sec. 13. G.S. 143B-433(a) reads as rewritten:
- 27 "(a) (1) The North Carolina Alcoholic Beverage Control
28 Commission,
29 (2) The North Carolina Utilities Commission,
30 (3) The Employment Security Commission,
31 (4) The North Carolina Industrial Commission,
32 (5) State Banking Commission,
33 (6) Savings and Loan Association Division,
34 (7) The State Savings Institutions Commission,
35 (8) Credit Union Commission,
36 (9) The North Carolina Milk Commission,
37 (10) The North Carolina Mutual Burial Association Commission,
38 (11) North Carolina Cemetery Commission,
39 (12) The North Carolina Rural Electrification Authority,
40 (13) Repealed by Session Laws 1985, c. 757, s. 179(d),
41 (14) North Carolina Science and Technology Research Center,
42 ~~(15) The North Carolina State Ports Authority,~~
43 (16) North Carolina National Park, Parkway and Forests Development
44 Council,

- 1 (17) Economic Development Board,
 2 (18) Labor Force Development Council,
 3 (19) Energy Policy Council,
 4 (20) Energy Division,
 5 (21) Navigation and Pilotage Commissions established by Chapter 76 of
 6 the General Statutes.
 7 (22) Repealed by Session Laws 1993, c. 321, s. 313(b)."
 8 Sec. 14. G.S. 143B-346 reads as rewritten:

9 **"§ 143B-346. Department of Transportation – purpose and functions.**

10 The general purpose of the Department of Transportation is to provide for the
 11 necessary planning, construction, maintenance, and operation of an integrated statewide
 12 transportation system for the economical and safe transportation of people and goods as
 13 provided for by law. The Department shall also provide and maintain an accurate
 14 register of transportation vehicles as provided by statutes, and the Department shall
 15 enforce the laws of this State relating to transportation safety assigned to the
 16 Department. The Department of Transportation shall be responsible for all of the
 17 transportation functions of the executive branch of the State as provided by law except
 18 those functions delegated to the Utilities Commission, ~~the State Ports Authority,~~
 19 Commission and the Commissioners of Navigation and Pilotage as provided for by
 20 Chapter 76. The major transportation functions include aeronautics, highways, mass
 21 transportation, motor vehicles, State ports, and transportation safety as provided for by
 22 State law. The Department of Transportation shall succeed to all functions vested in the
 23 Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

24 Sec. 15. G.S. 143B-350 is amended by adding a new subsection to read:

25 "(i) In addition to the above duties and powers, the Board of Transportation shall
 26 have the following duties and powers in regard to the State Ports Authority:

- 27 (1) To approve all capital improvement projects, equipment purchases,
 28 and facility maintenance projects requiring the expenditure of funds in
 29 excess of fifty thousand dollars (\$50,000);
 30 (2) To review the annual operating budget and plan which the State Ports
 31 Authority shall submit on or before May 15 of each year. Board
 32 approval of the operating budget and plan is required:
 33 a. When the debt service coverage ratio from the previous fiscal
 34 year was in excess of five percent (5%) below budget; or
 35 b. The operating ratio of the previous fiscal year was in excess of
 36 five percent (5%) below budget; or
 37 c. Operating revenues declined in excess of five percent (5%) in
 38 the previous fiscal year;
 39 (3) To approve the acquisition or disposition of any interest in real
 40 property involving fifty thousand dollars (\$50,000) or more; and
 41 (4) To approve the general purposes of and the general security provisions
 42 for any bonds or notes proposed to be sold or delivered.

43 For purposes of subdivision (2) of this section, 'debt service coverage ratio'
 44 means the long-term and short-term debt service, including both principal and interest,

1 divided by operating income, before depreciation. For purposes of this section,
2 'operating ratio' means operating expenses, before depreciation, divided by operating
3 revenues."

4 Sec. 16. Section 5 of this act becomes effective June 30, 1994. The
5 remainder of this act becomes effective July 1, 1994.