

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 196
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Short Title: Transfer Ports Authority.

(Public)

Sponsors:

Referred to:

February 17, 1993

A BILL TO BE ENTITLED

1 AN ACT TO TRANSFER THE NORTH CAROLINA STATE PORTS AUTHORITY
2 AND THE NORTH CAROLINA PORTS RAILWAY COMMISSION TO THE
3 DEPARTMENT OF TRANSPORTATION AND TO AMEND THE
4 RESPONSIBILITIES OF THE BOARD OF TRANSPORTATION.
5

6 The General Assembly of North Carolina enacts:

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

11 Sec. 2. Part 10 of Article 10 of Chapter 143B of the General Statutes is
12 recodified as Part 10 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-
13 363.1 through G.S. 143B-363.16.

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

18 Sec. 4. Part 11 of Article 10 of Chapter 143B of the General Statutes is
19 recodified as Part 11 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-
20 364.1 through G.S. 143B-364.4.

21 Sec. 5. The terms of the Governor's appointees to the Board of the North
22 Carolina State Ports Authority and the members of the North Carolina Ports Railway

1 Commission serving on June 30, 1994, shall terminate on that date. New members of
2 the Board of the North Carolina State Ports Authority shall be appointed as provided in
3 Section 6 of this act. New members of the North Carolina Ports Railway Commission
4 shall be appointed as provided in Section 11 of this act.

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

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

9 The North Carolina State Ports Authority is hereby created. The North Carolina
10 State Ports Authority shall be located within the Department of Transportation, but the
11 power of the Authority to employ, direct, and supervise personnel shall be as provided
12 in this Part. It shall be governed by a board composed of nine members and hereby designated
13 as the Authority.—Effective July 1, 1983,–1994, it shall be governed by a board composed
14 of 4–12 members and hereby designated as the Authority. ~~The General Assembly~~
15 ~~suggests and recommends that no person be appointed to the Authority who is domiciled in the~~
16 ~~district of the North Carolina House of Representatives or the North Carolina Senate in which a~~
17 ~~State port is located. The Governor shall appoint seven members to the Authority, and the~~
18 ~~General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the~~
19 ~~Authority shall consist of seven persons appointed by the Governor, and four persons appointed~~
20 ~~by the General Assembly.~~—Effective July 1, 1989,–1994, the Governor shall appoint six
21 members to the Authority, in addition to the Secretary of ~~Commerce, Commerce and the~~
22 Secretary of Transportation, who shall serve as a voting member voting members of the
23 Authority by virtue of his office.–their offices. ~~The Secretary of Commerce shall fill the first~~
24 ~~vacancy occurring after July 1, 1989, in a position on the Authority over which the Governor~~
25 ~~has appointive power.~~

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

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

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

44 Thereafter, at the expiration of each stipulated term of office all appointments made
45 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. State and shall reflect the
4 ethnic and gender diversity of the population of the State. Any vacancy occurring in the
5 membership of the Authority appointed by the Governor shall be filled by the Governor
6 for the unexpired term. The Governor may remove a member appointed by the
7 Governor only for reasons provided by G.S. 143B-13.

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

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

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

28 Appointments by the General Assembly shall be made in accordance with G.S. 120-
29 121, and vacancies in those appointments shall be filled in accordance with G.S. 120-
30 122. Members appointed by the General Assembly may be removed only for reasons
31 provided by G. S. 143B-13.

32 The Governor shall appoint from the members of the Authority the chairman and
33 vice-chairman of the Authority. The members of the Authority shall appoint a treasurer
34 and secretary of the Authority.

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

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

44 "**§ 143B-363.2. Purposes of Authority.**

1 Through the Authority hereinbefore created, the State of North Carolina may engage
2 in promoting, developing, constructing, equipping, maintaining and operating the
3 harbors and seaports within the State, or within the jurisdiction of the State, and works
4 of internal improvements incident thereto, including the acquisition or construction,
5 maintenance and operation at such seaports or harbors of watercraft and highways and
6 bridges thereon or essential for the proper operation thereof. Said Authority is created
7 as an instrumentality of the State of North Carolina for the accomplishment of the
8 following general purposes:

- 9 (1) To develop and improve the harbors or seaports at Wilmington,
10 Morehead City and Southport, North Carolina, and such other places,
11 including inland ports and facilities, as may be deemed feasible for a
12 more expeditious and efficient handling of waterborne commerce from
13 and to any place or places in the State of North Carolina and other
14 states and foreign countries.
- 15 (2) To acquire, construct, equip, maintain, develop and improve the port
16 facilities at said ports and to improve such portions of the waterways
17 thereat as are within the jurisdiction of the federal government.
- 18 (3) To foster and stimulate the shipment of freight and commerce through
19 said ports, whether originating within or without the State of North
20 Carolina, including the investigation and handling of matters
21 pertaining to all transportation rates and rate structures affecting the
22 same.
- 23 (4) To cooperate with the United States of America and any agency,
24 department, corporation or instrumentality thereof in the maintenance,
25 development, improvement and use of said harbors and seaports in
26 connection with and in furtherance of the war operations and needs of
27 the United States.
- 28 (5) To accept funds from any of said counties or cities wherein said ports
29 are located and to use the same in such manner, within the purposes of
30 said Authority, as shall be stipulated by the said county or city, and to
31 act as agent or instrumentality, of any of said counties or cities in any
32 matter coming within the general purposes of said Authority.
- 33 (6) To act as agent for the United States of America, or any agency,
34 department, corporation or instrumentality thereof, in any matter
35 coming within the purposes or powers of the Authority.
- 36 (7) And in general to do and perform any act or function which may tend
37 or be useful toward the development and improvement of harbors,
38 seaports and inland ports of the State of North Carolina, and to
39 increase the movement of waterborne commerce, foreign and
40 domestic, to, through, and from such harbors and ports.

41 The enumeration of the above purposes shall not limit or circumscribe the broad
42 objective of developing to the utmost the port possibilities of the State of North
43 Carolina.

1 The Authority shall develop a long-range, 10-year capital plan which identifies its
2 total capital needs, available resources, and external funding requirements. The plan
3 shall analyze the competitive position of the Authority relative to ports in other states
4 and shall establish strategic objectives. The plan shall identify capital investments and
5 highway, rail, and navigation channel improvements needed to achieve the strategic
6 objectives established. The Authority shall include within the plan a program that will
7 reflect a good faith effort in the recruitment and selection of minority businesses for
8 participation in contracts for goods or services necessary to carry out the purposes of
9 this section. The plan shall be submitted to the Board of Transportation for approval on
10 or before April 1, 1995, and shall thereafter be reviewed, updated, and submitted to the
11 Board of Transportation on or before January 1 of each year. The Department of
12 Environment, Health, and Natural Resources shall provide information on navigation
13 channels and on potential navigation improvements to the State Ports Authority and to
14 the Department of Transportation, and shall provide other assistance as needed in
15 developing the long-range capital plan for the Authority. The Department of
16 Environment, Health, and Natural Resources shall review the plan as approved by the
17 Board of Transportation when the Department develops the annual Water Resources
18 Development Plan required by G.S. 143-215.73A, and shall set priorities for navigation
19 improvement projects consistent with the approved plan for the Authority."

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

22 **"§ 143B-363.3. Powers of Authority.**

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

- 24 (1) Have the powers of a body corporate, including the power to sue and
25 be sued, to make contracts, and to adopt and use a common seal and to
26 alter the same as may be deemed expedient;
- 27 (2) Have the authority to make all necessary contracts and arrangements
28 with other port authorities of this and other states for the interchange
29 of business, and for such other purposes as will facilitate and increase
30 the business of the North Carolina State Ports Authority;
- 31 (3) Be authorized and empowered to rent, lease, buy, own, acquire,
32 mortgage, otherwise encumber, and dispose of such property, real or
33 person, as said Authority may deem proper to carry out the purposes
34 and provisions of this Part, all or any of them;
- 35 (4) Be authorized and empowered to acquire, construct, maintain, equip
36 and operate any wharves, docks, piers, quays, elevators, compresses,
37 refrigeration storage plants, warehouses and other structures, and any
38 and all facilities needful for the convenient use of the same in the aid
39 of commerce, including the dredging of approaches thereto, and the
40 construction of beltline roads and highways and bridges and
41 causeways thereon, and other bridges and causeways necessary or
42 useful in connection therewith, and shipyards, shipping facilities, and
43 transportation facilities incident thereto and useful or convenient for
44 the use thereof, excluding terminal railroads. Prior approval of the

1 Board of Transportation shall be required for all capital improvement
2 projects, equipment purchases, and facility maintenance projects
3 requiring the expenditure of funds in excess of fifty thousand dollars
4 (\$50,000). Requests for appropriations from the General Fund shall be
5 approved by the Board of Transportation and submitted to the
6 Governor through the Department of Transportation;

- 7 (5) The Authority shall appoint an Executive Director, whose salary shall
8 be fixed by the Authority, to serve at its pleasure. The Executive
9 Director or his designee shall appoint, employ, dismiss and, within the
10 limits of available funding, fix the compensation of such other
11 employees as he deems necessary to carry out the purposes of this Part.
12 There shall be an executive committee consisting of the chairman of
13 the Authority and two other members elected annually by the
14 Authority. The executive committee shall be vested with authority to
15 do all acts which are authorized by the bylaws of the Authority.
16 Members of the executive committee shall serve until their successors
17 are elected;
- 18 (6) Establish an office for the transaction of its business at such place or
19 places as, in the opinion of the Authority, shall be advisable or
20 necessary in carrying out the purposes of this Part;
- 21 (7) Be authorized and empowered to create and operate such agencies and
22 departments as said board may deem necessary or useful for the
23 furtherance of any of the purposes of this Part;
- 24 (8) Be authorized and empowered to pay all necessary costs and expenses
25 involved in and incident to the formation and organization of said
26 Authority, and incident to the administration and operation thereof,
27 and to pay all other costs and expenses reasonably necessary or
28 expedient in carrying out and accomplishing the purposes of this Part;
- 29 (9) Be authorized and empowered to apply for and accept loans and grants
30 of money from any federal agency or the State of North Carolina or
31 any political subdivision thereof or from any public or private sources
32 available for any and all of the purposes authorized in this Article, and
33 to expend the same in accordance with the directions and requirements
34 attached thereto, or imposed thereon by any such federal agency, the
35 State of North Carolina, or any political subdivision thereof, or any
36 public or private lender or donor, and to give such evidences of
37 indebtedness as shall be required, provided, however, that no
38 indebtedness of any kind incurred or created by the Authority shall
39 constitute an indebtedness of the State of North Carolina, or any
40 political subdivision thereof, and no such indebtedness shall involve or
41 be secured by the faith, credit or taxing power of the State of North
42 Carolina, or any political subdivision thereof;
- 43 (10) Be authorized and empowered to act as agent for the United States of
44 America, or any agency, department, corporation, or instrumentality

1 thereof, in any matter coming within the purposes or powers of the
2 Authority;

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

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

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

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

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

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

26 (c) Notwithstanding any other provision of this section, the Authority shall
27 submit its annual operating budget and plan to the Board of Transportation on or before
28 May 15 of each year. Approval of the budget and plan by the Board of Transportation
29 shall only be required: (i) when the Authority's debt service coverage ratio from the
30 previous fiscal year was in excess of five percent (5%) below budget; or (ii) the
31 Authority's operating ratio of the previous fiscal year was in excess of five percent (5%)
32 below budget; or (iii) the Authority's operating revenues declined in excess of five
33 percent (5%) in the previous fiscal year. For purposes of this section, 'debt service
34 coverage ratio' means the long-term and short-term debt service, including both
35 principal and interest, divided by operating income, before depreciation. For purposes
36 of this section, 'operating ratio' means operating expenses, before depreciation, divided
37 by operating revenues."

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

40 "**§ 143B-363.4. Approval of acquisition and disposition of real property.**

41 Any transactions relating to the acquisition or disposition of real property or any
42 estate or interest in real property, by the North Carolina State Ports Authority, shall be
43 subject to prior review by the Governor and Council of State, and shall become
44 effective only after the same has been approved by the Governor and Council of State.

1 Upon the acquisition of real property or other estate therein, by the North Carolina State
2 Ports Authority, the fee title or other estate shall vest in and the instrument of
3 conveyance shall name the 'North Carolina State Ports Authority' as grantee, lessee, or
4 transferee. Upon the disposition of real property or any interest or estate therein, the
5 instrument of conveyance or transfer shall be executed by the North Carolina State Ports
6 Authority. The approval of any transaction by the Governor and Council of State may
7 be evidenced by a duly certified copy of excerpt of minutes of the meeting of the
8 Governor and Council of State, attested by the private secretary to the Governor or the
9 Governor, reciting such approval, affixed to the instrument of acquisition or transfer,
10 and said certificate may be recorded as a part thereof, and the same shall be conclusive
11 evidence of review and approval of the subject transaction by the Governor and Council
12 of State. The Governor, acting with the approval of the Council of State, may delegate
13 the review and approval of such classes of lease, rental, easement, or right-of-way
14 transactions as he deems advisable, and he may likewise delegate the review and
15 approval of the severance of buildings and timber from the land.

16 In addition to the above requirements, any acquisition or disposition of any interest
17 in real property of a fair market value of fifty thousand dollars (\$50,000) or more shall
18 require the prior approval of the Board of Transportation."

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

21 "(b) Prior to the sale and delivery of any bonds or notes by the Authority, the
22 Governor and the Board of Transportation shall approve the general purposes of and the
23 general security provisions for any such bonds or notes. Such bonds or notes may be
24 sold in such manner, either at public or private sale, and for such price as the Authority
25 shall determine. Bonds or notes may be issued under the provisions of this Part without
26 obtaining, except as otherwise expressly provided in this Part, the consent of any
27 department, division, commission, board, body, bureau or agency of the State, and
28 without any other proceedings or the happening of any conditions or things other than
29 those proceedings, conditions or things which are specifically required by this Part and
30 the provisions of the resolution authorizing the issuance of such bonds or notes or the
31 trust agreement securing the same. Prior to taking any action under this subsection, the
32 Governor may consult with the Advisory Budget Commission."

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

35 **"§ 143B-364.1. Creation of Commission.**

36 (a) The North Carolina Ports Railway Commission is hereby created. It shall be
37 governed by a board composed of five members appointed by the Governor, and hereby
38 designated as the Commission.

39 (b) Members of the Commission shall serve for terms of four years, except that
40 the ~~original~~ members appointed for terms beginning July 1, 1994, shall be appointed as
41 follows: one shall be appointed for a term of one year, one for a term of two years, one
42 for a term of three years, one for a term of four years, and one for a term of five years.
43 Thereafter, all appointments shall be for terms of four years. Any vacancy occurring in
44 the membership of the board for any cause shall be filled by the Governor for the

1 unexpired term. The Governor shall appoint a chairman from the membership to serve
2 at his pleasure. The board shall elect one of its members as vice-chairman and shall also
3 elect a secretary and a treasurer who need not be a member of the Commission. The
4 board shall meet upon the call of its chairman. A majority of its members shall
5 constitute a quorum for the transaction of its business.

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

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

10 **"§ 143B-431. Department of Commerce – functions.**

11 (a) The functions of the Department of Commerce, except as otherwise
12 expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina,
13 shall include:

14 (1) All of the executive functions of the State in relation to economic
15 development including by way of enumeration and not of limitation,
16 the expansion and recruitment of environmentally sound industry,
17 labor force development, the promotion of and assistance in the
18 orderly development of North Carolina counties and communities, the
19 promotion and growth of the travel and tourism industries, the
20 development of our State's ports, energy resource management and
21 energy policy development;

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

- 24 a. The State Board of Alcoholic Control,
25 b. The North Carolina Utilities Commission,
26 c. The Employment Security Commission,
27 d. The North Carolina Industrial Commission,
28 e. State Banking Commission and the Commissioner of Banks,
29 f. Savings and Loan Association Division,
30 g. The State Savings Institutions Commission,
31 h. Credit Union Commission,
32 i. The North Carolina Milk Commission,
33 j. The North Carolina Mutual Burial Association Commission,
34 k. The North Carolina Rural Electrification Authority,
35 ~~l. The North Carolina State Ports Authority,~~

36 all of which enumerated agencies are hereby expressly transferred by a
37 Type II transfer, as defined by G.S. 143A-6, to this recreated and
38 reconstituted Department of Commerce; and,

39 (3) All other functions, powers, duties and obligations as are conferred by
40 this Chapter, delegated or assigned by the Governor and conferred by
41 the Constitution and laws of this State. Any agency transferred to the
42 Department of Commerce by a Type II transfer, as defined by G.S.
43 143A-6, shall have the authority to employ, direct and supervise
44 professional and technical personnel, and such agencies shall not be

1 accountable to the Secretary of Commerce in their exercise of quasi-
 2 judicial powers authorized by statute, notwithstanding any other
 3 provisions of this Chapter, ~~provided that the authority of the North~~
 4 ~~Carolina State Ports Authority to employ, direct and supervise personnel~~
 5 ~~shall be as provided in Part 10 of this Article-Chapter."~~

6 Sec. 13. G.S. 143B-433(a) reads as rewritten:

- 7 "(a) (1) The North Carolina Alcoholic Beverage Control
 8 Commission,
 9 (2) The North Carolina Utilities Commission,
 10 (3) The Employment Security Commission,
 11 (4) The North Carolina Industrial Commission,
 12 (5) State Banking Commission,
 13 (6) Savings and Loan Association Division,
 14 (7) The State Savings Institutions Commission,
 15 (8) Credit Union Commission,
 16 (9) The North Carolina Milk Commission,
 17 (10) The North Carolina Mutual Burial Association Commission,
 18 (11) North Carolina Cemetery Commission,
 19 (12) The North Carolina Rural Electrification Authority,
 20 (13) Repealed by Session Laws 1985, c. 757, s. 179(d),
 21 (14) North Carolina Science and Technology Research Center,
 22 ~~(15) The North Carolina State Ports Authority,~~
 23 (16) North Carolina National Park, Parkway and Forests Development
 24 Council,
 25 (17) Economic Development Board,
 26 (18) Labor Force Development Council,
 27 (19) Energy Policy Council,
 28 (20) Energy Division,
 29 (21) Navigation and Pilotage Commissions established by Chapter 76 of
 30 the General Statutes.
 31 (22) Repealed by Session Laws 1993, c. 321, s. 313(b)."

32 Sec. 14. G.S. 143B-346 reads as rewritten:

33 **"§ 143B-346. Department of Transportation – purpose and functions.**

34 The general purpose of the Department of Transportation is to provide for the
 35 necessary planning, construction, maintenance, and operation of an integrated statewide
 36 transportation system for the economical and safe transportation of people and goods as
 37 provided for by law. The Department shall also provide and maintain an accurate
 38 register of transportation vehicles as provided by statutes, and the Department shall
 39 enforce the laws of this State relating to transportation safety assigned to the
 40 Department. The Department of Transportation shall be responsible for all of the
 41 transportation functions of the executive branch of the State as provided by law except
 42 those functions delegated to the Utilities Commission, ~~the State Ports Authority,~~
 43 Commission and the Commissioners of Navigation and Pilotage as provided for by
 44 Chapter 76. The major transportation functions include aeronautics, highways, mass

1 transportation, motor vehicles, State ports, and transportation safety as provided for by
2 State law. The Department of Transportation shall succeed to all functions vested in the
3 Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

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

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

7 (1) To approve all capital improvement projects, equipment purchases,
8 and facility maintenance projects requiring the expenditure of funds in
9 excess of fifty thousand dollars (\$50,000);

10 (2) To review the annual operating budget and plan which the State Ports
11 Authority shall submit on or before May 15 of each year. Board
12 approval of the operating budget and plan is required:

13 a. When the debt service coverage ratio from the previous fiscal
14 year was in excess of five percent (5%) below budget; or

15 b. The operating ratio of the previous fiscal year was in excess of
16 five percent (5%) below budget; or

17 c. Operating revenues declined in excess of five percent (5%) in
18 the previous fiscal year;

19 (3) To approve the acquisition or disposition of any interest in real
20 property of a fair market value of fifty thousand dollars (\$50,000) or
21 more;

22 (4) To approve the general purposes of and the general security provisions
23 for any bonds or notes proposed to be sold or delivered.

24 For purposes of subdivision (2) of this section, 'debt service coverage ratio'
25 means the long-term and short-term debt service, including both principal and interest,
26 divided by operating income, before depreciation. For purposes of this section,
27 'operating ratio' means operating expenses, before depreciation, divided by operating
28 revenues."

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