

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 64*
House Committee Substitute Favorable 7/19/93

Short Title: N.C. Rail Council.

(Public)

Sponsors:

Referred to:

February 4, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A RAIL COUNCIL WITHIN THE DEPARTMENT OF
3 TRANSPORTATION AND TO BROADEN THE AUTHORITY OF THE BOARD
4 OF TRANSPORTATION.

5 The General Assembly of North Carolina enacts:

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

8 **"PART 9. NORTH CAROLINA RAIL COUNCIL.**

9 **"§ 143B-361. Findings.**

10 The General Assembly finds that:

- 11 (1) The rail system in North Carolina is an irreplaceable transportation
12 resource;
13 (2) The promotion and preservation of railroads operating within North
14 Carolina as transportation resources and economic development tools
15 is vital to the State's economy, and the continued economic viability of
16 railroads is a necessary part of the free enterprise system;
17 (3) A healthy rail system is vital to a competitive State economy, and
18 railroads must be allowed, through effective public policy, to compete
19 fairly in the transportation marketplace and to provide those
20 transportation services for which rail is suitable;
21 (4) The preservation of rail corridors, through branch line rehabilitation
22 and State acquisition of strategic corridors, is in the public interest and

1 is an integral and necessary part of a balanced transportation system;
2 and

- 3 (5) As the owner of the majority interest in the North Carolina Railroad
4 Company, the State has a vested interest in the preservation,
5 development, and well-being of the North Carolina Railroad.

6 **"§ 143B-362. North Carolina Rail Council – creation; powers and duties.**

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

- 9 (1) Advise the Governor, Secretary of Transportation, Board of
10 Transportation, and General Assembly on policy concerning the
11 preservation and enhancement of the State's rail system, including the
12 acquisition and management of existing rail corridors, revitalization
13 and rehabilitation of active freight and passenger railways,
14 improvements in rail safety, and promotion of competitive rail
15 passenger services;
16 (2) Designate a Strategic Rail System, with the North Carolina Railroad as
17 its foundation, to be approved by the Board of Transportation;
18 (3) Recommend to the Board of Transportation funding sources and levels
19 to accomplish the purposes of this act;
20 (4) Plan and recommend the distribution of financial assistance for the
21 revitalization of railroads and conservation of rail corridors as
22 authorized in G.S. 136-44.36;
23 (5) Plan and recommend the acquisition of rail corridors for future use as
24 authorized in G.S. 136-44.36A and oversee the protection and
25 maintenance of preserved rail corridors;
26 (6) Otherwise assist in the preservation of the rail system in North
27 Carolina through branch line rehabilitation and revitalization and
28 through corridor acquisition by the Department of Transportation, and
29 encourage cooperation between the Department of Transportation and
30 railroad companies in preserving the linear integrity of strategic
31 corridors;
32 (7) Advise the Department of Transportation on the reinvestment in the
33 State's rail system of the annual dividends received by the State from
34 its ownership of stock in the North Carolina Railroad and appropriated
35 to the Department in G.S. 136-16.6;
36 (8) Promote and assist in the preservation of rail access to the facilities
37 operated by the State Ports Authority and to passenger and cargo
38 airport facilities; and
39 (9) Perform any other duties relating to the promotion and preservation of
40 railroads which the Secretary may recommend.

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

44 **"§ 143B-363. North Carolina Rail Council – members; selection; compensation.**

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

12 (b) Nine of the initial members appointed by the Governor shall serve on the
13 Council for terms of three years beginning July 1, 1993. The remaining members shall
14 be appointed for terms of two years beginning July 1, 1993. Upon the expiration of
15 each member's term, a successor shall be appointed for a term of two years. Any
16 appointment to fill a vacancy on the Council created by the resignation, dismissal, or
17 death of a member shall be for the balance of the unexpired term.

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

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

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

25 (f) Members of the Council shall be subject to the provisions of G.S. 136-13,
26 136-13.1, and 136-14.

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

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

30 "**§ 136-14.1. Highway Transportation engineering divisions.**

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

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

35 "**§ 136-17.2. Members of the Board of Transportation represent entire State.**

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

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

42 "(b) The Board of Transportation shall have two ex officio members. The
43 Secretary of Transportation shall be an ex officio member of the Board of
44 Transportation and shall be the chairman of the Board of Transportation. The chairman

1 of the North Carolina Rail Council shall be an ex officio member of the Board of
2 Transportation.

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

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

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

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