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HOUSE BILL 993
Committee Substitute Favorable 6/4/97
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Short Title: Regional Transportation Authorities.

(Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED
AN ACT TO ALLOW CREATION OF ADDITIONAL REGIONAL
TRANSPORTATION AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding a new
Article to read:

“ARTICLE 27.

“REGIONAL TRANSPORTATION AUTHORITY.

“§ 160A-630. Title.

This Article shall be known and may be cited as the ‘Regional Transportation
Authority Act.’

“§ 160A-631. Definitions.

As used in this Article, unless the context otherwise requires:

(1) ‘Authority’ means a Regional Transportation Authority as defined by
subdivision (6) of this section.

(2) ‘Board of Trustees’ means the governing board of the Authority, in
which the general legislative powers of the Authority are vested.

- 1 (3) 'Population' means the number of persons residing in respective areas as
2 defined and enumerated in the most recent decennial federal census.
- 3 (4) 'Public transportation' means transportation of passengers whether or
4 not for hire by any means of conveyance, including, but not limited to, a
5 street or elevated railway or guideway, subway, motor vehicle or motor
6 bus, carpool or vanpool, either publicly or privately owned and
7 operated, holding itself out to the general public for the transportation of
8 persons within or working within the territorial jurisdiction of the
9 Authority, excluding charter, tour, or sight-seeing service.
- 10 (5) 'Public transportation system' means, without limitation, a combination
11 of real and personal property, structures, improvements, buildings,
12 equipment, vehicle parking, or other facilities, railroads and railroad
13 rights-of-way whether held in fee simple by quitclaim or easement, and
14 rights-of-way, or any combination thereof, used or useful for the
15 purposes of public transportation. 'Public transportation system'
16 however, does not include streets, roads, or highways except those for
17 ingress and egress to vehicle parking.
- 18 (6) 'Regional Transportation Authority,' means a body corporate and politic
19 organized in accordance with the provisions of this Article for the
20 purposes, with the powers and subject to the restrictions hereinafter set
21 forth.
- 22 (7) 'Unit of local government' means any county, city, town or municipality
23 of this State, and any other political subdivision, public corporation,
24 Authority, or district in this State, which is or may be authorized by law
25 to acquire, establish, construct, enlarge, improve, maintain, own, and
26 operate public transportation systems.
- 27 (8) 'Unit of local government's chief administrative official' means the
28 county manager, city manager, town manager, or other person, by
29 whatever title he shall be known, in whom the responsibility for the unit
30 of local government's administrative duties is vested.

31 **"§ 160A-632. Definition of territorial jurisdiction of Authority.**

32 An authority may be created for the area of any Metropolitan Planning Organization
33 of the State that, at the time of creation of the authority, meets the following criteria, such
34 area being the initial territorial jurisdiction of the Authority:

- 35 (1) The area consists of all or part of five counties, all five counties of
36 which form a contiguous territory;
- 37 (2) At least two of those counties are contiguous to each other and each
38 have a population of 250,000 or over; and
- 39 (3) The other three counties each have a population of 100,000 or over.

40 **"§ 160A-633. Creation of Authority.**

41 (a) The city councils of the four largest cities within an area for which an authority
42 may be created as defined in G.S. 160A-632 may by resolution signify their
43 determination to organize an authority under the provisions of this Article. Each of such

1 resolutions shall be adopted after a public hearing thereon, notice of which hearing shall
2 be given by publication at least once, not less than 10 days prior to the date fixed for such
3 hearing, in a newspaper having a general circulation in the county. Such notice shall
4 contain a brief statement of the substance of the proposed resolution, shall set forth the
5 proposed articles of incorporation of the Authority and shall state the time and place of
6 the public hearing to be held thereof. No city shall be required to make any other
7 publication of such resolution under the provisions of any other law.

8 (b) Each such resolution shall include articles of incorporation which shall set
9 forth:

10 (1) The name of the authority;

11 (2) A statement that such authority is organized under this Article; and

12 (3) The names of the four organizing cities.

13 (c) A certified copy of each of such resolutions signifying the determination to
14 organize an authority under the provisions of this Article shall be filed with the Secretary
15 of State, together with proof of publication of the notice of hearing on each of such
16 resolutions. If the Secretary of State finds that the resolutions, including the articles of
17 incorporation, conform to the provisions of this Article and that the notices of hearing
18 were properly published, he shall file such resolutions and proofs of publication in his
19 office and shall issue a certificate of incorporation under the seal of the State and shall
20 record the same in an appropriate book of record in his office. The issuance of such
21 certificate of incorporation by the Secretary of State shall constitute the Authority, a
22 public body and body politic and corporate of the State of North Carolina. Said
23 certificate of incorporation shall be conclusive evidence of the fact that such authority has
24 been duly created and established under the provisions of this Article.

25 (d) When the Authority has been duly organized and its officers elected as herein
26 provided, the secretary of the Authority shall certify to the Secretary of State the names
27 and addresses of such officers as well as the address of the principal office of the
28 Authority.

29 (e) The Authority may become a Designated Recipient pursuant to the Urban
30 Mass Transportation Act of 1964, as amended.

31 **"§ 160A-634. Territorial jurisdiction and service area of the Authority.**

32 (a) The territorial jurisdiction and service area of the Authority shall be as
33 determined by the Board of Trustees consistent with its purpose, but shall initially consist
34 of those areas included within the Metropolitan Planning Organization boundaries. With
35 the consent by resolution of the affected board of county commissioners, the jurisdiction
36 and area may be expanded to include contiguous areas, but the total jurisdiction and
37 service area shall not exceed part or all of 12 counties.

38 (b) Except as provided by this Article, the jurisdiction of the Authority may
39 include all local public passenger transportation operating within the territorial
40 jurisdiction of the Authority, but the Authority may not take over the operation of any
41 existing public transportation without the consent of the owner.

42 (c) The Authority shall not have jurisdiction over public transportation subject to
43 the jurisdiction of and regulated by the United States Department of Transportation, nor

1 shall it have jurisdiction over intrastate public transportation classified as common
2 carriers of passengers by the North Carolina Utilities Commission.

3 **"§ 160A-635. Membership; officers; compensation.**

4 (a) The governing body of an authority is the Board of Trustees. The Board of
5 Trustees shall consist of:

6 (1) The mayor of the four cities within the service area that have the largest
7 population, or a member of the city council designated by the city
8 council to serve in the absence of the mayor.

9 (2) Two members of the Board of Transportation appointed by the
10 Secretary of Transportation, to serve as ex officio nonvoting members.

11 (3) The chair of each Metropolitan Planning Organization in the territorial
12 jurisdiction.

13 (4) The chair of the board of commissioners of any county within the
14 territorial jurisdiction or a member of the board of commissioners
15 designated by the board to serve in the absence of the chair, but only if
16 the Board of Trustees by resolution has expanded the Board of Trustees
17 to include the chair of the board of commissioners of that county and the
18 board of commissioners of that county has consented by resolution.

19 (b) The members appointed by the Secretary of Transportation shall serve at the
20 pleasure of the Secretary.

21 (c) Service on the Board of Trustees may be in addition to any other office which
22 a person is entitled to hold. Each voting member of the Board of Trustees may hold
23 elective public office as defined by G.S. 128-1.1(d).

24 (d) Members of the Board of Trustees shall reside within the territorial jurisdiction
25 of the Authority as defined by G.S. 160A-634.

26 (e) The Board of Trustees shall annually elect from its membership a Chairperson,
27 and a Vice-Chairperson, and shall annually elect a Secretary, and a Treasurer.

28 (f) Members of the Board of Trustees shall receive the sum of fifty dollars
29 (\$50.00) as compensation for attendance at each duly conducted meeting of the
30 Authority.

31 **"§ 160A-636. Voting.**

32 A majority of the members of the Board of Trustees shall constitute a quorum for the
33 transaction of business. Except as provided by G.S. 160A-635(a)(2), each member shall
34 have one vote.

35 **"§ 160A-637. Advisory committees.**

36 The Board of Trustees may provide for the selection of such advisory committees as it
37 may find appropriate, which may or may not include members of the Board of Trustees.

38 **"§ 160A-638. Purpose of the Authority.**

39 The purpose of the authority is to enhance the quality of life in its territorial
40 jurisdiction by promoting the development of sound transportation systems which
41 provide transportation choices, enhance mobility, accessibility, and safety, encourage
42 economic development and sound growth patterns, and protect the man-made and natural
43 environments of the region.

1 **"§ 160A-639. General powers of the Authority.**

2 The general powers of the Authority shall include any or all of the following:

- 3 (1) To sue and be sued;
4 (2) To have a seal;
5 (3) To make rules and regulations, not inconsistent with this Chapter, for its
6 organization and internal management;
7 (4) To employ persons deemed necessary to carry out the functions and
8 duties assigned to them by the Authority and to fix their compensation,
9 within the limit of available funds;
10 (5) With the approval of the unit of local government's chief administrative
11 official, to use officers, employees, agents, and facilities of the unit of
12 local government for such purposes and upon such terms as may be
13 mutually agreeable;
14 (6) To retain and employ counsel, auditors, engineers, and private
15 consultants on an annual salary, contract basis, or otherwise for
16 rendering professional or technical services and advice;
17 (7) To acquire, lease as lessee with or without option to purchase, hold,
18 own, and use any franchise, property, real or personal, tangible or
19 intangible, or any interest therein, and to sell, lease as lessor with or
20 without option to purchase, transfer (or dispose thereof) whenever the
21 same is no longer required for purposes of the Authority, or exchange
22 same for other property or rights which are useful for the Authority's
23 purposes, including but not necessarily limited to parking facilities;
24 (8) To acquire by gift, purchase, lease as lessee with or without option to
25 purchase or otherwise to construct, improve, maintain, repair, operate,
26 or administer any component parts of a public transportation system or
27 to contract for the maintenance, operation or administration thereof, or
28 to lease as lessor the same for maintenance, operation, or administration
29 by private parties, including, but not necessarily limited to, parking
30 facilities;
31 (9) To make or enter into contracts, agreements, deeds, leases with or
32 without option to purchase, conveyances or other instruments, including
33 contracts and agreements with the United States, the State of North
34 Carolina, and units of local government;
35 (10) To surrender to the State of North Carolina any property no longer
36 required by the Authority;
37 (11) To develop and make data, plans, information, surveys and studies of
38 public transportation facilities within the territorial jurisdiction of the
39 Authority and to prepare and make recommendations in regard thereto;
40 (12) To enter in a reasonable manner lands, waters, or premises for the
41 purpose of making surveys, soundings, drillings, and examinations
42 whereby such entry shall not be deemed a trespass except that the

- 1 Authority shall be liable for any actual and consequential damages
2 resulting from such entries;
- 3 (13) To develop and carry out demonstration projects;
- 4 (14) To make, enter into, and perform contracts with private parties, and
5 public transportation companies with respect to the management and
6 operation of public passenger transportation;
- 7 (15) To make, enter into, and perform contracts with any public utility,
8 railroad or transportation company for the joint use of property or rights,
9 for the establishment of through routes, joint fares, or transfer of
10 passengers;
- 11 (16) To make, enter into, and perform agreements with governmental entities
12 for payments to the Authority for the transportation of persons for
13 whom the governmental entities desire transportation;
- 14 (17) With the consent of the unit of local government which would otherwise
15 have jurisdiction to exercise the powers enumerated in this subdivision:
16 to issue certificates of public convenience and necessity; and to grant
17 franchises and enter into franchise agreements, and in all respects to
18 regulate the operation of buses, taxicabs, and other methods of public
19 passenger transportation which originate and terminate within the
20 territorial jurisdiction of the Authority as fully as the unit of local
21 government is now or hereafter empowered to do within the territorial
22 jurisdiction of the unit of local government;
- 23 (18) To operate public transportation systems and to enter into and perform
24 contracts to operate public transportation services and facilities, and to
25 own or lease property, facilities and equipment necessary or convenient
26 therefor, and to rent, lease or otherwise sell the right to do so to any
27 person, public or private; further, to obtain grants, loans, and assistance
28 from the United States, the State of North Carolina, any public body, or
29 any private source whatsoever, but may not operate or contract for the
30 operation of public transportation systems outside the territorial
31 jurisdiction of the Authority except as provided by subdivision (20) of
32 this section;
- 33 (19) To enter into and perform contracts and agreements with other public
34 transportation authorities, regional public transportation authorities, or
35 units of local government pursuant to the provisions of G.S. 160A-460
36 through G.S. 160A-464 (Part 1 of Article 20 of Chapter 160A of the
37 General Statutes); further to enter into contracts and agreements with
38 private transportation companies, but this subdivision does not authorize
39 the operation of, or contracting for the operation of, service of a public
40 transportation system outside the service area of the Authority;
- 41 (20) To operate public transportation systems extending service into any
42 political subdivision of the State of North Carolina unless a particular
43 unit of local government operating its own public transportation system

1 or franchising the operation of a public transportation system by
2 majority vote of its governing board, shall deny consent, but such
3 service may not extend more than 10 miles outside of the territorial
4 jurisdiction of the authority, except that vanpool and carpool service
5 shall not be subject to that mileage limitation;

6 (21) Except as restricted by covenants in bonds, notes, or equipment trust
7 certificates, to set in its sole discretion rates, fees, and charges for use of
8 its public transportation system;

9 (22) To do all things necessary or convenient to carry out its purpose and to
10 exercise the powers granted to the Authority;

11 (23) To facilitate the coordination of transportation plans in the service area
12 and the activities of the member Metropolitan Planning Organizations;

13 (24) To maintain databases for the projection of future travel demands in the
14 region;

15 (25) To provide and operate regional ridesharing and vanpool operations;

16 (26) To provide and operate regional transportation services for the elderly
17 and handicapped;

18 (27) To provide other transportation related services, including air quality
19 monitoring and analysis, as determined by the Board of Trustees;

20 (28) To issue bonds or other obligations of the Authority as provided by law
21 and apply the proceeds thereof to the financing of any public
22 transportation system or any part thereof and to refund, whether or not
23 in advance of maturity or the earliest redemption date, any such bonds
24 or other obligations; and

25 (29) To contract for, or to provide and maintain, with respect to the facilities
26 and property owned, leased with or without option to purchase, operated
27 or under the control of the Authority, and within the territory thereof, a
28 security force to protect persons and property, dispense unlawful or
29 dangerous assemblages and assemblages which obstruct full and free
30 passage, control pedestrian and vehicular traffic, and otherwise preserve
31 and protect the public peace, health, and safety; for these purposes a
32 member of such force shall be a peace officer and, as such, shall have
33 authority equivalent to the authority of a police officer of the city or
34 county in which said member of such force is discharging such duties.

35 **"§ 160A-640. Authority of Utilities Commission not affected.**

36 (a) Except as otherwise provided in this Article, nothing in this Article shall be
37 construed to limit or otherwise affect the power or authority of the North Carolina
38 Utilities Commission or the right of appeal to the North Carolina Utilities Commission as
39 provided by law.

40 (b) The North Carolina Utilities Commission shall not have jurisdiction over rates,
41 fees, charges, routes, and schedules of an Authority for service within its territorial
42 jurisdiction.

43 **"§ 160A-641. Fiscal accountability.**

1 An Authority is a public authority subject to the provisions of Chapter 159 of the
2 General Statutes.

3 **"§ 160A-642. Funds.**

4 The establishment and operation of an Authority are governmental functions and
5 constitute a public purpose, and the State of North Carolina and any unit of local
6 government may appropriate funds to support the establishment and operation of the
7 Authority. The State of North Carolina and any unit of local government may also
8 dedicate, sell, convey, donate, or lease any of their interests in any property to the
9 Authority. An Authority may apply for grants from the State of North Carolina, or from
10 the United States or any department, agency, or instrumentality thereof. The Department
11 of Transportation may allocate to an Authority any funds appropriated for transportation,
12 or any funds whose use is not restricted by law.

13 **"§ 160A-643. Competition.**

14 No equipment of the Authority may be used for charter, tour, or sight-seeing service.

15 **"§ 160A-644. Effect on existing franchises and operations.**

16 Creation of the Authority shall not have an effect on any existing franchises granted
17 by any unit of local government; such existing franchises shall continue in full force and
18 effect until legally terminated; further, all ordinances and resolutions of the unit of local
19 government regulating local public transportation systems, bus operations, and taxicabs
20 shall continue in full force and effect now and in the future, unless superseded by
21 regulations of the Authority; such superseding, if any, may occur only on the basis of
22 prior mutual agreement between the Authority and the respective unit of local
23 government.

24 **"§ 160A-645. Termination.**

25 The Board of Trustees may terminate the existence of the Authority at any time when
26 it has no outstanding indebtedness. In the event of such termination, all property and
27 assets of the Authority not otherwise encumbered shall automatically become the
28 property of the State of North Carolina, and the State of North Carolina shall succeed to
29 all rights, obligations, and liabilities of the Authority.

30 **"§ 160A-646. Controlling provisions.**

31 Insofar as the provisions of this Article are not consistent with the provisions of any
32 other law, public or private, the provisions of this Article shall be controlling.

33 **"§ 160A-647. Bonds and notes authorized.**

34 In addition to the powers granted by this Article, the Authority may issue bonds and
35 notes pursuant to the provisions of The State and Local Government Revenue Bond Act,
36 Article 5 of Chapter 159 of the General Statutes, for the purpose of financing public
37 transportation systems or any part thereof and to refund such bonds and notes, whether or
38 not in advance of their maturity or earliest redemption date.

39 **"§ 160A-648. Equipment trust certificates.**

40 In addition to the powers here and before granted, the Authority shall have continuing
41 power to purchase equipment, and in connection therewith execute agreements, leases
42 with or without option to purchase, or equipment trust certificates. All money required to
43 be paid by the Authority under the provisions of such agreements, leases with or without

1 option to purchase, and equipment trust certificates shall be payable solely from the fares,
2 fees, rentals, charges, revenues, and earnings of the Authority, monies derived from the
3 sale of any surplus property of the Authority and gifts, grants, and contributions from any
4 source whatever. Payment for such equipment or rentals therefore, may be made in
5 installments; the deferred installments may be evidenced by equipment trust certificates
6 payable solely from the aforesaid revenues or receipts, and title to such equipment may or
7 may not vest in the Authority until the equipment trust certificates are paid.

8 **"§ 160A-649. Power of eminent domain.**

9 (a) The Authority shall have continuing power to acquire, by gift, grant, devise,
10 bequest, exchange, purchase, lease with or without option to purchase, or any other
11 lawful method, including, but not limited to, the power of eminent domain, the fee or any
12 lesser interest in real or personal property for use by the Authority.

13 (b) Exercise of the power of eminent domain by the Authority shall be in
14 accordance with Chapter 40A of the General Statutes.

15 **"§ 160A-650. Tax exemption.**

16 The property of the Authority, both real and personal, its acts, activities, and income
17 shall be exempt from any tax or tax obligation; in the event of any lease of Authority
18 property, or other arrangement which amounts to a leasehold interest, to a private party,
19 this exemption shall not apply to the value of such leasehold interest nor shall it apply to
20 the income of the lessee. Otherwise, however, for the purpose of taxation, when property
21 of the Authority is leased to private parties solely for the purpose of the Authority, the
22 acts and activities of the lessee shall be considered as the acts and activities of the
23 Authority and the exemption. The interest on bonds or obligations issued by the
24 Authority shall be exempt from State taxes.

25 **"§ 160A-651. Removal and relocation of utility structures.**

26 (a) The Authority shall have the power to require any public utility, railroad, or
27 other public service corporation owning or operating any installations, structures,
28 equipment, apparatus, appliances, or facilities in, upon, under, over, across or along any
29 ways on which the Authority has the right to own, construct, operate, or maintain its
30 public transportation system, to relocate such installation, structures, equipment,
31 apparatus, appliances, or facilities from their locations, or, in the sole discretion of the
32 affected public utility, railroad, or other public service corporation, to remove such
33 installations, structures, equipment, apparatus, appliances, or facilities from their
34 locations.

35 (b) If the owner or operator thereof fails or refuses to relocate them, the Authority
36 may proceed to do so.

37 (c) The Authority shall provide any necessary new locations and necessary real
38 estate interests for such relocation, and for that purpose the power of eminent domain as
39 provided in G.S. 160A-649 may be exercised provided the new locations shall not be in,
40 on or above, a public highway; the Authority may also acquire the necessary new
41 locations by purchase or otherwise.

42 (d) Any affected public utility, railroad, or other public service corporation shall
43 be compensated for any real estate interest taken in a manner consistent with G.S. 160A-

1 649, subject to the right of the Authority to reduce the compensation due by the value of
2 any property exchanged under this section.

3 (e) The method and procedures of a particular adjustment to the facilities of a
4 public utility, railroad, or other public service corporation shall be covered by an
5 agreement between the Authority and the affected party or parties.

6 (f) The Authority shall reimburse the public utility, railroad, or other public
7 service corporation, for the cost of relocations or removals which shall be the entire
8 amount paid or incurred by the utility properly attributable thereto after deducting the
9 cost of any increase in the service capacity of the new installations, structures, equipment,
10 apparatus, appliances, or facilities and any salvage value derived from the old
11 installations, structures, equipment, apparatus or appliances."

12 Section 2. G.S. 105-164.14(c)(15) reads as rewritten:

13 "(15) A regional public transportation authority created pursuant to Article 26
14 of Chapter 160A of the General Statutes. ~~Statutes,~~ or a regional
15 transportation authority created pursuant to Article 27 of Chapter 160A
16 of the General Statutes."

17 Section 3. G.S. 159-81(1) reads as rewritten:

18 "(1) 'Municipality' means a county, city, town, incorporated village, sanitary
19 district, metropolitan sewerage district, metropolitan water district,
20 county water and sewer district, water and sewer authority, hospital
21 authority, hospital district, parking authority, special airport district,
22 regional public transportation authority, regional transportation
23 authority, regional sports authority, airport authority, joint agency
24 created pursuant to Part 1 of Article 20 of Chapter 160A of the General
25 Statutes, and joint agency authorized by agreement between two cities
26 to operate an airport pursuant to G.S. 63-56, but not any other forms of
27 local government."

28 Section 3.1. If Senate Bill 352 is enacted and provides that funds appropriated
29 to the Department of Transportation for the 1997-98 fiscal year shall be used to fund a
30 Major Investment Study (MIS) which shall include:

31 (1) A passenger rail proposal providing service between Asheville and
32 Raleigh through Winston-Salem generally following the I-40 corridor;
33 and

34 (2) A passenger rail proposal providing for commuter rail services between
35 Winston-Salem, Greensboro, High Point, and outlying communities,

36 then notwithstanding that act, the MIS shall be administered by the Regional
37 Transportation Authority created under this act which includes Guilford and Forsyth
38 Counties, in consultation with the Department of Transportation, the Forsyth County
39 Metropolitan Planning Organization (MPO), the Greensboro MPO, and the High Point
40 MPO.

41 Section 4. This act is effective when it becomes law.