

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1291*

Transportation Committee Substitute Adopted 6/11/98
Transportation Committee Substitute #2 Adopted 7/15/98
Transportation Committee Substitute #3 Adopted 7/16/98
Finance Committee Substitute #4 Adopted 7/22/98

Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION,
REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL
TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION
CORRIDORS AND PROTECT THEM FROM DEVELOPMENT, AND TO
INSURE PROPER NOTICE TO ALL PROPERTY OWNERS AFFECTED BY THE
CORRIDORS.

The General Assembly of North Carolina enacts:

Section 1. Article 2E of Chapter 136 reads as rewritten:

"ARTICLE 2E.

"ROADWAY TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

"§ 136-44.50. Roadway-Transportation corridor official map act.

(a) A ~~roadway-transportation~~ corridor official map may be adopted or ~~amended~~
amended by any of the following:

(1) ~~by the~~ The governing board of any city for any thoroughfare included as
part of a comprehensive plan for streets and highways adopted pursuant

1 to ~~G.S. 136-66.2~~ or G.S. 136-66.2 or for any proposed public
2 transportation corridor included in the adopted long-range transportation
3 plan.

4 (2) ~~by the~~ The Board of Transportation for any portion of the existing or
5 proposed State highway ~~system.~~ system or for any public transportation
6 corridor, to include rail, that is in the Transportation Improvement
7 Program.

8 (3) Regional public transportation authorities created pursuant to Article 26
9 of Chapter 160A of the General Statutes or regional transportation
10 authorities created pursuant to Article 27 of Chapter 160A of the
11 General Statutes for any proposed public transportation corridor, or
12 adjacent station or parking spot, included in the adopted long-range
13 transportation plan.

14 Before a city adopts a ~~roadway-transportation~~ transportation corridor official map that extends
15 beyond the extraterritorial jurisdiction of its building permit issuance and subdivision
16 control ordinances, or adopts an amendment to a ~~roadway-transportation~~ transportation corridor official
17 map outside the extraterritorial jurisdiction of its building permit issuance and
18 subdivision control ordinances, the city ~~must~~ shall obtain approval from the Board of
19 County Commissioners.

20 No ~~roadway-transportation~~ transportation corridor official map shall be adopted or amended, nor
21 may any property be regulated under this Article until:

22 (1) The governing board of the ~~city~~ city, ~~the regional transportation~~ the regional transportation
23 authority, or the Department of Transportation ~~in each county affected~~
24 ~~by the map,~~ has held a public hearing in each county affected by the
25 map on the proposed map or amendment. Notice of the hearing shall be
26 provided:

27 a. By publication at least once a week for four successive weeks
28 prior to the hearing in a newspaper having general circulation in
29 the county in which the ~~roadway-transportation~~ transportation corridor to be
30 designated is located.

31 b. By two week written notice to the Secretary of Transportation,
32 the Chairman of the Board of County Commissioners, and the
33 Mayor of any city or town through whose corporate or
34 extraterritorial jurisdiction the ~~roadway-transportation~~ transportation corridor
35 passes.

36 c. By posting copies of the proposed ~~roadway-transportation~~ transportation
37 corridor map or amendment at the courthouse door for at least 21
38 days prior to the hearing date. The notice required in
39 sub-subdivision a. above shall make reference to this posting.

40 (2) A permanent certified copy of the ~~roadway-transportation~~ transportation corridor
41 official map or amendment has been filed with the register of deeds.
42 The boundaries may be defined by map or by written description, or a
43 combination thereof. The copy shall measure approximately 20 inches

1 by 12 inches, including no less than one and one-half inches binding
2 space on the left-hand side.

3 (3) The names of all property owners affected by the corridor have been
4 submitted to the Register of Deeds.

5 (b) ~~Roadway~~ Transportation corridor official maps and amendments shall be
6 distributed and maintained in the following manner:

7 (1) A copy of the official map and each amendment thereto shall be filed in
8 the office of the city clerk and in the office of the district engineer.

9 (2) A copy of the official map, each amendment thereto and any variance
10 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the
11 tax supervisor of any county and tax collector of any city affected
12 thereby. The portion of properties embraced within a ~~roadway~~
13 transportation corridor and any variance granted shall be clearly
14 indicated on all tax maps maintained by the county or city for such
15 period as the designation remains in effect.

16 (3) Notwithstanding any other provision of law, the certified copy filed with
17 the register of deeds shall be placed in a book maintained for that
18 purpose and cross-indexed by number of road, street name, or other
19 appropriate description. The register of deeds shall collect a fee of five
20 dollars (\$5.00) for each map sheet or page recorded.

21 (4) The names submitted as required under subdivision (a)(3) of this section
22 shall be indexed in the 'grantor' index by the Register of Deeds.

23 (c) Repealed by Session Laws 1989, c. 595, s. 1.

24 (d) Within ~~one year~~ two years following the establishment of a ~~roadway~~
25 transportation corridor official map or amendment, work shall begin on an environmental
26 impact statement or preliminary engineering. The failure to begin work on the
27 environmental impact statement or preliminary engineering within the ~~one year~~ two-year
28 period shall constitute an abandonment of the corridor, and the provisions of this Article
29 shall no longer apply to properties or portions of properties embraced within the ~~roadway~~
30 transportation corridor. A city may prepare environmental impact studies and
31 preliminary engineering work in connection with the establishment of a ~~roadway~~
32 transportation corridor official map or amendments to a ~~roadway-transportation~~
33 official map. When a city prepares a ~~roadway-transportation~~ transportation corridor official map for a
34 street or highway that has been designated a State responsibility pursuant to G.S.
35 136-66.2, the environmental impact study and preliminary engineering work shall be
36 reviewed and approved by the Department of Transportation. An amendment to a
37 corridor shall not extend the two-year period provided by this section unless it establishes
38 a substantially different corridor in a primarily new location.

39 (e) The term 'amendment' for purposes of this section includes any change to a
40 transportation corridor official map, including:

41 (1) Failure of the Department of Transportation, a city, or a regional
42 transportation authority to begin work on an environmental impact
43 statement or preliminary engineering as required by this section; or

- 1 (2) Deletion of the corridor from the transportation corridor official map by
2 action of the Board of Transportation, or deletion of the corridor from
3 the long-range transportation plan of a city or regional transportation
4 authority by action of the city or regional transportation authority
5 governing Board.

6 **"§ 136-44.51. Effect of ~~roadway~~ transportation corridor official map.**

7 (a) After a ~~roadway~~ transportation corridor official map is filed with the register of
8 deeds, no building permit shall be issued for any building or structure or part thereof
9 located within the ~~roadway~~ transportation corridor, nor shall approval of a subdivision, as
10 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within
11 the ~~roadway~~ transportation corridor. ~~The district engineer of the Highway District in~~
12 ~~which the roadway corridor is located~~ Secretary of Transportation or his designee, the
13 director of a regional public transportation authority, or the director of a regional
14 transportation authority, as appropriate, shall be notified within 10 days of all requests for
15 building permits or subdivision approval within the ~~roadway~~ transportation corridor. The
16 provisions of this section shall not apply to valid building permits issued prior to August
17 7, 1987, or to building permits for buildings and structures which existed prior to the
18 filing of the ~~roadway~~ transportation corridor provided the size of the building or structure
19 is not increased and the type of building code occupancy as set forth in the North
20 Carolina Building Code is not changed.

21 (b) ~~No~~ In any event, no application for building permit issuance or subdivision plat
22 approval ~~for a tract subject to a valid transportation corridor official map~~ shall be delayed
23 by the provisions of this section for more than three years from the date of its original
24 submittal.

25 **"§ 136-44.52. Variance from ~~roadway~~ transportation corridor official map.**

26 (a) The Department of ~~Transportation or~~ Transportation, the regional public
27 transportation authority, the regional transportation authority, or the city which initiated
28 the ~~roadway~~ transportation corridor official map shall establish procedures for
29 considering petitions for variance from the requirements of G.S. 136-44.51.

30 (b) The procedure established by the State shall provide for written notice to the
31 Mayor and Chairman of the Board of County Commissioners of any affected city or
32 county, and for the hearing to be held in the county where the affected property is
33 located.

34 (c) Cities may provide for petitions for variances to be heard by the board of
35 adjustment or other boards or commissions which can hear variances authorized by G.S.
36 160A-388. The procedures for boards of adjustment shall be followed except that no
37 vote greater than a majority shall be required to grant a variance.

38 (d) A variance may be granted upon a showing that:

- 39 (1) Even with the tax benefits authorized by this Article, no reasonable
40 return may be earned from the land; and
41 (2) The requirements of G.S. 136-44.51 result in practical difficulties or
42 unnecessary hardships.

1 **"§ 136-44.53. Advance acquisition of right-of-way within the roadway**
2 **transportation corridor.**

3 (a) After a ~~roadway-transportation~~ transportation corridor official map is filed with the register of
4 deeds, the Department of ~~Transportation~~ Transportation, the regional public
5 transportation authority, the regional transportation authority, or then it becomes law a
6 city which initiated the ~~roadway-transportation~~ transportation corridor official map is ~~authorized to~~ may
7 make advanced acquisition of specific parcels of property when ~~such~~ that acquisition is
8 determined by the respective governing board to be in the best public interest to protect
9 the ~~roadway-transportation~~ transportation corridor from development or when the ~~roadway~~
10 transportation corridor official map creates an undue hardship on the affected property
11 owner.

12 (b) Prior to making any ~~such~~ advanced acquisition of right-of-way under the
13 authority of this Article, the Board of Transportation or the respective ~~municipal~~
14 governing board which initiated the ~~roadway-transportation~~ transportation corridor official map shall
15 develop and adopt appropriate policies and procedures to govern ~~such~~ the advanced
16 acquisition of right-of-way and to assure ~~such~~ that the advanced acquisition is in the best
17 overall public interest.

18 (c) When a city makes an advanced right-of-way acquisition of property within a
19 ~~roadway-transportation~~ transportation corridor official map for a street or highway that has been
20 determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the
21 Department of Transportation shall reimburse the city for the cost of ~~such~~ any advanced
22 right-of-way acquisition at the time the street or highway is constructed. The Department
23 of Transportation shall have no responsibility to reimburse a municipality for any
24 advanced right-of-way acquisition for a street or highway that has not been designated a
25 State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of
26 the advanced acquisition by the city. The city shall obtain the concurrence of the
27 Department of Transportation in all instances of advanced acquisition.

28 (d) In exercising the authority granted by this section, a municipality is authorized
29 to expend municipal funds for the protection of rights-of-way shown on a duly adopted
30 ~~roadway-transportation~~ transportation corridor official map whether the right-of-way to be acquired is
31 located inside or outside the municipal corporate limits."

32 **"§ 136-44.54. Standard for appraisal of right-of-way within corridor.**

33 The Department shall utilize the criteria contained in 49 C.F.R. § 24.103 (1997) when
34 appraising right-of-way in a transportation corridor designated under this Article."

35 Section 2. G.S. 105-277.9 reads as rewritten:

36 **"§ 105-277.9. Taxation of property inside certain roadway corridors.**

37 Real property that lies within a ~~roadway-transportation~~ transportation corridor marked on an official
38 map filed under Article 2E of Chapter 136 of the General Statutes is designated a special
39 class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is
40 taxable at twenty percent (20%) of the general tax rate levied on real property by the
41 taxing unit in which the property is situated if:

- 42 (1) As of January 1, no building or other structure is located on the
43 property; and

1 (2) The property has not been subdivided, as defined in G.S. 153A-335 or
2 G.S. 160A-376, since it was included in the corridor."

3 Section 3. G.S. 136-102.6(j) reads as rewritten:

4 "(j) The Division of Highways and district engineers of the Division of Highways
5 of the Department of Transportation shall issue a certificate of approval for any
6 subdivision affected by a ~~roadway-transportation~~ transportation corridor official map established by the
7 Board of Transportation only if the subdivision conforms to Article 2E of this Chapter or
8 conforms to any variance issued in accordance with that Article."

9 Section 4. G.S. 160A-458.4 reads as rewritten:

10 "**§ 160A-458.4. Designation of ~~roadway-transportation~~ transportation corridor official maps.**

11 Any city may establish ~~roadway-transportation~~ transportation corridor official maps and may enact
12 and enforce ordinances pursuant to Article 2E of Chapter 136 of the General Statutes."

13 Section 5. This act becomes effective October 1, 1998, and applies to
14 transportation corridor official maps, or amendments to those maps, adopted on or after
15 the effective date of this act.