

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1230

Short Title: Rail Corridor Uses.

(Public)

Sponsors: Representative Luebke.

Referred to: Transportation, if favorable, Appropriations.

April 22, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW RAIL CORRIDORS HELD BY THE DEPARTMENT OF
3 TRANSPORTATION TO BE USED AS LINEAR PARKS, TRAILS, OR
4 RECREATIONAL CORRIDORS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 136-44.36D reads as rewritten:

7 "**§ 136-44.36D. Recreational leasing requirements.**

8 Portions of rail corridors held by the North Carolina Department of Transportation in
9 fee simple absolute or in any lesser interest, including easements and leaseholds, may be
10 leased or subleased by the Department for interim public recreation use and
11 nonmotorized transportation used, provided the following conditions are met:

- 12 (1) Before requesting trail use, a sponsoring unit of local government has
13 held a public hearing in accordance with G.S. 143-318.12 and notified
14 the owners of all parcels of land abutting the corridor as shown on the
15 county tax listing of the hearing date, place, and time by first-class
16 mail at the last addresses listed for such owners on the county tax
17 abstracts. A transcript of all public comments presented at the hearing
18 has been sent to the North Carolina Department of Transportation at
19 the time of requesting use of the corridor.
- 20 (2) A unit of local government has requested use of the rail corridor or a
21 portion thereof for interim public recreational and nonmotorized trail
22 use, and agrees in writing to assume all development costs as well as
23 management, security, and liability responsibilities as defined by the
24 North Carolina Department of Environment and Natural Resources
25 and the North Carolina Department of Transportation.
- 26 (3) Adjacent property owners are offered broad voting representation by
27 membership in the organization, if any, that is delegated most
28 immediate responsibility for development and management of the
29 rail-trail by the sponsoring local government.

- 1 (4) The North Carolina Department of Transportation has determined that
2 there will not likely be a need to resume active rail service in the
3 leased portion of the rail corridor for at least 10 years.
- 4 (5) Any lease or other agreement allowing trail use includes terms for
5 resumption of active rail use which will assure unbroken continuation
6 of the corridor's perpetual use for railroad purposes and interim
7 compatible uses.
- 8 (6) Use of the rail corridor or portions thereof as a recreational trail does
9 not interfere with the ultimate transportation purposes of the corridor
10 as determined by the North Carolina Department of Transportation."

11 **SECTION 2.** Article 2D of Chapter 136 of the General Statutes is amended
12 by adding new sections to read:

13 **"§ 136-44.36E. Interim use of rail corridor as a linear park, trail, or recreational**
14 **corridor.**

15 Any portion of a rail corridor hold by the Department of Transportation may be
16 leased to or otherwise transferred to other State departments, agencies, or local
17 governments for development and use as a linear park trail or recreational corridor
18 provided the following conditions are met:

- 19 (1) The Department of Transportation has determined that there will not
20 likely be a need to resume active rail service in the transferred portion
21 of the rail corridor for at least 10 years.
- 22 (2) Any transfer allowing trail or recreational use includes terms for
23 resumption of active rail use which will assure unbroken continuation
24 of the corridor's perpetual use for railroad purposes and interim
25 compatible uses.
- 26 (3) Use of the rail corridor or portions thereof as a trail for recreational use
27 does not interfere with the ultimate transportation purposes of the
28 corridor as determined by the Department of Transportation.

29 **"§ 136-44.36F. No reversion or abandonment of a corridor by use for interim**
30 **compatible uses.**

31 Any portion of a rail corridor held by the Department of Transportation and leased
32 for interim public recreation and nonmotorized transportation uses by a unit of a local
33 government or leased or otherwise transferred to other departments or agencies of this
34 State for interim public recreation and nonmotorized transportation uses shall be
35 deemed to be held and preserved for railroad use and in continuation of any railroad
36 easement and shall not revert by operation of law to any other ownership, provided such
37 interim use is subject to restoration or reconstruction for railroad purposes."

38 **SECTION 3.** G.S. 160A-498 reads as rewritten:

39 **"§ 160A-498. Railroad corridor preservation.**

40 A city or county may acquire property, by purchase or gift, to preserve a railroad
41 corridor established by the Department of Transportation. A city or county that acquires
42 property to preserve a railroad corridor may lease or sublease the property or use the
43 property for interim compatible uses until the property is used for a railroad.

1 Such interim compatible uses may include use for interim public recreation and for
2 nonmotorized transportation and such corridors used for such purposes shall be deemed
3 to be held and preserved for railroad purposes and in continuation of any railroad
4 easement and shall not revert by operation of law to any other ownership, provided such
5 interim use is subject to restoration or reconstruction for railroad purposes."

6 **SECTION 4.** There is appropriated from the Highway Fund to the
7 Department of Transportation for the 2003-2004 fiscal year the sum of one hundred
8 thousand dollars (\$100,000) to implement this act.

9 **SECTION 5.** This act becomes effective July 1, 2003.