

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1230
Committee Substitute Favorable 6/5/03

Short Title: Rail Corridor Uses.

(Public)

Sponsors:

Referred to:

April 22, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW ALL RAIL CORRIDORS HELD BY THE DEPARTMENT OF
2 TRANSPORTATION TO BE USED AS INTERIM RECREATIONAL
3 CORRIDORS, TO RESTRICT MOTORIZED USE OF INTERIM
4 RECREATIONAL RAIL CORRIDORS, TO CLARIFY THAT THE
5 DEPARTMENT MAY LEASE RAIL CORRIDORS TO OTHER STATE
6 AGENCIES AND LOCAL GOVERNMENTS FOR INTERIM RECREATIONAL
7 USE, TO SPECIFY THAT INTERIM RECREATIONAL USE OF A RAIL
8 CORRIDOR DOES NOT CONSTITUTE A REVERSION OR ABANDONMENT
9 OF THE CORRIDOR, AND TO APPROPRIATE FUNDS TO IMPLEMENT THE
10 ACT.
11

12 The General Assembly of North Carolina enacts:

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

14 **"§ 136-44.36D. Recreational leasing requirements.**

15 Portions of rail corridors held by the North Carolina Department of Transportation in
16 fee simple absolute or in any lesser interest, including easements and leaseholds, may be
17 leased or subleased by the Department ~~for interim public recreation use to other State~~
18 departments, agencies, or local governments for interim use, or joint use with rail, for
19 public recreation, such as a linear park trail or recreational corridor, and for
20 nonmotorized transportation use, provided the following conditions are met:

- 21 (1) Before requesting trail use, a sponsoring unit of local government has
22 held a public hearing in accordance with G.S. 143-318.12 and notified
23 the owners of all parcels of land abutting the corridor as shown on the
24 county tax listing of the hearing date, place, and time by first-class
25 mail at the last addresses listed for such owners on the county tax
26 abstracts. A transcript of all public comments presented at the hearing
27 has been sent to the North Carolina Department of Transportation at
28 the time of requesting use of the corridor.

- 1 (2) A unit of local government has requested use of the rail corridor or a
2 portion thereof for interim public recreational and nonmotorized trail
3 use, and agrees in writing to assume all development costs as well as
4 management, security, and liability responsibilities as defined by the
5 North Carolina Department of Environment and Natural Resources
6 and the North Carolina Department of Transportation.
- 7 (3) Adjacent property owners are offered broad voting representation by
8 membership in the organization, if any, that is delegated most
9 immediate responsibility for development and management of the
10 rail-trail by the sponsoring local government.
- 11 (4) The North Carolina Department of Transportation has determined that
12 there will not likely be a need to resume active rail service in the
13 leased portion of the rail corridor for at least 10 years.
- 14 (5) Any lease or other agreement allowing trail use includes terms for
15 resumption of active rail use which will assure unbroken continuation
16 of the corridor's perpetual use for railroad purposes and interim
17 compatible uses.
- 18 (6) Use of the rail corridor or portions thereof as a recreational trail does
19 not interfere with the ultimate transportation purposes of the corridor
20 as determined by the North Carolina Department of Transportation."

21 **SECTION 2.** Article 2D of Chapter 136 of the General Statutes is amended
22 by adding a new section to read:

23 **"§ 136-44.36E. No reversion or abandonment of a corridor by use for interim**
24 **compatible uses.**

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

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

34 **"§ 160A-498. Railroad corridor preservation.**

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

39 Such interim compatible, or joint with rail, uses may include use for interim public
40 recreation and for nonmotorized transportation and such corridors used for such
41 purposes shall be deemed to be held and preserved for railroad purposes and in
42 continuation of any railroad easement and shall not revert by operation of law to any
43 other ownership, provided such interim use is subject to restoration or reconstruction for
44 railroad purposes."

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

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