

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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HOUSE BILL 1168

Committee Substitute Favorable 5/28/20

Senate Transportation Committee Substitute Adopted 6/17/20

Short Title: Murphy Branch Corridor Reduction.

(Public)

Sponsors:

Referred to:

May 22, 2020

1 **A BILL TO BE ENTITLED**

2 AN ACT TO PROVIDE FOR THE REDUCTION OF THE DEPARTMENT OF
3 TRANSPORTATION'S INTEREST IN A CERTAIN PORTION OF THE ANDREWS TO
4 MURPHY RAIL CORRIDOR WITHIN THE BOUNDARIES OF CHEROKEE COUNTY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** For purposes of this section, the following shall apply:

7 (1) The term "Rail Corridor" shall mean the former Murphy Branch rail corridor
8 consisting of the only railway located solely within the boundaries of
9 Cherokee County and between the Town of Andrews and the Town of Murphy
10 in Cherokee County between Milepost 101.1 and Milepost 113.7, excluding
11 all of the following:

- 12 a. Any portion of that railway located in the Town of Murphy on land
13 owned by the United States government or any of its agencies.
14 b. Any privately owned railroad or any privately owned railroad
15 right-of-way.

16 (2) Where there is more than one track in the Rail Corridor, the State shall retain
17 its property interest in the Rail Corridor for a distance of 25 feet from the
18 center of each track.

19 **SECTION 2.(a)** Subject to applicable federal requirements, the State's interest in the
20 right-of-way claimed by the North Carolina Department of Transportation with respect to the
21 Rail Corridor is uniformly reduced to 25 feet on each side of the center line of the tracks
22 traversing the Rail Corridor. Upon reduction of the right-of-way, the interest in real property
23 previously held by the State of North Carolina is transferred to the current adjacent real property
24 owner of record according to the land records in the Office of the Register of Deeds of Cherokee
25 County upon that real property owner's release of all claims against the State and the Department
26 of Transportation with respect to that right-of-way. All transfers of interest in real property by
27 the State of North Carolina and all releases of claims against the State and the North Carolina
28 Department of Transportation by the owners of adjacent real property must occur within two
29 years of the effective date of this act.

30 **SECTION 2.(b)** Within 180 days of the current adjacent property owner releasing
31 all claims against the State and the Department of Transportation, the Department of
32 Transportation shall, at no expense to the State or to that Department, provide to that real property
33 owner a quitclaim deed, or, if applicable, a deed of release, to the real property so transferred.
34 The quitclaim deed or deed of release shall be recorded in the Office of the Register of Deeds of
35 Cherokee County.



1 **SECTION 2.(c)** Notwithstanding the provisions of Chapters 136 and 146 of the
2 General Statutes or any other provision of State law, transfers in accordance with this section
3 shall not require Council of State or Board of Transportation approval.

4 **SECTION 3.** Notwithstanding Section 2 of this act, the Department of
5 Transportation shall retain an easement for right of entry and access for maintenance and repair
6 of the track and associated structures that is parallel to each side of the retained portion of the
7 Rail Corridor and 15 feet in width. No buildings or structures shall be constructed or placed
8 within this easement nor shall trees or other permanent foliage be allowed to grow within the
9 easement. Nothing in this section shall prevent the maintenance and repair easement established
10 by this section from also being subject to an agricultural or conservation easement under State or
11 federal law.

12 **SECTION 4.** Nothing in this act shall apply, nor be construed to apply, to any
13 publicly owned or privately owned rail or other transportation corridor, except the Rail Corridor.
14 Nothing in this act shall alter or amend, nor be construed to alter or amend, the application of the
15 federal law with respect to railroad rights-of-way; publicly owned and privately owned rail
16 transportation corridors are and shall remain under the jurisdiction of the Surface Transportation
17 Board, the independent federal agency charged with regulation of various modes of surface
18 transportation. Nothing in this act shall alter or amend, nor be construed to alter or amend, that
19 privately owned rail transportation corridor rights-of-way in this State are managed by the
20 respective privately owned railroad.

21 **SECTION 5.** Section 35.18 of Session Law 2016-94 is repealed.

22 **SECTION 6.** This act is effective when it becomes law.