

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to:

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION,
3 REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL
4 TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION
5 CORRIDORS AND PROTECT THEM FROM DEVELOPMENT, AND TO
6 INSURE PROPER NOTICE TO ALL PROPERTY OWNERS AFFECTED BY THE
7 CORRIDORS.
8 The General Assembly of North Carolina enacts:
9 Section 1. Article 2E of Chapter 136 reads as rewritten:
10 "ARTICLE 2E.
11 "~~Roadway~~ Transportation Corridor Official Map Act.

1 **"§ 136-44.50. Roadway-transportation corridor official map act.**

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

- 4 (1) ~~by the~~ The governing board of any city for any thoroughfare included as
5 part of a comprehensive plan for streets and highways adopted pursuant
6 to ~~G.S. 136-66.2 or~~ G.S. 136-66.2 or for any proposed public
7 transportation corridor included in the adopted long-range transportation
8 plan.
- 9 (2) ~~by the~~ The Board of Transportation for any portion of the existing or
10 proposed State highway ~~system.~~ system or for any public transportation
11 corridor, to include rail, that is in the Transportation Improvement
12 Program.
- 13 (3) Regional public transportation authorities created pursuant to Article 26
14 of Chapter 160A of the General Statutes or regional transportation
15 authorities created pursuant to Article 27 of Chapter 160A of the
16 General Statutes for any proposed public transportation corridor, or
17 adjacent station or parking lot, included in the adopted long-range
18 transportation plan.

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

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

- 27 (1) The governing board of the ~~city~~ city, the regional transportation
28 authority, or the Department of Transportation ~~in each county affected~~
29 ~~by the map,~~ has held a public hearing in each county affected by the
30 map on the proposed map or amendment. Notice of the hearing shall be
31 provided:
- 32 a. By publication at least once a week for four successive weeks
33 prior to the hearing in a newspaper having general circulation in
34 the county in which the ~~roadway-transportation~~ corridor to be
35 designated is located.
- 36 b. By two week written notice to the Secretary of Transportation,
37 the Chairman of the Board of County Commissioners, and the
38 Mayor of any city or town through whose corporate or
39 extraterritorial jurisdiction the ~~roadway-transportation~~ corridor
40 passes.
- 41 c. By posting copies of the proposed ~~roadway-transportation~~
42 corridor map or amendment at the courthouse door for at least 21

- 1 days prior to the hearing date. The notice required in sub-
2 subdivision a. above shall make reference to this posting.
- 3 d. By first-class mail sent to each property owner affected by the
4 corridor. The notice shall be sent to the address listed for the
5 owner in the county tax records.
- 6 (2) A permanent certified copy of the ~~roadway~~-transportation corridor
7 official map or amendment has been filed with the register of deeds.
8 The boundaries may be defined by map or by written description, or a
9 combination thereof. The copy shall measure approximately 20 inches
10 by 12 inches, including no less than one and one-half inches binding
11 space on the left-hand side.
- 12 (3) The names of all property owners affected by the corridor have been
13 submitted to the Register of Deeds.
- 14 (b) ~~Roadway~~-Transportation corridor official maps and amendments shall be
15 distributed and maintained in the following manner:
- 16 (1) A copy of the official map and each amendment thereto shall be filed in
17 the office of the city clerk and in the office of the district engineer.
- 18 (2) A copy of the official map, each amendment thereto and any variance
19 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the
20 tax supervisor of any county and tax collector of any city affected
21 thereby. The portion of properties embraced within a ~~roadway~~
22 transportation corridor and any variance granted shall be clearly
23 indicated on all tax maps maintained by the county or city for such
24 period as the designation remains in effect.
- 25 (3) Notwithstanding any other provision of law, the certified copy filed with
26 the register of deeds shall be placed in a book maintained for that
27 purpose and cross-indexed by number of road, street name, or other
28 appropriate description. The register of deeds shall collect a fee of five
29 dollars (\$5.00) for each map sheet or page recorded.
- 30 (4) The names submitted as required under subdivision (a)(3) of this section
31 shall be indexed in the 'grantor' index by the Register of Deeds.
- 32 (c) Repealed by Session Laws 1989, c. 595, s. 1.
- 33 (d) Within one year following the establishment of a ~~roadway~~-transportation
34 corridor official map or amendment, work shall begin on an environmental impact
35 statement or preliminary engineering. The failure to begin work on the environmental
36 impact statement or preliminary engineering within the one-year period shall constitute
37 an abandonment of the corridor, and the provisions of this Article shall no longer apply to
38 properties or portions of properties embraced within the ~~roadway~~-transportation corridor.
39 A city may prepare environmental impact studies and preliminary engineering work in
40 connection with the establishment of a ~~roadway~~-transportation corridor official map or
41 amendments to a ~~roadway~~-transportation corridor official map. When a city prepares a
42 ~~roadway~~-transportation corridor official map for a street or highway that has been
43 designated a State responsibility pursuant to G.S. 136-66.2, the environmental impact

1 study and preliminary engineering work shall be reviewed and approved by the
2 Department of Transportation. An amendment to a corridor shall not extend the two-year
3 period provided by this section unless it establishes a substantially different corridor in a
4 primarily new location.

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

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

10 (2) Deletion of the corridor from the transportation corridor official map by
11 action of the Board of Transportation, or deletion of the corridor from
12 the long-range transportation plan of a city or regional transportation
13 authority by action of the city or regional transportation authority
14 governing Board.

15 (f) The term 'transportation corridor' as used in this Article does not include
16 bikeways or greenways.

17 **"§ 136-44.51. Effect of ~~roadway-transportation~~ transportation corridor official map.**

18 (a) After a ~~roadway-transportation~~ transportation corridor official map is filed with the register of
19 deeds, no building permit shall be issued for any building or structure or part thereof
20 located within the ~~roadway-transportation~~ transportation corridor, nor shall approval of a subdivision, as
21 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within
22 the ~~roadway-transportation~~ transportation corridor. ~~The district engineer of the Highway District in~~
23 ~~which the roadway corridor is located~~ Secretary of Transportation or his designee, the
24 director of a regional public transportation authority, or the director of a regional
25 transportation authority, as appropriate, shall be notified within 10 days of all requests for
26 building permits or subdivision approval within the ~~roadway-transportation~~ transportation corridor. The
27 provisions of this section shall not apply to valid building permits issued prior to August
28 7, 1987, or to building permits for buildings and structures which existed prior to the
29 filing of the ~~roadway-transportation~~ transportation corridor provided the size of the building or structure
30 is not increased and the type of building code occupancy as set forth in the North
31 Carolina Building Code is not changed.

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

36 **"§ 136-44.52. Variance from ~~roadway-transportation~~ transportation corridor official map.**

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

41 (b) The procedure established by the State shall provide for written notice to the
42 Mayor and Chairman of the Board of County Commissioners of any affected city or

1 county, and for the hearing to be held in the county where the affected property is
2 located.

3 (c) Cities may provide for petitions for variances to be heard by the board of
4 adjustment or other boards or commissions which can hear variances authorized by G.S.
5 160A-388. The procedures for boards of adjustment shall be followed except that no
6 vote greater than a majority shall be required to grant a variance.

7 (c1) The procedure established by a regional public transportation authority or a
8 regional transportation authority pursuant to subsection (a) of this section shall provide
9 for a hearing de novo by the Department of Transportation for any petition for variance
10 which is denied by the regional public transportation authority or the regional
11 transportation authority. All hearings held by the Department of Transportation under
12 this subsection shall be conducted in accordance with procedures established by the
13 Department of Transportation pursuant to subsection (a) of this section.

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

15 (1) Even with the tax benefits authorized by this Article, no reasonable
16 return may be earned from the land; and

17 (2) The requirements of G.S. 136-44.51 result in practical difficulties or
18 unnecessary hardships.

19 "**§ 136-44.53. Advance acquisition of right-of-way within the roadway**
20 **transportation corridor.**

21 (a) After a ~~roadway-transportation~~ corridor official map is filed with the register of
22 ~~deeds, the deeds,~~ a property owner has the right of petition to the filer of the map for
23 acquisition of the property due to an imposed hardship. The Department of
24 ~~Transportation or Transportation,~~ the regional public transportation authority, the
25 regional transportation authority, or the city which initiated the roadway-transportation
26 corridor official map is authorized to may make advanced acquisition of specific parcels
27 of property when such that acquisition is determined by the respective governing board to
28 be in the best public interest to protect the roadway-transportation corridor from
29 development or when the roadway-transportation corridor official map creates an undue
30 hardship on the affected property owner. The procedure established by a regional public
31 transportation authority or a regional transportation authority pursuant to subsection (b)
32 of this section shall provide for a hearing de novo by the Department of Transportation
33 for any request for advance acquisition due to hardship that is denied by an authority. All
34 hearings held by the Department under this subsection shall be conducted in accordance
35 with procedures established by the Department pursuant to subsection (b) of this section.
36 Any decision of the Department pursuant to this subsection shall be final and binding.
37 Any property determined eligible for hardship acquisition shall be acquired within three
38 years of the finding or the restrictions of the map shall be removed from the property.

39 (b) Prior to making any ~~such~~ advanced acquisition of right-of-way under the
40 authority of this Article, the Board of Transportation or the respective municipal
41 governing board which initiated the roadway-transportation corridor official map shall
42 develop and adopt appropriate policies and procedures to govern such the advanced

1 acquisition of right-of-way and to assure ~~such~~ that the advanced acquisition is in the best
2 overall public interest.

3 (c) When a city makes an advanced right-of-way acquisition of property within a
4 ~~roadway-transportation~~ corridor official map for a street or highway that has been
5 determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the
6 Department of Transportation shall reimburse the city for the cost of ~~such~~ any advanced
7 right-of-way acquisition at the time the street or highway is constructed. The Department
8 of Transportation shall have no responsibility to reimburse a municipality for any
9 advanced right-of-way acquisition for a street or highway that has not been designated a
10 State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of
11 the advanced acquisition by the city. The city shall obtain the concurrence of the
12 Department of Transportation in all instances of advanced acquisition.

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

17 **"§ 136-44.54. Standard for appraisal of right-of-way within corridor.**

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

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

21 **"§ 105-277.9. Taxation of property inside certain roadway corridors.**

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

- 27 (1) As of January 1, no building or other structure is located on the
28 property; and
29 (2) The property has not been subdivided, as defined in G.S. 153A-335 or
30 G.S. 160A-376, since it was included in the corridor."

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

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

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

38 **"§ 160A-458.4. Designation of ~~roadway-transportation~~ corridor official maps.**

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

41 Section 5. G.S. 161-14 is amended by adding a new subsection to read:

1 "(c) Transportation corridor official maps authorized under Article 2E of Chapter
2 136 shall be registered and indexed by the end of the third business day after the business
3 day the map is presented to the Register of Deeds."

4 Section 6. This act becomes effective November 1, 1998, and applies to
5 transportation corridor official maps, or amendments to those maps, adopted on or after
6 the effective date of this act.