

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2025

**H.B. 948**  
**Apr 10, 2025**  
**HOUSE PRINCIPAL CLERK**

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HOUSE BILL DRH30366-MCxf-150

Short Title: The P.A.V.E. Act. (Public)

Sponsors: Representative Cotham.

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO ENACT THE PROJECTS FOR ADVANCING VEHICLE-INFRASTRUCTURE  
ENHANCEMENTS (PAVE) ACT.

The General Assembly of North Carolina enacts:

**PART I. RESERVED**

**PART II. REVISIONS TO CURRENT MECKLENBURG COUNTY SALES TAX FOR  
PUBLIC TRANSPORTATION**

**SECTION 2.1.** G.S. 105-506.1 reads as rewritten:

**"§ 105-506.1. Definitions.**

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

...

(3) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride ~~services~~, services and other forms of micro transit, high-occupancy vehicle facilities, car-pool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, and the interconnected bicycle and pedestrian infrastructure that supports public transportation, bus lanes, and busways. The term includes tunnels and other infrastructure designed to rapidly transport people, freight, or vehicles through automated means. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

(4) Transportation authority. – For the purposes of Part 2 of this Article, a metropolitan public transportation authority created pursuant to Article 34 of Chapter 160A of the General Statutes. For the purposes of Parts 3 and 4 of this Article, a regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes; and for the purposes of Parts 3 and 5 of this Article, a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes."

**SECTION 2.2.** G.S. 105-507.2 reads as rewritten:

**"§ 105-507.2. ~~Levy and collection~~ Levy, collection, and repeal of sales and use tax.**



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(a) If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-half percent (½%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 1 of Article 43 of Chapter 105 of the General Statutes".

(b) No action by a county to repeal a tax levied under this Part may become effective while previously issued or, as provided in this subsection, refinanced, bonds, notes, or other financing secured or payable by receipts derived from the tax allocated to a municipality or a transportation authority by the county remain outstanding. Nothing in this Part obligates a county to exercise any power of taxation or restricts the ability of the county to repeal the tax previously levied. If a county repeals a tax levied under this Part, a municipality or transportation authority may refinance previously issued bonds, notes, or other financing that are secured or payable by receipts for the tax revenue under this Part to reduce debt service as allowed under the law so long as the refinancing does not extend the date of maturity for the previously issued bonds, notes, or other financing.

**SECTION 2.3.** G.S. 105-507.3(b) reads as rewritten:

"(b) Use. – A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government may use the net proceeds distributed to it under this Part only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems. The net proceeds distributed to any unit of local government, other than the county that levies the tax, pursuant to this Part may be included as revenues within the meaning of G.S. 159-81(4), including any modifications of that statute."

**SECTION 2.4.** G.S. 105-507.3, as amended by Section 2.3 of this act, reads as rewritten:

**"§ 105-507.3. Distribution and use of taxes.**

(a) Distribution. – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Part by that county. If the Secretary collects taxes under this Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this Part in that month and shall include them in the monthly distribution.

~~The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate public transportation systems, to the largest transportation authority that includes the county. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government transportation authority that does not operate a public transportation system.~~

(b) Use. – ~~A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government transportation authority may use the net proceeds distributed to it under this Part only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.~~ The net proceeds distributed to any unit of local government, other than the county that levies the tax, pursuant to

1 this Part may be included as revenues within the meaning of G.S. 159-81(4), including any  
2 modifications of that statute."

3 **SECTION 2.5.** Section 2.4 of this act becomes effective only if Mecklenburg County  
4 levies a tax authorized under Part IV of this act. If Mecklenburg County levies a tax authorized  
5 under Part IV of this act, then Section 2.4 becomes effective on the same date that the tax levied  
6 under that Part becomes effective. The remainder of this Part is effective when it becomes law.  
7

### 8 **PART III. REVISIONS TO CURRENT MECKLENBURG COUNTY U-DRIVE-IT TAX**

9 **SECTION 3.1.** Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L.  
10 2006-162 and amended by Section 2(h) of S.L. 2009-527, reads as rewritten:

11 "SECTION 3.1. A county authorized to impose a tax under Part 2 of Article 43 of Chapter  
12 105 of the General Statutes is considered an authority under Article 50 of Chapter 105 of the  
13 General Statutes, as enacted by Section 3 of this act, and the board of commissioners of that  
14 county is considered the board of trustees of the authority under Article 50. G.S. 105-554 of  
15 Article 50 does not apply to the proceeds of a tax imposed by a county considered an authority  
16 under this section. The proceeds of a tax imposed by a county considered an authority under this  
17 section must be transferred to the largest ~~city in~~ metropolitan public transportation authority,  
18 including that county operating a public transportation system and used only for financing,  
19 constructing, operating, and maintaining a public transportation system. The proceeds may  
20 supplant existing funds allocated for a public transportation system. The term 'public  
21 transportation system' has the same meaning as defined in G.S. 105-506.1."

22 **SECTION 3.2.** This Part becomes effective only if Mecklenburg County levies a tax  
23 authorized under Part IV of this act. If Mecklenburg County levies a tax authorized under Part  
24 IV of this act, then this Part becomes effective on the same date that the tax levied under that Part  
25 becomes effective.  
26

### 27 **PART IV. ADDITIONAL MECKLENBURG COUNTY ROADWAY SYSTEMS AND** 28 **PUBLIC TRANSPORTATION SYSTEMS SALES TAX**

29 **SECTION 4.1.** Title. – This Part is the Mecklenburg County Roadway Systems and  
30 Public Transportation Systems Sales Tax Act and may be cited by that name. This Part gives  
31 Mecklenburg County an opportunity to obtain an additional source of revenue with which to meet  
32 its needs for financing roadway systems and public transportation systems. It provides the County  
33 with authority to levy sales and use taxes. All such taxes must be approved in a referendum.

34 **SECTION 4.2.** Definitions. – The definitions in G.S. 105-164.3, G.S. 105-506.1,  
35 and the following definitions apply in this Part:

- 36 (1) Authority. – A metropolitan public transportation authority created under  
37 Article 34 of Chapter 160A of the General Statutes, as enacted by Part V of  
38 this act.
- 39 (2) Eligible municipality. – Any of the following municipalities in Mecklenburg  
40 County: the City of Charlotte and the Towns of Cornelius, Davidson,  
41 Huntersville, Matthews, Mint Hill, and Pineville.
- 42 (3) Red Line. – A rail project that includes, at a minimum, service from the center  
43 of the City of Charlotte through the towns of Cornelius, Davidson, and  
44 Huntersville and, provided that agreement is obtained from applicable local  
45 governments outside of Mecklenburg County, continues to a point north of  
46 the jurisdiction of the Town of Davidson, and in no event shall the terminus  
47 be in the Town of Davidson's jurisdiction unless approved by the Town of  
48 Davidson.
- 49 (4) Roadway system. – A roadway together with appurtenances to a roadway  
50 which includes, but is not limited to, plans, designs, and related studies;  
51 rights-of-way, whether conveyed by deed or easement; construction,

1 maintenance, and improvements to streets and highways, intersections,  
2 streetscapes and landscaping, pedestrian facilities, bicycle facilities, parking  
3 lots, curbs, gutters, storm drainage, bridges, overpasses, grade crossings, street  
4 lighting, and traffic control devices; utility relocations; publicly accessible  
5 electric vehicle charging infrastructure, hydrogen fueling infrastructure,  
6 propane fueling infrastructure, natural gas fueling infrastructure, and  
7 vehicle-to-grid infrastructure; current and emerging intelligent transportation  
8 technologies, including the ability of vehicles to communicate with  
9 infrastructure, buildings, and other road users; projects that facilitate  
10 intermodal connections between emerging transportation technologies, such  
11 as magnetic levitation and hyperloop; protective features, including natural  
12 infrastructure, to enhance the resilience of a transportation facility; and  
13 measures to protect a roadway system from cybersecurity threats.

14 **SECTION 4.3.** Exemption of Food. – A tax levied under this Part does not apply to  
15 the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price  
16 of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a).

17 **SECTION 4.4.(a)** Advisory Referendum. – The Mecklenburg County Board of  
18 Commissioners may direct the county board of elections to conduct an advisory referendum  
19 within the County on the question of whether a local sales and use tax at the rate of one percent  
20 (1%) may be levied in accordance with this Part. The election shall be held in accordance with  
21 the procedures of G.S. 163-287. The Board of Commissioners shall hold a public hearing on the  
22 question at least 30 days before the date the election is to be held.

23 **SECTION 4.4.(b)** Ballot Question. – The form of the question to be presented on a  
24 ballot for a special election concerning the levy of a tax authorized by this Part shall be:

25 "[ ] FOR [ ] AGAINST

26 One percent (1%) local sales and use taxes, in addition to the current local sales and  
27 use taxes, to be used only for roadway systems and public transportation systems."

28 **SECTION 4.5.** Levy of Tax. – The Board of Commissioners may, by resolution,  
29 levy one percent (1%) local sales and use taxes in addition to any other State and local sales and  
30 use taxes levied pursuant to law only if all of the following conditions are satisfied:

- 31 (1) The majority of those voting in a referendum held pursuant to Section 4.4(a)  
32 of this Part vote for the levy of the tax.  
33 (2) An Authority that includes Mecklenburg County has been established.  
34 (3) At least one eligible municipality or an Authority maintains a public  
35 transportation system in the County.

36 **SECTION 4.6.** Administration. – Except as otherwise provided in this Part, the  
37 adoption, levy, collection, administration, and repeal of these additional taxes shall be in  
38 accordance with Article 39 of Chapter 105 of the General Statutes. Nothing in this Part obligates  
39 Mecklenburg County to exercise any power of taxation or restricts the ability of the County to  
40 repeal the tax previously levied.

41 **SECTION 4.7.** Distribution. – The Secretary of Revenue shall, on a monthly basis,  
42 distribute to Mecklenburg County the net proceeds of the tax levied under this Part. Mecklenburg  
43 County must distribute forty percent (40%) of the net proceeds of a tax levied under this Part as  
44 provided in Section 4.8 of this act and sixty percent (60%) of the net proceeds of a tax levied  
45 under this Part as provided in Section 4.9 of this act.

46 **SECTION 4.8.** Roadway Distribution and Use. – Mecklenburg County must  
47 distribute forty percent (40%) of the net proceeds of a tax levied under this Part among the eligible  
48 municipalities as provided in this section. Each eligible municipality shall annually submit to the  
49 County a copy of the statement certified by a registered engineer or surveyor that is submitted to  
50 the Department of Transportation under G.S. 136-41.1(a) of the total number of miles of streets  
51 in that municipality that are not part of the State highway system. The word "street" as used under

1 this section has the same definition as provided in G.S. 136-41.1(a). Each eligible municipality  
2 shall use the net proceeds distributed to it under this section only for costs associated with  
3 financing, constructing, operating, or maintaining roadway systems.

4 (1) Procedure. The following amounts must be computed before the distribution  
5 of any tax proceeds under this subdivision:

6 a. The monthly amount for each eligible municipality other than the City  
7 of Charlotte is equal to one hundred twenty-five percent (125%) of the  
8 greater of the following two amounts:

9 1. The amount generated by multiplying the net proceeds  
10 distributed under this section during a month by the percentage  
11 proportion that the mileage of streets in the eligible  
12 municipality that do not form a part of the State highway  
13 system bears to the total mileage of the streets that do not  
14 constitute a part of the State highway system in all eligible  
15 municipalities combined.

16 2. The sum of the following:

17 I. The amount generated by multiplying seventy-five  
18 percent (75%) of the net proceeds distributed under this  
19 section during a month by the percentage proportion  
20 that the population of the eligible municipality bears to  
21 the total population of all eligible municipalities  
22 according to the most recent annual estimates of  
23 population as certified to the Secretary of Revenue by  
24 the State Budget Officer.

25 II. The amount generated by multiplying twenty-five  
26 percent (25%) of the net proceeds distributed under this  
27 section during a month in the percentage proportion  
28 that the mileage of streets in each eligible municipality  
29 that do not form a part of the State highway system  
30 bears to the total mileage of the streets that do not  
31 constitute a part of the State highway system in all  
32 eligible municipalities combined.

33 b. The monthly amount for the City of Charlotte is the remainder of net  
34 proceeds to be distributed under this section during a month after the  
35 amounts for the other eligible municipalities are determined under  
36 Section 4.8(1)a. of this act.

37 c. The annual amount for an eligible municipality is equal to the sum of  
38 the 12 monthly amounts for that municipality.

39 d. The baseline amount for an eligible municipality other than the City  
40 of Charlotte is equal to the following:

41 1. For fiscal years beginning on or after the effective date of the  
42 levy of the tax but prior to the first full fiscal year beginning  
43 on or after one year after the effective date of the levy of the  
44 tax, the baseline amount is zero.

45 2. For fiscal years beginning on or after at least one full fiscal  
46 year after the effective date of the levy of the tax but before the  
47 release of census data by the U.S. Census Bureau for the next  
48 decennial census, the annual amount as calculated under  
49 Section 4.8(1)c. of this act for the first full fiscal year beginning  
50 on or after the effective date of the levy of the tax.

3. For later fiscal years, the annual amount as calculated under Section 4.8(1)c. of this act for the first fiscal year beginning on or after the release of census data by the U.S. Census Bureau for the most recent decennial census.
- e. The baseline amount for the City of Charlotte is zero.
- (2) Distribution. The distribution of net proceeds under this subdivision is as follows:
  - a. For the first 11 months of the fiscal year, the County shall distribute the monthly amount to each eligible municipality.
  - b. For the final month of the fiscal year, the distribution is as follows:
    1. If the total net proceeds distributed to the County for the fiscal year are less than the total net proceeds distributed to the County for the preceding fiscal year, the County shall distribute the monthly amount to each eligible municipality.
    2. If the total net proceeds distributed to the County for the fiscal year are greater than the total net proceeds distributed to the County for the preceding fiscal year, the County shall distribute the proceeds as follows:
      - I. If the annual amount for each municipality is greater than the baseline amount for that municipality, the monthly amount.
      - II. Except as provided in Section 4.8(2)b.2.III. of this act, if the annual amount for any municipality is less than the baseline amount for that municipality, then the following:
        - A. The amount to be distributed to each eligible municipality whose annual amount is less than the baseline amount is the amount needed so that the total amount distributed to that municipality for the fiscal year is equal to the baseline amount.
        - B. The amount to be distributed to the other eligible municipalities is the monthly amount as reduced by this sub-sub-sub-sub-subdivision. The amount of the reduction is equal to the difference between the annual amount and the baseline amount for all eligible municipalities combined that receive a distribution under Section 4.8(2)b.2.II.A. of this act multiplied by a percentage. The percentage is equal to the percentage proportion that the population of the eligible municipality bears to the total population of all eligible municipalities subject to distribution under this sub-sub-sub-sub-subdivision according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer.
      - III. If the calculation required in Section 4.8(2)b.2.II.B. of this act would result in the annual amount for any of those eligible municipalities to be lower than that

municipality's baseline amount, then the county shall distribute to each eligible municipality the monthly amount.

**SECTION 4.9.** Public Transportation Distribution and Use. – Mecklenburg County must distribute sixty percent (60%) of the net proceeds of the tax levied under this Part to the Authority. The Authority shall use the net proceeds distributed to it under this section only for costs associated with financing, acquiring, constructing, operating, and maintaining any combination of real and personal property for a public transportation system, specifically including micro transit services. The Authority may accomplish these purposes by undertaking these activities itself or by entering an interlocal agreement with a municipality in Mecklenburg County that operates a public transportation system to use funds allocated under this section for those purposes as directed by the Authority in the interlocal agreement. An interlocal agreement entered under this section may include a binding commitment on the part of the Authority to allocate all or a portion of these proceeds to the municipality for a defined number of years or until a defined condition is met, such as the satisfaction of any debt that was issued for public transportation systems. In addition, the Authority may enter an agreement with a private entity whereby that entity uses these funds for this purpose as directed by the Authority in the agreement. The net proceeds of a tax levied under this Part that are distributed to the Authority may be included as revenues within the meaning of G.S. 159-81(4), including any modifications of that statute. The following conditions apply to the use of funds distributed under this section:

(1) Reserved.

(2) The Authority shall complete at least fifty percent (50%) of the Red Line as evidenced by a scope of work schedule created and submitted by the general contractor or construction manager on the project before the completion of any other rail project, absent the existence or occurrence of force majeure events that delay completion of the Red Line or make completion of the Red Line impracticable. For the purposes of this section, a "scope of work schedule" is defined as a listing of project tasks associated with a project time line that is updated as the Red Line construction project progresses. For the purposes of this section, force majeure events include fire, flood, earthquakes, other elements of nature, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, nuclear or chemical contamination, epidemics, quarantines, acts of the federal or State government, a declared state of emergency, strikes or labor disruptions other than those specific to the Authority, or other conditions beyond its reasonable control and which, by reasonable diligence, the Authority is unable to prevent. Should a force majeure event delay or halt the Red Line project, the Authority shall resume the original Red Line schedule as soon as practicable when the force majeure event has ceased or subsided. Planning, design, and construction work may occur simultaneously on other rail projects, but only to the extent that those activities do not interfere with or delay the completion of the Red Line.

(3) The Authority shall solicit input from the Towns of Cornelius, Davidson, and Huntersville on all aspects of the Red Line design, including conceptual design, construction drawings, and station location. If the Red Line extends to the Town of Mooresville, the Authority shall also solicit input from that Town.

(4) The Authority shall reimburse the City of Charlotte for the acquisition of the Norfolk Southern O-Line and related property. The amount to be reimbursed may not be more than the cost to the City of Charlotte to acquire the property from Norfolk Southern, including any costs for indebtedness incurred by the City with respect to the acquisition. The Authority and the City of Charlotte shall jointly agree to a schedule for reimbursement of these costs.

**SECTION 4.10.** Repeal of Tax. – The Mecklenburg County Board of Commissioners may by resolution repeal the levy and imposition of the tax in the County as provided in G.S. 105-473(c). The Board of Commissioners, upon adoption of a repeal resolution, shall cause a certified copy of the resolution to be delivered immediately to the Secretary of Revenue. No liability for any tax levied under this Part that attached prior to the effective date on which a levy is repealed shall be discharged as a result of such repeal, and no right to a refund of tax or otherwise that accrued prior to the effective date on which a levy is repealed shall be denied as a result of such repeal. If a county repeals a tax levied under this Part, the Authority or a municipality may refinance previously issued bonds, notes, or other financing that are secured or payable by receipts for the tax revenue under this Part to reduce debt service as allowed under the law so long as the refinancing does not extend the date of maturity for the previously issued bonds, notes, or other financing. No repeal of taxes levied and imposed under this Part shall be effective until the latest of the following:

- (1) The end of the fiscal year in which the repeal resolution was adopted.
- (2) The date by which all previously issued or, as provided in this section, refinanced, bonds, notes, or other financing obtained by the Authority or a municipality secured or payable by receipts from the tax levied under this Part have been satisfied.
- (3) The date by which the Authority has fully reimbursed the City for the purchase of the O-Line as required by Section 4.9(4) of this act.

**SECTION 4.11.** Study. – If a referendum held pursuant to this Part fails, then within one year after the failed referendum the Charlotte Area Transit System shall develop and publish a comprehensive, long-term public transportation plan that specifically includes frequent, express public transportation connections between the center of the City of Charlotte and Charlotte Douglas International Airport.

## **PART V. METROPOLITAN PUBLIC TRANSPORTATION AUTHORITY**

**SECTION 5.1.** Chapter 160A of the General Statutes is amended by adding a new Article to read:

"Article 34.

"Metropolitan Public Transportation Authority.

**"§ 160A-900. Title.**

This Article shall be known and may be cited as the "Metropolitan Public Transportation Authority Act."

**"§ 160A-901. Definitions.**

As used in this Article, unless the context otherwise requires:

- (1) Authority. – A metropolitan public transportation authority as defined by subdivision (5) of this section.
- (2) Board of trustees. – The governing board of the authority, in which the general legislative powers of the authority are vested.
- (3) Metropolitan public transportation authority. – A body corporate and politic organized in accordance with the provisions of this Article for the purposes, with the powers and subject to the restrictions hereinafter set forth.
- (4) Population. – The number of persons residing in respective areas as defined and enumerated in the most recent decennial federal census.
- (5) Public transportation system. – Defined in G.S. 105-506.1.
- (6) Unit of local government. – Any county, city, town, or municipality of this State, and any other political subdivision, public corporation, authority, or district in this State, which is or may be authorized by law to acquire, establish, construct, enlarge, improve, maintain, own, and operate public transportation systems.



(7) Unit of local government's chief administrative official. – The county manager, city manager, town manager, or other person by whatever title, in whom the responsibility for the unit of local government's administrative duties is vested.

**"§ 160A-902. Definition of territorial jurisdiction of authority.**

An authority may be created for any area of the State that, at the time of creation of the authority, meets all of the following criteria:

- (1) The area consists of a single county that has a population greater than one million.
- (2) The county borders another state.
- (3) The county includes at least one unit of local government that operates a light rail system.

**"§ 160A-903. Creation of authority.**

(a) The Board of Commissioners of a county for which an authority may be created as defined in G.S. 160A-902 may by resolution signify its determination to organize an authority under the provisions of this Article. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the authority, and shall state the time and place of the public hearing to be held thereof. No county shall be required to make any other publication of such resolution under the provisions of any other law.

(b) Each such resolution shall include articles of incorporation which shall set forth all of the following:

- (1) The name of the authority.
- (2) A statement that the authority is organized under this Article.
- (3) The name of the organizing county.
- (4) A provision stating that an affirmative vote equal to at least seventy-five percent (75%) of the membership of the board of trustees is required to amend the articles of incorporation or to adopt or amend the bylaws of the authority.

(c) A certified copy of the resolutions signifying the determination to organize an authority under the provisions of this Article shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on each of such resolutions. If the Secretary of State finds that the resolution, including the articles of incorporation, conform to the provisions of this Article and that the notices of hearing were properly published, the Secretary shall file the resolutions and proofs of publication and shall issue a certificate of incorporation under the seal of the State and shall record the same in an appropriate book of record. The issuance of a certificate of incorporation by the Secretary of State constitutes the authority a public body and body politic and corporate of the State of North Carolina. The certificate of incorporation is conclusive evidence of the fact that the authority has been duly created and established under the provisions of this Article.

(d) When the authority has been duly organized and its officers elected as provided in this Article, the secretary of the authority shall certify to the Secretary of State the names and addresses of officers as well as the address of the principal office of the authority.

(e) The authority may become a Designated Recipient pursuant to the Urban Mass Transportation Act of 1964, as amended.

**"§ 160A-904. Territorial jurisdiction of the authority.**

(a) The initial territorial jurisdiction of an authority created pursuant to this Article shall be coterminous with the boundaries of the county that organized it.

(b) Except as provided by this Article, the jurisdiction of the authority may include all local public passenger transportation operating within the territorial jurisdiction of the authority,

but the authority may not take over the operation of any existing public transportation without the consent of the owner.

(c) The authority shall not have jurisdiction over public transportation subject to the jurisdiction of and regulated by the Interstate Commerce Commission, nor shall it have jurisdiction over intrastate public transportation classified as common carriers of passengers by the North Carolina Utilities Commission.

**"§ 160A-905. Membership; officers; compensation.**

(a) The governing body of an authority is the board of trustees. The initial board of trustees shall consist of 27 members, appointed as provided in this section. For each appointment below, the appointing authority may appoint an alternate that may act in the absence of the primary person appointed. The appointments are as follows:

- (1) Six members appointed by the board of commissioners of the county that created the authority. Of the members appointed by the board of commissioners, at least one member must live in an unincorporated area of the county and at least one member must have experience owning or operating a small business. For purposes of this subdivision, a "small business" is one that is independently owned and operated, not dominant in its field, and employs fewer than 100 employees on a full-time basis.
- (2) One member appointed by the governing body of the municipality that has the second largest population of residents that reside in the county.
- (3) One member appointed by the governing body of the municipality that has the third largest population of residents that reside in the county.
- (4) One member appointed by the governing body of the municipality that has the fourth largest population of residents that reside in the county.
- (5) One member appointed by the governing body of the municipality that has the fifth largest population of residents that reside in the county.
- (6) One member appointed by the governing body of the municipality that has the sixth largest population of residents that reside in the county.
- (7) One member appointed by the governing body of the municipality that has the seventh largest population of residents that reside in the county.
- (8) Twelve members appointed by the governing body of the largest municipality in the county that created the authority as follows:
  - a. At least three of these appointments must be made upon the recommendation of an entity that represents business interests in the county.
  - b. At least one of the remaining nine appointments by the governing body must be an individual that has experience owning or operating a small business as defined in subdivision (1) of this subsection.
- (9) Two members appointed by the General Assembly, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives.
- (10) One member appointed by the Governor.

(b) Members of the board of trustees shall serve for terms of four years, provided that one-half of the initial appointments shall be for two-year terms, to be determined by lot at the first meeting of the board of trustees, except that the initial term of one member appointed by the General Assembly shall be for two years and the initial term of the other member appointed by the General Assembly shall be for four years to be determined by lot at the first meeting of the board of trustees. Initial terms of office shall commence upon approval by the Secretary of State of the articles of incorporation.

(c) Reserved for future codification purposes.

(c1) No elected official may serve concurrently as a member of the board of trustees.

(c2) A lobbyist or an immediate family member of a lobbyist may not serve as a member of the board of trustees. The definitions in G.S. 120C-101 and G.S. 138A-3 apply for purposes of this subsection.

(d) Members of the board of trustees shall have demonstrated experience or qualifications in the areas of law, finance, engineering, public transportation, urban planning, logistics, government, architecture, or economic development.

(e) Members of the board of trustees shall reside within the territorial jurisdiction of the authority as defined by G.S. 160A-904.

(f) Every two years, the board of trustees shall elect from its membership a group of officers, which shall include a chairperson, vice-chairperson, secretary, and treasurer. An election of an officer must be by a majority vote at a meeting where a quorum is present.

(g) No trustee may serve for more than two consecutive terms on the board of trustees, but a person who has been a member for two consecutive terms may be reappointed after being off the board of trustees for a period of at least two years. An initial term that is two years or less shall not be counted in determining the limitation on consecutive terms. This limitation applies regardless of whether the appointments are made by the same appointing authority.

**"§ 160A-906. Expansion of authority.**

Upon approval of authorizing resolutions by the board of trustees and the board of commissioners of the affected county, the territorial jurisdiction and service area of an authority may be expanded to include a whole county within this State that is contiguous to the then existing territorial jurisdiction of the authority. Each of the authorizing resolutions must receive an affirmative vote equal to at least seventy-five percent (75%) of the membership of the applicable board. The authorizing resolutions shall contain provisions with respect to the following:

- (1) The date on which the territorial jurisdiction is to be expanded to include the county.
- (2) The extent to which the composition of the board of trustees may be amended, if at all, due to the addition of the county to the territorial jurisdiction of the authority. The authorizing resolutions shall not eliminate or amend the requirements with respect to appointments to the board of trustees that are provided in G.S. 160A-905. Subsections (b) through (g) of G.S. 160A-905 shall apply to any additional appointments to the board of trustees.
- (3) Financial, legal, or operational commitments with respect to the county that is to be added to the territorial jurisdiction of the authority.
- (4) Any other matter determined to be relevant by the board of trustees and the board of commissioners of the affected county.

**"§ 160A-907. Voting; removal.**

(a) A majority of the board of trustees constitutes a quorum for the transaction of business. Each member shall have one vote.

(b) Each member of the board of trustees may be removed with or without cause by the appointing authority.

(c) Appointments to fill vacancies shall be made for the remainder of the unexpired term by the respective appointing authority charged with the responsibility for making such appointments pursuant to G.S. 160A-905. All members shall serve until their successors are appointed and qualified, unless removed from office.

**"§ 160A-908. Advisory committees.**

The board of trustees may provide for the selection of such advisory committees as it may find appropriate, which may or may not include members of the board of trustees.

**"§ 160A-909. Purpose of the authority.**

The purpose of the authority shall be to finance, provide, operate, and maintain for a safe, clean, reliable, adequate, convenient, energy efficient, economically, and environmentally sound

public transportation system for the service area of the authority through the granting of franchises, ownership, and leasing of terminals, buses, and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it, in order to enhance mobility in the region and encourage sound growth patterns. Such a service, facility, or function shall be financed, provided, operated, or maintained in the service area of the authority either in addition to or to a greater or lesser extent than services, facilities, or functions are financed, provided, operated, or maintained for the entirety of the respective units of local government. An authority may take direct action to accomplish these purposes or may enter agreements with another unit of local government in the service area of the authority or a private entity to accomplish these purposes.

**"§ 160A-910. Service area of the authority.**

The service area of the authority shall be as determined by the board of trustees consistent with its purpose but shall not exceed the sum of the following:

- (1) The territorial jurisdiction of the authority.
- (2) An area outside of the territorial jurisdiction of the authority provided that one of the following conditions is satisfied:
  - a. If the area is within this State, the governing bodies of the political subdivisions to which service is to be extended approved by majority vote of their governing boards the extension of service into the political subdivision or the purchase of real property within the political subdivision for the extension of service.
  - b. If the area is in another state, the extension of service is approved by any applicable federal or State agency and in accordance with the other state's laws.

**"§ 160A-911. General powers of the authority.**

The general powers of the authority include all of the following:

- (1) To sue and be sued.
- (2) To have a seal.
- (3) To make rules and regulations, not inconsistent with this Article, for its organization and internal management.
- (4) To employ persons deemed necessary to carry out the functions and duties assigned to them by the authority and to fix their compensation, within the limit of available funds.
- (5) With the approval of the unit of local government's chief administrative official, to use officers, employees, agents, and facilities of the unit of local government for such purposes and upon such terms as may be mutually agreeable.
- (6) To retain and employ counsel, auditors, engineers, and private consultants on an annual salary, contract basis, or otherwise for rendering professional or technical services and advice.
- (7) To acquire, lease as lessee with or without option to purchase, hold, own, and use any franchise, property, real or personal, tangible or intangible, or any interest therein and to sell, lease as lessor with or without option to purchase, transfer (or dispose thereof) whenever the same is no longer required for purposes of the authority, or exchange same for other property or rights which are useful for the authority purposes, including, but not necessarily limited to, parking facilities.
- (8) To acquire by gift, purchase, lease as lessee with or without option to purchase or otherwise to construct, improve, maintain, repair, operate, or administer any component parts of a public transportation system or to contract for the maintenance, operation, or administration thereof or to lease as lessor the same

- for maintenance, operation, or administration by private parties, including parking facilities.
- (9) To make or enter into contracts, agreements, deeds, leases with or without option to purchase, conveyances or other instruments, including contracts and agreements with the United States, the State of North Carolina, and units of local government.
- (10) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20.
- (11) To surrender to the State of North Carolina or a unit of local government any property no longer required by the authority.
- (12) To develop and make data, plans, information, surveys, and studies of public transportation facilities within the territorial jurisdiction of the authority and to prepare and make recommendations in regard thereto.
- (13) To enter in a reasonable manner lands, waters, or premises for the purpose of making surveys, soundings, drillings, and examinations whereby such entry shall not be deemed a trespass except that the authority shall be liable for any actual and consequential damages resulting from such entries.
- (14) To develop and carry out demonstration projects.
- (15) To make, enter into, and perform contracts with private parties and public transportation companies with respect to the management and operation of public passenger transportation.
- (16) To make, enter into, and perform contracts with any public utility, railroad, or transportation company for the joint use of property or rights, for the establishment of through routes, joint fares, or transfer of passengers.
- (17) To make, enter into, and perform agreements with governmental entities for payments to the authority for the transportation of persons for whom the governmental entities desire transportation.
- (18) With the consent of the unit of local government which would otherwise have jurisdiction to exercise the powers enumerated in this subdivision: to issue certificates of public convenience and necessity; and to grant franchises and enter into franchise agreements and in all respects to regulate the operation of buses and other methods of public passenger transportation which originate and terminate within the territorial jurisdiction of the authority as fully as the unit of local government is now or hereafter empowered to do within the territorial jurisdiction of the unit of local government.
- (19) To operate public transportation systems, to enter into and perform contracts to operate public transportation services and facilities, and to own or lease property, facilities, and equipment necessary or convenient therefor, and to rent, lease, or otherwise sell the right to do so to any person, public or private; further, to obtain grants, loans, and assistance from the United States, the State of North Carolina, any public body, or any private source whatsoever, but may not operate or contract for the operation of public transportation systems outside the territorial jurisdiction of the authority except as provided by subdivision (21) of this section.
- (20) To enter into and perform contracts and agreements with other metropolitan public transportation authorities, public transportation authorities, regional public transportation authorities, or units of local government pursuant to the provisions of G.S. 160A-460 through G.S. 160A-464 (Part 1 of Article 20 of this Chapter); further to enter into contracts and agreements with private transportation companies, but this subdivision does not authorize the

- operation of, or contracting for the operation of, service of a public transportation system outside the service area of the authority.
- (21) To operate public transportation systems extending service into any political subdivision of the State of North Carolina unless a particular unit of local government operating its own public transportation system or franchising the operation of a public transportation system by majority vote of its governing board shall deny consent.
- (22) To operate public transportation systems extending service into another state, but only if the extension of service is authorized by any applicable federal or State agency and in accordance with the other state's laws.
- (23) Except as restricted by covenants in bonds, notes, or equipment trust certificates, to set in its sole discretion rates, fees, and charges for use of its public transportation system.
- (24) To do all things necessary or convenient to carry out its purpose and to exercise the powers granted to the authority.
- (25) To issue bonds or other obligations of the authority as provided by law and apply the proceeds thereof to the financing of any public transportation system or any part thereof and to refund, whether or not in advance of maturity or the earliest redemption date, any such bonds or other obligations of the authority or another municipality that financed or refinanced real and personal property for a public transportation system to be owned or operated by the authority.
- (26) To contract for, or to provide and maintain, with respect to the facilities and property owned, leased with or without option to purchase, operated or under the control of the authority, and within the territory thereof, a security force to protect persons and property, dispense unlawful or dangerous assemblages and assemblages which obstruct full and free passage, control pedestrian and vehicular traffic, and otherwise preserve and protect the public peace, health, and safety; for these purposes a member of such force shall be a peace officer and, as such, shall have authority equivalent to the authority of a police officer of the city or county in which said member of such force is discharging such duties.
- (27) To contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes with any person or entity that, within the previous 60 months, after having completed a public formal bid process substantially similar to that required by Article 8 of Chapter 143 of the General Statutes or through the competitive proposal method provided in G.S. 143-129(h), has contracted to furnish the apparatus, supplies, materials, or equipment to any unit or agency approved in G.S. 143-129(g) if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Any purchase made under this section shall be approved by the board of trustees as provided in G.S. 143-129(g).

**"§ 160A-912. Authority of Utilities Commission not affected.**

(a) Except as otherwise provided in this Article, nothing in this Article shall be construed to limit or otherwise affect the power or authority of the North Carolina Utilities Commission or the right of appeal to the North Carolina Utilities Commission as provided by law.

(b) The North Carolina Utilities Commission shall not have jurisdiction over rates, fees, charges, routes, and schedules of an authority for service within its territorial jurisdiction.

**"§ 160A-913. Fiscal accountability.**

1 An authority is a public authority subject to the provisions of Chapter 159 of the General  
2 Statutes.

3 **"§ 160A-914. Funds.**

4 The establishment and operation of an authority are governmental functions and constitute a  
5 public purpose, and the State of North Carolina and any unit of local government may appropriate  
6 funds to support the establishment and operation of the authority. The State of North Carolina  
7 and any unit of local government may also dedicate, sell, convey, donate, or lease any of their  
8 interests in any property to the authority. An authority may apply for grants from the State of  
9 North Carolina, or from the United States or any department, agency, or instrumentality thereof.  
10 The Department of Transportation may allocate to an authority any funds appropriated for public  
11 transportation or any funds whose use is not restricted by law.

12 **"§ 160A-915. Competition.**

13 No equipment of the authority may be used for charter, tour, or sightseeing service except as  
14 allowed under regulations adopted by the Federal Transit Administration.

15 **"§ 160A-916. Effect on existing franchises and operations.**

16 Creation of the authority shall not have an effect on any existing franchises granted by any  
17 unit of local government; such existing franchises shall continue in full force and effect until  
18 legally terminated; further, all ordinances and resolutions of the unit of local government  
19 regulating local public transportation systems, bus operations, and taxicabs shall continue in full  
20 force and effect now and in the future, unless superseded by regulations of the authority; such  
21 superseding, if any, may occur only on the basis of prior mutual agreement between the authority  
22 and the respective unit of local government.

23 **"§ 160A-917. Termination.**

24 The board of trustees may terminate the existence of the authority by adopting a resolution  
25 by majority vote to do so at any time when it has no outstanding indebtedness. The resolution to  
26 terminate the existence of the authority does not become effective unless and until ratified by  
27 majority vote of the board of commissioners of the county that created the authority. In the event  
28 of such termination, all property and assets of the authority not otherwise encumbered shall  
29 become the property of a unit of local government within the territorial jurisdiction of the  
30 authority as specified in the termination resolution and, if accepted by the unit of local  
31 government, the unit of local government shall succeed to all rights, obligations, and liabilities  
32 of the authority.

33 **"§ 160A-918. Controlling provisions.**

34 Insofar as the provisions of this Article are not consistent with the provisions of any other  
35 law, public or private, the provisions of this Article shall be controlling.

36 **"§ 160A-919. Bonds and notes authorized.**

37 In addition to the powers granted by this Article, the authority may issue bonds and notes  
38 pursuant to the provisions of The State and Local Government Revenue Bond Act, Article 5 of  
39 Chapter 159 of the General Statutes, for the purpose of financing public transportation systems  
40 or any part thereof and to refund such bonds and notes and to refund any bonds, notes, or other  
41 obligations of another municipality used to finance or refinance real and personal property for a  
42 public transportation system to be owned or operated by the authority, whether or not in advance  
43 of their maturity or earliest redemption date.

44 **"§ 160A-920. Equipment trust certificates.**

45 In addition to the powers here and before granted, the authority shall have continuing power  
46 to purchase equipment, and in connection therewith execute agreements, leases with or without  
47 option to purchase, or equipment trust certificates. All money required to be paid by the authority  
48 under the provisions of such agreements, leases with or without option to purchase, and  
49 equipment trust certificates shall be payable solely from the fares, fees, rentals, charges, revenues,  
50 and earnings of the authority, monies derived from the sale of any surplus property of the  
51 authority, and gifts, grants, and contributions from any source whatever. Payment for such

equipment or rentals may be made in installments; the deferred installments may be evidenced by equipment trust certificates payable solely from the aforesaid revenues or receipts and title to such equipment may or may not vest in the authority until the equipment trust certificates are paid.

**"§ 160A-921. Power of eminent domain.**

(a) The authority shall have continuing power to acquire, by gift, grant, devise, exchange, purchase, lease with or without option to purchase, or any other lawful method, including the power of eminent domain, the fee or any lesser interest in real or personal property for use by the authority.

(b) Exercise of the power of eminent domain by the authority shall be in accordance with Chapters 40A and 136 of the General Statutes.

**"§ 160A-922. Tax exemption.**

The property of the authority, both real and personal, its acts, activities, and income shall be exempt from any tax or tax obligation; in the event of any lease of authority property, or other arrangement which amounts to a leasehold interest, to a private party, this exemption shall not apply to the value of such leasehold interest nor shall it apply to the income of the lessee. Otherwise, however, for the purpose of taxation, when property of the authority is leased to private parties solely for the purpose of the authority, the acts and activities of the lessee shall be considered as the acts and activities of the authority and the exemption. The interest on bonds or obligations issued by the authority shall be exempt from State taxes.

**"§ 160A-923. Removal and relocation of utility structures.**

(a) The authority shall have the power to require any public utility, railroad, or other public service corporation owning or operating any installations, structures, equipment, apparatus, appliances, or facilities in, upon, under, over, across, or along any ways on which the authority has the right to own, construct, operate, or maintain its public transportation system, to relocate such installation, structures, equipment, apparatus, appliances, or facilities from their locations, or, in the sole discretion of the affected public utility, railroad, or other public service corporation, to remove such installations, structures, equipment, apparatus, appliances, or facilities from their locations.

(b) If the owner or operator thereof fails or refuses to relocate them, the authority may proceed to do so.

(c) Except as otherwise agreed, the authority shall provide any necessary new locations and necessary real estate interests for such relocation, and for that purpose the power of eminent domain as provided in G.S. 160A-921 may be exercised provided the new locations shall not be in, on, or above a public highway; the authority may also acquire the necessary new locations by purchase or otherwise.

(d) Except as otherwise agreed, any affected public utility, railroad, or other public service corporation shall be compensated for any real estate interest taken in a manner consistent with G.S. 160A-921, subject to the right of the authority to reduce the compensation due by the value of any property exchanged under this section.

(e) The method and procedures of a particular adjustment to the facilities of a public utility, railroad, or other public service corporation shall be covered by an agreement between the authority and the affected party or parties.

(f) Except as otherwise agreed, the authority shall reimburse the public utility, railroad, or other public service corporation for the cost of relocations or removals which shall be the entire amount paid or incurred by the utility properly attributable thereto after deducting the cost of any increase in the service capacity of the new installations, structures, equipment, apparatus, appliances, or facilities and any salvage value derived from the old installations, structures, equipment, apparatus, or appliances.

**"§ 160A-924. Reports to the General Assembly.**



The authority shall annually submit to the General Assembly, on or before February 1, its annual operating report, including a report of its administrative expenditures, and its audited financial report. In odd-numbered years, the report shall be submitted to the Senate and House Transportation Committees. In even-numbered years, the report shall be submitted to the Joint Legislative Transportation Oversight Committee.

**"§ 160A-925. Limitations on rail transportation liability.**

(a) As used in this section:

(1) Claim. – A claim, action, suit, or request for damages, whether compensatory, punitive, or otherwise, made by any person or entity against:

a. The authority, a railroad, or an operating rights railroad; or

b. An officer, director, trustee, employee, parent, subsidiary, or affiliated corporation as defined in G.S. 105-130.2, or agent of the authority, a railroad, or an operating rights railroad.

(2) Operating rights railroad. – A railroad corporation or railroad company that, prior to January 1, 2001, was granted operating rights by a State-Owned Railroad Company or operated over the property of a State-Owned Railroad Company under a claim of right over or adjacent to facilities used by or on behalf of the authority.

(3) Passenger rail services. – The transportation of rail passengers by or on behalf of the authority and all services performed by a railroad pursuant to a contract with the authority in connection with the transportation of rail passengers, including, but not limited to, the operation of trains; the use of right-of-way, trackage, public or private roadway and rail crossings, equipment, or station areas or appurtenant facilities; the design, construction, reconstruction, operation, or maintenance of rail-related equipment, tracks, and any appurtenant facilities; or the provision of access rights over or adjacent to lines owned by the authority or a railroad, or otherwise occupied by the authority or a railroad, pursuant to charter grant, fee simple deed, lease, easement, license, trackage rights, or other form of ownership or authorized use.

(4) Railroad. – A railroad corporation or railroad company, including a State-Owned Railroad Company as defined in G.S. 124-11, that has entered into any contracts or operating agreements of any kind with the authority concerning passenger rail services.

(b) Contracts Allocating Financial Responsibility Authorized. – The authority may contract with any railroad to allocate financial responsibility for passenger rail services claims, including, but not limited to, the execution of indemnity agreements, notwithstanding any other statutory, common law, public policy, or other prohibition against same, and regardless of the nature of the claim or the conduct giving rise to such claim.

(c) Insurance Required. –

(1) If the authority enters into any contract authorized by subsection (b) of this section, the contract shall require the authority to secure and maintain, upon and after the commencement of the operation of trains by or on behalf of the authority, a liability insurance policy covering the liability of the parties to the contract, a State-Owned Railroad Company as defined in G.S. 124-11 that owns or claims an interest in any real property subject to the contract, and any operating rights railroad for all claims for property damage, personal injury, bodily injury, and death arising out of or related to passenger rail services. The policy shall name the parties to the contract, a State-Owned Railroad Company as defined in G.S. 124-11 that owns or claims an interest in any real property subject to the contract, and any operating rights railroad as named insureds and shall have policy limits of not less than two hundred million

dollars (\$200,000,000) per single accident or incident, and may include a self-insured retention in an amount of not more than five million dollars (\$5,000,000).

(2) If the authority does not enter into any contract authorized by subsection (b) of this section, upon and after the commencement of the operation of trains by or on behalf of the authority, the authority shall secure and maintain a liability insurance policy, with policy limits and a self-insured retention consistent with subdivision (1) of this subsection, for all claims for property damage, personal injury, bodily injury, and death arising out of or related to passenger rail services.

(d) Liability Limit. – The aggregate liability of the authority, the parties to the contract or contracts authorized by subsection (b) of this section, a State-Owned Railroad Company as defined in G.S. 124-11, and any operating rights railroad for all claims arising from a single accident or incident related to passenger rail services for property damage, personal injury, bodily injury, and death, is limited to two hundred million dollars (\$200,000,000) per single accident or incident or to any proceeds available under any insurance policy secured pursuant to subsection (c) of this section, whichever is greater.

(e) Effect on Other Laws. – This section shall not affect the damages that may be recovered under the Federal Employers' Liability Act, 45 U.S.C. § 51, et seq., (1908); or under Article 1 of Chapter 97 of the General Statutes.

**"§ 160A-926. Civil liability.**

Except as provided in G.S. 160A-925, the authority shall be deemed a city for purposes of civil liability pursuant to G.S. 160A-485. Governmental immunity of the authority is waived to a minimum of twenty million dollars (\$20,000,000) per single accident or incident. The authority shall maintain a minimum of twenty million dollars (\$20,000,000) per single accident or incident of liability insurance. Participation in a local government risk pool pursuant to Article 23 of Chapter 58 of the General Statutes shall be deemed to be the purchase of insurance for the purpose of this section."

**PART VI. REQUIREMENTS IF MECKLENBURG COUNTY CREATES A METROPOLITAN PUBLIC TRANSPORTATION AUTHORITY**

**SECTION 6.1.** If Mecklenburg County creates a metropolitan public transportation authority under Article 34 of Chapter 160A of the General Statutes, as enacted by Part V of this act, then that Authority is subject to all the provisions of this Part.

**SECTION 6.2.** The Authority shall conduct a study of the issues listed in this section. The Authority may use any source of funding available to it to conduct the studies required by this section. This specifically includes funds provided to the Authority by another unit of government and funds that the Authority receives as a donation or grant from any other public or private source. The Authority shall complete the study required under this section and publish a report no later than July 1, 2025. The Authority shall publish the report and submit copies of the report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Legislative Library, the Mecklenburg County Board of Commissioners, the Charlotte City Council, the Town of Cornelius Board of Commissioners, the Town of Davidson Board of Commissioners, the Town of Huntersville Board of Commissioners, the Town of Matthews Board of Commissioners, the Town of Mint Hill Board of Commissioners, the Town of Mooresville Board of Commissioners, and the Pineville Town Council. The Authority shall study the following issues:

(1) Legal and financial considerations with respect to the transfer or use of assets from the City of Charlotte or the Charlotte Area Transportation System (CATS) to the Authority.

- (2) Legal and financial considerations with respect to outstanding indebtedness issued by the City of Charlotte with respect to CATS to ensure no adverse impacts in relation to the outstanding indebtedness.
  - (3) Legal and financial considerations with respect to agreements and recognitions by the City of Charlotte or CATS with respect to the public transportation system with any federal, State, regional, or local governmental entities.
  - (4) Legal and financial considerations with respect to human resources of a transfer of assets, liabilities, and operations of the public transportation system from the City of Charlotte or CATS to the Authority, including issues related to, but not limited to, employee pensions, retirement plans, and benefits.
  - (5) A recommendation as to whether the transfer of assets, liabilities, and operations of the existing public transportation system to the Authority is feasible and advisable.
  - (6) Any other issue determined to be relevant by the Authority.
- SECTION 6.3.** Reserved.
- SECTION 6.4.** The Authority shall do the following no later than one year after enactment of this act:
- (1) Adopt bylaws that are consistent with the provisions of Article 34 of Chapter 160A of the General Statutes.
  - (2) Establish policies with respect to Board governance, including the adoption of a Code of Ethics for Trustees and key employees and the adoption of a Conflicts of Interest policy.
  - (3) Create a human resources plan. This includes, at a minimum:
    - a. Creating an organizational chart that specifies positions that report directly to the Authority's Board of Trustees.
    - b. Completing the search for direct reports to the Board of Trustees.
    - c. Creating personnel policies and procedures, including those related to employee recruitment and retention, compensation and benefit policies and plans, and an employee code of conduct.
    - d. Taking all steps necessary to ensure participation by the Authority in the Local Government Employees' Retirement System under Article 3 of Chapter 128 of the General Statutes.
    - e. Creating a plan, including a time line, to implement a transfer of employees of CATS from the City of Charlotte to the Authority.
    - f. Developing or acquiring information technology and other assets needed to implement the human resources plan.
  - (4) Develop financial policies for the Authority.
  - (5) Develop operational policies for the Authority, including policies related to business continuity, system operation, maintenance of the system and system assets, fares, purchasing and contracts, transit rules and regulations, travel markets, transit service, and advertising and sponsorships.
  - (6) Develop an information technology plan for the operation and administration of the public transportation system. The plan shall include provisions related to cybersecurity, data privacy, and the use of websites and mobile applications.
  - (7) Create a plan, including a time line, for the acquisition of the assets of CATS from the City of Charlotte. This includes:
    - a. Drafting agreements to be entered into with the City of Charlotte with respect to the use, control, and acquisition of assets of CATS. With respect to assets of CATS that were procured with funds available to

- the City other than federal or State funds received by the City with respect to CATS and funds generated by a tax levied under Article 43 of Chapter 105 of the General Statutes or a tax levied under Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162 and amended by Section 2(h) of S.L. 2009-527, and this act, the agreements shall provide that the City has a right of reverter with respect to the property if the property is no longer used for a purpose supporting the operation of a public transportation system.
- b. Negotiating an agreement with the City of Charlotte to reimburse the City for the acquisition of the Norfolk Southern O-Line as provided in Section 4.9(4) of this act.
- c. Drafting agreements with the City of Charlotte with respect to any outstanding bonds, notes, or other financing secured or payable by receipts from the taxes levied under Article 43 of Chapter 105 of the General Statutes or under Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162 and amended by Section 2(h) of S.L. 2009-527, and this act.
- d. Notwithstanding the agreements above, any agreements entered into between the City and the Authority will require that the Authority undertake all obligations necessary to ensure that the City will remain in compliance with and will not have an adverse impact on the City's outstanding bonds, notes, or other financing obligations for the public transportation system.
- (8) Take all steps necessary to ensure approval by the Federal Transit Administration and any other applicable federal or State agency of the use, control, and acquisition of CATS assets.
- (9) Draft amendments to the interlocal agreement between Mecklenburg County, the City of Charlotte, the Town of Cornelius, the Town of Davidson, the Town of Huntersville, the Town of Matthews, the Town of Mint Hill, and the Town of Pineville dated February 16, 1999, as amended, to provide for the termination of that agreement at the time a tax levied under Part IV of this act becomes effective, subject to any continuing obligations agreed to by the parties to the agreement. The agreement shall contain provisions dissolving the Metropolitan Transit Commission created under that interlocal agreement and repealing all maintenance-of-effort requirements.
- (10) Draft agreements or amendments to agreements with third parties to ensure that the Authority may be substituted for the City as a party to any ongoing contracts, agreements, rights, responsibilities, or liabilities with respect to CATS once the Authority assumes operational control of CATS.
- (11) Complete a value engineering study with respect to the Silver Line East as a light rail line. For purposes of this section, "Silver Line East" means a mass transit project that includes, at a minimum, service from the center of the City of Charlotte through the Town of Matthews to the Levine Campus of Central Piedmont Community College. The study shall include efforts to identify and, if possible, procure the funding needed to establish the Silver Line East as a light rail line. Potential funding options include existing public and private sources and possible new or additional funding options. This study shall include an evaluation of potential additional revenue sources to include, but not be limited to, additional local taxes or fees not currently authorized, including additional sales taxes, taxes on parking facilities, and congestion taxes; municipal service districts; tax increment financing; public-private

partnerships; sale of naming rights; station rents; station air rights; advertising revenues; sale of amenities on public transportation (such as Wi-Fi or priority seating); and private donations.

**SECTION 6.4A.** The Authority is responsible for conducting or completing in a timely manner all environmental and economic studies that are required by State or federal law with respect to public transportation projects.

**SECTION 6.5.** If Mecklenburg County enacts a tax authorized by Part IV of this act, then the Authority and the City of Charlotte shall do all of the following effective as of the date the tax levied under that Part becomes effective:

- (1) The Authority shall begin receiving the proceeds of all of the following:
  - a. Taxes levied under Part IV of this act as provided in that Part.
  - b. Taxes levied under Article 43 of Chapter 105 of the General Statutes as provided in G.S. 105-507.3.
  - c. Taxes levied under Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162 and amended by Section 2(h) of S.L. 2009-527, and this act, as provided in that act.
- (2) The City shall transfer control of the operational assets of CATS to the Authority subject to use agreements between the City and the Authority.
- (3) The City shall retain ownership of any assets that are pledged as security for any outstanding indebtedness. Once any outstanding indebtedness is satisfied, the City shall begin transferring ownership of these assets of CATS to the Authority as provided in the agreements.
- (4) The City shall begin transferring ownership of other physical assets of CATS to the Authority as provided in the agreements.
- (5) The City shall retain the thirty million dollars (\$30,000,000) required fund balance from the existing CATS Revenue Reserve Fund. If these reserves must be used by the City to cover any debt service payments due within the current fiscal year, the Authority shall provide an amount sufficient to return the fund balance to the thirty million dollars (\$30,000,000) required balance. Once all applicable debt obligations have been satisfied, any amount remaining in the Fund shall revert to the Authority.
- (6) The Authority shall begin making payments to the City in accordance with agreements between the Authority and the City for the following:
  - a. An amount to the City that is, at a minimum, sufficient to cover any debt service payments due within the current fiscal year. Amounts must be provided according to a schedule that ensures the funds are available prior to the required payment dates.
  - b. An amount to reimburse the City for the acquisition of the Norfolk Southern O-Line as provided in the agreements.
- (7) Except as provided with specifically identified positions or individuals, employees of CATS shall be transferred from the City to the Authority.

**SECTION 6.6.** If Mecklenburg County enacts a tax authorized by Part IV of this act, then as of the date the tax levied under that Part becomes effective the interlocal agreement between Mecklenburg County, the City of Charlotte, the Town of Cornelius, the Town of Davidson, the Town of Huntersville, the Town of Matthews, the Town of Mint Hill, and the Town of Pineville dated February 16, 1999, as amended, and any other interlocal agreement with respect to the tax levied under Article 43 of Chapter 105 of the General Statutes or a tax levied under Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162 and amended by Section 2(h) of S.L. 2009-527, and this act is terminated subject to any continuing obligations agreed to by the parties to that agreement. In addition, the Metropolitan Transit Commission is dissolved as of that date.

**SECTION 6.7.** If Mecklenburg County creates a metropolitan public transportation authority under Article 34 of Chapter 160A of the General Statutes, as enacted by Part V of this act, then, notwithstanding G.S. 160A-910 as enacted by that Part, any service outside of the territorial jurisdiction of the Authority that is offered as of the date that the Authority assumes operational control of the assets of CATS may continue without the governing bodies of the applicable political subdivisions granting approval by majority vote for the continuation of service.

**SECTION 6.8.** If Mecklenburg County creates a metropolitan public transportation authority under Article 34 of Chapter 160A of the General Statutes, as enacted by Part V of this act, then two of the appointments made under G.S. 160A-905(a)(8)a. shall be made upon the recommendation of Charlotte Regional Business Alliance, a 501(c)(6) organization and the other appointment made under that sub-subdivision shall be made upon the recommendation of the Foundation for the Carolinas, a 501(c)(3) organization.

## **PART VII. REVENUE BONDS**

**SECTION 7.1.** The definitions in G.S. 159-81 apply in this Part.

**SECTION 7.2.** In addition to the revenues included in G.S. 159-81(4), a municipality may include as revenues the receipts from any sales and use tax or other local tax received by a municipality in connection with its ownership and operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part as long as the pledge of such receipts does not constitute a pledge of the municipality's taxing power.

**SECTION 7.3.** In addition to the powers provided in G.S. 159-83, a municipality has the authority to finance and refinance the cost of public transportation systems, facilities, or equipment with bonds or notes secured in one or more of the following ways: (i) by the revenues of the public transportation systems, facilities, or equipment, (ii) by pledge, mortgage, or grant of a security interest in all or a portion of the real and personal property, whether owned or leased, comprising the public transportation systems, facilities, or equipment, and (iii) as otherwise provided in Article 5 of Chapter 159 of the General Statutes. Notwithstanding anything in G.S. 159-83(a) or otherwise in Article 5 of Chapter 159 of the General Statutes to the contrary, each municipality may secure bonds or notes by a pledge of all or any portion of the revenues of public transportation systems, facilities, or equipment without regard to meeting the expense and maintenance and operation of and renewals and replacements with respect to the revenue bond project.

**SECTION 7.4.** This Part applies only to cities with a population of greater than 870,000 according to the 2020 federal decennial census or any subsequent federal decennial census and metropolitan public transportation authorities created under Article 34 of Chapter 160A of the General Statutes, as enacted by Part V of this act.

## **PART VIII. CONFORMING CHANGES**

**SECTION 8.1.** G.S. 40A-3(c) reads as rewritten:

"(c) Other Public Condemnors. – For the public use or benefit, the following political entities shall possess the power of eminent domain and may acquire property by purchase, gift, or condemnation for the stated purposes.

...

(14) A metropolitan public transportation authority established under Article 34 of Chapter 160A of the General Statutes for the purposes of that Article."

**SECTION 8.2.** G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of items. Sales and use tax liability indirectly incurred by a governmental entity on building

materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...

- (15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, a metropolitan public transportation authority created pursuant to Article 34 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

...."

**SECTION 8.3.** G.S. 136-44.20(b1) reads as rewritten:

"(b1) The Secretary may, subject to the appropriations made by the General Assembly for any fiscal year, enter into State Full Funding Grant Agreements with a Regional Public Transportation Authority (RPTA) duly created and existing pursuant to Article 26 of Chapter ~~160A~~, 160A of the General Statutes, a Regional Transportation Authority (RTA) duly created and existing pursuant to Article 27 of Chapter ~~160A~~, 160A of the General Statutes, a Metropolitan Public Transportation Authority (MPTA) duly created and existing pursuant to Article 34 of Chapter 160A of the General Statutes, or a city organized under the laws of this State as defined in G.S. 160A-1(2), to provide State matching funds for "new start" fixed guideway projects in development by any entity pursuant to 49 U.S.C. § 5309. These grant agreements shall be executable only upon an Authority's or city's completion of and the Federal Transit Administration (FTA) approval of Preliminary Engineering and Environmental Impact Studies in anticipation of federal funding pursuant to 49 U.S.C. § 5309.

Prior to executing State Full Funding Grant Agreements, the Secretary shall submit proposed grant agreements or amendments to the Joint Legislative Transportation Oversight Committee for review. The agreements, consistent with federal guidance, shall define the limits of the "new starts" projects within the State, commit maximum levels of State financial participation, and establish terms and conditions of State financial participation.

State Full Funding Grant Agreements may provide for contribution of State funds in multiyear allotments. The multiyear allotments shall be based upon the Department's estimates, made in conjunction with an Authority or city, of the grant amount required for "new start" project work to be performed in the appropriation fiscal year.

State funds may be used to fund fixed guideway projects developed without federal funding by the Department, a Regional Public Transportation Authority (RPTA) duly created and existing pursuant to Article 26 of Chapter 160A of the General Statutes, a Regional Transportation Authority (RTA) duly created and existing pursuant to Article 27 of Chapter 160A of the General Statutes, a Metropolitan Public Transportation Authority (MPTA) duly created and existing pursuant to Article 34 of Chapter 160A of the General Statutes, or a unit of local government. In addition, State funds may be used to pay administrative costs incurred by the Department while participating in such fixed guideway projects."

**SECTION 8.4.** G.S. 136-44.27(e) and (f) read as rewritten:

"(e) Funds distributed by the Department under this section shall be used by counties, public transportation authorities, metropolitan public transportation authorities, or regional public transportation authorities in a manner consistent with transportation development plans

which have been approved by the Department and the Board of County Commissioners. To receive funds apportioned for a given fiscal year, a county shall have an approved transportation development plan. Funds that are not obligated in a given fiscal year due to the lack of such a plan will be distributed to the eligible counties based upon the distribution formula prescribed by subsection (d) of this section.

(f) A regional public transportation authority created pursuant to Article 25 or Article 26 of Chapter 160A of the General Statutes and a metropolitan public transportation authority created under Article 34 of Chapter 160A of the General Statutes may, upon written agreement with the municipalities served by a public transportation ~~authority~~ authority, county served by the metropolitan public transportation authority, or counties served by the regional public transportation authority, apply for and receive any funds to which the member municipality or counties are entitled to receive based on the distribution formula set out in subsection (d) of this section."

**SECTION 8.5.** G.S. 143-129(h) reads as rewritten:

"(h) Transportation Authority Purchases. – Notwithstanding any other provision of this section, any board or governing body of any regional public transportation authority, hereafter referred to as a "RPTA," created pursuant to Article 26 of Chapter 160A of the General Statutes, ~~or a regional transportation authority~~, hereafter referred to as a "RTA," created pursuant to Article 27 of Chapter 160A of the General Statutes, or a metropolitan public transportation authority, hereafter referred to as a "MPTA," created pursuant to Article 34 of Chapter 160A of the General Statutes may approve the entering into of any contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment without competitive bidding and without meeting the requirements of subsection (b) of this section if the following procurement by competitive proposal (Request for Proposal) method is followed.

The competitive proposal method of procurement is normally conducted with more than one source submitting an offer or proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used, all of the following requirements apply:

- (1) Requests for proposals shall be publicized. All evaluation factors shall be identified along with their relative importance.
- (2) Proposals shall be solicited from an adequate number of qualified sources.
- (3) ~~RPTAs or RTAs~~ RPTAs, RTAs, or MPTAs shall have a method in place for conducting technical evaluations of proposals received and selecting awardees, with the goal of promoting fairness and competition without requiring strict adherence to specifications or price in determining the most advantageous proposal.
- (4) The award may be based upon initial proposals without further discussion or negotiation or, in the discretion of the evaluators, discussions or negotiations may be conducted either with all offerors or with those offerors determined to be within the competitive range, and one or more revised proposals or a best and final offer may be requested of all remaining offerors. The details and deficiencies of an offeror's proposal may not be disclosed to other offerors during any period of negotiation or discussion.
- (5) The award shall be made to the responsible firm whose proposal is most advantageous to the ~~RPTA's or the RTA's~~ RPTA's, RTA's, or MPTA's program with price and other factors considered.

The contents of the proposals shall not be public records until 14 days before the award of the contract.

The board or governing body of the ~~RPTA or the RTA~~ RPTA, the RTA, or the MPTA shall, at the regularly scheduled meeting, by formal motion make findings of fact that the procurement



by competitive proposal (Request for Proposals) method of procuring the particular apparatus, supplies, materials, or equipment is the most appropriate acquisition method prior to the issuance of the requests for proposals and shall by formal motion certify that the requirements of this subsection have been followed before approving the contract.

Nothing in this subsection subjects a procurement by competitive proposal under this subsection to G.S. 143-49, 143-52, or 143-53.

~~RPTAs and RTAs~~ RPTAs, RTAs, and MPTAs may adopt regulations to implement this subsection."

**SECTION 8.6.** G.S. 143-157.1(d) reads as rewritten:

"(d) Reporting by Local Units of Government. – By September 1 of each year and with regard to each local board listed in this subsection, the information required by subsection (b) of this section shall be submitted on behalf of the appointing authority to the Secretary of State by the clerk of that appointing authority. Appointments to each of the following local boards, whether established by State law or local decision, or appointments to those local boards having equivalent functions, however named or denominated, must be reported:

...

(26) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes, a regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, ~~or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.~~ Statutes, or a metropolitan public transportation authority created pursuant to Article 34 of Chapter 160A of the General Statutes.

...."

**SECTION 8.7.** G.S. 153A-148.1(a) reads as rewritten:

"(a) Disclosure Prohibited. – Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(4) To exchange information with a regional public transportation ~~authority or authority,~~ authority, or a metropolitan public transportation authority, created pursuant to Article ~~26 or 26,~~ Article 27-27, or Article 34 of Chapter 160A of the General Statutes, when the information is needed to fulfill a duty imposed on the authority or on the county.

...."

**SECTION 8.8.** G.S. 159-48(e) reads as rewritten:

"(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in G.S. 115C-513, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation authority, metropolitan public transportation authority, and special airport district may borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses."

**SECTION 8.9.** G.S. 159-81 reads as rewritten:

**"§ 159-81. Definitions.**

The words and phrases defined in this section shall have the meanings indicated when used in this Article:

(1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, metropolitan public transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, the North Carolina Turnpike Authority described in Article 6H of Chapter 136 of the General Statutes and transferred to the Department of Transportation pursuant to G.S. 136-89.182(b), and a Ferry Transportation Authority created pursuant to Article 29 of Chapter 160A of the General Statutes, but not any other forms of State or local government.

...."

**SECTION 8.10.** G.S. 160A-20(h) reads as rewritten:

"(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

...

(11) A regional public transportation ~~authority or authority,~~ a regional transportation authority or authority, or a metropolitan public transportation authority created pursuant to Article ~~26 or 26,~~ Article 27-27, or Article 34 of this Chapter.

...."

## **PART IX. MISCELLANEOUS PROVISIONS**

**SECTION 9.1.** It is the intent of the General Assembly not to reduce transportation funding allocations for any municipality in Mecklenburg County as a result of the enactment of this act or the levy of a tax under the provisions of this act. In addition, it is the intent of the General Assembly not to reduce State transportation funding for State projects located in Mecklenburg County as a result of the enactment of this act or the levy of a tax under the provisions of this act. Without specific authorization from the General Assembly, the Department of Transportation may not reduce funding for any transportation projects as a result of this act or the levy of a tax pursuant to Part II, III, or IV of this act.

**SECTION 9.2.** Except as otherwise provided, this act is effective when it becomes law.