

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1291\*

Transportation Committee Substitute Adopted 6/11/98
Transportation Committee Substitute #2 Adopted 7/15/98
Transportation Committee Substitute #3 Adopted 7/16/98
Finance Committee Substitute #4 Adopted 7/22/98
Sixth Edition Engrossed 7/23/98
Seventh Edition Engrossed 8/6/98
Corrected Copy 8/7/98
House Committee Substitute Favorable 8/24/98

Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION, REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION CORRIDORS AND PROTECT THEM FROM DEVELOPMENT, AND TO INSURE PROPER NOTICE TO ALL PROPERTY OWNERS AFFECTED BY THE CORRIDORS.

The General Assembly of North Carolina enacts:

Section 1. Article 2E of Chapter 136 reads as rewritten:

"ARTICLE 2E.

"ROADWAY TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

"§ 136-44.50. Roadway-Transportation corridor official map act.

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

3 (1) ~~by the~~ The governing board of any city for any thoroughfare included as  
4 part of a comprehensive plan for streets and highways adopted pursuant  
5 to G.S. ~~136-66.2~~ or G.S. 136-66.2 or for any proposed public  
6 transportation corridor included in the adopted long-range transportation  
7 plan.

8 (2) ~~by the~~ The Board of Transportation for any portion of the existing or  
9 proposed State highway system-system or for any public transportation  
10 corridor, to include rail, that is in the Transportation Improvement  
11 Program.

12 (3) Regional public transportation authorities created pursuant to Article 26  
13 of Chapter 160A of the General Statutes or regional transportation  
14 authorities created pursuant to Article 27 of Chapter 160A of the  
15 General Statutes for any proposed public transportation corridor, or  
16 adjacent station or parking lot, included in the adopted long-range  
17 transportation plan.

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

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

26 (1) The governing board of the ~~city-city~~, the regional transportation  
27 authority, or the Department of Transportation ~~in each county affected by~~  
28 ~~the map,~~ has held a public hearing in each county affected by the map  
29 on the proposed map or amendment. Notice of the hearing shall be  
30 provided:

31 a. By publication at least once a week for four successive weeks  
32 prior to the hearing in a newspaper having general circulation in  
33 the county in which the ~~roadway-transportation~~ corridor to be  
34 designated is located.

35 b. By two week written notice to the Secretary of Transportation,  
36 the Chairman of the Board of County Commissioners, and the  
37 Mayor of any city or town through whose corporate or  
38 extraterritorial jurisdiction the ~~roadway-transportation~~ corridor  
39 passes.

40 c. By posting copies of the proposed ~~roadway-transportation~~ corridor  
41 map or amendment at the courthouse door for at least 21  
42 days prior to the hearing date. The notice required in sub-  
43 subdivision a. above shall make reference to this posting.

- 1 (2) A permanent certified copy of the ~~roadway~~ transportation corridor  
2 official map or amendment has been filed with the register of deeds.  
3 The boundaries may be defined by map or by written description, or a  
4 combination thereof. The copy shall measure approximately 20 inches  
5 by 12 inches, including no less than one and one-half inches binding  
6 space on the left-hand side.
- 7 (3) The names of all property owners affected by the corridor have been  
8 submitted to the Register of Deeds.
- 9 (b) ~~Roadway~~ Transportation corridor official maps and amendments shall be  
10 distributed and maintained in the following manner:
- 11 (1) A copy of the official map and each amendment thereto shall be filed in  
12 the office of the city clerk and in the office of the district engineer.
- 13 (2) A copy of the official map, each amendment thereto and any variance  
14 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the  
15 tax supervisor of any county and tax collector of any city affected  
16 thereby. The portion of properties embraced within a ~~roadway~~  
17 transportation corridor and any variance granted shall be clearly  
18 indicated on all tax maps maintained by the county or city for such  
19 period as the designation remains in effect.
- 20 (3) Notwithstanding any other provision of law, the certified copy filed with  
21 the register of deeds shall be placed in a book maintained for that  
22 purpose and cross-indexed by number of road, street name, or other  
23 appropriate description. The register of deeds shall collect a fee of five  
24 dollars (\$5.00) for each map sheet or page recorded.
- 25 (4) The names submitted as required under subdivision (a)(3) of this section  
26 shall be indexed in the 'grantor' index by the Register of Deeds.
- 27 (c) Repealed by Session Laws 1989, c. 595, s. 1.
- 28 (d) Within ~~one year~~ two years following the establishment of a ~~roadway~~  
29 transportation corridor official map or amendment, work shall begin on an environmental  
30 impact statement or preliminary engineering. The failure to begin work on the  
31 environmental impact statement or preliminary engineering within the ~~one year~~ two-year  
32 period shall constitute an abandonment of the corridor, and the provisions of this Article  
33 shall no longer apply to properties or portions of properties embraced within the ~~roadway~~  
34 transportation corridor. A city may prepare environmental impact studies and  
35 preliminary engineering work in connection with the establishment of a ~~roadway~~  
36 transportation corridor official map or amendments to a ~~roadway~~ transportation corridor  
37 official map. When a city prepares a ~~roadway~~ transportation corridor official map for a  
38 street or highway that has been designated a State responsibility pursuant to G.S. 136-  
39 66.2, the environmental impact study and preliminary engineering work shall be  
40 reviewed and approved by the Department of Transportation. An amendment to a  
41 corridor shall not extend the two-year period provided by this section unless it establishes  
42 a substantially different corridor in a primarily new location.

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

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

6 (2) Deletion of the corridor from the transportation corridor official map by  
7 action of the Board of Transportation, or deletion of the corridor from  
8 the long-range transportation plan of a city or regional transportation  
9 authority by action of the city or regional transportation authority  
10 governing Board.

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

13 **"§ 136-44.51. Effect of ~~roadway~~-transportation corridor official map.**

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

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

32 **"§ 136-44.52. Variance from ~~roadway~~-transportation corridor official map.**

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

37 (b) The procedure established by the State shall provide for written notice to the  
38 Mayor and Chairman of the Board of County Commissioners of any affected city or  
39 county, and for the hearing to be held in the county where the affected property is  
40 located.

41 (c) Cities may provide for petitions for variances to be heard by the board of  
42 adjustment or other boards or commissions which can hear variances authorized by G.S.

1 160A-388. The procedures for boards of adjustment shall be followed except that no  
2 vote greater than a majority shall be required to grant a variance.

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

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

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

8 **"§ 136-44.53. Advance acquisition of right-of-way within the roadway  
9 transportation corridor.**

10 (a) After a ~~roadway-transportation~~ transportation corridor official map is filed with the register of  
11 deeds, the Department of ~~Transportation or~~ Transportation, the regional public  
12 transportation authority, the regional transportation authority, or the city which initiated  
13 the ~~roadway-transportation~~ transportation corridor official map is ~~authorized to~~ may make advanced  
14 acquisition of specific parcels of property when ~~such that~~ acquisition is determined by the  
15 respective governing board to be in the best public interest to protect the ~~roadway~~  
16 transportation corridor from development or when the ~~roadway-transportation~~ transportation corridor  
17 official map creates an undue hardship on the affected property owner.

18 (b) Prior to making any ~~such~~ advanced acquisition of right-of-way under the  
19 authority of this Article, the Board of Transportation or the respective ~~municipal~~  
20 governing board which initiated the ~~roadway-transportation~~ transportation corridor official map shall  
21 develop and adopt appropriate policies and procedures to govern ~~such the~~ the advanced  
22 acquisition of right-of-way and to assure ~~such that the~~ the advanced acquisition is in the best  
23 overall public interest.

24 (c) When a city makes an advanced right-of-way acquisition of property within a  
25 ~~roadway-transportation~~ transportation corridor official map for a street or highway that has been  
26 determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the  
27 Department of Transportation shall reimburse the city for the cost of ~~such any~~ any advanced  
28 right-of-way acquisition at the time the street or highway is constructed. The Department  
29 of Transportation shall have no responsibility to reimburse a municipality for any  
30 advanced right-of-way acquisition for a street or highway that has not been designated a  
31 State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of  
32 the advanced acquisition by the city. The city shall obtain the concurrence of the  
33 Department of Transportation in all instances of advanced acquisition.

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

38 **"§ 136-44.54. Standard for appraisal of right-of-way within corridor.**

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

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

43 **"§ 105-277.9. Taxation of property inside certain roadway corridors.**

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

6 (1) As of January 1, no building or other structure is located on the  
7 property; and

8 (2) The property has not been subdivided, as defined in G.S. 153A-335 or  
9 G.S. 160A-376, since it was included in the corridor."

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

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

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

17 "**§ 160A-458.4. Designation of ~~roadway~~-transportation corridor official maps.**

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

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

21 "(c) Transportation corridor official maps authorized under Article 2E of Chapter  
22 136 shall be registered and indexed by the end of the third business day after the business  
23 day the map is presented to the Register of Deeds."

24 Section 6. This act becomes effective October 1, 1998, and applies to  
25 transportation corridor official maps, or amendments to those maps, adopted on or after  
26 the effective date of this act.