

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 522
Committee Substitute Favorable 4/23/01
Committee Substitute #2 Favorable 8/8/01

Short Title: Cumberland Transportation Authority.

(Public)

Sponsors:

Referred to:

March 8, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE A REGIONAL TRANSPORTATION AUTHORITY FOR
3 CUMBERLAND COUNTY, THE CITY OF FAYETTEVILLE, THE TOWN OF
4 HOPE MILLS, THE TOWN OF STEDMAN, AND THE TOWN OF SPRING
5 LAKE, TO AUTHORIZE THE CREATION OF COUNTY ECONOMIC
6 DEVELOPMENT AUTHORITIES, AND TO INCREASE THE ANNUAL PER
7 DIEM FOR WATER AND SEWER AUTHORITY MEMBERS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 160A-602 reads as rewritten:

10 **"§ 160A-602. Definition of territorial jurisdiction of Authority.**

11 (a) An authority may be created for any area of the State that, at the time of
12 creation of the authority, meets the following criteria:

13 (1) The area consists of three counties:

14 (2) At least one of those counties contains at least part of a County
15 Research and Production Service District established pursuant to Part 2
16 of Article 16 of Chapter 153A of the General Statutes; and

17 (3) The other two counties each:

18 a. Contain at least one unit of local government that is designated
19 by the Governor of the State of North Carolina as a recipient
20 pursuant to Section 9 of the Urban Mass Transportation Act of
21 1964, as amended; and

22 b. Are adjacent to at least one county that contains at least part of
23 a County Research and Production Service District established
24 pursuant to Part 2 of Article 16 of Chapter 153A of the General
25 Statutes.

26 (b) An authority may be created for any county that, at the time of creation of the
27 authority, meets the following criteria:

- 1 (1) Has a population of at least 275,000 according to the most recent
2 decennial federal census;
3 (2) Has at least eight incorporated municipalities;
4 (3) Has one or more federal military enclaves; and
5 (4) Is a Mass Transportation Act recipient."

6 **SECTION 2.** G.S. 160A-632 reads as rewritten:

7 "**§ 160A-632. Definition of territorial jurisdiction of Authority.**

8 (a) An authority may be created for the area of any Metropolitan Planning
9 Organization of the State that, at the time of creation of the authority, meets the
10 following criteria, such area being the initial territorial jurisdiction of the Authority:

- 11 (1) The area consists of all or part of five counties, all five counties of
12 which form a contiguous territory;
13 (2) At least two of those counties are contiguous to each other and each
14 have a population of 250,000 or over; and
15 (3) The other three counties each have a population of 100,000 or over.

16 (b) An authority may be created for any county that, at the time of creation of the
17 authority, meets the following criteria, such area being the initial territorial jurisdiction
18 of the Authority:

- 19 (1) Has a population of at least 275,000 according to the most recent
20 decennial federal census;
21 (2) Has at least eight incorporated municipalities;
22 (3) Has one or more federal military enclaves; and
23 (4) Is a Mass Transportation Act recipient."

24 **SECTION 3.** G.S. 160A-605 is amended by adding a new subsection to
25 read:

26 "(g) An authority created under G.S. 160A-602(b) in Cumberland County would
27 be governed by a nine-member board of trustees, to be appointed as follows:

- 28 (1) Two by the Fayetteville City Council;
29 (2) Two by the Cumberland County Board of Commissioners;
30 (3) One by the Town of Spring Lake;
31 (4) One by the Hope Mills Board of Commissioners;
32 (5) One by the Stedman Board of Commissioners;
33 (6) One at-large representative by Fort Bragg, North Carolina; and
34 (7) One ex officio member by the North Carolina Secretary of
35 Transportation.

36 All of the above members shall be voting members and residents of the appointing
37 jurisdiction except for the at-large member and the ex officio member, who shall reside
38 within the territorial jurisdiction of the authority."

39 **SECTION 4.** G.S. 160A-635 is amended by adding a new subsection to
40 read:

41 "(g) An authority created under G.S. 160A-632(b) in Cumberland County would
42 be governed by a nine-member board of trustees, to be appointed as follows:

- 43 (1) Two by the Fayetteville City Council;

- 1 (2) Two by the Cumberland County Board of Commissioners;
2 (3) One by the Town of Spring Lake;
3 (4) One by the Hope Mills Board of Commissioners;
4 (5) One by the Stedman Board of Commissioners;
5 (6) One at-large representative by Fort Bragg, North Carolina; and
6 (7) One ex officio member by the North Carolina Secretary of
7 Transportation.

8 All of the above members shall be voting members and residents of the appointing
9 jurisdiction except for the at-large member and the ex officio member, who shall reside
10 within the territorial jurisdiction of the authority."

11 **SECTION 5.** G.S. 160A-606(a) reads as rewritten:

12 "(a) Six members of the Board of Trustee shall constitute a quorum for the
13 transaction of ~~business~~. business, except for an authority created under G.S. 160A-
14 602(b), a majority of the members of the Board of Trustees shall constitute a quorum for
15 the transaction of business. Except as provided by G.S. 160A-605(a)(4), each member
16 shall have one vote."

17 **SECTION 6.** The powers, duties, functions, and authority of a Regional
18 Transportation Authority created under this act shall be generally consistent with the
19 powers, duties, functions, and authority of a Regional Transportation Authority created
20 under the Regional Public Transportation Authority Act, Article 26 of Chapter 160A of
21 the General Statutes and the Regional Transportation Authority Act, Article 27 of
22 Chapter 160A of the General Statutes except as may be amended herein, and any
23 decision on funding of the activities of the Regional Transportation Authority created
24 herein shall require a majority vote of all the voting members of the Regional
25 Transportation Authority.

26 **SECTION 7.** G.S. 162A-5(c) reads as rewritten:

27 "(c) Each member of the authority before entering upon his duties shall take and
28 subscribe an oath or affirmation to support the Constitution of the United States and of
29 this State and to discharge faithfully the duties of his office, and a record of each such
30 oath shall be filed with the secretary of the authority.

31 The authority shall select one of its members as chairman and another as
32 vice-chairman and shall also select a secretary and a treasurer who may but need not be
33 members of the authority. The offices of secretary and treasurer may be combined. The
34 terms of office of the chairman, vice-chairman, secretary and treasurer shall be as
35 provided in the bylaws of the authority.

36 A majority of the members of the authority shall constitute a quorum and the
37 affirmative vote of a majority of all of the members of the authority shall be necessary
38 for any action taken by the authority. No vacancy in the membership of the authority
39 shall impair the right of a quorum to exercise all the rights and perform all of the duties
40 of the authority. The members of the authority may be paid a per diem compensation set
41 by the authority which per diem may not exceed the total amount of ~~two thousand~~
42 ~~dollars (\$2,000)~~ four thousand dollars (\$4,000) annually, and shall be reimbursed for the
43 amount of actual expenses incurred by them in the performance of their duties."

1 appointing the members of the authority in accordance with this Article. The resolution
2 must include articles of incorporation for the authority which set forth the following:

3 (1) The name of the authority.

4 (2) A statement that the authority is organized under this Article.

5 (3) The names and addresses of the first members of the authority
6 appointed by the county.

7 (b) Public Hearing. – The resolution may be adopted only after a public hearing
8 on the question, notice of which hearing has been given by publication at least once not
9 less than 10 days before the date set for the hearing, in a newspaper having a general
10 circulation in the county. The notice must contain a brief statement of the substance of
11 the proposed resolution, specify a public location where members of the public may
12 review or obtain a copy of the proposed articles of incorporation of the authority, and
13 state the time and place of the public hearing to be held on the resolution. No other
14 publication or notice of the resolution is required.

15 (c) Incorporation of Authority. – A county that adopts a resolution as provided in
16 this section must file a certified copy of the resolution with the Secretary of State,
17 together with proof of publication of notice of the hearing on the resolution. The
18 resolution must contain the county clerk's attestation that it was adopted by the board of
19 commissioners. If the Secretary of State finds that the resolution, including the articles
20 of incorporation, conforms to the provisions of this Article and that notice of the hearing
21 was properly published, the Secretary of State must file the resolution and proof of
22 publication and must issue a certificate of incorporation for the authority under the seal
23 of the State. The Secretary of State must record the certificate of incorporation in an
24 appropriate book of record in the Secretary of State's office.

25 (d) Effect of Incorporation. – The issuance of the certificate of incorporation by
26 the Secretary of State constitutes the authority a public body and body politic and
27 corporate of the State. The authority is a public authority subject to the provisions of
28 Chapter 159 of the General Statutes. The certificate of incorporation is conclusive
29 evidence that the authority has been duly created and established under this Article.

30 (e) Amendment; Termination. – A county that has created an economic
31 development authority under this Article may adopt a resolution to amend the
32 authority's articles of incorporation. The requirements of this section for creating an
33 authority apply equally to amending the authority's articles of incorporation.

34 A county that creates an economic development authority under this Article may
35 terminate the authority by resolution at any time that all obligations incurred by the
36 authority have been fully satisfied. Upon termination, any assets of the authority
37 become the property of the county.

38 **§ 158-53. Members; organization; quorum.**

39 (a) Members. – An authority organized under this Article consists of the number
40 of members designated by the county in the resolution creating the authority. A
41 proportionate number of initial members of the authority must be appointed to serve
42 terms of four, five, and six years respectively. Successors serve six-year terms, with no
43 limit on reappointment. A person appointed to fill a vacancy serves for the remainder of

1 the unexpired term. The board of county commissioners may remove a member of the
2 authority for cause.

3 (b) Organization. – The authority must select a chair from among its members
4 who shall serve a three-year term. The authority meets at the call of the chair and must
5 adopt rules of procedure to govern its meetings. A majority of the members of the
6 authority constitutes a quorum, and the authority may act by majority vote of members
7 present and voting. The board of county commissioners must determine the
8 compensation, if any, to be paid to members of the authority.

9 (c) Dual Office Holding. – Service on the authority may be in addition to any
10 other office a person is entitled to hold.

11 **"§ 158-54. Powers.**

12 (a) The general powers of an authority created under this Article include the
13 following:

- 14 (1) The powers of a corporate body, including the power to sue and be
15 sued and to adopt and use a common seal.
- 16 (2) To adopt bylaws and resolutions in accordance with this Article for its
17 organization and internal management.
- 18 (3) To employ persons as necessary and to fix their compensation within
19 the limit of available funds.
- 20 (4) With the approval of the county manager, to use officers, employees,
21 agents, and facilities of the county for purposes and upon terms agreed
22 upon with the county.
- 23 (5) To acquire by purchase, lease, gift, lease with option to purchase,
24 installment sale, or otherwise, but not by eminent domain, or to obtain
25 options for the acquisition of, any property, real or personal, improved
26 or unimproved, and interests in land less than the fee interest.
- 27 (6) To sell, lease, exchange, transfer by lease with option to purchase or
28 installment sale, or otherwise dispose of, or to grant options for any of
29 these purposes with respect to, any real or personal property or interest
30 in real or personal property.
- 31 (7) To make contracts, deeds, leases with or without option to purchase,
32 conveyances, and other instruments, including contracts with the
33 United States, the State of North Carolina, and units of local
34 government within or outside the State.
- 35 (8) To borrow money on its bonds, notes, and other obligations, and to
36 secure all of these obligations by any combination of the following:
 - 37 a. Mortgages on or security interests in any real or personal
38 property of the authority.
 - 39 b. A pledge of any revenues or receivables of the authority.
- 40 (9) To apply for, accept, and administer loans, grants, and appropriations
41 of money from any federal agency, from the State or its political
42 subdivisions, or from any other public or private sources available, to
43 expend the money in accordance with the requirements imposed by the

1 lender or donor, and to give any evidences of indebtedness that are
2 required. No indebtedness of any kind incurred or created by the
3 authority constitutes an indebtedness of the State or its political
4 subdivisions, and no indebtedness of the authority involves or is
5 secured by the faith, credit, or taxing power of the State or its political
6 subdivisions.

7 (10) To adopt, alter, or repeal its own bylaws or rules implementing the
8 provisions of this Article.

9 (11) To execute financing agreements, security documents, and other
10 instruments appropriate in carrying out its purposes.

11 (12) To fix, charge, collect, pledge, or assign revenues of the authority.

12 (13) To employ consulting engineers, architects, attorneys, real estate
13 counselors, appraisers, and other consultants and employees as may be
14 required in the judgment of the authority and to fix and pay their
15 compensation from funds available to the authority, and, when
16 approved by the Local Government Commission under G.S.
17 159-123(e) and (f) as if the authority were an issuing unit, to select and
18 retain financial consultants, underwriters, and bond attorneys in
19 connection with the issuance of any indebtedness and to pay for their
20 services from funds available to the authority or out of the proceeds of
21 any borrowing for which their services were performed.

22 (14) To procure and maintain adequate insurance or otherwise provide for
23 adequate protection to indemnify the authority and its officers,
24 directors, agents, employees, adjoining property owners, or the general
25 public against loss or liability resulting from any act or omission by or
26 on behalf of the authority.

27 (15) To purchase or finance real or personal property in the manner
28 provided for cities and counties under G.S. 160A-20.

29 (16) To issue revenue bonds under the Local Government Revenue Bond
30 Act, Article 5 of Chapter 159 of the General Statutes, or the bond and
31 revenue anticipation provisions of Article 9 of Chapter 159 of the
32 General Statutes, to carry out its purposes.

33 (17) To issue obligations to finance the purchase or acquisition of land or
34 options on land, or the construction of buildings or facilities. An
35 obligation may be secured by the land purchased or acquired, or by the
36 buildings or facilities constructed, may be unsecured, or may be made
37 payable from revenues, the proceeds of notes, bonds, or the sale of any
38 lands, the proceeds of any bonds of the State or moneys appropriated
39 by the State, or any other available moneys of the authority.

40 (18) To surrender to the county any property no longer required by the
41 authority.

42 (b) The economic development powers of an authority created under this Article
43 include the following:

- 1 (1) To acquire, construct, improve, maintain, repair, operate, or administer
2 any component part of a public infrastructure system or facility within
3 the county, directly or by contract with a third party.
4 (2) Except as otherwise provided in this Article, to exercise the powers
5 granted to a local government for development by G.S. 158-7.1, except
6 the power to levy a property tax.
7 (3) To make grants and loans to support economic development projects
8 authorized by this Chapter within the county.
9 (4) To exercise the powers of a regional planning commission as provided
10 in G.S. 153A-395 and the powers of a regional economic development
11 commission as provided in Article 2 of this Chapter, but the authority
12 does not have the authority to establish land-use zoning in the county.
13 (5) To do all other things necessary or appropriate to carry out its purposes
14 as provided in this Article.

15 "**§ 158-55. Tax exemption.**

16 Property owned by an authority created under this Article is exempt from taxation in
17 accordance with Section 2 of Article V of the North Carolina Constitution."

18 **SECTION 9.** G.S. 160A-20(h) is amended by adding a new subdivision to
19 read:

20 "(13) A county economic development authority created under Article 5 of
21 Chapter 158 of the General Statutes."

22 **SECTION 10.** This act is effective when it becomes law.