

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH70084-LB-82 (3/3)

Short Title: Elect Board of Transportation.

(Public)

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Sponsors: Representative Miller.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ELECT STATEWIDE ONE RESIDENT OF EACH HIGHWAY  
DIVISION TO SERVE ON THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-350 reads as rewritten:

**"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have 19 voting members. Fourteen of the members shall be division members ~~appointed by the Governor.~~elected by the people, as provided by this section. Five shall be at-large members appointed by the Governor. At least three members of the Board shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. No more than two members of the Board may reside in the same highway division.

(2) Division members. – One member shall be ~~appointed from and be a~~resident of each of the 14 highway divisions.~~divisions, but all shall be~~elected on a statewide basis. Each divisional seat shall be elected separately on the statewide ballot.~~The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division.~~

1 Division members shall direct their primary effort to developing  
2 transportation policy and addressing transportation problems in the  
3 region they represent. Division members shall regularly consult with  
4 and consider the views of local government units and Transportation  
5 Advisory Committees in the region they represent.

6 (3) At-large members. – Five members shall be appointed by the Governor  
7 from the State at large. At-large members appointed pursuant to this  
8 subdivision shall develop transportation policy and address  
9 transportation problems with a statewide perspective. At-large  
10 members appointed under this subdivision shall possess the following  
11 qualifications:

- 12 a. One at-large member shall be a person with expertise in  
13 environmental issues affecting the State;
- 14 b. One at-large member shall be a person familiar with the State  
15 ports and aviation issues;
- 16 c. One at-large member shall be a person residing in a rural area  
17 of the State with broad knowledge of and experience in  
18 transportation issues affecting rural areas;
- 19 d. One at-large member shall be a person residing in an urban area  
20 with broad knowledge of and expertise in mass transit;
- 21 e. One at-large member shall be a person with broad knowledge of  
22 and expertise in government-related finance and accounting.

23 (c) Staggered Terms. – The terms of all Board members serving on the Board  
24 prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19  
25 members shall be appointed with terms beginning on January 15, 2001. The Board shall  
26 serve the following terms: ~~division members representing divisions 1, 3, 5, 7, 9, 11, and~~  
27 ~~13 and the three at-large members filling the positions designated in sub-subdivisions~~  
28 ~~(b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15,~~  
29 ~~2001, and four-year terms thereafter; and division members representing divisions 2, 4,~~  
30 ~~6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in~~  
31 ~~sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning~~  
32 ~~January 15, 2001, and four-year terms thereafter. thereafter; division members~~  
33 representing divisions 1, 3, 5, 7, 9, 11, and 13 shall be elected in the 2004 general  
34 election for four-year terms beginning January 1, 2005, and quadrennially thereafter,  
35 and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 shall be elected in  
36 the 2004 general election for two-year terms beginning January 1, 2005, and their  
37 successors shall be elected in the 2006 general election and quadrennially thereafter for  
38 four-year terms. The offices of divisional members serving on the board prior to January  
39 15, 2003, shall expire December 31, 2004. Elections shall be conducted in accordance  
40 with Chapter 163 of the General Statutes.

41 (d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve  
42 until their successors are appointed. The Governor may appoint a member to serve out  
43 the unexpired term of any Board member. The Governor may remove any at-large  
44 member of the Board for any cause the Governor finds sufficient. The Governor shall

1 remove any member of the Board upon conviction of a felony, conviction of any  
2 offense involving a violation of the Board member's official duties, or for a violation of  
3 the provisions of subsections (i), (j), and (k) of this section or any other code of ethics  
4 applicable to members of the Board as determined by the Governor or the Governor's  
5 designee.

6 (e) Organization and Meetings of the Board. – Within 60 days after January 15,  
7 2001, and thereafter within 60 days following the beginning of the regular term of the  
8 Governor, the Governor or his designee shall call the Board into session. The Board  
9 shall select a chair and vice-chair from among its membership for two-year terms. The  
10 Board may select a chair or vice-chair for one additional two-year term. The Board of  
11 Transportation shall meet once in each 60 days at such regular meeting times as the  
12 Board may by rule provide and at any place in the State as the Board may provide. The  
13 Board may hold special meetings at any time at the call of the chairman or any three  
14 members. The Board shall have the power to adopt and enforce rules and regulations for  
15 the government of its business and proceedings. The Board shall keep minutes of its  
16 meetings, which shall at all times be open to public inspection. The majority of the  
17 Board shall constitute a quorum for the transaction of business. Board members shall  
18 receive per diem and necessary travel and subsistence expenses in accordance with G.S.  
19 138-5 and G.S. 138-6, as appropriate.

20 (f) Duties of the Board. – The Board of Transportation shall have duties and  
21 powers:

- 22 (1) To formulate policies and priorities for all modes of transportation  
23 under the Department of Transportation;
- 24 (2) To advise the Secretary on matters to achieve the maximum public  
25 benefit in the performance of the functions assigned to the  
26 Department;
- 27 (3) To ascertain the transportation needs and the alternative means to  
28 provide for these needs through an integrated system of transportation  
29 taking into consideration the social, economic and environmental  
30 impacts of the various alternatives;
- 31 (4) To approve a schedule of all major transportation improvement  
32 projects and their anticipated cost for a period of seven years into the  
33 future. This schedule is designated the Transportation Improvement  
34 Program; it must be published and copies must be available for  
35 distribution. The document that contains the Transportation  
36 Improvement Program, or a separate document that is published at the  
37 same time as the Transportation Improvement Program, must include  
38 the anticipated funding sources for the improvement projects included  
39 in the Program, a list of any changes made from the previous year's  
40 Program, and the reasons for the changes;
- 41 (5) To consider and advise the Secretary of Transportation upon any other  
42 transportation matter that the Secretary may refer to it;

- 1 (6) To assist the Secretary of Transportation in the performance of his  
2 duties in the development of programs and approve priorities for  
3 programs within the Department;
- 4 (7) To allocate all highway construction and maintenance funds  
5 appropriated by the General Assembly as well as federal-aid funds  
6 which may be available;
- 7 (8) To approve all highway construction programs;
- 8 (9) To approve all highway construction projects and construction plans  
9 for the construction of projects;
- 10 (10) To review all statewide maintenance functions;
- 11 (11) To award all highway construction contracts;
- 12 (12) To authorize the acquisition of rights-of-way for highway  
13 improvement projects, including the authorization for acquisition of  
14 property by eminent domain;
- 15 (13) To promulgate rules, regulations, and ordinances concerning all  
16 transportation functions assigned to the Department.

17 (f1) Municipal Participation. – The ability of a municipality to pay in part or  
18 whole for any transportation improvement project shall not be a factor considered by the  
19 Board of Transportation in its development and approval of a schedule of major State  
20 highway system improvement projects to be undertaken by the Department under G.S.  
21 143B-350(f)(4).

22 (f2) Approval of aircraft and ferry purposes. – Before approving the purchase of  
23 an aircraft from the Equipment Fund or a ferry in a Transportation Improvement  
24 Program, the Board of Transportation shall prepare an estimate of the operational costs  
25 and capital costs associated with the addition of the aircraft or ferry and shall report  
26 those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the  
27 Joint Legislative Commission on Governmental Operations.

28 (g) Delegation of Board Duties. – The Board of Transportation may, in its  
29 discretion, delegate to the Secretary of Transportation the authority:

- 30 (1) To approve all highway construction projects and construction plans  
31 for the construction of projects;
- 32 (2) To award all highway construction contracts;
- 33 (3) To promulgate rules, regulations, and ordinances concerning all  
34 transportation functions assigned to the Department.

35 The Secretary may, in turn, subdelegate these duties and powers.

36 (h) Consultation of Board Members. – Each member of the Board of  
37 Transportation who is appointed to represent a transportation engineering division or  
38 who resides in a division shall be consulted before the Board makes a decision affecting  
39 that division.

40 (i) Disclosure of Contributions. – Any person serving on the Board of  
41 Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on  
42 that date any contributions the person or the person's immediate family made to the  
43 political campaign of the appointing Governor in the two years preceding December 1,  
44 1998. A person appointed or elected to the Board of Transportation and a person

1 appointed as Secretary of Transportation after December 1, 1998, shall disclose at the  
2 time the appointment of the person is officially made public any contributions the  
3 person or the person's immediate family made to the political campaign of the  
4 appointing Governor in the two years preceding the date of appointment. The term  
5 "immediate family", as used in this subsection, means a person's spouse, children,  
6 parents, brothers, and sisters. Disclosure forms shall be filed with the Governor or the  
7 Governor's designee and in a manner as prescribed by the Governor. Disclosure forms  
8 shall not be a public record under the provisions of Chapter 132 of the General Statutes  
9 until such time as the appointment of the person filing the statement is officially made  
10 public.

11 (j) Disclosure of Campaign Fund-Raising. – A person appointed or elected to the  
12 Board of Transportation on or after January 1, 2001, and a person appointed as  
13 Secretary of Transportation on or after January 1, 2001, shall if elected disclose at the  
14 time of filing notice of candidacy or otherwise qualifying for ballot access, and if  
15 appointed disclose at the time the appointment of the person is officially made ~~publie~~  
16 public, any contributions the person personally acquired in the two years prior to  
17 appointment for: any political campaign for a statewide or legislative elected office in  
18 North Carolina; any political party executive committee or political committee acting on  
19 behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed  
20 with the Governor or the Governor's designee and in a manner as prescribed by the  
21 Governor. Disclosure forms for persons appointed to office shall not be a public record  
22 under the provisions of Chapter 132 of the General Statutes until such time as the  
23 appointment of the person filing the statement is officially made public.

24 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics  
25 applicable to members of the Board, including the Secretary. Any code of ethics  
26 adopted by the Board shall be supplemental to any other code of ethics that may be  
27 applicable to members of the Board or to the Secretary. A code of ethics adopted  
28 pursuant to this subsection shall:

- 29 (1) Include a prohibition against a member taking action as a Board  
30 member when a conflict of interest, or the appearance of a conflict of  
31 interest, exists. The ethics policy adopted pursuant to this subsection  
32 shall specify that a conflict of interest exists when the use of the Board  
33 member's position, or any official action taken by the Board member,  
34 would result in financial benefit, direct or indirect, to the Board  
35 member, a member of the Board member's immediate family, or an  
36 individual with whom, or business with which, the Board member is  
37 associated. The ethics policy adopted pursuant to this subsection shall  
38 specify that an appearance of a conflict of interest exists when a  
39 reasonable person would conclude from the circumstances that the  
40 Board member's ability to protect the public interest, or perform public  
41 duties, would be compromised by personal interest, even in the  
42 absence of an actual conflict of interest. The performance of usual and  
43 customary duties associated with the public position or the  
44 advancement of public policy goals or constituent services, without

1 compensation, shall not constitute the use of the Board member's  
2 position for financial benefit. The conflict of interest provision of the  
3 ethics policy adopted pursuant to this subsection shall not apply to  
4 financial or other benefits derived by a Board member that the Board  
5 member would enjoy to an extent no greater than that which other  
6 citizens of the State would or could enjoy.

7 (2) Require the filing of a statement of economic interest. The statement  
8 of economic interest shall include a listing of the appointee's legal,  
9 equitable, or beneficial interest in real estate holdings in the State, and  
10 a statement of the appointee's financial interest in any business related  
11 to the State's transportation system. The statement of economic interest  
12 shall be filed with the Governor, or the Governor's designee, and in a  
13 manner as prescribed by the Governor.

14 (3) Require the filing of a statement of association. The statement of  
15 association shall include a statement of the appointee's membership or  
16 other affiliation with, including offices held, in societies,  
17 organizations, or advocacy groups pertaining to the State's  
18 transportation system. The statement of association shall be filed with  
19 the Governor, or the Governor's designee, and in a manner as  
20 prescribed by the Governor.

21 Board members and the Secretary serving on December 1, 1998, shall file the  
22 statement of economic interest and statement of association on that date. Board  
23 members and the Secretary appointed after December 1, 1998, shall file the statement of  
24 economic interest and statement of association at the time the appointment of the person  
25 is officially made ~~public~~-public, or if elected at the time of taking office. The statement  
26 of economic interest and the statement of association shall not be a public record under  
27 the provisions of Chapter 132 of the General Statutes until the appointment of the  
28 person filing the statement is officially made public.

29 (l) Additional Requirements for Disclosure Statements. – All disclosure  
30 statements required under subsections (i), (j), and (k) of this section must be sworn  
31 written statements.

32 (m) Ethics and Board Duties Education. – The Board shall institute by January 1,  
33 1999, and conduct annually an education program on ethics and on the duties and  
34 responsibilities of Board members. The training session shall be comprehensive in  
35 nature and shall include input from the Institute of Government, the North Carolina  
36 Board of Ethics, the Attorney General's Office, the University of North Carolina  
37 Highway Safety Research Center, and senior career employees of the various divisions  
38 of the Department. This program shall include an initial orientation for new members of  
39 the Board and continuing education programs for Board members at least once each  
40 year.

41 (n) Review of Appointments by the Joint Legislative Transportation Oversight  
42 Committee. – The Governor shall submit the names of all proposed Board of  
43 Transportation appointees, along with the disclosure statements required under  
44 subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation

1 Oversight Committee prior to Board members' taking office. The Committee shall have  
2 30 days to review and submit comments to the Governor on the proposed appointees  
3 before they take office. The Governor shall consider the views expressed by the  
4 Committee concerning the appointees to the Board. If the Committee does not review or  
5 submit comments to the Governor on the proposed Board appointees within the 30 days,  
6 the Governor may proceed to appoint the proposed members to the Board."

7 **SECTION 2.** G.S. 163-165.6(b) reads as rewritten:

8 "(b) Order of Precedence for Candidate Ballot Items. – The State Board of  
9 Elections shall promulgate rules prescribing the order of offices to be voted on the  
10 official ballot. Those rules shall adhere to the following guidelines:

- 11 (1) Federal offices shall be listed before State and local offices. Member  
12 of the United States House of Representatives shall be listed  
13 immediately after United States Senator.
- 14 (2) State and local offices shall be listed according to the size of the  
15 electorate.
- 16 (3) Partisan offices, regardless of the size of the constituency, shall be  
17 listed before nonpartisan offices.
- 18 (4) When offices are in the same class, they shall be listed in alphabetical  
19 order by office name, or in numerical or alphabetical order by district  
20 name. Governor and Lieutenant Governor, in that order, shall be listed  
21 before other Council of State offices. Board of Transportation shall be  
22 listed after Council of State. Mayor shall be listed before other  
23 citywide offices. Chair of a board, where elected separately, shall be  
24 listed before other board seats having the same electorate. Chief  
25 Justice shall be listed before Associate Justices.
- 26 (5) Ballot items for full terms of an office shall be listed before ballot  
27 items for partial terms of the same office."

28 **SECTION 3.** This act is effective when it becomes law.