

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 273
SENATE BILL 83

AN ACT TO AUTHORIZE THE BOARD OF THE STATE PORTS AUTHORITY TO APPOINT THE EXECUTIVE DIRECTOR OF THE AUTHORITY, TO AUTHORIZE THE EXECUTIVE DIRECTOR TO APPOINT, EMPLOY, DISMISS AND FIX THE COMPENSATION OF OTHER PORTS AUTHORITY EMPLOYEES, AND TO APPOINT THE SECRETARY OF COMMERCE AS A MEMBER OF THE AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-454 reads as rewritten:

"§ 143B-454. Powers of Authority.

(a) In order to enable it to carry out the purposes of this Part, the said Authority shall:

- (1) Have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
- (2) Have the authority to make all necessary contracts and arrangements with other port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the business of the North Carolina State Ports Authority;
- (3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or person, as said Authority may deem proper to carry out the purposes and provisions of this Part, all or any of them;
- (4) Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches thereto, and the construction of beltline roads and highways and bridges and causeways thereon, and other bridges and causeways necessary or useful in connection therewith, and shipyards, shipping facilities, and transportation facilities incident thereto and useful or convenient for the use thereof, excluding terminal railroads;
- (5) ~~The Secretary of Commerce with the approval of the~~ Authority shall appoint an Executive Director, whose salary shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act,~~

Authority, to serve at ~~his~~ its pleasure. The ~~Secretary of Commerce~~ Executive Director or his designee shall appoint, employ, dismiss and, within the limits of available funding, fix the compensation of such other employees as he deems necessary to carry out the purposes of this Part. There shall be an executive committee consisting of the chairman of the Authority and two other members elected annually by the Authority. The executive committee shall be vested with authority to do all acts which are authorized by the bylaws of the Authority. Members of the executive committee shall serve until their successors are elected;

- (6) Establish an office for the transaction of its business at such place or places as, in the opinion of the Authority, shall be advisable or necessary in carrying out the purposes of this Part;
- (7) Be authorized and empowered to create and operate such agencies and departments as said board may deem necessary or useful for the furtherance of any of the purposes of this Part;
- (8) Be authorized and empowered to pay all necessary costs and expenses involved in and incident to the formation and organization of said Authority, and incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Part;
- (9) Be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend the same in accordance with the directions and requirements attached thereto, or imposed thereon by any such federal agency, the State of North Carolina, or any political subdivision thereof, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any political subdivision thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any political subdivision thereof;
- (10) Be authorized and empowered to act as agent for the United States of America, or any agency, department, corporation, or instrumentality thereof, in any matter coming within the purposes or powers of the Authority;
- (11) Have power to adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the

functions thereof, as the Authority may deem necessary or expedient in facilitating its business;

- (12) Be authorized and empowered to do any and all other acts and things in this Part authorized or required to be done, whether or not included in the general powers in this section mentioned; and
- (13) Be authorized and empowered to do any and all things necessary to accomplish the purposes of this Part: Provided, that said Authority shall not engage in shipbuilding.

The property of the Authority shall not be subject to any taxes or assessments thereon.

Prior to taking any action under this subsection, the Authority may consult with the Advisory Budget Commission.

(b) In order to execute the powers enumerated in subsection (a), the Authority shall determine the policies of the North Carolina State Ports Authority by majority vote of all members of the Authority present and voting. Once a policy is determined, the Authority shall communicate it to the Executive Director, who shall have the sole and exclusive authority to execute the policy of the Authority. No member of the Authority shall have responsibility or authority to give operational directives to any employee of the North Carolina State Ports Authority other than the Executive Director."

Sec. 2. G.S. 143B-452 reads as rewritten:

"§ 143B-452. Creation of Authority – membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.

The North Carolina State Ports Authority is hereby created. It shall be governed by a board composed of nine members and hereby designated as the Authority. Effective July 1, 1983, it shall be governed by a board composed of 11 members and hereby designated as the Authority. The General Assembly suggests and recommends that no person be appointed to the Authority who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which a State port is located. The Governor shall appoint seven members to the Authority, and the General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the Authority shall consist of seven persons appointed by the Governor, and four persons appointed by the General Assembly. Effective July 1, 1989, the Governor shall appoint six members to the Authority, in addition to the Secretary of Commerce, who shall serve as a voting member of the Authority by virtue of his office. The Secretary of Commerce shall fill the first vacancy occurring after July 1, 1989, in a position on the Authority over which the Governor has appointive power.

The initial appointments by the Governor shall be made on or after March 8, 1977, two terms to expire July 1, 1979; two terms to expire July 1, 1981; and three terms to expire July 1, 1983. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of six years. The members of the Authority appointed by the Governor shall be selected from the state-at-large and insofar as practicable shall represent each section of the State in all of the business, agriculture, and industrial interests of the State. Any vacancy occurring in the membership of the Authority appointed by the Governor shall be filled by the Governor

for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

The General Assembly shall appoint two persons to serve terms expiring June 30, 1983. The General Assembly shall appoint four persons to serve terms beginning July 1, 1983, to serve until June 30, 1985, and successors shall serve for two-year terms. Of the two appointments to be made in 1982, one shall be made upon the recommendation of the Speaker, and one shall be made upon the recommendation of the President of the Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be made upon the recommendation of the President of the Senate, and two shall be made upon the recommendation of the Speaker. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122.

The Governor shall appoint from the members of the Authority the chairman and vice-chairman of the Authority. ~~The Secretary of Commerce or his designee shall serve as secretary of the Authority.~~ The members of the Authority shall appoint a treasurer and secretary of the Authority.

The Authority shall meet once in each 60 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 1989.