

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1291\*  
Transportation Committee Substitute Adopted 6/11/98

Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to:

May 27, 1998

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION,  
3 REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL  
4 TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION  
5 CORRIDORS AND PROTECT THEM FROM DEVELOPMENT.

6 The General Assembly of North Carolina enacts:

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

8 "ARTICLE 2E.

9 "~~ROADWAY~~ TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

10 "§ 136-44.50. ~~Roadway~~ Transportation corridor official map act.

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

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

18 (2) ~~by the~~ The Board of Transportation for any portion of the existing or  
19 proposed State highway system-~~system~~ or for any public transportation

1 corridor, to include rail, that is in the Transportation Improvement  
2 Program.

- 3 (3) Regional public transportation authorities created pursuant to Article 26  
4 of Chapter 160A of the General Statutes or regional transportation  
5 authorities created pursuant to Article 27 of Chapter 160A of the  
6 General Statutes for any proposed public transportation corridor  
7 included in the adopted long-range transportation plan.

8 Before a city adopts a ~~roadway-transportation~~ corridor official map that extends  
9 beyond the extraterritorial jurisdiction of its building permit issuance and subdivision  
10 control ordinances, or adopts an amendment to a ~~roadway-transportation~~ corridor official  
11 map outside the extraterritorial jurisdiction of its building permit issuance and  
12 subdivision control ordinances, the city ~~must~~ shall obtain approval from the Board of  
13 County Commissioners.

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

- 16 (1) The governing board of the ~~city-city,~~ the regional transportation  
17 authority, or the Department of Transportation ~~in each county affected by~~  
18 ~~the map,~~ has held a public hearing in each county affected by the map  
19 on the proposed map or amendment. Notice of the hearing shall be  
20 provided:

- 21 a. By publication at least once a week for four successive weeks  
22 prior to the hearing in a newspaper having general circulation in  
23 the county in which the ~~roadway-transportation~~ corridor to be  
24 designated is located.  
25 b. By two week written notice to the Secretary of Transportation,  
26 the Chairman of the Board of County Commissioners, and the  
27 Mayor of any city or town through whose corporate or  
28 extraterritorial jurisdiction the ~~roadway-transportation~~ corridor  
29 passes.  
30 c. By posting copies of the proposed ~~roadway-transportation~~ corridor  
31 map or amendment at the courthouse door for at least 21  
32 days prior to the hearing date. The notice required in sub-  
33 subdivision a. above shall make reference to this posting.

- 34 (2) A permanent certified copy of the ~~roadway-transportation~~ corridor  
35 official map or amendment has been filed with the register of deeds.  
36 The boundaries may be defined by map or by written description, or a  
37 combination thereof. The copy shall measure approximately 20 inches  
38 by 12 inches, including no less than one and one-half inches binding  
39 space on the left-hand side.

40 (b) ~~Roadway-Transportation~~ corridor official maps and amendments shall be  
41 distributed and maintained in the following manner:

- 42 (1) A copy of the official map and each amendment thereto shall be filed in  
43 the office of the city clerk and in the office of the district engineer.

1 (2) A copy of the official map, each amendment thereto and any variance  
2 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the  
3 tax supervisor of any county and tax collector of any city affected  
4 thereby. The portion of properties embraced within a ~~roadway~~  
5 transportation corridor and any variance granted shall be clearly  
6 indicated on all tax maps maintained by the county or city for such  
7 period as the designation remains in effect.

8 (3) Notwithstanding any other provision of law, the certified copy filed with  
9 the register of deeds shall be placed in a book maintained for that  
10 purpose and cross-indexed by number of road, street name, or other  
11 appropriate description. The register of deeds shall collect a fee of five  
12 dollars (\$5.00) for each map sheet or page recorded.

13 (c) Repealed by Session Laws 1989, c. 595, s. 1.

14 (d) Within ~~one year~~ two years following the establishment of a ~~roadway~~  
15 transportation corridor official map or amendment, work shall begin on an environmental  
16 impact statement or preliminary engineering. The failure to begin work within the ~~one-~~  
17 year-two-year period shall constitute an abandonment of the corridor, and the provisions  
18 of this Article shall no longer apply to properties or portions of properties embraced  
19 within the ~~roadway-transportation~~ corridor. A city may prepare environmental impact  
20 studies and preliminary engineering work in connection with the establishment of a  
21 ~~roadway-transportation~~ corridor official map or amendments to a ~~roadway-transportation~~  
22 corridor official map. When a city prepares a ~~roadway-transportation~~ corridor official  
23 map for a street or highway that has been designated a State responsibility pursuant to  
24 G.S. 136-66.2, the environmental impact study and preliminary engineering work shall be  
25 reviewed and approved by the Department of Transportation.

26 **"§ 136-44.51. Effect of ~~roadway-transportation~~ corridor official map.**

27 (a) After a ~~roadway-transportation~~ corridor official map is filed with the register of  
28 deeds, no building permit shall be issued for any building or structure or part thereof  
29 located within the ~~roadway-transportation~~ corridor, nor shall approval of a subdivision, as  
30 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within  
31 the ~~roadway-transportation~~ corridor. The ~~district engineer of the Highway District in which~~  
32 ~~the roadway corridor is located~~ Secretary of Transportation or his designee shall be notified  
33 within 10 days of all requests for building permits or subdivision approval within the  
34 ~~roadway-transportation~~ corridor. The provisions of this section shall not apply to valid  
35 building permits issued prior to August 7, 1987, or to building permits for buildings and  
36 structures which existed prior to the filing of the ~~roadway-transportation~~ corridor provided  
37 the size of the building or structure is not increased and the type of building code  
38 occupancy as set forth in the North Carolina Building Code is not changed.

39 (b) No application for building permit issuance or subdivision plat approval shall  
40 be delayed by the provisions of this section for more than three years from the date of its  
41 original submittal.

42 **"§ 136-44.52. Variance from ~~roadway-transportation~~ corridor official map.**

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

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

9 (c) Cities may provide for petitions for variances to be heard by the board of  
10 adjustment or other boards or commissions which can hear variances authorized by G.S.  
11 160A-388. The procedures for boards of adjustment shall be followed except that no  
12 vote greater than a majority shall be required to grant a variance.

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

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

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

18 **"§ 136-44.53. Advance acquisition of right-of-way within the ~~roadway~~**  
19 **transportation corridor.**

20 (a) After a ~~roadway-transportation~~ corridor official map is filed with the register of  
21 deeds, the Department of ~~Transportation or~~ Transportation, the regional public  
22 transportation authority, the regional transportation authority, or the city which initiated  
23 the ~~roadway-transportation~~ corridor official map ~~is authorized to~~ may make advanced  
24 acquisition of specific parcels of property when ~~such that~~ acquisition is determined by the  
25 respective governing board to be in the best public interest to protect the ~~roadway~~  
26 transportation corridor from development or when the ~~roadway-transportation~~ corridor  
27 official map creates an undue hardship on the affected property owner.

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

34 (c) When a city makes an advanced right-of-way acquisition of property within a  
35 ~~roadway-transportation~~ corridor official map for a street or highway that has been  
36 determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the  
37 Department of Transportation shall reimburse the city for the cost of ~~such any~~ advanced  
38 right-of-way acquisition at the time the street or highway is constructed. The Department  
39 of Transportation shall have no responsibility to reimburse a municipality for any  
40 advanced right-of-way acquisition for a street or highway that has not been designated a  
41 State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of  
42 the advanced acquisition by the city. The city shall obtain the concurrence of the  
43 Department of Transportation in all instances of advanced acquisition.

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

5               Section 2. This act is effective when it becomes law.