

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 607

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S607-ABR-101 [v.4]

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Amends Title [NO]
Fourth Edition

Date _____, 2024

Representative Adams

1 moves to amend the bill on page 30, lines 29–30, by inserting between those lines:

2
3 **"AUTHORIZE DEPARTMENT TO UTILIZE CONTRACT METHODOLOGY**
4 **FLEXIBILITY FOR NEVI FORMULA PROGRAM PROJECTS**

5 **SECTION 19.1** Notwithstanding any other provision of law, the Department of
6 Transportation is authorized to utilize, design-build, indefinite delivery, indefinite quantity,
7 public-private partnership, or any other contracting methodology authorized by applicable
8 federal law to administer the National Electric Vehicle Infrastructure (NEVI) Formula Program.
9 For the purposes of this section, Department of Transportation projects which utilize contracting
10 methodologies authorized by this section to implement, administer, or utilize NEVI Formula
11 Program funds shall not count against Department project contract award authorization caps
12 limiting the use of certain construction methodologies.

13
14 **DIVISION OF MOTOR VEHICLES MODERNIZATION**

15 **SECTION 19.2.(a)** Section 11 of S.L. 2021-134 is repealed.

16 **SECTION 19.2.(b)** The Department of Transportation shall not renew and allow to
17 expire any contract entered into pursuant to the exemption created by Section 11 of S.L.
18 2021-134.

19 **SECTION 19.2.(c)** The Department of Information Technology (DIT), in
20 consultation with the Division of Motor Vehicles of the Department of Transportation (Division),
21 shall develop and issue a request for proposal (RFP) to contract with a third-party organization
22 to perform an evaluation of the Division's ongoing efforts to modernize its Information
23 Technology (IT) systems. The evaluation shall include:

- 24 (1) An in-depth analysis of the Division's plan to implement a cloud-based
25 operating system and any other updates to its IT systems.
26 (2) A proposed time line, including specifically identified objectives and a
27 completion date, that the Division should reasonably be able to adhere to in
28 modernizing its IT systems.
29 (3) An estimate of when the Division's anticipated updates to its IT systems will
30 begin directly improving the Division's customer service.



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- 1 (4) An assessment of whether the Division's IT modernization efforts include
2 sufficient data security protocols, including what data the Division intends to
3 collect or store.
4 (5) An assessment of whether the Division has an adequate personnel
5 management plan in place to implement planned updates to its IT systems.
6 (6) An assessment of the Division's intended pricing structure for the provision of
7 online or remote services after the Division completes the modernization of
8 its IT systems.
9 (7) A discussion of any other factor the third-party organization deems relevant
10 to assessing the efficacy of the Division's modernization efforts.

11 **SECTION 19.2.(d)** Funding for the implementation of subsection (c) of this section
12 shall be provided by funds previously appropriated to the Division for the purpose of IT
13 modernization.

14 **SECTION 19.2.(e)** The Division shall report the findings of the third-party
15 organization's evaluation to the chairs of the Joint Legislative Transportation Oversight
16 Committee, the chairs of the House and Senate Transportation Appropriations Committees, and
17 the Fiscal Research Division no later than April 31, 2025.

18 **SECTION 19.2.(f)** No later than July 1, 2025, the Division, in consultation with
19 DIT, shall use the findings of the evaluation required by this section to select a vendor to oversee
20 and manage implementation of the cloud-based operating system. The selected vendor, in
21 consultation with the Division and DIT, shall report to the Joint Legislative Transportation
22 Oversight Committee, the Joint Legislative Commission on Governmental Operations, the chairs
23 of the House and Senate Transportation Appropriations Committees, and the Fiscal Research
24 Division on a quarterly basis. Each report shall include an update on the status of the Division's
25 modernization efforts measured against targets and objectives identified in the evaluation.
26

27 **NORTH CAROLINA RAILROAD BOARD OF DIRECTORS AND RELATED**
28 **CLARIFICATIONS**

29 **SECTION 19.3.(a)** Section 7.1 of S.L. 2023-136 is repealed.

30 **SECTION 19.3.(b)** Section 6.4 of S.L. 2023-139 is repealed.

31 **SECTION 19.3.(c)** G.S. 124-15 reads as rewritten:

32 **"§ 124-15. Board of directors; appointment and approval of encumbrances.**

33 (a) Notwithstanding subsection (a) of G.S. 124-6, for any State-owned railroad company
34 that has trackage in more than two counties, ~~seven~~six of the members of the Board of Directors
35 shall be appointed by the Governor, one member of the Board of Directors shall be the
36 Commissioner of Agriculture of the Department of Agriculture and Consumer Services, or the
37 Commissioner's designee, three of the members of the Board of Directors shall be appointed by
38 the General Assembly upon the recommendation of the Speaker of the House of Representatives
39 in accordance with G.S. 120-121, and three of the members of the Board of Directors shall be
40 appointed by the General Assembly upon the recommendation of the President Pro Tempore of
41 the Senate in accordance with G.S. 120-121. The Board of Directors shall consist of 13 members.
42 Of the Governor's ~~seven~~six appointments, one shall be from the appointees to the Board of
43 Transportation and one shall be the Secretary of Commerce or the Secretary's designee. ~~Of the~~

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1 initial members appointed by the Governor, three shall be appointed for terms of four years and
2 four shall be appointed for terms of two years. Of the initial members recommended to the
3 General Assembly by the Speaker of the House of Representatives, two shall be appointed for
4 terms of four years and one shall be appointed for a term of two years. Of the initial members
5 recommended to the General Assembly by the President Pro Tempore of the Senate, two shall
6 be appointed for terms of four years and one shall be appointed for a term of two years. Thereafter
7 ~~all~~ All Board members shall serve four-year terms. The Board shall elect the chairman from
8 among its membership.

9 (b) No State-owned railroad company shall sell, lease, mortgage, or otherwise encumber
10 its franchise, right-of-way, or other property, except by and with the approval and consent of the
11 Board of Directors of that corporation. The president or other chief officer of the State-owned
12 railroad company shall report any acquisitions and dispositions in accordance with
13 G.S. 124-3(10).

14 (c) Each member of the Board of Directors for any State-owned railroad company shall
15 have the fiduciary duties, including the duties of loyalty and care, to the State-owned railroad
16 company."

17 **SECTION 19.3.(d)** The appointee of the Governor replaced by the Commissioner
18 of Agriculture of the Department of Agriculture and Consumer Services, or the Commissioner's
19 designee, because of the revision to G.S. 124-15 enacted in subsection (c) of this section shall be
20 one of the appointees of the Governor with a term beginning in 2023, and the Commissioner, or
21 the Commissioner's designee, shall serve for the remainder of that term. The Board of Directors
22 shall determine which of the appointees of the Governor with a term beginning in 2023 will be
23 replaced by the Commissioner of Agriculture of the Department of Agriculture and Consumer
24 Services, or the Commissioner's designee.

25 **SECTION 19.3.(e)** G.S. 124-1 reads as rewritten:

26 "**§ 124-1. Control of internal improvements.**

27 The Governor and Council of State shall have charge of all the State's interest in all railroads,
28 canals and other works of internal ~~improvements~~ improvements, except for a State-owned
29 railroad company. The Board of Directors of a State-owned railroad company shall be
30 responsible for managing its affairs and for reporting as set forth in G.S. 124-17."

31 **SECTION 19.3.(f)** G.S. 124-11 reads as rewritten:

32 "**§ 124-11. Definition.**

33 As used in this Chapter, the term "~~State-Owned Railroad Company~~" "State-owned Railroad
34 Company" shall mean a railroad company in which the State owns all of the voting stock."

35
36 **AUTHORIZE RAIL TRANSPORTATION CORRIDOR AUTHORITY**

37 **SECTION 19.4.(a)** Chapter 160A of the General Statutes is amended by adding a
38 new Article to read:

39 "Article 33.

40 "Rail Transportation Corridor Authority.

41 "**§ 160A-880. Title and purpose.**

42 This Article shall be known and may be cited as the "Rail Transportation Corridor Authority
43 Act." The purpose of this Article is to authorize the creation of an Authority to establish,

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1 construct, purchase, maintain, equip, and operate any structure, facility, or improvement to aid
2 commerce, public transportation, and any other rail services associated with rail corridors.

3 **"§ 160A-881. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Authority. – A Rail Transportation Corridor Authority.
6 (2) Board of Trustees. – The governing board of an Authority.
7 (3) Costs. – The capital cost of a rail corridor project or special user project,
8 including:
9 a. The costs of doing any or all of the following:
10 1. Acquiring, constructing, erecting, providing, developing,
11 installing, furnishing, and equipping.
12 2. Reconstructing, remodeling, altering, renovating, replacing,
13 refurnishing, and reequipping.
14 3. Enlarging, expanding, and extending.
15 4. Demolishing, relocating, improving, grading, draining,
16 landscaping, paving, widening, and resurfacing.
17 b. The costs of all property, both real and personal and both improved
18 and unimproved, and of plants, works, appurtenances, structures,
19 facilities, furnishings, machinery, equipment, vehicles, easements,
20 water rights, air rights, franchises, and licenses used or useful in
21 connection with a rail corridor project or special user project.
22 c. The costs of demolishing or moving structures from land acquired and
23 acquiring land to which the structures are to be moved.
24 d. Financing charges, including estimated interest during the acquisition
25 or construction of a rail corridor project or special user project and for
26 one year thereafter.
27 e. The costs of services to provide plans, specifications, studies, reports,
28 surveys, and estimates of costs and revenues.
29 f. The costs of paying any interim financing, including principal,
30 interest, and premium, related to the acquisition or construction of a
31 rail corridor project or special user project.
32 g. Administrative and legal expenses and administrative charges.
33 h. The costs of establishing and maintaining debt service and other
34 reserves.
35 i. Any other services, costs, and expenses necessary or incidental to a
36 rail corridor project or special user project.
37 (4) Credit facility. – An agreement with a banking institution, an insurance
38 institution, an investment institution, or other financial institution located
39 inside or outside the United States of America that provides for prompt
40 payment, whether at maturity, presentment, or tender for purchase,
41 redemption, or acceleration, of part or all of the principal or purchase price,
42 redemption premium, if any, and interest on debt held by the Authority and
43 for repayment of the institution.

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- 1 b. The addition to or the rehabilitation, improvement, renovation, or
2 enlargement of any property described in sub-subdivision a. of this
3 subdivision.
4 The term includes infrastructure improvements, such as improvements to
5 railroad facilities, roads, bridges, and water, sewer, or electric utilities. A rail
6 corridor project may include a facility leased to one or more entities under a
7 true lease.
8 (16) Rail Transportation Corridor Authority. – A public body corporate and politic
9 organized in accordance with the provisions of this Article for the purposes,
10 with the powers, and subject to the restrictions hereinafter set forth.
11 (17) Revenues. – For a special user project, the term means rents, fees, charges,
12 payments, proceeds, or other income or profit derived from the special user
13 project or from the financing agreement or security document for the special
14 user project. For a rail corridor project, the term means rents, fees, charges,
15 payments, proceeds, or other income or profit derived from the rail corridor
16 project or from any pledge of nontax revenues, appropriation, or payment
17 made by the State or unit of local government in which the rail corridor is
18 located.
19 (18) Security document. – One or more written instruments establishing the rights
20 and responsibilities of the Authority to finance a special user project. A
21 security document may contain an assignment, pledge, mortgage, or other
22 encumbrance of part or all of the Authority's interest in, or right to receive
23 revenues from, a special user project or any other property provided by the
24 operator or other obligor under a financing agreement. A financing agreement
25 and a security document may be combined as one instrument.
26 (19) Special user project. – Any land, equipment, or buildings or other structures
27 located on one or more sites within the rail corridor and the addition to or the
28 rehabilitation, improvement, renovation, or enlargement of a structure located
29 within the rail corridor when the property is to be used as or in connection
30 with any of the following:
31 a. An undertaking for industry, including an industrial or a
32 manufacturing factory, mill, assembly plant, or fabricating plant; a
33 freight terminal; an industrial research, development, or laboratory
34 facility; or an industrial processing or distribution facility for industrial
35 or manufactured products.
36 b. A commercial, processing, mining, transportation, distribution,
37 storage, marine, aviation, rail, or environmental facility or
38 improvement.
39 c. Any combination of items mentioned in sub-subdivisions a. and b. of
40 this subdivision.
41 A special user project, during its economic life, is to be principally used by
42 one or more for-profit entities other than as lessee under a lease that has a fair
43 market value rental and is not treated as a financing lease or installment sale

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1 for federal tax law purposes. A special user project may include all
2 appurtenances and incidental facilities such as land, a headquarters or office
3 facility, warehouses, distribution centers, access roads, sidewalks, utilities,
4 railway sidings, trucking and similar facilities, parking facilities, waterways,
5 docks, wharves, and other improvements necessary or convenient for the
6 construction, maintenance, and operation of any structure.

7 (20) Unit of local government. – A county, city, town, or municipality of this State,
8 and any other political subdivision, public corporation, authority, or district in
9 this State, that is or may be authorized by law to acquire, establish, construct,
10 improve, maintain, own, or operate a rail corridor.

11 (21) Unit of local government's chief administrative official. – The county
12 manager, city manager, town manager, or other person in whom the
13 responsibility for the unit of local government's administrative duties is
14 vested.

15 **§ 160A-882. Definition of territorial jurisdiction of the Authority; rail corridor boundary**
16 **and service area designation.**

17 (a) An Authority may be created for any area of the State that, at the time of creating the
18 Authority, meets the following criteria:

19 (1) The area consists of three or more contiguous counties each containing
20 portions of an existing rail corridor, with one of the counties having a
21 population in excess of 150,000 but less than 200,000 based on the 2020
22 census and the other two contiguous counties having a population in excess of
23 75,000 but less than 90,000 based on the same census.

24 (2) The distance between the rail corridor milepost origination and termination
25 points is no more than 25 miles in length.

26 (3) If the Authority intends to receive existing rail corridor interests in property,
27 those rail property interests can be transferred to the Authority without
28 purchase of those rail corridor interests in property.

29 (4) An Authority shall not have jurisdiction over any Class I railroad, as that term
30 is defined under 49 U.S.C. § 20102 and 49 C.F.R. § 1201.1-1, nor a rail line
31 or rail corridor owned or operated by the United States Department of
32 Defense, nor a rail line owned or operated by the North Carolina Railroad
33 Company or its subsidiaries.

34 (b) The territorial jurisdiction of the Authority shall be coterminous with the boundaries
35 of the three or more organizing counties, except as provided in subdivision (3) of subsection (a)
36 of this section.

37 (c) The rail corridor service area of the Authority shall be designated by and recorded in
38 the minutes of the Board of Trustees, consistent with its purpose, and shall not exceed the
39 immediately adjacent and proximate area of the rail corridor as owned or otherwise controlled
40 by the Authority for the powers provided under G.S. 160A-886.

41 (d) The boundaries of the rail corridor of the Authority shall be designated by and
42 recorded in the minutes of the Board of Trustees once the properties and rail line making up the
43 rail corridor are in the Authority's possession or control. If there is a change in the rail corridor

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1 boundaries after it is initially designated, the rail corridor designation shall be updated and
2 recorded in the minutes of the Board of Trustees at its next meeting. The Authority may not
3 extend the rail corridor into a political subdivision that is not an organizing entity under
4 G.S. 160A-883 without (i) the consent of the governing body of that political subdivision or (ii)
5 the political subdivision having first become an organizing entity as provided under
6 G.S. 160A-883(e). A majority vote of the governing body shall constitute consent. The Authority
7 may not at any time extend its rail corridor to be longer than 25 miles in compliance with
8 subdivision (2) of subsection (a) of this section through any subsequent addition.

9 (e) The designation required by subsection (d) of this section shall describe the rail
10 corridor boundaries by its rail milepost origination and termination points and one or more of the
11 following:

12 (1) Reference to a map, deed, or other title instrument.

13 (2) Metes and bounds.

14 (3) General descriptions referring to natural boundaries, boundaries of existing
15 political subdivisions, or boundaries of tracts or parcels of land.

16 **§ 160A-883. Creation and expansion of Authority.**

17 (a) Resolution of Creation. – An Authority may be organized under the provisions of this
18 Article upon the adoption of a resolution to create such an Authority by the boards of
19 commissioners of all three or more counties within an area for which an Authority may be created
20 pursuant to G.S. 160A-882(a) and the elected board of each municipality containing a portion of
21 the rail corridor.

22 (b) Public Hearing. – A resolution to form an Authority under this Article shall be
23 adopted after a public hearing. Notice of the public hearing must be given at least once, not less
24 than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation
25 in the county. The notice must contain a brief statement of the substance of the proposed
26 resolution; a description of the rail corridor to be controlled, purchased, or otherwise operated by
27 the Authority; the proposed articles of incorporation of the Authority; and the time and place of
28 the public hearing.

29 (c) Articles of Incorporation. – A resolution to form an Authority under this Article must
30 include articles of incorporation that set forth all of the following:

31 (1) The name of the Authority.

32 (2) A statement that the Authority is organized under this Article.

33 (3) The name of each organizing entity.

34 (d) Certificate of Incorporation. – A certified copy of each resolution organizing an
35 Authority under the provisions of this Article shall be filed with the Secretary of State, together
36 with proof of publication of the notice of hearing. If the Secretary of State finds that each
37 resolution, including the articles of incorporation, conform to the provisions of this Article and
38 that the notice of hearing was properly published, then the Secretary must issue a certificate of
39 incorporation under the seal of the State and record the same in an appropriate book of record.
40 The issuance of the certificate of incorporation by the Secretary of State shall constitute the
41 Authority a public body and body politic and corporate of the State of North Carolina. The
42 certificate of incorporation is conclusive evidence of the fact that the Authority has been duly
43 created and established under the provisions of this Article.

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1 (e) Resolution to Join. – If, at any time subsequent to the creation of an Authority, the
2 Authority proposes or otherwise intends to extend the rail corridor into a county or municipality
3 that is not already an organizing entity of the Authority, that county or municipality may join the
4 Authority under the provisions of this Article upon the adoption of a resolution to join by the
5 elected board of the county or municipality. A resolution to join an Authority under this Article
6 shall be adopted after a public hearing. Notice of the public hearing must be given at least once,
7 not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general
8 circulation in the county. The notice must contain a brief statement of the substance of the
9 proposed resolution; a description of the rail corridor to be controlled, purchased, or otherwise
10 operated by the Authority; the proposed articles of incorporation of the Authority as updated to
11 include the new organizing entity; and the time and place of the public hearing. A certified copy
12 of each resolution to join an Authority under the provisions of this Article shall be filed with the
13 Secretary of State, together with proof of publication of the notice of hearing. If the Secretary of
14 State finds that the resolution, including the updated articles of incorporation, conform to the
15 provisions of this Article and that the notice of hearing was properly published, then the Secretary
16 of State must issue an updated certificate of incorporation under the seal of the State and record
17 the same in an appropriate book of record. The updated certificate of incorporation is conclusive
18 evidence of the fact that the Authority has been duly updated under the provisions of this Article.
19 The Authority may not at any time extend its rail corridor to be longer than 25 miles in
20 compliance with G.S. 160A-882(a)(2) through any subsequent addition of a county or
21 municipality.

22 (f) Members. – When the Authority has been duly organized or updated and its members
23 appointed to the Board of Trustees, the chair of the Board of Trustees shall certify to the Secretary
24 of State the names and addresses of the members as well as the address of the principal office of
25 the Authority.

26 (g) Members Not Liable. – No member of the Board of Trustees shall be subject to any
27 personal liability or accountability by reason of their execution of any debt held by the Authority.

28 (h) Compensation of the Board of Trustees. – Members of the Board of Trustees shall
29 receive the sum of fifty dollars (\$50.00) as compensation for the attendance at each duly
30 conducted meeting of the Authority.

31 (i) The Authority shall, promptly following the close of each fiscal year, submit an
32 annual report of its activities for the preceding year to the Governor, the General Assembly, and
33 the Local Government Commission. Each report shall be accompanied by an audit of its books
34 and accounts. The costs of all audits, whether conducted by the State Auditor's staff or contracted
35 with a private auditing firm, shall be paid from funds of the Authority. The Authority shall submit
36 annual reports to the Joint Legislative Commission on Governmental Operations. The reports
37 shall summarize the Authority's activities during the quarter and contain any information about
38 the Authority's activities that is requested by the Commission.

39 **"§ 160A-884. Board of Trustees.**

40 (a) Members. – The Authority shall be governed by a Board of Trustees and consist of
41 one member for each organizing entity having adopted a resolution for the creation of or a
42 resolution to join the Authority under G.S. 160A-883, and one member for each regional council

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1 of government, as created pursuant to Part 2 of Article 20 of Chapter 160A of the General
2 Statutes, containing a portion of the rail corridor.

3 (b) Appointment. – The Board of Trustees seats held by each member of the organizing
4 entities having adopted a resolution for the creation of or a resolution to join the Authority shall
5 be filled by the respective unit of local government's chief administrative official or its designee.
6 The Board of Trustees seats held by each regional council of government containing a portion of
7 the rail corridor shall be held by the Executive Director of that council or the Executive Director's
8 designee.

9 (c) Ex Officio. – Any unit of local government's chief administrative official serving on
10 the Board of Trustees is an ex officio voting member as part of the duties of their office in
11 accordance with G.S. 128-1.2 and not considered to be serving in a separate office.

12 (d) Ethics. – Members of the Board of Trustees are subject to the provisions of
13 G.S. 136-13, 136-13.1, and 136-14.

14 (e) Quorum. – A majority of the membership of the Board of Trustees, excluding vacant
15 seats, shall constitute a quorum. A member who has withdrawn from a meeting without being
16 excused by a majority vote of the remaining members present shall be counted as present for the
17 purposes of determining whether or not a quorum is present. No member shall be excused from
18 voting except upon matters involving the consideration of the member's own financial interest or
19 official conduct or on matters on which the member is prohibited from voting under any other
20 provision of law.

21 (f) Action. – An affirmative vote equal to a majority of all members of the Board of
22 Trustees not excused from voting on the question at issue shall be required to authorize or commit
23 the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the
24 Authority.

25 (g) Chair and Vice-Chair of the Board of Trustees. – At the first meeting of the Board of
26 Trustees, the chair of the Board of Trustees shall be elected from the Board of Trustees'
27 membership by a majority vote of a quorum of the Board of Trustees. Also, at the first meeting
28 of the Board of Trustees, and from the remaining Board of Trustees' membership not elected as
29 chair, a vice-chair of the Board of Trustees shall be elected by a majority vote of a quorum of the
30 Board of Trustees to fulfill the roles and duties of the chair of the Board of Trustees in the chair's
31 absence. The terms of the chair and vice-chair so elected shall be for three years with no limit on
32 the number of consecutive terms for which the chair or vice-chair may serve.

33 (h) Vacancies. – All members of the Board of Trustees shall remain in office unless (i) a
34 unit of local government's chief administrative official no longer holds that office in its respective
35 government, (ii) a unit of local government's chief administrative official replaces its designee,
36 (iii) the Executive Director of the regional council of government no longer holds the office of
37 Executive Director of the council, or (iv) the Executive Director of the council replaces its
38 designee. A vacancy for the chair of the Board of Trustees shall be filled by the vice-chair for the
39 remainder of the applicable three-year term, and a special election for a replacement vice-chair
40 shall occur at the next Board of Trustees meeting pursuant to the procedure set out in subsection
41 (g) of this section. A vacancy of the vice-chair shall prompt a special election for a replacement
42 vice-chair at the next Board of Trustees meeting pursuant to the procedure set out in subsection
43 (g) of this section.

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1 **"§ 160A-885. Advisory committees.**

2 The Board of Trustees may provide for the selection of such advisory committees as it may
3 find appropriate, which may or may not include members of the Board of Trustees.

4 **"§ 160A-886. Rail Transportation Corridor Authority.**

5 (a) The Authority shall have all powers necessary to execute the provisions of this
6 Article, which shall include at least the following powers:

7 (1) The powers of a corporate body, including the power to sue and be sued, to
8 make contracts, to adopt and use a common seal, and to alter the adopted seal
9 as needed.

10 (2) To make rules and regulations and create and operate agencies, committees,
11 and departments as needed to implement this Article.

12 (3) To pay all necessary costs and expenses in the formation, organization,
13 administration, and operation of the Authority.

14 (4) To employ persons deemed necessary to carry out the functions and duties
15 assigned to them by the Authority and to fix their compensation within the
16 limit of available funds.

17 (5) To retain and employ counsel, appraisers, auditors, architects, engineers,
18 private consultants, and real estate counselors on an annual salary, contract
19 basis, or otherwise for rendering professional or technical services from funds
20 available to the Authority.

21 (6) To operate a rail corridor and enter and perform contracts to provide and
22 operate rail and rail corridor services and facilities within the rail corridor
23 service area.

24 (7) To charge and collect fees and rents for the use of the rail corridor or for
25 services rendered in the operation of the rail corridor.

26 (8) To develop and make data, plans, information, surveys, and studies within the
27 territorial jurisdiction of the Authority and to prepare and make
28 recommendations in regard thereto.

29 (9) To enter in a reasonable manner lands, waters, or premises of the territorial
30 jurisdiction for the purpose of making data, examinations, plans, surveys, and
31 studies whereby such entry shall not be deemed a trespass except that the
32 Authority shall be liable for any actual and consequential damages resulting
33 from such entries.

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

36 (11) To acquire, lease as lessee with or without option to purchase, hold, own, and
37 use any property within the rail corridor service area, real or personal, tangible
38 or intangible, or any interest therein, and to sell, lease as lessor with or without
39 option to purchase, transfer, or dispose thereof, whenever the same is no
40 longer required for purposes of the Authority, or exchange same for other
41 property or rights that are useful for the Authority's purposes, including
42 construction of bridges, buildings, cargo transfer systems, culverts, facilities,
43 industrial track, main track, mass transit systems, maintenance yards,

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1 marshalling yards, rights-of-way, roadbed, sidings, structures, transfer yards,
2 tunnels, and all other railroad appurtenances. Before constructing a bridge, the
3 Authority shall consult with the Department of Transportation.

4 (12) To acquire by gift, purchase, lease as lessee with or without option to purchase
5 or otherwise to construct, improve, maintain, repair, operate, or administer
6 any component parts of a rail corridor or to contract for the maintenance,
7 operation, or administration thereof, or to lease as lessor the same for
8 maintenance, operation, or administration by private parties.

9 (13) To make or enter contracts, agreements, deeds, leases with or without option
10 to purchase, conveyances, or other instruments, including contracts and
11 agreements with the United States, the State of North Carolina, units of local
12 government, public transportation authorities, and private parties, to
13 effectuate the purpose of this Article.

14 (14) With the consent of the unit of local government that would otherwise have
15 jurisdiction to exercise the powers enumerated in this subdivision, to issue
16 certificates of public convenience and necessity, and to grant franchises and
17 enter into franchise agreements, and in all respects to regulate the operation
18 of rail, buses, trams, taxicabs, and other methods of public transportation that
19 originate and terminate within the rail corridor as fully as the unit of local
20 government is now or hereafter empowered to do within the jurisdiction of the
21 unit of local government.

22 (15) To finance the costs of a rail corridor project or any part thereof and to refund,
23 whether or not in advance of maturity or the earliest redemption date, any such
24 debt. The principal of and interest on the debt is payable solely from the
25 revenues pledged to its payment and neither the State, municipality, or county
26 is obligated to pay the principal or interest, except from such revenues.

27 (16) To apply for, accept, and administer loans and grants of money from any
28 federal agency, the State, or its political subdivisions, or from any other public
29 or private sources available, to expend the money in accordance with the
30 requirements imposed by the lender or donor, and to give any evidence of
31 indebtedness that are required. No indebtedness of any kind incurred or
32 created by the Authority shall constitute an indebtedness of the State or its
33 political subdivisions, and no indebtedness of the Authority shall involve or
34 be secured by the faith, credit, or taxing power of the State or its political
35 subdivisions.

36 (b) To execute the powers provided in subsection (a) of this section, the Board of Trustees
37 shall determine the policies of the Authority by majority vote of the members of the Board of
38 Trustees present and voting, a quorum having been established. Once a policy is determined, the
39 Board of Trustees shall communicate it to the chair, who shall have the sole and exclusive
40 authority to execute the policy of the Authority. No member of the Board of Trustees shall have
41 the responsibility or authority to give operational directives to any employee of the Authority
42 other than the chair.

43 **"§ 160A-887. Fiscal accountability.**

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1 An Authority created under this Article is a public authority subject to the provisions of
2 Chapter 159 of the General Statutes.

3 **§ 160A-888. Funds.**

4 The establishment and operation of an Authority are governmental functions and constitute
5 a public purpose, and the State of North Carolina and any unit of local government may
6 appropriate funds to support the establishment and operation of the Authority. The State of North
7 Carolina and any unit of local government may also dedicate, sell, convey, donate, or lease any
8 of their interests in any property to the Authority. An Authority may apply for grants from the
9 State of North Carolina, or from the United States or any department, agency, or instrumentality
10 thereof. The Department of Transportation may allocate to an Authority any funds appropriated
11 for rail corridors, public transportation, or any funds whose use is not restricted by law.

12 **§ 160A-889. Special user project financing agreement.**

13 (a) Every special user project financing agreement shall contain provisions ensuring all
14 of the following:

- 15 (1) That the amounts payable under the financing agreement are sufficient to pay,
16 when due, the principal of, redemption premium, if any, and interest on debt
17 held to pay the costs of the special user project.
18 (2) That the operator pays all costs incurred by the Authority in connection with
19 the financing and administration of the special user project, including
20 insurance costs, the cost of administering the financing agreement and the
21 security document, and the fees and expenses of the fiscal agent or trustee,
22 paying agents, attorneys, consultants, and others.
23 (3) That the operator pays all of the costs and expenses of operation, maintenance,
24 and upkeep of the special user project.

25 (b) The financing agreement, if in the nature of a lease agreement, shall either provide
26 that the obligor shall have an option to purchase, or require that the obligor purchase, the special
27 user project upon the expiration or termination of the financing agreement subject to the condition
28 that payment in full of the debt principal shall have been made.

29 (c) The financing agreement may provide the Authority with rights and remedies in the
30 event of a default by the obligor, including, without limitation, any one or more of the following:

- 31 (1) Acceleration of all amounts payable under the financing agreement.
32 (2) Reentry and repossession of the special user project.
33 (3) Termination of the financing agreement.
34 (4) Leasing or sale of foreclosure of the special user project to others.
35 (5) Taking whatever actions at law or in equity may appear necessary or desirable
36 to collect the amounts payable under, and to enforce covenants made in, the
37 financing agreement.

38 (d) The Authority's interest in a special user project under a financing agreement may be
39 that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured
40 party, or otherwise, but the Authority need not have any ownership or possessory interest in the
41 special user project.

42 (e) The Authority may assign all or any of its rights and remedies under the financing
43 agreement to debt holders under a security document.

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1 (f) The financing agreement may contain additional provisions as in the determination
2 of the Board of Trustees are necessary or convenient to effectuate the purposes of this Article.

3 **§ 160A-890. County and municipal agreements.**

4 Any county or municipality in which all or part of the rail corridor is located may enter into
5 an agreement with the Authority providing for payments to be made by the county or
6 municipality, as applicable, to the Authority. A county or municipality may not enter into an
7 agreement to make payments to the Authority until after the Authority designates the rail
8 corridor. Neither the county nor municipality's obligations under the agreement shall constitute
9 a pledge of its faith and credit. The Authority has the power and authorization to enter into
10 agreements with such local governments as provided in the Interlocal Cooperation Act,
11 G.S. 160A-460 through G.S. 160A-466.

12 **§ 160A-891. Taxation of property.**

13 The property of the Authority, both real and personal, its acts, activities, and income shall be
14 exempt from any tax or tax obligation; in the event of any lease of Authority property, or other
15 arrangement which amounts to a leasehold interest, to a private party, this exemption shall not
16 apply to the value of such leasehold interest, nor shall it apply to the income of the lessee.
17 Otherwise, however, for the purpose of taxation, when property of the Authority is leased to
18 private parties solely for the purpose of the Authority, the acts and activities of the lessee shall
19 be considered as the acts and activities of the Authority and the exemption. The interest on debt
20 or obligations held by the Authority shall be exempt from State taxes. Property that is part of or
21 is located on the rail corridor and is not owned by the Authority, including property that is part
22 of a special user project, is not exempt from tax due to its location.

23 **§ 160A-892. Authority of Utilities Commission not affected.**

24 (a) Except as otherwise provided in this Article, nothing in this Article shall be construed
25 to limit or otherwise affect the power or authority of the North Carolina Utilities Commission or
26 the right of appeal to the North Carolina Utilities Commission as provided by law.

27 (b) The North Carolina Utilities Commission shall not have jurisdiction over rates, fees,
28 charges, routes, and schedules of an Authority for service within the rail corridor.

29 **§ 160A-893. Removal and relocation of utility structures.**

30 (a) The Authority shall have the power to require any public utility, railroad, or other
31 public service corporation owning or operating any installations, structures, equipment,
32 apparatus, appliances, or facilities in, upon, under, over, across, or along any ways on which the
33 Authority has the right to own, construct, operate, or maintain its rail corridor, to relocate such
34 installation, structures, equipment, apparatus, appliances, or facilities from their locations, or, in
35 the sole discretion of the affected public utility, railroad, or other public service corporation, to
36 remove such installations, structures, equipment, apparatus, appliances, or facilities from their
37 locations.

38 (b) If the owner or operator thereof fails or refuses to relocate them, the Authority may
39 proceed to do so.

40 (c) The Authority shall provide any necessary new locations and necessary real estate
41 interests for such relocation, and for that purpose the power of eminent domain as provided in
42 G.S. 160A-894 may be exercised provided the new locations shall not be in, on, or above, a

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1 public highway; the Authority may also acquire the necessary new locations by purchase or
2 otherwise.

3 (d) Any affected public utility, railroad, or other public service corporation shall be
4 compensated for any real estate interest taken in a manner consistent with G.S. 160A-894, subject
5 to the right of the Authority to reduce the compensation due by the value of any property
6 exchanged under this section.

7 (e) The method and procedures of a particular adjustment to the facilities of a public
8 utility, railroad, or other public service corporation shall be covered by an agreement between
9 the Authority and the affected party or parties.

10 (f) The Authority shall reimburse the public utility, railroad, or other public service
11 corporation, for the cost of relocations or removals which shall be the entire amount paid or
12 incurred by the utility properly attributable thereto after deducting the cost of any increase in the
13 service capacity of the new installations, structures, equipment, apparatus, appliances, or
14 facilities and any salvage value derived from the old installations, structures, equipment,
15 apparatus, or appliances.

16 **"§ 160A-894. Acquisition, disposition, or exchange of real property.**

17 (a) The Authority shall have continuing power to acquire, by gift, grant, devise,
18 exchange, purchase, lease with or without option to purchase, or any other lawful method,
19 including, but not limited to, the power of eminent domain, the fee or any lesser interest in real
20 or personal property for use by the Authority. The Authority may not acquire or take by eminent
21 domain nor by any means, including federal regulatory action, property owned or operated by
22 any Class I railroad, as that term is defined under 49 U.S.C. § 20102 and 49 C.F.R. § 1201.1-1,
23 nor a rail line or rail corridor owned or operated by the United States Department of Defense, nor
24 a rail line owned or operated by the North Carolina Railroad Company or its subsidiaries, without
25 that railroad's consent.

26 (b) Exercise of the power of eminent domain by the Authority shall be in accordance with
27 Chapter 40A of the General Statutes.

28 (c) Exchange. – The Authority may exchange any property it acquires for other property
29 usable in carrying out the powers conferred on the Authority and also, upon the payment of just
30 compensation, may remove a building or another structure from land needed for its purposes and
31 reconstruct the structure on another location. The Authority may not use the power of eminent
32 domain to acquire property for exchange.

33 (d) Site Selection. – In selecting one or more sites for adjoining rail facilities or property
34 for shell or storage buildings, the Authority shall consider comprehensive plans and land-use
35 regulations adopted by local governments and the capability of local governments to provide
36 services as specified in subdivisions (1) through (3) of this subsection. This subsection shall not
37 be construed to require the Authority to comply with any local ordinance, regulation, or plan
38 except as may be otherwise specifically provided by federal or State law, regulation, or rule.
39 Plans, regulations, and capabilities to be considered are:

40 (1) Local comprehensive plans, including education, emergency response, law
41 enforcement, water supply, stormwater management, solid waste
42 management, and wastewater treatment.

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- 1 (2) Local land use regulations, including appearance, floodplain zoning,
- 2 subdivision zoning, and watershed protection elements.
- 3 (3) The capability of local governments to provide services and manage growth
- 4 and development related to the establishment of the rail corridor.

5 "**§ 160A-895. Termination.**

6 Whenever the Board of Trustees shall by resolution determine that the purposes for which
7 the Authority was formed have been substantially fulfilled and that debt held and all other
8 obligations incurred by the Authority have been fully paid or satisfied, the Board may declare
9 the Authority to be dissolved. On the effective date of the resolution, the title to all funds and
10 other property owned by the Authority at the time of the dissolution shall vest in and possession
11 of the funds and other property shall be delivered to the State."

12 **SECTION 19.4.(b)** G.S. 160A-20 reads as rewritten:

13 "**§ 160A-20. Security interests.**

14 ...

15 (h) Local Government Defined. – As used in this section, the term "unit of local
16 government" means any of the following:

17 ...

- 18 (16) A Rail Transportation Corridor Authority created pursuant to Article 33 of
- 19 this Chapter."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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