

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1306
SENATE BILL 857

AN ACT TO CREATE A STATE LAND POLICY COUNCIL TO DEVELOP STATE
POLICY WITH RESPECT TO LAND USE AND LAND MANAGEMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding thereto a new Article as follows:

"Article 55.

"Land Policy Act.

"§ 143-483. **Short title.** — This act shall be known as the Land Policy Act of 1974.

"§ 143-484. **Findings, intent, and purpose.** — (a) Findings. The General Assembly hereby finds that:

- (1) The land of North Carolina is a resource basic to the welfare of her people.
- (2) A lack of coordination of governmental action; a lack of clearly stated, sound, and widely understood guidelines for planning; and a lack of systematic collection, classification, and utilization of information regarding the land resource have led to inconsistencies in policy and inadequacies in planning for the present and future uses of the land resource.
- (3) Governmental agencies responsible for controlling land use and private and public users of the land resource are often unable to independently develop guidelines for land use practices which provide adequate and meaningful provision for future demands on the land resource, while allowing current needs to be met.
- (4) Systematic and sound decisions as to the location and nature of major public investments in key facilities cannot be made without a comprehensive State policy regarding the land resource.
- (5) Those affected by State land use policy and decisions must be given an opportunity for full participation in the policy and decision making process. Such a process must allow for the final implementation of policy by local governments. The State should take whatever steps necessary to encourage and assist local governments in meeting their obligation to control current uses and plan for future uses of the land resource.

(b) **Intent and Purpose.** The General Assembly declares that it is the intent of this act to undertake the continuing development and implementation of a State land use policy, incorporating environmental, esthetic, economic, social, and other factors so as to promote the public interest, to preserve and enhance environmental quality, to protect areas of natural beauty and historic sites, to encourage beneficial economic development, and to protect and promote the public health, safety, and welfare. Such policy shall serve as a guide for decision-making in State and federally assisted programs which affect land use, and shall provide a framework for the development of land use policies and programs by local governments. It is the purpose of this act to:

- (1) Promote patterns of land use which are in accord with a State Land Use Policy which encourages the wise and balanced use of the State's resources;

- (2) Establish a State policy to give local governments guidance and assistance in the establishment and implementation of local land planning and management programs so as to effectively meet their responsibilities for economically and environmentally sound land use management;
- (3) Establish a State Land Use Policy which seeks to provide essential public services equitably to all persons within the State and to assure that citizens shall have, consistent with sound principles of land resource use, maximum freedom and opportunity to live and conduct their activities in locations of their personal choice;
- (4) Condition the distribution of certain federal and State funds on meeting reasonable and flexible State requirements for basic land planning; such conditions to include a clear statement of the State's authority and responsibility for review of planning and management by local governments;
- (5) Develop and maintain coordination of all State programs having a land use impact, including joint planning and management of State lands with adjacent non-State lands, so as to ensure consistency with the purposes of this act;
- (6) Promote the development of systematic methods for the exchange of land use, environmental, economic, and social information among all levels of government, and among agencies at all levels of government.

"§ 143-485. Definitions. — Unless the context otherwise requires, the following terms as used in this Article are defined as follows:

- (1) 'Areas of environmental concern' means: those areas of this State where uncontrolled development, unregulated use, or other man-related activities could result in major or irreversible damage to important environmental, historic, cultural, scientific or scenic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life or property as a result of natural hazards, or could result in loss of continued long-range productivity in renewable resource areas.
- (2) 'Principal officer' means the duly appointed or elected public official in responsible charge of a principal department of State government.
- (3) 'Key facilities' means public facilities which tend to induce development and urbanization of more than local impact and includes, but is not limited to, major facilities for the development, generation, and transmission of energy, for communication, and for transportation.
- (4) 'Local Government' means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of this Article.
- (5) 'New communities and large-scale developments' means private development which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance.
- (6) 'Project of regional impact' means land use, public development, and private development on government or nongovernmental lands for which there is a demonstrable impact affecting the interests of constituents of more than one local unit of government.
- (7) 'Region or regional' means or refers to one or more of the official planning regions established pursuant to the laws of this State.

"§ 143-486. North Carolina Land Policy Council— (a) Established. The General Assembly hereby establishes a council, advisory to the Governor, to be designated the North Carolina Land Policy Council, hereafter designated 'the Council'.

- (b) Composition and staff.
- (1) The Council shall consist of 14 principal members, designated as follows:
 - a. Eight members shall be the principal officers of the State Departments of
 1. Administration
 2. Agriculture
 3. Cultural Resources
 4. Commerce
 5. Natural and Economic Resources
 6. Revenue
 7. Human Resources
 8. Transportation
 - b. Two members shall be the Lieutenant Governor and a member of the Senate selected by the Lieutenant Governor.
 - c. Two members shall be the Speaker of the House of Representatives and a member of the House selected by the Speaker.
 - d. One member shall be an elected official selected by the North Carolina League of Municipalities and appointed by the Governor.
 - e. One member shall be an elected official selected by the North Carolina Association of County Commissioners and appointed by the Governor.
 - (2) Only principal members shall have a vote on matters before the Council, but an alternate appointed by a principal member may participate fully in discussion and deliberations.
 - (3) The Council shall be housed administratively in the Department of Administration, with the Secretary of Administration as Chairman, and with such other officers and procedures as the Council deems necessary for the proper exercise of its responsibilities.
 - (4) Staff services to the Council shall be provided primarily by the Office of State Planning, and, in addition, all departments of State government shall furnish personnel, information and research capability as may be required by the Council in the exercise of its responsibilities.
- (c) Duties.
- (1) To assemble and analyze significant existing laws, policies and programs in State and local government as they pertain to or have substantial effect upon the use, management, development or conservation of all lands and waters, public and private, within the State of North Carolina.
 - (2) To define and cause to be prepared and periodically revised, a system of information and data concerning the land resources of the entire State, including, but not limited to, esthetic, economic, ecological, demographic, geologic, and physical conditions, both current and projected, as well as a continuing inventory of governmental and private needs and priorities for the use of land resources. All State agencies and units of local government including the register of deeds of each county shall make all pertinent data in their custody available to the Land Policy Council.
 - (3) To consider, and to consult with the federal government and relevant states on, the interstate aspects of land use issues of more than intrastate concern.
 - (4) To prepare, and revise on a continuing basis, an inventory of public and private institutional and financial resources available for land use planning and management within the State and of State and local programs, projects, and activities which have a regional impact of more than local concern.

- (5) To establish a method for identifying new community and large-scale development and land use projects with regional impact.
- (6) To prepare, in consultation with concerned State agencies and other recognized authorities, principles and guidelines for the systematic identification of areas of environmental concern.
- (7) To provide technical assistance and training programs for State and local agency personnel concerned with the development and implementation of State and local land use programs.
- (8) To establish a method for coordinating all State and local agency programs and services which significantly affect land use.
- (9) To prepare, in conjunction with the Advisory Committee on Land Policy as described in G.S. 143-487 of this act, and following procedures established by this act, a State Land Policy as defined in G.S. 143-488 of this act.
- (10) To prepare, in conjunction with the Advisory Committee on Land Policy as described in G.S. 143-487 of this act, and after consultation with the duly constituted and authorized planning agencies of local governments, and following procedures established by this act, a State Land Policy and State Land Classification System as defined further in this act.
- (11) To prepare and recommend to the General Assembly a system of valuation of property for tax purposes related to the range of public services available or to be made available to properties designated in each of the several land classifications.

(d) Hearings. The Council shall conduct such public hearings as it shall determine to be necessary or appropriate to the development of the State Land Policy and the State Land Classification System, provided only that there be no fewer than six such hearings held, two in each of the three major physiographic regions of the State. The Council shall give adequate public notice of each hearing at least 30 calendar days prior to the date of the hearing and shall consider all relevant statements and matters presented at hearings.

The Council shall designate the place and time of hearing and may adopt appropriate rules of procedure governing the conduct of the hearing, including the presentation of oral and written statements, and the form, content and method of giving notice of hearing.

(e) Acceptance and administration of federal or private funds. The Department of Administration shall have power and authority to accept, receive and administer, on behalf of the Council, any funds, gifts, bequests, or other financial assistance given, granted or provided by legislative appropriation, or under any federal act or acts or from any federal agency, or from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds to the extent not inconsistent with the laws of this State and the rules and regulations thereunder pertaining to land use planning and management. The Council shall have authority to formulate plans and projects for the approval of all funding agencies and institutions and to enter into such contracts and agreements as may be necessary for such purposes or to enter into joint agreements with any other agency or division of government for such purposes and to furnish such information as may be requested for any project or program related to or conducted pursuant to such plans and contracts. Such funds received by the Council pursuant to this provision shall be deposited in the State treasury to the account of the Council and shall remain in such account until used by the Council.

"§ 143-487. Advisory Committee on Land Policy. — (a) Established. The General Assembly hereby establishes a committee, advisory to the Governor, to be known as the North Carolina Advisory Committee on Land Policy, hereinafter designated 'the Committee'.

(b) Composition and Staff.

- (1) The Committee shall consist of 24 members, selected as follows:

- (a) Twelve members shall be selected as follows:
 1. Six shall be selected by the Governor from a list of elected officials recommended by the North Carolina Association of County Commissioners. Three of these members shall be appointed for a term of two years, and three shall be appointed for a term of four years.
 2. Six shall be selected by the Governor from a list of elected officials recommended by the North Carolina League of Municipalities. Three of these members shall be appointed for a term of two years, and three shall be appointed for a term of four years.

On expiration of initial terms, appointments shall be for a term of four years. In the event of a vacancy, the Governor shall appoint a successor of like qualifications to serve the remainder of the predecessor's term. No more than one of these members shall be appointed from any one of the 17 multi-county regions.

(b) Twelve members shall be selected by the Governor to serve at his pleasure, and shall be representative of and actively engaged in:

1. The operation of a farm in the eastern part of the State as a principal source of livelihood.
 2. The operation of a farm in the central part of the State as a principal source of livelihood.
 3. The operation of a farm in the western part of the State as a principal source of livelihood.
 4. Agribusiness.
 5. Forestry, other than the Forest Products Industry.
 6. Land Development.
 7. Home Building.
 8. Manufacturing or Extractive Industry.
 9. Parks and Recreation Management.
 10. The Tourist Industry.
 11. The Environmental and/or Health Sciences.
 12. Public Interest Organizations.
- (2) The Governor shall designate one of the Committee members as Chairman and one member as Vice-Chairman. The Committee may establish such other offices and procedures as it deems necessary for the proper exercise of its duties.
 - (3) The Committee shall be housed administratively in the Department of Administration, and staff services for the Committee shall be the same as that for the Council.
- (c) Duties. The Committee may divide itself into those sub-committees as necessary to:
- (1) Advise the Council on alternative policies and management techniques applicable to various land-use problems in the State.
 - (2) Assist the Council in securing full public participation in the process of determining State Land Policy through such procedures as open dissemination of proposals and alternatives, opportunity for public comments, information and education programs, open discussion of policy alternatives, and timely response to public comments.
 - (3) Assist and advise the Council in developing the State Land Classification System.
 - (4) To analyze, and advise the Council on, possible future problem areas in land-use practices in the State.

- (5) To provide other assistance and advice requested by the Council.

"§ 143-488. State Land Policy. — (a) Content. The State Land Policy of North Carolina shall consist of the following:

- (1) Consistent, comprehensive, and coordinated principles, guidelines, and methods for the transaction of all matters and affairs by any agency of State or local government dealing with, or related to, the acquisition, ownership, use, management, and disposition, in part or whole, of title or interests in State-owned and other public lands;
- (2) A compilation of all appropriate State laws, appellate court decisions, and current administrative practices, policies and principles, as established by precedent or administrative order, when accepted and recognized as such by the Land Policy Council; and
- (3) Principles, guidelines and methods regarding specific land use and management problems identified by the Land Policy Council, which shall include, but not be limited to, the following:
 - a. Specific policies and principles for early acquisition of a reserve of lands to form a resource base from which needs for park lands, recreation sites, water reservoirs, key facilities, and other public needs may be met.
 - b. Specific policies and principles for the location, coordination, consolidation and joint use of utility rights-of-way, of whatever sort, whether above, below, or on the surface of the ground.
 - c. Specific policies regarding large-scale and special public projects and assemblage of land therefor.
 - d. Specific policies for determination and certification of areas of environmental concern.
 - e. Specific policies regarding new communities and large-scale developments on nongovernment lands.
 - f. Specific policies regarding projects of regional impact.
 - g. Other similar and related policies and directives as may be necessary to carry out the purpose of this act.

(b) Effect. Such policies, principles, directives and methods, when not inconsistent or in conflict with existing law or valid regulations promulgated pursuant thereto, shall guide and determine the administrative procedures, findings, decisions and objectives of all agencies of State and local government with regard to acquisition, management, and disposition of public lands and interests therein and the regulation of private lands involved in or affected by areas of environmental concern, new communities, large-scale developments and projects of regional impact.

(c) Procedures.

- (1) Within two years after the effective date of this act, the Council and Committee, working jointly and in consultation with elected and appointed officials of local government, shall prepare and present to the Governor recommendations for a State Land Policy and the legislative action needed to fully implement that policy.
- (2) At the next scheduled session of the General Assembly after the Council and Committee have presented their recommendations, the Governor shall submit to the General Assembly a proposed State Land Policy and implementing legislation.

"§ 143-489. State Land Classification System. — (a) Purpose. Within two years following the effective date of this act, the North Carolina Land Policy Council shall develop a State

Land Classification System, which shall include comprehensive guidelines and policies and a method for the classification of all lands in the State for the purposes of:

- (1) Providing to State and local governmental agencies a system for achieving the stated purposes of this act.
- (2) Promoting the orderly growth and development of the State in a manner consistent with the wise use and conservation of the land resources.
- (3) Assuring that the use and development of land in areas of environmental concern within the State is not inconsistent with the State Land Policy.
- (4) Assuring that the use of land for key facilities, new communities, and large-scale developments, or in areas which are or may be impacted by key facilities, new communities, and large-scale developments, is not inconsistent with the State Land Policy.

(b) Criteria for classification. The Council shall develop and adopt as a part of the classification system no fewer than four nor more than eight classifications which recognize all lands as a basic social and natural resource and which provide for the full range of private and public purposes in the use and conservation of the land resource. Emphasis shall be given to a harmonious relationship among the use potentials of the land, the physical and fiscal feasibility of providing necessary public services, and other facilities and social services. Areas of environmental concern, key facilities, projects of regional impact, new communities, and large-scale developments shall be recognized and made a part of the Land Classification System in order to further the stated purposes of this act.

(c) Basis for land classification. Full consideration shall be given, but shall not be limited to, the following aspects and characteristics of the lands of the State:

- (1) Topographic features such as land elevations and gradients.
- (2) Surface and underground waters, natural or artificial.
- (3) Geological, chemical, mineral and physical characteristics of the land.
- (4) The existing or potential utility of lands and sites having intrinsic historic, ecological, recreational, scenic or esthetic values or virtues.
- (5) The availability or potential availability of public services, including key facilities, health, education, and other community facilities and social services.
- (6) Areas of environmental concern, existing or potential key facilities, projects of regional impact, new communities, and large-scale development.

(d) Content. The State Land Classification System shall include, but specifically is not limited to, the following:

- (1) Concise and explicit descriptions of each of the classification categories.
- (2) Guidelines and procedures for the preparation of official land-use plans by the land planning agencies of local government, including a procedure for review by an appropriate State agency for sufficiency and consistency with the provisions of this act, and a procedure for assembling local plans into regional plans.
- (3) Rules and procedures for land reclassification together with an appellate procedure for property owners and other affected individuals, including officers of any level of government.

(e) Procedures. No later than two years from the effective date of this act, the following actions shall be accomplished:

- (1) The Council shall prepare, and, with the concurrence of the Governor, submit to duly constituted official planning agencies designated to represent each of the local governments in the State, a proposal for adoption of a Land Classification System consistent with the provisions of this act. Such a proposal shall include:

- a. Guidelines for the implementation of the Land Classification System by local governments.
 - b. Procedures to meet a goal of complete implementation and application of the Land Classification System to all lands within the State by January 1, 1979.
 - c. Recommendations for legislative action to establish any necessary administrative authority within State government for the proper and uniform administration of the Land Classification System throughout the State.
 - d. Recommendations for the maximum degree of participation in land use planning and land classification by the planning agencies duly constituted and authorized by local governments.
 - e. Recommendations for any additional legislative action needed to assist and support local governments and State agencies in achieving more effective plans for the growth and development of the State, and the conservation and management of its land resources.
- (2) The designated planning agencies shall be allowed ninety calendar days to review the proposal and to submit comments to the Council. The Council shall give full consideration to all comments, particularly suggested revisions, and shall incorporate those revisions suggested by a majority of the planning agencies submitting comments into an amended proposal which shall be transmitted to the Governor for submission to the General Assembly at its next scheduled session, for legislative action necessary for the adoption of the Land Classification System and the implementation of that system at the county level.

Sec. 2. G.S. 143-490 through G.S. 143-494 is reserved for future codification.

Sec. 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 4. Members of the Land Policy Council or the Advisory Committee on Land Policy who are not otherwise State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provision of G.S. 138-5.

Sec. 5. Protection of rights. Nothing in this act authorizes any governmental agency to adopt a rule or regulation or issue any order that constitutes a taking of property in violation of the constitution of this State or of the United States, without payment of full compensation.

Sec. 6. Interpretation. It is the intention of the General Assembly that this act be interpreted consistently with, and administered in coordination with, the Coastal Area Management Act of 1974.

Sec. 7. This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 1 2th day of April, 1974.