

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 198
HOUSE BILL 388

AN ACT TO RECONSTITUTE THE DEPARTMENT OF COMMERCE; TO TRANSFER THE DIVISION OF ECONOMIC DEVELOPMENT FROM THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO THE DEPARTMENT OF COMMERCE; TO CREATE AN ECONOMIC DEVELOPMENT BOARD, AND A LABOR FORCE DEVELOPMENT COUNCIL WITHIN THE DEPARTMENT OF COMMERCE; AND TO TRANSFER THE SCIENCE AND TECHNOLOGY CENTER, THE SCIENCE AND TECHNOLOGY COMMITTEE AND THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL FROM THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO THE DEPARTMENT OF COMMERCE AND TO MAKE NECESSARY CONFORMING CHANGES IN THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

—DEPARTMENT OF COMMERCE/RECONSTITUTED.

Section 1. G.S. Chapter 143B is amended by adding at the end thereof an Article 10 to read as follows:

"ARTICLE 10.

"Department of Commerce.

"Part 1. General Provisions.

"§ 143B-401. Department of Commerce; creation. — There is hereby recreated and reconstituted a department to be known as the 'Department of Commerce', with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Article.

"§ 143B-402. Declaration of policy. — It is hereby declared to be the policy of the State of North Carolina to actively encourage the expansion of existing environmentally sound North Carolina industry; to actively encourage the recruitment of environmentally sound national and international industry into North Carolina through industrial recruitment efforts and through effective advertising, with an emphasis on high-wage-paying industry; to promote the development of North Carolina's labor force to meet the State's growing industrial needs; to promote the growth and development of our travel and tourist industries; to promote the development of our State ports; to promote the management of North Carolina's energy resources and the development of a State energy policy; and to assure throughout State government, the coordination of North Carolina's economic development efforts.

"§ 143B-403. Department of Commerce duties. — It shall be the duty of the Department of Commerce to provide for and promote the implementation of the declared policy of the State of North Carolina as provided in G.S. 143B-402, to promote and assist in the total economic development of North Carolina in accord with such declared policy and to perform such other duties and functions as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State.

"§ 143B-404. Secretary of Commerce; powers and duties. — The head of the Department of Commerce is the Secretary of Commerce. The Secretary of Commerce shall have such powers and duties as are conferred on him by this Chapter, delegated to him by the Governor, and

conferred on him by the Constitution and laws of this State. The Secretary of Commerce shall be responsible for effectively and efficiently organizing the Department of Commerce to promote the policy of the State of North Carolina as outlined in G.S. 143B-402 and to promote statewide economic development in accord with that policy. Except as otherwise specifically provided in this Article and in Article 1 of this Chapter, the functions, powers, duties and obligations of every agency or subunit in the Department of Commerce shall be prescribed by the Secretary of Commerce.

"§ 143B-405. Department of Commerce; functions. — The functions of the Department of Commerce, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

- (1) all of the executive functions of the State in relation to economic development including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the promotion and growth of the travel and tourism industries, the development of our State's ports, energy resource management and energy policy development;
- (2) all functions, powers, duties and obligations heretofore vested in any agency enumerated in Article 15 of G.S. Chapter 143A, to wit:
 - a. The State Board of Alcoholic Control,
 - b. The North Carolina Utilities Commission,
 - c. The Employment Security Commission,
 - d. The North Carolina Industrial Commission,
 - e. State Banking Commission and the Commissioner of Banks,
 - f. Savings and Loan Association Division,
 - g. The State Savings and Loan Commission,
 - h. Credit Union Commission,
 - i. The North Carolina Milk Commission,
 - j. The North Carolina Mutual Burial Association Commission,
 - k. The North Carolina Rural Electrification Authority,
 - l. The North Carolina State Ports Authority,

all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; and,

- (3) all other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State.

Any agency transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6, shall have the authority to employ, direct and supervise professional and technical personnel, and such agencies shall not be accountable to the Secretary of Commerce in their exercise of quasi-judicial powers authorized by statute, notwithstanding any other provisions of this Chapter, provided that the authority of The North Carolina State Ports Authority to employ, direct and supervise personnel shall be as provided in Part 10 of this Article.

"§ 143B-406. Transfers to Department of Commerce. — The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6.

"§ 143B-407. Department of Commerce; organization. — The Department of Commerce shall be organized to include: (1) The State Board of Alcoholic Control, (2) The North Carolina

Utilities Commission, (3) The Employment Security Commission, (4) The North Carolina Industrial Commission, (5) State Banking Commission, (6) Savings and Loan Association Division, (7) The State Savings and Loan Commission, (8) Credit Union Commission, (9) The North Carolina Milk Commission, (10) The North Carolina Mutual Burial Association Commission, (11) North Carolina Cemetery Commission, (12) The North Carolina Rural Electrification Authority, (13) Science and Technology Committee, (14) North Carolina Science and Technology Research Center, (15) The North Carolina State Ports Authority, (16) North Carolina National Park, Parkway and Forests Development Council, (17) Economic Development Board, (18) Labor Force Development Council, (19) Energy Policy Council, (20) Energy Division, (21) Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes, and such divisions as may be established pursuant to Article 1 of this Chapter.

"Part 2.

"Economic Development.

§ 143B-410. Economic Development Board; creation, duties, membership. — (a) There is hereby created within the Department of Commerce an Economic Development Board which, in conjunction with the Secretary of Commerce, shall be responsible for promoting the economic development of North Carolina in accord with the policy of the State of North Carolina as set out in G.S. 143B-402. In conjunction with the Secretary of Commerce, the Economic Development Board shall formulate a program for the economic development of the State of North Carolina and assist the Secretary of Commerce in carrying out his duties and powers as the chief economic development spokesman and administrator for the State in matters relating to the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries. The Secretary of Commerce shall prepare a budget, which shall be subject to the approval of the Economic Development Board, for each division of the Department of Commerce concerned with the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries. The Secretary of Commerce, with the approval of the Economic Development Board, shall hire the head of each such division and each such person shall serve at the pleasure of the Secretary of Commerce. The Economic Development Board shall meet at least bimonthly at the call of the Chairman of the Economic Development Board or the Secretary of Commerce.

The Economic Development Board shall consist of 25 members. The Secretary of Commerce, the Lieutenant Governor, and the Speaker of the House of Representatives shall be members of the Economic Development Board. The Governor shall appoint 22 members to the board.

The initial appointments by the Governor shall be made on or after the date of ratification, 11 terms to expire July 1, 1979, and 11 terms to expire on July 1, 1981. Thereafter, at the expiration of each stipulated term of office all appointments made by the Governor shall be for a term of four years. Any vacancy occurring in the membership of the Economic Development Board appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor shall have the authority to remove any member of the Economic Development Board appointed by the Governor.

The Governor shall designate from among the members of the Economic Development Board a chairman and a vice-chairman. The Secretary of Commerce or his designee shall serve as Secretary of the Economic Development Board. If a vacancy occurs in the Office of the Lieutenant Governor, the President Pro Tempore shall fill the vacancy. If a vacancy occurs in the Office of the Speaker of the House of Representatives, the Speaker Pro Tempore shall fill the vacancy.

The members of the Economic Development Board appointed by the Governor shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies generally pursuant to G.S. 138-5 and G.S. 138-6, as the case may be; provided, however, that the Chairman of the Economic Development Board and the Lieutenant

Governor shall not be entitled to receive per diem in addition to salary. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1.

(c) All clerical and other services required by the Economic Development Board shall be supplied by the Secretary of Commerce.

(d) It shall be the duty of the Chairman of the Economic Development Board: (1) to organize the work of the Economic Development Board into committees with respect to the divisions of the Department of Commerce concerned with the expansion of existing industry, the recruitment of new industry and the expansion of the travel and tourism industries and (2) to assign responsibilities to each committee. The salary of the Chairman of the Economic Development Board shall be set by the Governor with the approval of the Advisory Budget Commission.

(G.S. 143B-411 to G.S. 143B-419: Reserved for future codification.)

"Part 3.

"Labor Force Development.

"§ 143B-420. Labor Force Development Council; creation, duties and responsibilities. —

(a) There is hereby created within the Department of Commerce a Labor Force Development Council, hereinafter referred to as the Council, to be responsible for advising and assisting the Secretary of Commerce in developing and carrying out policies and programs related to the development and utilization of the labor force to support industrial and economic expansion in North Carolina. The Council shall be responsible for:

- (1) formulating and recommending to the Secretary of Commerce and the Governor labor force policies and objectives to support industrial expansion;
- (2) providing for the effective participation of leading business, labor and education leaders in developing active support for policy and programs that will contribute to economic expansion and development of labor force capabilities to support industrial expansion;
- (3) making recommendations to appropriate State agencies, the Governor, and the citizens of the State on improving the effectiveness of employment training and related labor force development services to support industrial expansion efforts; and
- (4) advising and assisting the Secretary of Commerce in such additional areas that may be deemed appropriate by the Secretary of Commerce.

(b) The Council shall consist of 13 members. The Secretary of Commerce shall be a member. Twelve members shall be appointed by the Governor, at least one of whom shall represent the Department of Community Colleges. Initial terms of office for the 12 members appointed by the Governor shall be as follows: Three members shall be appointed for terms ending July 1, 1979; three members for terms ending July 1, 1980, and six members for terms ending July 1, 1981. Subsequent appointments shall be for four years. Any vacancy occurring in the membership of the Council shall be filled by appointment of the Governor for the unexpired term. The Governor shall have the authority to remove any member.

(c) The Secretary of Commerce shall serve as chairman of the Council. The Secretary of Commerce shall be responsible for establishing operating procedures, providing clerical and other services required by the Council, and calling meetings of the Council, which shall meet not less than annually. Members shall receive the per diem and reimbursement for necessary expenses payable to members of boards and agencies generally pursuant to G.S. 138-5, G.S. 138-6 or G.S. 120-3.1.

(G.S. 143B-421 to G.S. 143B-424: Reserved for future codification purposes.)

"PART 4.

"Credit Union Commission.

(G.S. 143B-425 to G.S. 143B-429: Reserved for future codification purposes.)

"PART 5.

"Science and Technology Committee.

(G.S. 143B-ab430 to G.S. 143B-434: Reserved for future codification purposes.)

"PART 6.

"North Carolina Science and Technology Research Center.

(G.S. 143B-435 to G.S. 143B-439: Reserved for future codification purposes.)

"PART 7.

"North Carolina National Park, Parkway and Forests Development Council.

(G.S. 143B-440 to G.S. 143B-444: Reserved for future codification purposes.)

"PART 8.

"Energy Division.

(G.S. 143B-445 to G.S. 143B-449: Reserved for future codification purposes.)

"PART 9.

"Navigation and Pilotage Commissions.

(G.S. 143B-450 to G.S. 143B-454: Reserved for future codification purposes.)

"PART 10.

"North Carolina State Ports Authority.

(G.S. 143B-455 to G.S. 143B-474: Reserved for future codification purposes.)"

—SCIENCE AND TECHNOLOGY COMMITTEE/CONFORMING CHANGES.

Sec. 2. Whenever the words "Natural and Economic Resources" are used in G.S. 143B-331 and G.S. 143B-332, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

—SCIENCE AND TECHNOLOGY RESEARCH CENTER/CONFORMING CHANGES.

Sec. 3. G.S. 143-375 is amended by deleting from the section catch line the words "Board of Science and Technology" and inserting in lieu thereof the words "Science and Technology Committee".

Sec. 4. G.S. 143-375 is amended by deleting from the third line thereof the words "North Carolina Board of Science and Technology" and inserting in lieu thereof the words "Science and Technology Committee".

—NORTH CAROLINA PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL/CONFORMING CHANGES.

Sec. 5. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 143B-322 and G.S. 143B-323, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

—NAV. AND PILOTAGE COMM./TRANSFERS AND CONFORMING CHANGES.

Sec. 6. All Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes are hereby transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6.

—PORTS AUTHORITY/CONFORMING CHANGES.

Sec. 7. G.S. 143-218, as the same appears in the 1975 Supplement to 1974 G.S. Replacement Volume 3C, as amended by Chapter 65 of the 1977 Session Laws, is hereby amended by deleting the word "Article" wherever the same appears in said section and by inserting in lieu thereof the word "Part".

Sec. 8. G.S. 143-224(d) is hereby amended by deleting the words "Executive Director" at line 1 of said subsection, and by inserting in lieu thereof the word "Chairman".

Sec. 9. G.S. 143-216 through G.S. 143-228.1 as the same appear in the 1974 Replacement Volume 3C of the General Statutes of North Carolina and the 1975 Cumulative Supplement to Volume 3C of the General Statutes, and as amended by the ratification of House Bill 189 of the 1977 Session are recodified as follows:

G.S. 143-216 recodified as G.S. 143B-455.

G.S. 143-217 recodified as G.S. 143B-456.
G.S. 143-218 recodified as G.S. 143B-457.
G.S. 143-218.1 recodified as G.S. 143B-458.
G.S. 143-219 recodified as G.S. 143B-459.
G.S. 143-220 recodified as G.S. 143B-460.
G.S. 143-221 recodified as G.S. 143B-461.
G.S. 143-222 recodified as G.S. 143B-462.
G.S. 143-223 recodified as G.S. 143B-463.
G.S. 143-224 recodified as G.S. 143B-464.
G.S. 143-225 recodified as G.S. 143B-465.
G.S. 143-226 recodified as G.S. 143B-466.
G.S. 143-227 recodified as G.S. 143B-467.
G.S. 143-227.1 recodified as G.S. 143B-468.
G.S. 143-228 recodified as G.S. 143B-469.
G.S. 143-228.1 recodified as G.S. 143B-470.

—DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES/CONFORMING CHANGES.

Sec. 10. G.S. 143B-276 is rewritten to read as follows:

"§ 143B-276. Department of Natural and Economic Resources; duties. — It shall be the duty of the Department of Natural and Economic Resources to provide for management and protection of the State's natural resources and environment."

Sec. 11. G.S. 143B-277 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes is amended by deleting on the fifth line of subsection (a) thereof the words "economic development and".

Sec. 12. G.S. 143B-277 as the same appears in the 1975 Cumulative Supplement to 1974 Replacement Volume 3C of the General Statutes is hereby amended by deleting from subsection (b) thereof all of subdivision (2) and all of subdivision (6).

Sec. 13. G.S. 143B-305 as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is amended by deleting all of subsections (3) and (4) thereof and by renumbering subsection (5) as subsection (3).

Sec. 14. Whenever the words "Community and Economic Development Council" are used in the provisions of G.S. 143B-305 through G.S. 143B-307, the same shall be deleted and the words "Community Development Council" shall be inserted in lieu thereof.

Sec. 15. G.S. 113-3 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting subsection (3).

Sec. 16. G.S. 113-8 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting on the third line of the first paragraph the words "industrial and commercial".

Sec. 17. G.S. 113-8 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting the fifth paragraph and the seventh paragraph thereof.

Sec. 18. G.S. 113-14.1 as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting from subsection (b) thereof subparagraphs (1), (2) and (3).

Sec. 19. G.S. 113-15.2 is rewritten to read as follows:

"§ 113-15.2. Investigation of impact of proposed new and expanding industry. — The Department of Commerce shall conduct an evaluation in conjunction with the Department of Natural and Economic Resources of the effects on the State's natural and economic environment of any new or expanding industry or manufacturing plant locating in North Carolina."

Sec. 20. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 113-14 and G.S. 113-15 the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof.

—EXECUTIVE ORGANIZATION ACT OF 1973/CONFORMING CHANGES.

Sec. 21. G.S. 143B-2 as the same appears in the 1975 Cumulative Supplement to Replacement Volume 3C of the General Statutes is amended by inserting at the end thereof the following:

"(9) Department of Commerce."

Sec. 22. G.S. 143B-6 as the same appears in the 1975 Cumulative Supplement to Replacement Volume 3C of the General Statutes is amended by inserting at the end thereof the following:

"(9) Department of Commerce."

—INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING ACT/CONFORMING CHANGES.

Sec. 23. Whenever the words "Natural and Economic Resources" are used in the provisions of G.S. 159C-4, G.S. 159C-7 and G.S. 159C-8, the same shall be deleted and the word "Commerce" shall be inserted in lieu thereof. G.S. 159C-7 is hereby amended by adding as a new first sentence to the third paragraph thereof the following:

"In no case shall the Secretary of the Department of Commerce make the findings required by subparagraphs 1(b) and 2 of this section unless he shall have first received a certification from the Department of Natural and Economic Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur."

Sec. 24. All existing rules and regulations of the North Carolina Department of Natural and Economic Resources applicable to General Statutes Chapter 159C shall continue in full force and effect as rules and regulations of the North Carolina Department of Commerce as successor of the Department of Natural and Economic Resources until repealed, modified or amended by the Department of Commerce.

—LIST OF STATUTES EXPRESSLY REPEALED.

Sec. 25. The following sections of the General Statutes are hereby repealed: G.S. 143A-171 through G.S. 143A-180 and G.S. 143A-182 through G.S. 143A-185.1.

—INSTRUCTIONS TO CODIFIERS OF STATUTES.

Sec. 26. The Codifier of the General Statutes shall renumber and recodify these sections of the General Statutes as follows:

- G.S. 113-14 recodified as G.S. 143B-411.
- G.S. 113-15 recodified as G.S. 143B-412.
- G.S. 113-15.2 recodified as G.S. 143B-413.
- G.S. 143-374 recodified as G.S. 143B-435.
- G.S. 143-375 recodified as G.S. 143B-436.
- G.S. 143-376 recodified as G.S. 143B-437.
- G.S. 143-377 recodified as G.S. 143B-438.
- G.S. 143A-180.1 recodified as G.S. 143B-445.
- G.S. 143A-180.2 recodified as G.S. 143B-446.
- G.S. 143A-181 recodified as G.S. 143B-425.
- G.S. 143B-322 recodified as G.S. 143B-440.
- G.S. 143B-323 recodified as G.S. 143B-441.
- G.S. 143B-331 recodified as G.S. 143B-430.
- G.S. 143B-332 recodified as G.S. 143B-431.
- G.S. 143B-354 recodified as G.S. 143B-450.

Sec. 27. The Codifier of the General Statutes shall codify the provisions of Chapter 143B of the General Statutes in Article 10 thereof as follows:

G.S. 143B-401 through G.S. 143B-409 in Part 1.
G.S. 143B-410 through G.S. 143B-419 in Part 2.
G.S. 143B-420 through G.S. 143B-424 in Part 3.
G.S. 143B-425 through G.S. 143B-429 in Part 4.
G.S. 143B-430 through G.S. 143B-434 in Part 5.
G.S. 143B-435 through G.S. 143B-439 in Part 6.
G.S. 143B-440 through G.S. 143B-444 in Part 7.
G.S. 143B-445 through G.S. 143B-449 in Part 8.
G.S. 143B-450 through G.S. 143B-454 in Part 9.
G.S. 143B-455 through G.S. 143B-519 in Part 10.

—GENERAL TRANSFER.

Sec. 28. All records, personnel, property, and unexpended balances of appropriations to any agency or subunit transferred by this act to the recreated and reconstituted Department of Commerce are hereby transferred in accordance with the provisions of this act to the said Department of Commerce.

Sec. 29. All transfers of personnel, equipment, appropriations and functions of an agency or division transferred by this act to the recreated and reconstituted Department of Commerce shall be completed by July 1, 1977, but the Secretary of Commerce shall have the authority over such personnel, equipment, appropriations and functions transferred by this act upon the effective date of this act. Nothing in this section is intended to supersede G.S. 143B-405(3), as added by this act, or Chapter 65 of the Session Laws of 1977.

Sec. 29.1. The Department of Commerce is hereby authorized to utilize funds awarded from the Contingency and Emergency Fund by the Council of State for the expenses of the Economic Development Board and the Labor Force Development Council and the members and officers thereof as may be required for the remainder of the 1976-77 fiscal year.

Sec. 30. Any amendment enacted during the 1977 General Assembly to a General Statutes Section that is directed by this act to be recodified shall be construed as an amendment to the section to be recodified.

—SEVERABILITY.

Sec. 31. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions of this act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

—RATIFICATION DATE.

Sec. 32. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1977.