

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 464
SENATE BILL 213

AN ACT TO CHANGE THE MEMBERS OF THE BOARD OF TRANSPORTATION, TO ABOLISH THE SECONDARY ROADS COUNCIL AND TO MAKE OTHER CHANGES IN THE LAWS RELATING TO THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

—STATUTORY TEXT REFERENCES

Section 1. This bill proposes amendments to a large number of sections of G.S. Chapters 136 and 143B. Some references to sections in these Chapters use specific text citations, and some do not use these citations. Unless otherwise specifically set out, G.S. section references used in this bill to direct alterations in identified lines, sentences, and paragraphs in sections of G.S. Chapters 136 and 143B refer to the text as it appears in 1974 G.S. Replacement Volumes 3B and 3C as they are amended by their 1975 Cumulative Supplements.

—TRANS. DEPT./ORGANIZATION STATUTE REWRITE (G.S. Ch. 143B)

Sec. 2. G.S. 143B-346 is rewritten as follows:

"§ 143B-346. **Department of Transportation - purpose.** — The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the department shall enforce the laws of this State relating to transportation safety assigned to the department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities Commission, the State Ports Authority, and the Commissioners of Navigation and Pilotage as provided for by G.S. Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

Sec. 3. G.S. 143B-347 is repealed.

Sec. 4. G.S. 143B-348 is rewritten to read as follows:

"§ 143B-348. **Department of Transportation - head.** — The Secretary of Transportation shall be the head of the Department of Transportation. He shall carry out the day-to-day operations of the department and shall be responsible for carrying out the policies, programs, priorities, and projects approved by the Board of Transportation. He shall be responsible for all other transportation matters assigned to the Department of Transportation, except those reserved to the Board of Transportation by statute. Except as otherwise provided for by statute, the secretary shall have all the powers and duties as provided for in Article 1 of G.S. Chapter 143B including the responsibility for all management functions for the Department of Transportation. The secretary shall be vested with authority to adopt design criteria,

construction specifications, and standards as required for the Department of Transportation to construct and maintain highways, bridges, and ferries.

All rules, regulations, ordinances, specifications, standards, and criteria adopted by the Board of Transportation and in effect on July 1, 1977, shall continue in effect until changed by the Board of Transportation or the Secretary of Transportation. The Secretary shall have complete authority to modify any of these matters existing on July 1, 1977, except as specifically restricted by the board. Whenever any such criteria, rule, regulation, ordinance, specification, or standards are continued in effect under this section and the words 'Board of Transportation' are used, the words shall mean the 'Department of Transportation' unless the context makes such meaning inapplicable. All actions pending in court by or against the Board of Transportation may continue to be prosecuted in that name without the necessity of formally amending the name to the Department of Transportation."

Sec. 5. G.S. 143B-349 is repealed.

—TRANS. BOARD/ORGANIZATION STATUTE REWRITE (G.S. Ch. 143B)

Sec. 6. G.S. 143B-350 is rewritten to read as follows:

"§ **143B-350. Board of Transportation.** — (a) There is hereby created a Board of Transportation. The board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

(b) The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the Chairman of the Board of Transportation.

(c) The Board of Transportation shall have 21 members appointed by the Governor. One member shall be appointed from each of the 14 highway engineering divisions and seven members shall be appointed from the State at large. One at large member shall be a registered voter of a political party other than the political party of the Governor. No more than two members provided for in this subsection shall reside in the same engineering division while serving in office. The initial members shall serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors are appointed and qualified. The succeeding terms of office shall be for a period of four years beginning January 15, 1981, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.

(d) The Board of Transportation shall have two members appointed from the membership of the General Assembly, in addition to those members appointed by the Governor. One member shall be appointed from the membership of the Senate by the Lieutenant Governor and one member shall be appointed from the membership of the House of Representatives by the Speaker of the House of Representatives. The legislative members shall be appointed for initial terms beginning July 1, 1977, and shall serve for a term ending January 14, 1979, or until a successor is duly appointed and qualified. The succeeding term of each shall be for two years beginning January 15, 1979, and each two years thereafter. Vacancies in each office shall be filled by the incumbent of the office making the appointment to the board.

(e) The Board of Transportation shall meet once in each 60 days at such regular meeting times as the board may by rule provide and at any place in the State as the board may provide. The board may hold special meetings at any time at the call of the chairman or any three members. The board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The board shall keep minutes of its meetings, which shall at all times be open to public inspection. The majority of the board shall constitute a quorum for the transaction of business. The members of the board who are not members of the General Assembly shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate. The members of the board who are

members of the General Assembly shall not receive per diem but shall receive travel and subsistence expenses at the rates set out in G.S. 120-3.1.

(f) The Board of Transportation shall have duties and powers:

- (1) To formulate policies and priorities for all modes of transportation under the Department of Transportation;
- (2) To advise the secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the department;
- (3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives;
- (4) To approve a schedule of all major transportation improvement projects and their anticipated cost for a period of seven years into the future which shall be published in a single document along with a report of the progress accomplished in the past year;
- (5) To consider and advise the Secretary of Transportation upon any other transportation matter that the secretary may refer to it;
- (6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the department;
- (7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available;
- (8) To approve all highway construction programs;
- (9) To approve all highway construction projects and construction plans for the construction of projects;
- (10) To review all statewide maintenance functions;
- (11) To award all highway construction contracts;
- (12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain;
- (13) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the department.

(g) The Board of Transportation may, in its discretion, delegate to the Secretary of Transportation the authority:

- (1) To approve all highway construction projects and construction plans for the construction of projects;
- (2) To award all highway construction contracts;
- (3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the department.

The secretary may, in turn, subdelegate these duties and powers."

Sec. 7. G.S. 143B-351 and G.S. 143B-352 are repealed.

—TRANS. DEPT. & BD/GENERAL CONFORMING CHANGE (G.S. Ch. 136)

Sec. 7.1. In all sections of Chapter 136 of the North Carolina General Statutes, where the words "Board of Transportation" are used, or where the word "Board" is used referring to the Board of Transportation, the words are amended to read "Department of Transportation", except where this act specifies "Board" or "Board of Transportation", and except in the following places:

- G.S. 136-19.4(a); line 8;
- G.S. 136-19.4(d); lines 1, 2, 4, 6, and 7;
- G.S. 136-28.1(a); line 6;
- G.S. 136-44.1; lines 5 and 6;

G.S. 136-44.3; line 6;
G.S. 136-44.4;
G.S. 136-59;
G.S. 136-62; lines 5, 6, and 15.

—TRANS. DEPT. & BD/SPECIFIC CONFORMING CHANGES

Sec. 8. G.S. 136-44.7, G.S. 136-44.10, G.S. 136-63, and G.S. 136-102.6 are amended by repealing the words "Secondary Roads Council" or the word "Council" when referring to the Secondary Roads Council, and by adding in lieu thereof the words "Board of Transportation".

Sec. 9. G.S. 136-44.8 is rewritten to read as follows:

"§ 136-44.8. Submission of secondary roads construction programs to the county commissioners. — Representatives of the Board of Transportation shall meet with the board of county commissioners at a regular or special meeting of the board of county commissioners, notice of which meeting shall be published by the Department of Transportation in a newspaper published in or having a general circulation in the county. The representatives of the department shall there discuss, with the board of county commissioners and other citizens present, proposed plans and proposals in the annual construction programs for the county. After the meeting, the board of county commissioners may make a written recommendation to the Board of Transportation as to the expenditure of funds for work in the county, and the Board of Transportation shall observe and follow such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. The annual work program adopted by the board shall be published, and it shall be followed, unless changes are approved by the Board of Transportation and notice of any changes is given the board of county commissioners. The board of county commissioners may petition the Board of Transportation for review of any changes to which it does not consent, and the determination of the Board of Transportation shall be final. Upon request, the most recent annual work programs adopted shall be submitted to any member of the General Assembly. The Department of Transportation shall make the construction work program in each county available to the newspapers having a general circulation in the county."

Sec. 10. The words "Secondary Roads Council or" are repealed in lines 4, 9, and 10 of G.S. 136-13(a).

Sec. 10.1. The words and punctuation "Secondary Roads Council," are repealed in the following places:

G.S. 136-13; lines 11, 16, and 19;
G.S. 136-13.1; line 2.

Sec. 10.2. The words "or Secondary Roads Council" are repealed in lines 2, 4, and 7 of G.S. 136-14.

Sec. 11. The words "Board of Transportation" or "Board" are amended to read "Secretary of Transportation" in the following places:

G.S. 136-4;
G.S. 136-20(a); lines 8 and 9;
G.S. 136-20(b); lines 1, 6, 10, 18, and 19;
G.S. 136-20(d); lines 22, 23, 42, and 43;
G.S. 136-20(e); lines 1 and 4;
G.S. 136-20(g); lines 1, 5, 10, 21, and 22.

Sec. 12. (The text of the original Section 12 was moved to a new Section 7.1.)

Sec. 13. G.S. 136-17.1 is repealed.

Sec. 14. G.S. 136-18(8) as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by inserting in line 1 after the word "names", the following: "as determined by the Board of Transportation".

Sec. 15. G.S. 136-20(a), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of Transportation" in line 5, and inserting in lieu thereof "Secretary of Transportation".

Sec. 16. G.S. 136-28.1(e), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing "Chairman of the Board of Transportation" in line 3, and inserting in lieu thereof "Secretary of Transportation".

Sec. 17. G.S. 136-32.2(d), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the words: "the Division of Motor Vehicles by and through" in line 2.

Sec. 18. G.S. 136-33(d), as it appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the words "the Department of Transportation by and through" in line 2.

Sec. 19. G.S. 136-34, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words: "for which no State highway funds are provided", in line 3.

Sec. 20. G.S. 136-41.3, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words, "Chairman of the Board of Transportation" in line 17, and inserting in lieu thereof the words "Secretary of Transportation".

Sec. 21. G.S. 136-44.10, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the second sentence.

Sec. 22. The following sections are repealed:

G.S. 136-46,

G.S. 136-47,

G.S. 136-52,

G.S. 136-53,

G.S. 136-58,

G.S. 136-83,

G.S. 136-89.31 through G.S. 136-89.47.

Sec. 23. G.S. 136-54 is rewritten to read as follows:

"The Board of Transportation shall be authorized, when in its judgment the public good requires it, to change, alter, add to, or abandon and substitute new sections for, any portion of the State highway system."

Sec. 24. G.S. 136-62, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "the Chairman of" in line 3.

Sec. 24.1. G.S. 136-62, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing "Director of Highway" in line 15, and by inserting in lieu thereof "Secretary of Transportation".

Sec. 25. G.S. 136-63 is rewritten to read as follows:

"§ 136-63. Change or abandonment of roads. — The board of county commissioners of any county may, on its own motion or on petition of a group of citizens, request the Board of Transportation to change or abandon any road in the secondary system when the best interest of the people of the county will be served thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or abandonment, and if in its opinion the public interest demands it, shall make such change or abandonment. If the change or abandonment shall affect a road connecting with any street of a city or town, the change or abandonment shall not be made until the street governing body of the city or town shall have been duly notified and given opportunity to be heard on the question. Any request by a board of county commissioners or street governing body of a city refused by the Board of Transportation may be presented again upon the expiration of 12 months."

Sec. 26. G.S. 136-105, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of

Transportation" in lines 3 and 4 of the second paragraph and by inserting in lieu thereof the words "Secretary of Transportation".

Sec. 27. G.S. 136-82.1 is rewritten to read as follows: "The Department of Transportation is vested with authority to purchase liability insurance, hull insurance, and protection insurance on all vessels and boats owned, leased, chartered or otherwise controlled and operated by the Department of Transportation".

Sec. 28. G.S. 136-106(b), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Chairman of the Board of Transportation" in lines 1 and 2, and inserting in lieu thereof "Department of Transportation".

Sec. 29. G.S. 136-111, as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "Director of Highways" in lines 16 and 17, and by inserting in lieu thereof "Secretary of Transportation".

Sec. 30. G.S. 136-115(2), as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the third line, and by inserting in lieu thereof the following: "the word 'Department' shall mean the Department of Transportation".

Sec. 31. G.S. 136-130, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing the last sentence.

Sec. 32. The words "Board of Transportation or the Secretary of Transportation" or "Board of Transportation or Secretary of Transportation" are repealed, and the words "Department of Transportation" are inserted in lieu thereof, in the following places:

G.S. 136-133; lines 9, 11, and 15;
 G.S. 136-134; lines 4, 12, 13, 19, 20, 23, and 24;
 G.S. 136-134.1; line 5 of the second paragraph;
 G.S. 136-134.1; lines 12 and 13 of the third paragraph;
 G.S. 136-135; lines 4, 5, and 6;
 G.S. 136-149.1; line 5 of the second paragraph.

Sec. 33. The words "Secretary of Transportation" are repealed and the words "Department of Transportation" are inserted in lieu thereof in the following places:

G.S. 136-134.1, line 7 of the second paragraph;
 G.S. 136-149.1, line 7 of the second paragraph.

Sec. 34. The words "Board of Transportation" or "Board" when referring to the Board of Transportation are repealed, and the words "Department of Transportation" are inserted in lieu thereof, in the following places:

G.S. 14-128	G.S. 20-166(b)
G.S. 20-4.01(35)	G.S. 20-175
G.S. 20-81.1(e)	G.S. 20-175(b)
G.S. 20-81.3(c)	G.S. 20-183.9
G.S. 20-81.5(b)	G.S. 20-190.2
G.S. 20-81.6(e)	G.S. 20-194(a)
G.S. 20-115	G.S. 20-196
G.S. 20-116(e)	G.S. 20-212
G.S. 20-116(h)	G.S. 20-215
G.S. 20-118	G.S. 47-27
G.S. 20-118.2	G.S. 58-190
G.S. 20-119	G.S. 74-67
G.S. 20-121	G.S. 87-9
G.S. 20-122(c)	G.S. 105-86
G.S. 20-123(a)	G.S. 143-134
G.S. 20-130.2	G.S. 143-291
G.S. 20-141	G.S. 146-26.1

G.S. 20-143	G.S. 153A-241
G.S. 20-144	G.S. 153A-242
G.S. 20-150	G.S. 153A-291
G.S. 20-153(c)	G.S. 156-88
G.S. 20-158	G.S. 160A-274(c)
G.S. 20-158.1	G.S. 160A-299
G.S. 20-165	G.S. 162A-54
G.S. 20-165.1	G.S. 162A-74

Sec. 35. G.S. 113A-54(a), as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by repealing the words "Secretary of the Department of Transportation and Highway Safety" in lines 2 and 3 and by inserting in lieu thereof "Secretary of Transportation".

Sec. 36. G.S. 114-4.2, as it appears in 1975 Replacement Volume 3A of the General Statutes, is amended by repealing the words "and Highway Safety" from lines 4 and 5, and line 11.

Sec. 37. The second paragraph of G.S. 20-183.9 is repealed.

Sec. 38. G.S. 121-4(7), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended by repealing the words "and Highway Safety" in line 7.

Sec. 39. G.S. 136-44.3, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing from line 11 the words "House and Senate Road Committees and to the" and repealing the remainder of the sentence, and inserting in lieu thereof the words "any member of the General Assembly upon request".

Sec. 40. G.S. 136-44.4, as it appears in the 1975 Cumulative Supplement to Volume 3B of the General Statutes, is amended by repealing from line 12 the words "House and Senate Committees" and repealing the remainder of the sentence, and inserting in lieu thereof the words, "any member of the General Assembly upon request".

Sec. 41. G.S. 143B-390 is amended on line 7 by deleting the word "Transportation" and inserting in lieu thereof the word "Commerce".

Sec. 42. Line 1 of G.S. 136-18(16), as it appears in 1974 Replacement Volume 3B of the General Statutes, is amended to read as follows:

"The Department of Transportation, pursuant to a resolution of the Board of Transportation, shall have authority, under the power of".

—EFFECTIVE DATE

Sec. 43. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 2nd day of June, 1977.