Article 2.

Inland Waterways.

§ 104-12. Acquisition of land for inland waterway from Cape Fear River; grant of State lands.

For the purpose of aiding in the construction of the proposed inland waterway by the United States from the Cape Fear River at Southport to the North Carolina-South Carolina State line, the Secretary of State is hereby authorized to issue to the United States of America a grant to the land located within said inland waterway, right-of-way, which is to be 1,000 feet to 1,750 feet wide insofar as such land is subject to grant by the State of North Carolina, the said grant to issue upon a certificate furnished to the Secretary of State by the Secretary of War, or by any authorized officer of the corps of engineers of the United States Army, or by any other authorized official, exercising control over the construction of the said waterway. Whenever in the construction of such inland waterway within this State, lands theretofore submerged shall be raised above the water by the deposit of excavated material, the land so formed shall become the property of the United States if within the limits of said inland waterway, right-of-way, herein set out 1,000 feet to 1,750 feet and the Secretary of State is hereby authorized to issue to the United States a grant to the land so formed within the limits above specified, the grant to issue upon a certificate furnished to the Secretary of State by some authorized official of the United States, as above provided. If said lands so required for the inland waterway right-of-way shall be marshlands, or sound lands, the title to which has heretofore been vested in the State Board of Education, the Governor of the State, as President thereof, and the Superintendent of Public Instruction as Secretary, are hereby authorized and required to execute proper conveyance to the United States of America for said marshlands or sound lands, free of cost, both to the State and to the United States government, upon a certificate furnished to said Board of Education by the Secretary of War, or by any authorized officer of the corps of engineers of the United States Army, or by any other authorized official exercising control over the construction of the said inland waterway. (1931, c. 2, s. 1; 2011-183, s. 127(b).)

§ 104-13. Utilities Commission to secure right-of-way over private lands; condemnation by United States.

If the title to any part of the lands acquired by the United States government for the construction of such inland waterway from the Cape Fear River at Southport to the North Carolina-South Carolina State line shall be in any private person, company or corporation, railroad company, street railway company, telephone or telegraph company, or other public service corporation or shall have been donated or condemned or any public use by any political subdivision of the State, or if it may be necessary, for the purpose of obtaining the proper title to any lands, the title to which has heretofore been vested in the State Board of Education, then the Utilities Commission, in the name of the State of North Carolina, is hereby authorized and empowered, acting for and in behalf of the State of North Carolina, to secure a right-of-way 1,000 to 1,750 feet wide for said inland waterway across and through such lands or any part thereof, by purchase, donation or otherwise, through agreement with the owner or owners where possible, and when any such property is thus acquired, the Governor and Secretary of State shall execute a deed for the same to the United States; and if for any reason the said Commission shall be unable to secure such right-of-way across any such property by voluntary donation by and/or with the owner or owners, the said Commission acting for and in behalf of the State of North Carolina is hereby vested with the power to condemn the same, and in so doing, the ways, means, methods and procedure of the Chapter of the General Statutes of North Carolina, entitled "Eminent Domain,"

shall be used by it as near as the same is suitable for the purposes of this Article, and in all instances, the general and special benefits to the owner thereof shall be assessed as offsets against the damages to such property or lands.

As such condemnation proceedings might result in delay in the acquiring of title to all parts of the right-of-way and in the construction of the said inland waterway by the United States, said Utilities Commission is authorized to enter any of said lands and property and take possession of the same at the time hereinafter provided as needed for this use in behalf of the State or the United States government for the purposes herein set out, prior to the bringing of the proceeding for condemnation and prior to the payment of the money for such land or property under any judgment in condemnation. In the event the owner or owners shall appeal from the report of the commissioners appointed in any condemnation proceeding hereunder, it shall not be necessary for said Commission, acting in behalf of the State of North Carolina, or the United States government, to deposit the money assessed by said commissioners with the clerk.

Whenever proceedings in condemnation are instituted in pursuance of the provisions of this section, the said Commission upon the filing of the petition or petitions in such proceedings, shall have the right to take immediate possession, on behalf of the State, of such lands or property to the extent of the interest to be acquired and the order of the clerk of the superior court of the county where the action is instituted, shall be sufficient to vest the title and possession in the State through the Utilities Commission. The Governor and Secretary of State shall, upon vesting of the title and possession, execute a deed to the United States and said lands or property may then be appropriated and used by the United States for the purposes aforesaid: Provided, that in every case the proceedings in condemnation shall be diligently prosecuted to final judgment in order that the just compensation, if any, to which the owners of the property are entitled may be ascertained and when so ascertained and determined, such compensation, if any, shall be promptly paid as hereinafter in this Article provided.

If the United States government shall so determine, it is hereby authorized to condemn and use all lands and property which may be needed for the purposes herein set out and which is specifically described and set out in the paragraph next preceding, under the authority of said United States government, and according to the provisions existing in the federal statutes for condemning lands and property for the use of the United States government. In case the United States government shall so condemn said land and property, the said Utilities Commission is hereby authorized to pay all expenses of the condemnation proceedings and any award that may be made thereunder, out of the money which may be appropriated for said purposes.

All sums which may be agreed upon between the said Utilities Commission and the owner of any property needed by the United States government for said inland waterway and all sums which may be assessed in favor of the owner of any property condemned hereunder, shall constitute and remain a fixed and valid claim against the State of North Carolina until paid and satisfied in full, but the order of the clerk when entered in any condemnation proceeding shall divest the owner of the land condemned of all right, title, interest and possession in and to such land and property. (1931, c. 2, s. 2; 1937, c. 434.)

§ 104-14. Use declared paramount public purpose.

In such condemnation proceedings the uses for which such land or property is condemned are hereby declared to be for a purpose paramount to all other public uses, and the fact that any portion of it has heretofore been condemned by a railroad company, a street railway company, telephone or telegraph company, or other public service corporation, or by any political subdivision of the State

of North Carolina, for public uses, or has been conveyed by any person or corporation for any such public uses, or vested in the State Board of Education, or by any other act dedicated to any public use, shall in no way affect the right of the State of North Carolina, or the United States government, to proceed and condemn such land and property as hereinbefore provided. (1931, c. 2, s. 3.)

§ 104-15. Method of payment of expenses and awards.

Whenever said Commission has agreed with the owner of any such land or property as to the purchase price thereof, or the damage for the construction of the inland waterway has finally been determined in any condemnation proceeding necessary to secure such land or property, the said Commission is hereby authorized and directed to pay all of said sums and other expenses incident thereto by proper warrant upon the sum which may be appropriated for said purpose, and all such sums shall constitute and remain a fixed and valid claim against the State of North Carolina until paid and satisfied in full. (1931, c. 2, s. 4.)

§ 104-16. State and United States may enter upon lands for survey, etc.

For the purpose of determining the lands necessary for the uses herein set out, the Utilities Commission or the United States government, or the agents of either, shall have the right to enter upon any lands along the general line of the right-of-way in this Article specified, and make such surveys, and do such other acts as in their judgment may be necessary for the purpose of definitely locating the specific lines of said right-of-way and the lands required for said purposes, and there shall be no claim against the State of North Carolina or the United States for such acts as may be done in making said surveys. (1931, c. 2, s. 5; 1937, c. 434.)

§ 104-17. Construction, maintenance, etc., of bridges over waterway.

The Board of Transportation or the road governing body of any political subdivision of the State of North Carolina is hereby authorized and directed to construct, maintain and operate in perpetuity, all bridges over the waterway without cost to the United States. (1931, c. 2, s. 7; 1933, c. 172, s. 17; 1957, c. 65, s. 11; 1973, c. 507, s. 5.)

§ 104-18. Concurrent jurisdiction over waterway.

The State of North Carolina retains concurrent jurisdiction with the United States over any lands acquired and held in pursuance of the provisions of this Chapter, so far as that all civil and criminal process issued under authority of any law of this State may be executed in any part of the premises so acquired for such inland waterway, or for the buildings or constructions thereon erected for the purposes of such inland waterway. (1931, c. 2, s. 8.)

§ 104-19. Acquisition of land for inland waterway from Beaufort Inlet; grant of State lands.

For the purpose of aiding in the construction of the proposed inland waterway by the United States from Beaufort Inlet in the State of North Carolina to the Cape Fear River, the Secretary of State is hereby authorized to issue to the United States of America a grant to the land located within said inland waterway, right-of-way, which is to be 1,000 feet wide, insofar as such land is subject to grant by the State of North Carolina, the said grant to issue upon a certificate furnished to the Secretary of State by the Secretary of War, or by any authorized officer of the corps of engineers of the United States Army, or by any other authorized official, exercising control over the construction of the said waterway. Whenever in the construction of such inland waterway within this State, lands theretofore submerged shall be raised above the water by the deposit of excavated

material, the land so formed shall become the property of the United States if within the limits of said inland waterway, right-of-way, herein set out 1,000 feet, and the Secretary of State is hereby authorized to issue to the United States a grant to the land so formed within the limits above specified, the grant to issue upon a certificate furnished to the Secretary of State by some authorized official of the United States, as above provided. If said lands so required for the inland waterway right-of-way shall be marshlands, the title to which has heretofore been vested in the State Board of Education, the Governor of the State, as President thereof, and the Superintendent of Public Instruction as Secretary, are hereby authorized and required to execute a proper conveyance to the United States of America for said marshlands, free of cost, both to the State and to the United States government, upon a certificate furnished, to said Board of Education by the Secretary of War, or by any authorized officer of the corps of engineers of the United States Army, or by any other authorized official exercising control over the construction of the said inland waterway. (1927, c. 44, s. 1; 2011-183, s. 127(b).)

§ 104-20. Utilities Commission to secure right-of-way; condemnation by United States.

If the title to any part of the lands required by the United States government for the construction of an inland waterway from Beaufort Inlet to the Cape Fear River is owned by a private person, company or corporation, railroad company, street railway company, telephone or telegraph company, or other public service corporation, or has been donated or condemned for any public use by any political subdivision of the State or if it may be necessary, for the purpose of obtaining the proper title to any lands, the title to which has heretofore been vested in the State Board of Education, then the Utilities Commission, in the name of the State of North Carolina, may secure a right-of-way 1,000 feet wide for the inland waterway across and through the lands or any part thereof, if possible by purchase, donation or otherwise, through agreement with the owner or owners, and when any property is thus acquired, the Governor and Secretary of State shall execute a deed for the same to the United States; and if for any reason the Commission is unable to secure a right-of-way across the property by voluntary agreement with the owner or owners as aforesaid, the Commission acting for and in behalf of the State of North Carolina, is hereby vested with the power to condemn the same, and in so doing, the ways, means, methods and procedure of Chapter 40A of the General Statutes of North Carolina, entitled "Eminent Domain," shall be used by it as near as the same is suitable for the purposes of this law, and in all instances, the general and the special benefits to the owner thereof shall be assessed as offsets against the damages to the property or lands.

As condemnation proceedings might result in delay in the acquiring of title to all parts of the right-of-way and in the construction of the inland waterway by the United States, the Utilities Commission is authorized to enter any of the lands and property and take possession of the same at the time hereinafter provided as needed for this use in behalf of the State or the United States government for the purposes herein set out prior to the bringing of the proceeding for condemnation and prior to the payment of the money for the land or property under any judgment in condemnation. In the event the owner or owners shall appeal from the report of the commissioners appointed in the condemnation proceeding it shall not be necessary for the Commission, acting in behalf of the State of North Carolina, the State of North Carolina, or the United States government, to deposit the money assessed by the commissioners with the clerk.

Whenever proceedings in condemnation are instituted under the provisions of this section, the Commission upon the filing of the petition or petitions in the proceedings, may take immediate possession on behalf of the State of the lands or property to the extent of the interest to be acquired

and the Governor and Secretary of State shall thereupon execute a deed to the United States and the lands or property may then be appropriated and used by the United States for the purposes described in this section. Provided, that in every case the proceedings in condemnation shall be diligently prosecuted to final judgment in order that the just compensation to which the owners of the property are entitled may be ascertained and when so ascertained and determined the compensation shall be promptly paid as hereinafter in this law provided.

If the United States government shall so determine, it is hereby authorized to condemn and use all lands and property that may be needed for the purposes herein set out and which is specifically described and set out in the preceding paragraphs, under the authority of the United States government, and according to the provisions existing in the federal statutes for condemning lands and property for the use of the United States government. In case the United States government shall so condemn the land and property, the Utilities Commission is hereby authorized to pay all expenses of the condemnation proceedings and any award that may be made thereunder, out of the money that may be appropriated for these purposes. (1927, c. 44, s. 2; 1929, c. 4; c. 7, s. 1; 1937, c. 434; 2001-487, s. 38(d).)

§ 104-21. Use declared paramount public purpose.

In such condemnation proceedings the uses for which such land or property is condemned are hereby declared to be for a purpose paramount to all other public uses, and the fact that any portion of it has heretofore been condemned by a railroad company, street railway company, telephone or telegraph company, or other public service corporation, or by any political subdivision of the State of North Carolina, for public uses, or has been conveyed by any person or corporation for any such public uses, or vested in the State Board of Education, shall in no way affect the right of the State of North Carolina, or the United States government, to proceed and condemn such land and property as hereinbefore provided. (1927, c. 44, s. 3.)

§ 104-22. Method of payment of expenses and awards.

Whenever said Commission has agreed with the owner of any such land or property as to the purchase price thereof, or the damage for the construction of the inland waterway has finally been determined in any condemnation proceeding necessary to secure such land or property, the said Commission is hereby authorized and directed to pay all of said sum and other expenses incident thereto by proper warrant upon the sum which may be appropriated for said purpose, and all such sums shall constitute and remain a fixed and valid claim against the State of North Carolina until paid and satisfied in full. (1927, c. 44, s. 4.)

§ 104-23. Maintenance and operation of bridges over waterway.

The Board of Transportation or the road governing body of any political subdivision of the State of North Carolina is hereby authorized and directed to take over and maintain and operate in perpetuity, by contract with the United States government, if necessary, or otherwise, any bridge or bridges which may be subject to their respective control and which the United States government may construct across said inland waterway. (1927, c. 44, s. 6; 1929, c. 4; c. 7, s. 2; 1957, c. 65, s. 11; 1973, c. 507, s. 5.)

§ 104-24. Concurrent jurisdiction over waterway.

The State of North Carolina retains concurrent jurisdiction with the United States over any lands acquired and held in pursuance of the provisions of this Chapter, so far as that all civil and

criminal process issued under authority of any law of this State may be executed in any part of the premises so acquired for such inland waterway, or for the buildings or constructions thereon erected for the purposes of such inland waterway. (1927, c. 44, s. 7.)

§ 104-25. Lands conveyed to United States for inland waterway.

For the purpose of aiding in the construction of a proposed inland waterway by the United States from the City of Norfolk, in the State of Virginia, to Beaufort Inlet, in the State of North Carolina, the Secretary of State is hereby authorized to issue to the United States of America a grant to the land located within a distance of 1,000 feet on either side of the center of the said inland waterway, insofar as such land is subject to grant by the State of North Carolina, the said grant to issue upon a certificate furnished to the Secretary of State by the Secretary of War, or by any authorized officer of the corps of engineers of the United States Army, or by any other authorized official, exercising control of the construction of the said waterway.

Wherever, in the construction of the said inland waterway, lands theretofore submerged shall be raised above the water by deposit of excavated material, the lands so formed shall become the property of the United States for a distance of 1,000 feet on either side of the center of such canal or channel, and the Secretary of State is hereby authorized to issue to the United States a grant to the land so formed within the distance above mentioned, the grant to issue upon a certificate furnished to the Secretary of State by some authorized official of the United States as above provided. (1913, c. 197; C.S., s. 7583; 1937, c. 445; 2011-183, s. 127(b).)

§§ 104-26 through 104-30. Reserved for future codification purposes.