

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 1196

Short Title: Authorize Sale or Lease of Ports.

(Public)

---

Sponsors: Representatives Pope; and L. Etheridge.

---

Referred to: Commerce.

---

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA STATE PORTS AUTHORITY  
AND PORTS RAILWAY COMMISSION TO SELL OR LEASE THE STATE  
PORTS AND RAILWAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-453 reads as rewritten:

**"§ 143B-453. Purposes of Authority.**

Through the Authority hereinbefore created, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating the harbors and seaports within the State, or within the jurisdiction of the State, and works of internal improvements incident thereto, including the acquisition or construction, maintenance and operation at such seaports or harbors of watercraft and highways and bridges thereon or essential for the proper operation thereof. Said Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

- (1) To develop and improve the harbors or seaports at Wilmington, Morehead City and Southport, North Carolina, and such other places, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of waterborne commerce from and to any place or places in the State of North Carolina and other states and foreign countries.
- (2) To acquire, construct, equip, maintain, develop and improve the port facilities at said ports and to improve such portions of the waterways thereat as are within the jurisdiction of the federal government.

- 1 (3) To foster and stimulate the shipment of freight and commerce through  
2 said ports, whether originating within or without the State of North  
3 Carolina, including the investigation and handling of matters  
4 pertaining to all transportation rates and rate structures affecting the  
5 same.
- 6 (4) To cooperate with the United States of America and any agency,  
7 department, corporation or instrumentality thereof in the maintenance,  
8 development, improvement and use of said harbors and seaports in  
9 connection with and in furtherance of the war operations and needs of  
10 the United States.
- 11 (5) To accept funds from any of said counties or cities wherein said ports  
12 are located and to use the same in such manner, within the purposes of  
13 said Authority, as shall be stipulated by the said county or city, and to  
14 act as agent or instrumentality, of any of said counties or cities in any  
15 matter coming within the general purposes of said Authority.
- 16 (6) To act as agent for the United States of America, or any agency,  
17 department, corporation or instrumentality thereof, in any matter  
18 coming within the purposes or powers of the Authority.
- 19 (7) And in general to do and perform any act or function which may tend  
20 or be useful toward the development and improvement of harbors,  
21 seaports and inland ports of the State of North Carolina, and to  
22 increase the movement of waterborne commerce, foreign and  
23 domestic, to, through, and from such harbors and ports.

24 The enumeration of the above purposes shall not limit or circumscribe the broad  
25 objective of developing to the utmost the port possibilities of the State of North Carolina.  
26 Carolina, nor prohibit the sale or leasing in whole or in part of the property of the  
27 Authority to private corporations or persons.”

28 Sec. 2. G.S. 143B-454 reads as rewritten:

29 **"§ 143B-454. Powers of Authority.**

30 In order to enable it to carry out the purposes of this Part, the said Authority shall:

- 31 (1) Have the powers of a body corporate, including the power to sue and  
32 be sued, to make contracts, and to adopt and use a common seal and to  
33 alter the same as may be deemed expedient;
- 34 (2) Have the authority to make all necessary contracts and arrangements  
35 with other port authorities of this and other states for the interchange  
36 of business, and for such other purposes as will facilitate and increase  
37 the business of the North Carolina State Ports Authority;
- 38 (3) Be authorized and empowered to rent, lease, buy, own, acquire,  
39 mortgage, otherwise encumber, and dispose of such property, real or  
40 person, as said Authority may deem proper to carry out the purposes  
41 and provisions of this Part, all or any of them;
- 42 (4) Be authorized and empowered to acquire, construct, maintain, equip  
43 and operate any wharves, docks, piers, quays, elevators, compresses,  
44 refrigeration storage plants, warehouses and other structures, and any

1 and all facilities needful for the convenient use of the same in the aid  
2 of commerce, including the dredging of approaches thereto, and the  
3 construction of belt-line roads and highways and bridges and  
4 causeways thereon, and other bridges and causeways necessary or  
5 useful in connection therewith, and shipyards, shipping facilities, and  
6 transportation facilities incident thereto and useful or convenient for  
7 the use thereof, excluding terminal railroads;

8 (5) The Secretary of Commerce with the approval of the Authority shall  
9 appoint an Executive Director, whose salary shall be fixed by the  
10 General Assembly in the Current Operations Appropriations Act, to  
11 serve at his pleasure. The Secretary of Commerce or his designee shall  
12 appoint, employ, dismiss and, within the limits of available funding,  
13 fix the compensation of such other employees as he deems necessary  
14 to carry out the purposes of this Part. There shall be an executive  
15 committee consisting of the chairman of the Authority and two other  
16 members elected annually by the Authority. The executive committee  
17 shall be vested with authority to do all acts which are authorized by the  
18 bylaws of the Authority. Members of the executive committee shall  
19 serve until their successors are elected;

20 (6) Establish an office for the transaction of its business at such place or  
21 places as, in the opinion of the Authority, shall be advisable or  
22 necessary in carrying out the purposes of this Part;

23 (7) Be authorized and empowered to create and operate such agencies and  
24 departments as said board may deem necessary or useful for the  
25 furtherance of any of the purposes of this Part;

26 (8) Be authorized and empowered to pay all necessary costs and expenses  
27 involved in and incident to the formation and organization of said  
28 Authority, and incident to the administration and operation thereof,  
29 and to pay all other costs and expenses reasonably necessary or  
30 expedient in carrying out and accomplishing the purposes of this Part;

31 (9) Be authorized and empowered to apply for and accept loans and grants  
32 of money from any federal agency or the State of North Carolina or  
33 any political subdivision thereof or from any public or private sources  
34 available for any and all of the purposes authorized in this Article, and  
35 to expend the same in accordance with the directions and requirements  
36 attached thereto, or imposed thereon by any such federal agency, the  
37 State of North Carolina, or any political subdivision thereof, or any  
38 public or private lender or donor, and to give such evidences of  
39 indebtedness as shall be required, provided, however, that no  
40 indebtedness of any kind incurred or created by the Authority shall  
41 constitute an indebtedness of the State of North Carolina, or any  
42 political subdivision thereof, and no such indebtedness shall involve or  
43 be secured by the faith, credit or taxing power of the State of North  
44 Carolina, or any political subdivision thereof.

- 1 (10) Be authorized and empowered to act as agent for the United States of  
2 America, or any agency, department, corporation, or instrumentality  
3 thereof, in any matter coming within the purposes or powers of the  
4 Authority;
- 5 (11) Have power to adopt, alter or repeal its own bylaws, rules and  
6 regulations governing the manner in which its business may be  
7 transacted and in which the power granted to it may be enjoyed, and  
8 may provide for the appointment of such committees, and the  
9 functions thereof, as the Authority may deem necessary or expedient in  
10 facilitating its business;
- 11 (12) Be authorized and empowered to do any and all other acts and things  
12 in this Part authorized or required to be done, whether or not included  
13 in the general powers in this section mentioned; ~~and~~
- 14 (12a) Have the power to negotiate and enter into a contract or contracts  
15 to sell, lease, assign, transfer, or convey in whole or in part the real  
16 property, or any estate or interest in real property, or any other  
17 tangible or intangible property of the North Carolina State Ports  
18 Authority, subject to the approval of the Governor and Council of  
19 State in accordance with G.S. 143B-455. The proceeds of any such  
20 sale or lease shall go to the General Fund; and
- 21 (13) Be authorized and empowered to do any and all things necessary to  
22 accomplish the purposes of this Part: Provided, that said Authority  
23 shall not engage in shipbuilding.

24 The property of the Authority shall not be subject to any taxes or assessments  
25 thereon.

26 Prior to taking any action under this subsection, the Authority may consult with the  
27 Advisory Budget Commission."

28 Sec. 3. G.S. 143B-469.1 reads as rewritten:

29 **"§143B-469.1. Powers of Commission.**

30 The Commission shall be an agency of the State with all the powers of a body  
31 corporate including the following:

- 32 (1) To sue and be sued, to make contracts, and to adopt and use a common  
33 seal and to alter the same as may be deemed expedient;
- 34 (2) To rent, lease, buy, own, acquire, mortgage, otherwise encumber, and  
35 dispose of all such property, real or personal, as the Commission may  
36 deem necessary;
- 37 (3) To operate, maintain and control all railway equipment and railway  
38 operations transferred to it by the State Ports Authority;
- 39 (4) To acquire, own, lease, locate, install, construct, equip, hold, maintain,  
40 control and operate at harbors and seaports terminal railroads in  
41 addition to those transferred to it by the State Ports Authority with  
42 necessary sidings, turnouts, spurs, branches, switches, yard tracks,  
43 bridges, trestles, and causeways and in connection therewith shall have  
44 the further right to lease, install, construct, acquire, own, maintain,

- 1 control and use any and every kind or character of motive power and  
2 conveyances or appliances necessary or proper to carry goods, wares  
3 and merchandise over, along or upon the track of such railway or other  
4 conveyance;
- 5 (5) To make agreements as to scale of wages, seniority and working  
6 conditions with railroad employees, including but not limited to,  
7 locomotive engineers, locomotive firemen, switchmen, switch engine  
8 foremen and hostlers engaged in the operation and servicing of the  
9 terminal railways and their equipment;
- 10 (6) To connect with or cross any other railway upon payment of just  
11 compensation and to receive, deliver to and transport the freight,  
12 passengers and the cars of common carrier railroads as though it were  
13 an ordinary common carrier;
- 14 (7) To appoint, with the approval of the Governor, a general manager of  
15 the Commission who shall serve at the pleasure of the board. The  
16 salary for the general manager shall be fixed by the General Assembly  
17 in the Current Operations Appropriations Act. The general manager  
18 shall have the authority to appoint, employ and dismiss such number  
19 of employees as may be deemed necessary by the board to accomplish  
20 the purposes of this Article. The compensation of such employees shall  
21 be fixed by the board;
- 22 (8) To establish an office for the transaction of its business at such place  
23 or places, as in the opinion of the Commission, shall be advisable or  
24 necessary in carrying out the purposes of this Part;
- 25 (9) To pay all necessary costs and expenses involved in and incident to the  
26 formation and organization of the Commission, and incident to the  
27 administration and operation thereof, and to pay all other costs and  
28 expenses reasonably necessary or expedient in carrying out and  
29 accomplishing the purposes of this Part;
- 30 (10) To apply for and accept loans and grants of money from any federal  
31 agency or the State of North Carolina or any political subdivision  
32 thereof or from any public or private sources available for any and all  
33 of the purposes authorized in this Article, and to expend the same in  
34 accordance with the directions and requirements attached thereto, or  
35 imposed thereon by any such federal agency, the State of North  
36 Carolina, or any political subdivision thereof, or any public or private  
37 lender or donor, and to give such evidences of indebtedness as shall be  
38 required, provided, however, that no indebtedness of any kind incurred  
39 or created by the Commission shall constitute an indebtedness of the  
40 State, or any political subdivision thereof, and no such indebtedness  
41 shall involve or be secured by the faith, credit or taxing powers of the  
42 State, or any political subdivision thereof;

- 1 (11) To act as agent for the United States of America, or any agency,  
2 department, corporation or instrumentality thereof, in any manner  
3 coming within the purposes or powers of the Commission;
- 4 (12) To acquire rights-of-way and the property necessary for the  
5 construction of administration buildings, equipment, servicing  
6 facilities, terminal railways and structures, railway crossings, bridges  
7 and causeways by purchase, by negotiation or by condemnation, and  
8 should the Commission elect to exercise the right of eminent domain,  
9 condemnation proceedings shall be maintained by and in the name of  
10 the Commission, and it may proceed in any manner provided for by  
11 the general laws of this State;
- 12 (12a) Have the power to negotiate and enter into a contract or contracts  
13 to sell, lease, assign, transfer, or convey in whole or in part the real  
14 property, or any estate or interest in real property, or any tangible  
15 or intangible property of the North Carolina Ports Railway  
16 Commission, subject to the approval of the Governor and Council  
17 of State. The proceeds of any such sale or lease shall go to the  
18 General Fund; and
- 19 (13) To do any and all things necessary to carry out and accomplish the  
20 purposes of this Article."  
21 Sec. 4. This act shall become effective July 1, 1989.