

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 827

Short Title: Ferry Division Changed to Marine Division. (Public)

Sponsors: Senator Jenkins.

Referred to: State and Local Government.

March 25, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE NAME OF THE FERRY DIVISION OF THE DEPARTMENT  
3 OF TRANSPORTATION TO THE MARINE DIVISION AND TO DEFINE THE  
4 MARINE DIVISION'S RESPONSIBILITIES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The Ferry Division of the Department of Transportation shall be  
7 renamed the Marine Division. In addition to any other responsibilities of the Division, it may  
8 participate in maintaining all navigable waterways and excesses in this State.

9 **SECTION 2.** G.S. 136-16.10 reads as rewritten:

10 "**§ 136-16.10. Allocations by Department Controller to eliminate overdrafts.**

11 The Controller of the Department of Transportation shall allocate at the beginning of each  
12 fiscal year from the various appropriations made to the Department of Transportation for State  
13 Construction, State Funds to Match Federal Highway Aid, State Maintenance, and ~~Ferry~~  
14 Marine Operations, sufficient funds to eliminate all overdrafts on State maintenance and  
15 construction projects, and these allocations shall not be diverted to other purposes."

16 **SECTION 3.** G.S. 136-28.1(c) reads as rewritten:

17 "(c) The construction, maintenance, and repair of Marine Division ferryboats and all  
18 other marine floating equipment and the construction and repair of all types of docks by the  
19 Department of Transportation shall be deemed highway construction, maintenance, or repair  
20 for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes,  
21 the State Budget Act. In cases of a written determination by the Secretary of Transportation that  
22 the requirement for compatibility does not make public advertising feasible for the repair of  
23 ferryboats, the public advertising as well as the soliciting of informal bids may be waived."

24 **SECTION 4.** G.S. 136-44.2 reads as rewritten:

25 "**§ 136-44.2. Budget and appropriations.**

26 The Director of the Budget shall include in the "Current Operations Appropriations Bill" an  
27 enumeration of the purposes or objects of the proposed expenditures for each of the  
28 construction and maintenance programs for that budget period for the State primary, secondary,  
29 and State parks road systems. The State primary system shall include all portions of the State  
30 highway system located both inside and outside municipal corporate limits that are designated  
31 by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State  
32 highway system located both inside and outside municipal corporate limits that is not a part of  
33 the State primary system. The State parks system shall include all State parks roads and parking  
34 lots that are not also part of the State highway system.

35 All construction and maintenance programs for which appropriations are requested shall be  
36 enumerated separately in the budget. Programs that are entirely State funded shall be listed  
37 separately from those programs involving the use of federal-aid funds. Proposed appropriations



1 of State matching funds for each of the federal-aid construction programs shall be enumerated  
2 separately as well as the federal-aid funds anticipated for each program in order that the total  
3 construction requirements for each program may be provided for in the budget. Also, proposed  
4 State matching funds for the highway planning and research program shall be included  
5 separately along with the anticipated federal-aid funds for that purpose.

6 Other program categories for which appropriations are requested, such as, but not limited  
7 to, maintenance, channelization and traffic control, bridge maintenance, public service and  
8 access road construction, and ~~ferry~~ Marine Division operations shall be enumerated in the  
9 budget.

10 The Department of Transportation shall have all powers necessary to comply fully with  
11 provisions of present and future federal-aid acts. No federally eligible construction project may  
12 be funded entirely with State funds unless the Department of Transportation has first reported  
13 to the Joint Legislative Commission on Governmental Operations. For purposes of this section,  
14 "federally eligible construction project" means any construction project except secondary road  
15 projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any  
16 federal-aid act, whether or not federal funds are actually available.

17 The "Current Operations Appropriations Bill" shall also contain the proposed  
18 appropriations of State funds for use in each county for maintenance and construction of  
19 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds  
20 appropriated for secondary roads shall not be transferred nor used except for the construction  
21 and maintenance of secondary roads in the county for which they are allocated pursuant to  
22 G.S. 136-44.5 and 136-44.6.

23 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is  
24 greater than the amount estimated for that date in the Current Operations Appropriations Act  
25 for the following fiscal year, the excess shall be used in accordance with this paragraph. The  
26 Director of the Budget may allocate part or all of the excess among reserves for access and  
27 public roads, for unforeseen events requiring prompt action, or for other urgent needs. The  
28 amount not allocated to any of these reserves by the Director of the Budget shall be credited to  
29 a reserve for maintenance. The Board of Transportation shall report monthly to the Joint  
30 Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of  
31 funds in the maintenance reserve.

32 The Department of Transportation may provide for costs incurred or accrued for traffic  
33 control measures to be taken by the Department at major events which involve a high degree of  
34 traffic concentration on State highways, and which cannot be funded from regular budgeted  
35 items. This authorization applies only to events which are expected to generate 30,000 vehicles  
36 or more per day. The Department of Transportation shall provide for this funding by allocating  
37 and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from  
38 the appropriations for State maintenance for primary, secondary, and urban road systems are  
39 made, based upon the same proportion as is appropriated to each system."

40 **SECTION 5.(a)** The title of Article 6 of Chapter 136 of the General Statutes reads  
41 as rewritten:

42 "Article 6.

43 Marine Division, Ferries, etc., and Toll Bridges."

44 **SECTION 5.(b)** G.S. 136-82 reads as rewritten:

45 "**§ 136-82. Department of Transportation to establish and maintain ferries.**the Marine  
46 Division.

47 The Department of Transportation is vested with authority to provide for the establishment  
48 and maintenance of a Marine Division to oversee ferries connecting the parts of the State  
49 highway system, whenever in its discretion the public good may so require, and to prescribe  
50 and collect such tolls therefor as may, in the discretion of the Department of Transportation, be  
51 expedient.

1 To accomplish the purpose of this section said Department of Transportation is authorized  
2 to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or  
3 other facilities required for the proper operation of such ferries or to enter into contracts with  
4 persons, firms or corporations for the operation thereof and to pay therefor such reasonable  
5 sums as may in the opinion of said Department of Transportation represent the fair value of the  
6 public service rendered. In addition to the operation of vessels, boats, terminals, or other  
7 facilities, the Marine Division may participate in maintaining all navigable waterways and  
8 excesses within this state.

9 The Department of Transportation, notwithstanding any other provision of law, may  
10 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to  
11 provide to passengers on the ferries food, drink, and other refreshments, personal comfort  
12 items, and souvenirs publicizing the ferry system."

13 **SECTION 6.** G.S. 136-89 reads as rewritten:

14 "**§ 136-89. Safety measures; guard chains or gates.**

15 Each and every person, firm or corporation, owning or operating a public ferry upon any  
16 sound, bay, river, creek or other stream, shall have securely affixed and attached thereto, at  
17 each end of the same, a detachable steel or iron chain, or in lieu thereof a steel or iron gate, and  
18 so affixed and arranged that the same shall be closed or fastened across the opposite end from  
19 the approach, whenever any motor vehicle, buggy, cart, wagon, or other conveyance shall be  
20 driven upon or shall enter upon the same; and shall be securely fastened or closed at each end  
21 of the ferry after such motor vehicle, buggy, cart, wagon, or other conveyance shall have been  
22 driven or shall have entered upon the same. And the said gates or chains shall remain closed or  
23 fastened, at each end, until the voyage across the stream upon which said ferry is operated shall  
24 have been completed. The Marine Division of the Department of Transportation, as to ferries  
25 under its supervision, and the respective boards of county commissioners, as to other ferries,  
26 shall fix and determine a standard weight or size of chain, and a standard size, type, or  
27 character of gate, for use by said ferries, leaving optional with the said owner or operator the  
28 use of chains or gates.

29 Any person, firm or corporation violating any of the provisions of this section shall be  
30 guilty of a Class 1 misdemeanor."

31 **SECTION 7.** G.S. 143B-350(f2) reads as rewritten:

32 "(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an  
33 aircraft from the Equipment Fund or a Marine Division ferry in a Transportation Improvement  
34 Program, the Board of Transportation shall prepare an estimate of the operational costs and  
35 capital costs associated with the addition of the aircraft or ferry and shall report those additional  
36 costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative  
37 Commission on Governmental Operations."

38 **SECTION 8.** This act is effective when it becomes law.