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SENATE BILL 466  
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Short Title: Railroad Corridor Eminent Domain.

(Public)

Sponsors:

Referred to:

March 16, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONDEMN PROPERTY FOR RAILROAD CORRIDOR PRESERVATION, TO EXPAND THE AUTHORITY OF THE DEPARTMENT TO PROVIDE RAIL REVITALIZATION FUNDS, AND TO PERMIT CITIES AND COUNTIES TO PRESERVE RAILROAD CORRIDORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.35 reads as rewritten:

**"§ 136-44.35. Railroad revitalization and corridor preservation a public purpose.**

The General Assembly hereby finds that programs for railroad revitalization which assure the maintenance of safe, adequate, and efficient rail transportation services and that programs for railway corridor preservation which assure the availability of such corridors in the future are vital to the continued growth and prosperity of the State and serve the public purpose."

Sec. 2. G.S. 136-44.36 reads as rewritten:

**"§ 136-44.36. Department of Transportation designated as agency to administer federal and State railroad revitalization programs.**

The General Assembly hereby designates the Department of Transportation as the agency of the State of North Carolina responsible for administering all State and federal railroad revitalization programs. The Department of Transportation is authorized to develop, and the Board of Transportation is authorized to adopt, a State railroad plan, and the Department of Transportation is authorized to do all things necessary under

1 applicable State and federal legislation to properly administer State and federal railroad  
2 revitalization programs within the State. Such authority shall include, but shall not be  
3 limited to, the power to receive federal funds and distribute and expend federal and  
4 State funds for rail programs designed to cover the costs of acquiring, by purchase, lease  
5 or other manner as the department considers appropriate, a railroad line or other rail  
6 property to maintain existing or to provide future rail service; the costs of rehabilitating  
7 and improving rail property on railroad lines to the extent necessary to permit safe,  
8 adequate and efficient rail service on such ~~line;~~ lines; and the costs of constructing rail  
9 or rail related facilities for the purpose of improving the quality, efficiency and safety of  
10 rail service. The Department shall also have the authority to preserve railroad corridors  
11 for future railroad use and interim compatible uses ~~and may lease such corridors for~~  
12 interim compatible uses. Such authority shall also include the power to receive and  
13 administer federal financial assistance without State financial participation to railroad  
14 companies to cover the costs of local rail service continuation payments, of rail line  
15 rehabilitation, and of rail line construction as listed above. This Article shall not be  
16 construed to grant to the department the power or authority to operate directly any rail  
17 line or rail facilities."

18 Sec. 3. Chapter 136 of the General Statutes is amended by adding a new  
19 section to read:

20 "**§ 136-44.36A. Power of Department to preserve railroad corridors.**

21 In exercising its power to preserve railroad corridors, the Department of  
22 Transportation may acquire property that is part of a railroad corridor and is not part of  
23 an existing, active railroad line by purchase, gift, condemnation, or other method. The  
24 procedures in Article 9 of this Chapter apply when the Department condemns property  
25 to preserve a railroad corridor."

26 Sec. 4. G.S. 136-44.38 reads as rewritten:

27 "**§ 136-44.38. Department to provide State and federal financial assistance to cities**  
28 **and counties for rail revitalization.**

29 (a) The Department of Transportation is authorized to distribute to cities and  
30 counties State financial assistance for local rail revitalization programs provided that  
31 every rail revitalization project for which State financial assistance would be utilized  
32 must be approved by the Board of Transportation and by the Director of the Budget.  
33 Prior to taking any action under this ~~subsection,~~ section, the Director of the Budget may  
34 consult with the Advisory Budget Commission.

35 (b) ~~State financial assistance to counties as authorized by this Article may not~~  
36 ~~exceed ten percent (10%) of total project costs."~~

37 Sec. 5. G.S. 153A-149(c) reads as rewritten:

38 "(c) Each county may levy property taxes for one or more of the purposes listed in  
39 this subsection up to an effective combined rate of one dollar and fifty cents (\$1.50) on  
40 the one hundred dollars (\$100.00) appraised value of property subject to taxation before  
41 the application of any assessment ratio. To find the actual rate limit for a particular  
42 county, divide the effective rate limit of one dollar and fifty cents (\$1.50) by the county  
43 assessment ratio. Authorized purposes subject to the rate limitation are:

- 1 (1) To provide for the general administration of the county through the  
2 board of county commissioners, the office of the county manager, the  
3 office of the county budget officer, the office of the county finance  
4 officer, the office of the county assessor, the office of the county tax  
5 collector, the county purchasing agent, and the county attorney, and for  
6 all other general administrative costs not allocated to a particular  
7 board, commission, office, agency, or activity of the county.
- 8 (2) Agricultural Extension. – To provide for the county's share of the cost  
9 of maintaining and administering programs and services offered to  
10 agriculture by or through the Agricultural Extension Service or other  
11 agencies.
- 12 (3) Air Pollution. – To maintain and administer air pollution control  
13 programs.
- 14 (4) Airports. – To establish and maintain airports and related aeronautical  
15 facilities.
- 16 (5) Ambulance Service. – To provide ambulance services, rescue squads,  
17 and other emergency medical services.
- 18 (6) Animal Protection and Control. – To provide animal protection and  
19 control programs.
- 20 (6a) Arts Programs and Museums. – To provide for arts programs and  
21 museums as authorized in G.S. 160A-488.
- 22 (6b) Auditoriums, coliseums, and convention and civic centers. – To  
23 provide public auditoriums, coliseums, and convention and civic  
24 centers.
- 25 (7) Beach Erosion and Natural Disasters. – To provide for shoreline  
26 protection, beach erosion control, and flood and hurricane protection.
- 27 (8) Cemeteries. – To provide for cemeteries.
- 28 (9) Civil Preparedness. – To provide for civil preparedness programs.
- 29 (10) Debts and Judgments. – To pay and discharge any valid debt of the  
30 county or any judgment lodged against it, other than debts and  
31 judgments evidenced by or based on bonds and notes.
- 32 (10a) Defense of Employees and Officers. – To provide for the defense of,  
33 and payment of civil judgments against, employees and officers or  
34 former employees and officers, as authorized by this Chapter.
- 35 (10b) Economic Development. – To provide for economic development as  
36 authorized by G.S. 158-12.
- 37 (11) Fire Protection. – To provide fire protection services and fire  
38 prevention programs.
- 39 (12) Forest Protection. – To provide forest management and protection  
40 programs.
- 41 (13) Health. – To provide for the county's share of maintaining and  
42 administering services offered by or through the county or district  
43 health department.

- 1 (14) Historic Preservation. – To undertake historic preservation programs  
2 and projects.
- 3 (15) Hospitals. – To establish, support and maintain public hospitals and  
4 clinics, and other related health programs and facility, or to aid any  
5 private, nonprofit hospital, clinic, related facilities, or other health  
6 program or facility.
- 7 (15a) Housing Rehabilitation. – To provide for personnel costs related to  
8 planning and administration of housing rehabilitation programs  
9 authorized by G.S. 153A-376. This subdivision only applies to  
10 counties with a population of 400,000 or more, according to the most  
11 recent decennial federal census.
- 12 (16) Human Relations. – To undertake human relations programs.
- 13 (16a) Industrial Development. – To provide for industrial development as  
14 authorized by G.S. 158-7.1.
- 15 (17) Joint Undertakings. – To cooperate with any other county, city, or  
16 political subdivision in providing any of the functions, services, or  
17 activities listed in this subsection.
- 18 (18) Law Enforcement. – To provide for the operation of the office of the  
19 sheriff of the county and for any other county law-enforcement  
20 agency not under the sheriff's jurisdiction.
- 21 (19) Libraries. – To establish and maintain public libraries.
- 22 (20) Mapping. – To provide for mapping the lands of the county.
- 23 (21) Medical Examiner. – To provide for the county medical examiner or  
24 coroner.
- 25 (22) Mental Health. – To provide for the county's share of the cost of  
26 maintaining and administering services offered by or through the area  
27 mental health, mental retardation, and substance abuse authority.
- 28 (23) Open Space. – To acquire open space land and easements in  
29 accordance with Article 19, Part 4, Chapter 160A of the General  
30 Statutes.
- 31 (24) Parking. – To provide off-street lots and garages for the parking and  
32 storage of motor vehicles.
- 33 (25) Parks and Recreation. – To establish, support and maintain public  
34 parks and programs of supervised recreation.
- 35 (26) Planning. – To provide for a program of planning and regulation of  
36 development in accordance with Article 18 of this Chapter and Article  
37 19, Parts 3A and 6, of Chapter 160A of the General Statutes.
- 38 (27) Ports and Harbors. – To participate in programs with the North  
39 Carolina Ports Authority and provide for harbor masters.
- 40 (28) Register of Deeds. – To provide for the operation of the office of the  
41 register of deeds of the county.
- 42 (29) Sewage. – To provide sewage collection and treatment services as  
43 defined in G.S. 153A-274(2).

- 1 (30) Social Services. – To provide for the public welfare through the  
2 maintenance and administration of public assistance programs not  
3 required by Chapters 108A and 111 of the General Statutes, and by  
4 establishing and maintaining a county home.
- 5 (31) Solid Waste. – To provide solid waste collection and disposal services,  
6 and to acquire and operate landfills.
- 7 (32) Surveyor. – To provide for a county surveyor.
- 8 (33) Veterans' Service Officer. – To provide for the county's share of the  
9 cost of services offered by or through the county veterans' service  
10 officer.
- 11 (34) Water. – To provide water supply and distribution systems.
- 12 (35) Watershed Improvement. – To undertake watershed improvement  
13 projects.
- 14 (36) Water Resources. – To participate in federal water resources  
15 development projects.
- 16 (37) Armories. – To supplement available State or federal funds to be used  
17 for the construction (including the acquisition of land), enlargement or  
18 repair of armory facilities for the North Carolina national guard.
- 19 (38) Railway Corridor Preservation. – To acquire property for railroad  
20 corridor preservation as authorized by G.S. 160A-498."

21 Sec. 6. G.S. 153A-445(a) reads as rewritten:

22 "(a) A county may take action under the following provisions of Chapter 160A:

- 23 (1) Chapter 160A, Article 20, Part 1. – Joint Exercise of Powers.
- 24 (2) Chapter 160A, Article 20, Part 2. – Regional Councils of  
25 Governments.
- 26 (3) G.S. 160A-487. – Financial support for rescue squads.
- 27 (4) G.S. 160A-488. – Art galleries and museums.
- 28 (5) G.S. 160A-492. – Human relations programs.
- 29 (6) G.S. 160A-497. – Senior citizens programs.
- 30 (7) G.S. 160A-489. – Auditoriums, coliseums, and convention and civic  
31 centers.
- 32 (8) G.S. 160A-498. – Railroad corridor preservation."

33 Sec. 7. G.S. 159-48(b) reads as rewritten:

34 "(b) Each county and city is authorized to borrow money and issue its bonds under  
35 this Article in evidence thereof for the purpose of paying any capital costs of any one or  
36 more of the following:

- 37 (1) Providing airport facilities, including without limitation related land,  
38 landing fields, runways, clear zones, lighting, navigational and signal  
39 systems, hangars, terminals, offices, shops, and parking facilities.
- 40 (2) Providing armories for the North Carolina national guard.
- 41 (3) Providing auditoriums, coliseums, arenas, stadiums, civic centers,  
42 convention centers, and facilities for exhibitions, athletic and cultural  
43 events, shows, and public gatherings.

- 1 (4) Providing beach improvements, including without limitation jetties,  
2 seawalls, groins, moles, sand dunes, vegetation, additional sand,  
3 pumps and related equipment, and drainage channels, for the control of  
4 beach erosion and the improvement of beaches.
- 5 (5) Providing cemeteries.
- 6 (6) Providing facilities for fire fighting and prevention, including without  
7 limitation headquarters buildings, station buildings, training facilities,  
8 hydrants, alarm systems, and communications systems.
- 9 (7) Providing hospital facilities, including without limitation general,  
10 tuberculosis, mental, chronic disease, and other types of hospitals and  
11 related facilities such as laboratories, outpatient departments, nurses'  
12 homes and training facilities, and central service facilities operated in  
13 connection with hospitals; facilities for the provision of public health  
14 services, including related facilities such as laboratories, clinics, and  
15 administrative offices; facilities specially designed for the diagnosis,  
16 treatment, education, training, or custodial care of the mentally  
17 retarded, including facilities for training specialists and sheltered  
18 workshops for the mentally retarded; nursing homes; and in connection  
19 with the foregoing, laundries, nurses', doctors', or interns' residences,  
20 administrative buildings, research facilities, maintenance, storage, and  
21 utility facilities, auditoriums, dining halls, food service and preparation  
22 facilities, fire prevention facilities, mental and physical health care  
23 facilities, dental care facilities, nursing schools, mental teaching  
24 facilities, offices, parking facilities, and other supporting service  
25 structures.
- 26 (8) Providing land for corporate purposes.
- 27 (9) Providing facilities for law enforcement, including without limitation  
28 headquarters buildings, station buildings, jails and other confinement  
29 facilities, training facilities, alarm systems, and communications  
30 systems.
- 31 (10) Providing library facilities, including without limitation fixed and  
32 mobile libraries.
- 33 (11) Providing art galleries, museums, and art centers, and providing for  
34 historic properties.
- 35 (12) Providing parking facilities, including on- and off-street parking, and  
36 in connection therewith any area or place for the parking and storing of  
37 automobiles and other vehicles open to public use, with or without  
38 charge, including without limitation meters, buildings, garages,  
39 driveways, and approaches.
- 40 (13) Providing parks and recreation facilities, including without limitation  
41 land, athletic fields, parks, playgrounds, recreation centers, shelters,  
42 stadiums, arenas, permanent and temporary stands, golf courses,  
43 swimming pools, wading pools, marinas, and lighting.

- 1 (14) Providing public building, including without limitation buildings  
2 housing courtrooms, other court facilities, and council rooms, office  
3 buildings, public markets, public comfort stations, warehouses, and  
4 yards.
- 5 (15) Providing public vehicles, including without limitation those for law  
6 enforcement, fire fighting and prevention, sanitation, street paving and  
7 maintenance, safety and public health, and other corporate purposes.
- 8 (16) Providing for redevelopment through the acquisition of land and the  
9 improvement thereof for assisting local redevelopment commissions.
- 10 (17) Providing sanitary sewer systems, including without limitation  
11 community sewerage facilities for the collection, treatment, and  
12 disposal of sewage or septic tank systems and other on-site collection  
13 and disposal facilities or systems.
- 14 (18) Providing solid waste disposal systems, including without limitation  
15 land for sanitary landfills, incinerators, and other structures and  
16 buildings.
- 17 (19) Providing storm sewers and flood control facilities, including without  
18 limitation levees, dikes, diversionary channels, drains, catch basins,  
19 and other facilities for storm water drainage.
- 20 (20) Providing voting machines.
- 21 (21) Providing water systems, including without limitation facilities for the  
22 supply, storage, treatment, and distribution of water.
- 23 (22) Providing for any other purpose for which it is authorized, by general  
24 laws uniformly applicable throughout the State, to raise or appropriate  
25 money, except for current expenses.
- 26 (23) Providing public transportation facilities, including without limitation  
27 equipment for public transportation, buses, surface and below-ground  
28 railways, ferries, and garage facilities.
- 29 (24) Providing industrial parks, land suitable for industrial or commercial  
30 purposes, shell buildings, in order to provide employment  
31 opportunities for citizens of the county or city.
- 32 (25) Providing property to preserve a railroad corridor."

33 Sec. 8. G.S. 160A-209(c) reads as rewritten:

34 **"§ 160A-209. Property taxes.**

- 35 (c) Each city may levy property taxes for one or more of the following purposes  
36 subject to the rate limitation set out in subsection (d):
- 37 (1) Administration. – To provide for the general administration of the city  
38 through the city council, the office of the city manager, the office of  
39 the city budget officer, the office of the city finance officer, the office  
40 of the city tax collector, the city purchasing agent, the city attorney,  
41 and for all other general administrative costs not allocated to a  
42 particular board, commission, office, agency, or activity.
- 43 (2) Air Pollution. – To maintain and administer air pollution control  
44 programs.

- 1 (3) Airports. – To establish and maintain airports and related aeronautical  
2 facilities.
- 3 (4) Ambulance Service. – To provide ambulance services, rescue squads,  
4 and other emergency medical services.
- 5 (5) Animal Protection and Control. – To provide animal protection and  
6 control programs.
- 7 (5a) Arts Programs and Museums. – To provide for arts programs and  
8 museums as authorized in G.S. 160A-488.
- 9 (6) Auditoriums, Coliseums, and Convention Centers. – To provide public  
10 auditoriums, coliseums, and convention centers.
- 11 (7) Beach Erosion and Natural Disasters. – To provide for shoreline  
12 protection, beach erosion control and flood and hurricane protection.
- 13 (8) Cemeteries. – To provide for cemeteries.
- 14 (9) Civil Defense. – To provide for civil defense programs.
- 15 (9a) Community Development. – To provide for community development  
16 as authorized by G.S. 160A-456 and 160A-457.
- 17 (10) Debts and Judgments. – To pay and discharge any valid debt of the  
18 city or any judgment lodged against it, other than debts or judgments  
19 evidenced by or based on bonds or notes.
- 20 (10a) Defense of Employees and Officers. – To provide for the defense of,  
21 and payment of civil judgments against, employees and officers or  
22 former employees and officers, as authorized by this Chapter.
- 23 (10b) Economic Development. – To provide for economic development as  
24 authorized by G.S. 158-12.
- 25 (10c) Drainage. – To provide for drainage projects or programs in  
26 accordance with Chapter 156 of the General Statutes or in accordance  
27 with this Chapter.
- 28 (11) Elections. – To provide for all city elections and referendums.
- 29 (12) Electric Power. – To provide electric power generation, transmission,  
30 and distribution services.
- 31 (13) Fire Protection. – To provide fire protection services and fire  
32 prevention programs.
- 33 (14) Gas. – To provide natural gas transmission and distribution services.
- 34 (15) Historic Preservation. – To undertake historic preservation programs  
35 and projects.
- 36 (15a) Housing. – To undertake housing projects as defined in G.S. 157-3,  
37 and urban homesteading programs under G.S. 160A-457.2.
- 38 (16) Human Relations. – To undertake human relations programs.
- 39 (17) Hospitals. – To establish, support and maintain public hospitals and  
40 clinics, and other related health programs and facilities, and to aid any  
41 private, nonprofit hospital, clinic, related facility, or other health  
42 program or facility.
- 43 (17a) Industrial Development. – To provide for industrial development as  
44 authorized by G.S. 158-7.1.



- 1 (18) Jails. – To provide for the operation of a jail and other local  
2 confinement facilities.
- 3 (19) Joint Undertakings. – To cooperate with any other county, city, or  
4 political subdivision of the State in providing any of the functions,  
5 services, or activities listed in this subsection.
- 6 (20) Libraries. – To establish and maintain public libraries.
- 7 (21) Mosquito Control.
- 8 (22) Off-Street Parking. – To provide off-street lots and garages for the  
9 parking and storage of motor vehicles.
- 10 (23) Open Space. – To acquire open space land and easements in  
11 accordance with Article 19, Part 4, of this Chapter.
- 12 (24) Parks and Recreation. – To establish, support and maintain public  
13 parks and programs of supervised recreation.
- 14 (25) Planning. – To provide for a program of planning and regulation of  
15 development in accordance with Article 19 of this Chapter.
- 16 (26) Police. – To provide for law enforcement.
- 17 (27) Ports and Harbors. – To participate in programs with the North  
18 Carolina Ports Authority and to provide for harbor masters.
- 19 (27a) Senior Citizens Programs. – To undertake programs for the assistance  
20 and care of its senior citizens.
- 21 (28) Sewage. – To provide sewage collection and treatment services as  
22 defined in G.S. 160A-311(3).
- 23 (29) Solid Waste. – To provide solid waste collection and disposal services,  
24 and to acquire and operate landfills.
- 25 (30) Streets. – To provide for the public streets, sidewalks, and bridges of  
26 the city.
- 27 (31) Traffic Control and On-Street Parking. – To provide for the regulation  
28 of vehicular and pedestrian traffic within the city, and for the parking  
29 of motor vehicles on the public streets.
- 30 (31a) Urban Redevelopment. – To provide for urban redevelopment.
- 31 (32) Water. – To provide water supply and distribution services.
- 32 (33) Water Resources. – To participate in federal water resources  
33 development projects.
- 34 (34) Watershed Improvement. – To undertake watershed improvement  
35 projects.
- 36 (35) Railroad Corridor Preservation. – To acquire property for railroad  
37 corridor preservation."

38 Sec. 9. Article 21 of Chapter 160A of the General Statutes is amended by  
39 adding a new section to read:

40 "**§ 160A-498. Railroad corridor preservation.**

41 A city or county may acquire property, by purchase or gift, to preserve a railroad  
42 corridor established by the Department of Transportation. A city or county that acquires  
43 property to preserve a railroad corridor may lease the property or use the property for  
44 interim compatible uses until the property is used for a railroad."

1           Sec. 10. This act is effective upon ratification.