

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1402*

Short Title: Amend State Park Laws.

(Public)

Sponsors: Representatives DeVane, N.J. Crawford, Culp, Ethridge, Foster, Jordan, Wilmoth; Bowman and Miller.

Referred to: Environment.

May 28, 1992

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE STATE OF NORTH CAROLINA TO GRANT A UTILITY EASEMENT TO CAROLINA POWER AND LIGHT COMPANY ACROSS UMSTEAD PARK, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO MAINTAIN PARKING LOTS IN THE STATE PARKS AND RECREATION AREAS, AND TO CONFORM STATUTES RELATING TO RULE OFFENSES COMMITTED IN THE STATE PARKS AND RECREATION AREAS.

The General Assembly of North Carolina enacts:

Section 1. Article 25B of Chapter 143 of the General Statutes is amended by adding the following new section to read:

§ 143-260.10E. Utility easement at William B. Umstead State Park.

(a) The State of North Carolina may grant a utility easement to Carolina Power and Light Company across a tract of land within William B. Umstead State Park. The easement shall be 100 feet wide, extending 50 feet on each side of the following-described survey line: Lying and being in Leesville township, Wake County, North Carolina; BEGINNING at point B2 as shown on the Drawing hereinafter referred to, the point B2 being located in a southern property line of Raleigh Durham Airport Authority (formerly Continental Mortgage Investors) and a northern property line of the State of North Carolina; the point B2 also being located North 87 degrees 01 minute 31 seconds West 834.04 feet from a concrete monument making a southeastern corner of Raleigh Durham Airport Authority (formerly Continental Mortgage Investors); and runs thence South 02 degrees 01 minute 53 seconds East 3508.00 feet to point A2 on the Drawing,

1 the location of Point A2 having North Carolina Coordinates Y=773,193.769 and
2 X=2,069,162.420, the Point A2 being located at the terminus of Carolina Power and
3 Light Company's existing 100 foot wide right-of-way strip, as shown and described on
4 Carolina Power and Light Company Drawing No. RW-A-5246, dated September 1977,
5 which Drawing also shows the respective complementing sidelines going to make up
6 the easement.

7 (b) The State of North Carolina may only use the proceeds from the easement
8 described in subsection (a) of this section to acquire property at William B. Umstead
9 State Park.

10 (c) The grant of the easement within William B. Umstead State Park to Carolina
11 Power and Light Company under this section constitutes authorization by the General
12 Assembly that the described tract of land may be used for a utility easement, which is a
13 purpose other than the public purposes as specified in Article XIV, Section 5, of the
14 Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of
15 Chapter 113 of the General Statutes."

16 Sec. 2. G.S. 136-44.2 reads as rewritten:

17 **"§ 136-44.2. Budget and appropriations.**

18 The Director of the Budget shall include in the 'Current Operations Appropriations
19 Bill' an enumeration of the purposes or objects of the proposed expenditures for each of
20 the construction and maintenance programs for that budget period for the State primary,
21 secondary, urban, and State parks road systems. The State primary system shall include
22 all portions of the State highway system located outside municipal corporate limits
23 which are designated by N.C., U.S. or Interstate numbers. The State secondary system
24 shall include all of the State highway system located outside municipal corporate limits
25 that is not a part of the State primary system. The State urban system shall include all
26 portions of the State highway system located within municipal corporate limits. The
27 State parks system shall include all State parks roads and parking lots which are not also
28 part of the State highway system.

29 All construction and maintenance programs for which appropriations are requested
30 shall be enumerated separately in the budget. Programs that are entirely State funded
31 shall be listed separately from those programs involving the use of federal-aid funds.
32 Proposed appropriations of State matching funds for each of the federal-aid construction
33 programs shall be enumerated separately as well as the federal-aid funds anticipated for
34 each program in order that the total construction requirements for each program may be
35 provided for in the budget. Also, proposed State matching funds for the highway
36 planning and research program shall be included separately along with the anticipated
37 federal-aid funds for that purpose.

38 Other program categories for which appropriations are requested, such as, but not
39 limited to, maintenance, channelization and traffic control, bridge maintenance, public
40 service and access road construction, and ferry operations shall be enumerated in the
41 budget.

42 The Department of Transportation shall have all powers necessary to comply fully
43 with provisions of present and future federal-aid acts. No federally eligible construction
44 project may be funded entirely with State funds unless the Department of Transportation

1 has first consulted with the Joint Legislative Commission on Governmental Operations.
2 For purposes of this section, 'federally eligible construction project' means any
3 construction project except secondary road projects developed pursuant to G.S. 136-
4 44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not
5 federal funds are actually available.

6 The 'Current Operations Appropriations Bill' shall also contain the proposed
7 appropriations of State funds for use in each county for maintenance and construction of
8 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State
9 funds appropriated for secondary roads shall not be transferred nor used except for the
10 construction and maintenance of secondary roads in the county for which they are
11 allocated pursuant to G.S. 136-44.5 and 136-44.6.

12 In the event receipts and increments to the State Highway Fund shall be more than
13 the appropriations made for the preceding fiscal year, such excesses shall be allocated
14 by the Director of the Budget to the Department of Transportation for school and
15 industrial access roads and unforeseen happenings or state of affairs requiring prompt
16 action, with fifty percent (50%) of the balance to be allocated to the State secondary
17 roads program on the basis of need as determined by the Department of Transportation
18 and the remaining fifty percent (50%) to be allocated in accordance with G.S. 136-44.5.

19 The Department of Transportation may provide for costs incurred or accrued for
20 traffic control measures to be taken by the Department at major events which involve a
21 high degree of traffic concentration on State highways, and which cannot be funded
22 from regular budgeted items. This authorization applies only to events which are
23 expected to generate 30,000 vehicles or more per day."

24 Sec. 3. G.S. 136-44.12 reads as rewritten:

25 **"§ 136-44.12. Maintenance of roads and parking lots in areas administered by the**
26 **Division of Parks and Recreation.**

27 The Department of Transportation shall maintain all roads and parking lots which
28 are not part of the State Highway System, leading into and located within the
29 boundaries of all areas administered by the Division of Parks and Recreation of the
30 Department of Environment, Health, and Natural Resources.

31 All such roads and parking lots shall be planned, designed, and engineered through
32 joint action between the Department of Transportation and the Division of Parks and
33 Recreation of the Department of Environment, Health, and Natural Resources. This
34 joint action shall encompass all accepted park planning and design principles.
35 Particular concern shall be given to traffic counts and vehicle weight, minimal cutting
36 into or through any natural and scenic areas, width of shoulders, the cutting of natural
37 growth along roadways, and the reduction of any potential use of roads or parking lots
38 for any purpose other than by park users. All State park roads and parking lots shall
39 conform to the standards regarding width and other roadway specifications as agreed
40 upon by the Division of Parks and Recreation of the Department of Environment,
41 Health, and Natural Resources and the Department of Transportation.

42 The State park road systems may be closed to the public in accordance with
43 approved park practices that control the use of State areas so as to protect these areas
44 from overuse and abuse and provide for functional use of the park areas, or for any

1 other purpose considered in the best interest of the public by the Division of Parks and
2 Recreation of the Department of Environment, Health, and Natural Resources.

3 Nothing herein shall be construed to include the transfer to the Department of
4 Transportation the powers now vested in the Division of Parks and Recreation of the
5 Department of Environment, Health, and Natural Resources relating to the patrol and
6 safeguarding of State ~~parks or parkway~~ park roads or State park parking lots."

7 Sec. 4. G.S. 7A-146(8) reads as rewritten:

8 "(8) Promulgating the schedule of alcohol, traffic, hunting, fishing, ~~and~~
9 ~~boating—boating,~~ and park and recreation area offenses adopted
10 pursuant to G.S. 7A-148(a) for which magistrates and clerks of court
11 may accept written appearances, waivers of hearing or trial, and pleas
12 of guilty or admissions of responsibility and establishing a schedule of
13 fines or penalties therefor;"

14 Sec. 5. G.S. 7A-180(4) reads as rewritten:

15 "(4) Has the power to accept written appearances, waivers of trial or
16 hearing and pleas of guilty or admissions of responsibility to certain
17 alcohol, traffic, hunting, fishing, ~~and boating—boating,~~ and park and
18 recreation area offenses in accordance with a schedule of offenses
19 promulgated by the Conference of Chief District Judges pursuant to
20 G.S. 7A-148, and in such cases, to enter judgment and collect the fine
21 or penalty and costs;"

22 Sec. 6. G.S. 7A-273(1) and (2) read as rewritten:

23 "(1) In misdemeanor or infraction cases, other than traffic, hunting, fishing,
24 boating, ~~and alcohol—alcohol,~~ and park and recreation area offenses, in
25 which the maximum punishment which can be adjudged cannot exceed
26 imprisonment for 30 days, or a fine of fifty dollars (\$50.00) or a
27 penalty of not more than fifty dollars (\$50.00), exclusive of costs, to
28 accept guilty pleas or admissions of responsibility and enter judgment;

29 (2) In misdemeanor or infraction cases involving alcohol, traffic, hunting,
30 fishing, ~~and boating—boating,~~ and park and recreation area offenses, to
31 accept written appearances, waivers of trial or hearing and pleas of
32 guilty or admissions of responsibility, in accordance with the schedule
33 of offenses and fines or penalties promulgated by the Conference of
34 Chief District Judges pursuant to G.S. 7A-148, and in such cases, to
35 enter judgment and collect the fines or penalties and costs;"

36 Sec. 7. This act is effective upon ratification.