

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1716

Short Title: Transfer Ports Authority.

(Public)

Sponsors: Senator Perdue.

Referred to: State Personnel and State Government.

June 13, 1994

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE NORTH CAROLINA STATE PORTS AUTHORITY TO THE DEPARTMENT OF TRANSPORTATION, TO ABOLISH THE NORTH CAROLINA PORTS RAILWAY COMMISSION, AND TO AMEND THE RESPONSIBILITIES OF THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina State Ports Authority, as set forth in Part 10 of Article 10 of Chapter 143B of the General Statutes, is transferred to the Department of Transportation in accordance with this act. Except as otherwise provided in this act, this transfer has all the elements of a Type II transfer as defined by G.S. 143A-6(b).

Sec. 2. Part 10 of Article 10 of Chapter 143B of the General Statutes is recodified as Part 10 of Article 8 of Chapter 143B of the General Statutes, G.S. 143B-363.1 through G.S. 143B-363.16.

Sec. 3. On or before August 31, 1994, the North Carolina Ports Railway Commission shall transfer to the North Carolina State Ports Authority any railway equipment, railway property, tracks, yards, trackage rights, franchise rights, licenses, leases, and any other assets or interests the Ports Railway Commission may possess.

Sec. 4. Effective September 1, 1994, Part 11 of Article 10 of Chapter 143B of the General Statutes is repealed.

Sec. 5. The terms of the appointed members of the Board of the North Carolina State Ports Authority serving on June 30, 1994, shall terminate on that date.

Sec. 6. G.S. 143B-452, as recodified as G.S. 143B-363.1 by Section 2 of this act, reads as rewritten:

1 **"§ 143B-363.1. Creation of Authority – membership; appointment, terms and**
2 **vacancies; officers; meetings and quorum; compensation.**

3 The North Carolina State Ports Authority is hereby created. The North Carolina
4 State Ports Authority shall be located within the Department of Transportation, but the
5 power of the Authority to employ, direct, and supervise personnel shall be as provided
6 in this Part. It shall be governed by a board composed of nine members and hereby designated
7 as the Authority.—Effective July 1, 1983, 1994, it shall be governed by a board composed
8 of 41 12 members and hereby designated as the Authority. ~~The General Assembly~~
9 ~~suggests and recommends that no person be appointed to the Authority who is domiciled in the~~
10 ~~district of the North Carolina House of Representatives or the North Carolina Senate in which a~~
11 ~~State port is located. The Governor shall appoint seven members to the Authority, and the~~
12 ~~General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the~~
13 ~~Authority shall consist of seven persons appointed by the Governor, and four persons appointed~~
14 ~~by the General Assembly.~~—Effective July 1, 1989, 1994, the Governor shall appoint six
15 members to the Authority, in addition to the Secretary of ~~Commerce,~~ Commerce and the
16 Secretary of Transportation, who shall serve as a ~~voting member~~ voting members of the
17 Authority by virtue of ~~his office.~~ their offices. ~~The Secretary of Commerce shall fill the first~~
18 ~~vacancy occurring after July 1, 1989, in a position on the Authority over which the Governor~~
19 ~~has appointive power.~~

20 The ~~initial~~ appointments by the Governor shall be made on or after ~~March 8, 1977,~~
21 ~~two~~ July 1, 1994, three terms to expire ~~July 1, 1979; two~~ March 1, 1997; and three terms
22 to expire ~~July 1, 1981; and three terms to expire July 1, 1983.~~ March 1, 1998. Thereafter, at
23 the expiration of each stipulated term of office all appointments made by the Governor
24 shall be for a term of ~~six~~ four years.

25 To stagger further the terms of members:

- 26 (1) ~~Of the members appointed by the Governor to replace the members~~
27 ~~whose terms expire on July 1, 1991, one member shall be appointed to~~
28 ~~a term of five years, to expire on June 30, 1996; the other member~~
29 ~~shall be appointed for a term of six years, to expire on June 30, 1997;~~
30 (2) ~~Of the members appointed by the Governor to replace the members~~
31 ~~whose terms expire on July 1, 1993, one member shall be appointed to~~
32 ~~a term of five years, to expire on June 30, 1998; the other member~~
33 ~~shall be appointed to a term of six years, to expire on June 30, 1999;~~
34 (3) ~~Of those members appointed by the Governor to replace the members~~
35 ~~whose terms expire on July 1, 1995, one member shall be appointed to~~
36 ~~a term of five years, to expire on June 30, 2000; the other member~~
37 ~~shall be appointed to a term of six years, to expire on June 30, 2001.~~

38 Thereafter, ~~at the expiration of each stipulated term of office all appointments made~~
39 ~~by the governor shall be for a term of six years.~~

40 The members of the Authority appointed by the Governor shall be selected from the
41 State-at-large and insofar as practicable shall represent each section of the State in all of
42 the business, agriculture, and industrial interests of the State. Any vacancy occurring in
43 the membership of the Authority appointed by the Governor shall be filled by the
44 Governor for the unexpired term. The Governor may remove a member appointed by
45 the Governor only for reasons provided by G.S. 143B-13.

1 ~~The General Assembly shall appoint two persons to serve terms expiring June 30,~~
2 ~~1983. The General Assembly shall appoint four persons to serve terms beginning July~~
3 ~~1, 1983, to serve until June 30, 1985, and successors shall serve for two year terms. Of~~
4 ~~the two appointments to be made in 1982, one shall be made upon the recommendation~~
5 ~~of the Speaker, and one shall be made upon the recommendation of the President of the~~
6 ~~Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be~~
7 ~~made upon the recommendation of the President of the Senate, and two shall be made~~
8 ~~upon the recommendation of the Speaker. To stagger further the terms of members:~~

- 9 ~~(1) Of the members appointed upon the recommendation of the Speaker to~~
10 ~~replace the members whose terms expire on June 30, 1991, one~~
11 ~~member shall be appointed to a term of one year, to expire on June 30,~~
12 ~~1992; the other member shall be appointed to a term of two years, to~~
13 ~~expire on June 30, 1993;~~
14 ~~(2) Of the members appointed upon the recommendation of the President~~
15 ~~of the Senate to replace the members whose terms expire on June 30,~~
16 ~~1991, one member shall be appointed to a term of one year, to expire~~
17 ~~on June 30, 1992; the other member shall be appointed to a term of~~
18 ~~two years, to expire on June 30, 1993.~~

19 Effective July 1, 1994, the General Assembly shall appoint four persons to serve as
20 members of the Authority. Of the four appointments, two shall be upon the
21 recommendation of the President Pro Tempore of the Senate and two shall be upon the
22 recommendation of the Speaker of the House of Representatives. To stagger further the
23 terms of the members:

- 24 (1) Of the members appointed effective July 1, 1994, upon the
25 recommendation of the Speaker of the House of Representatives, one
26 member shall be appointed to a term of one year, to expire on June 30,
27 1995; the other member shall be appointed to a term of two years, to
28 expire on June 30, 1996.
29 (2) Of the members appointed effective July 1, 1994, upon the
30 recommendation of the President Pro Tempore of the Senate, one
31 member shall be appointed to a term of one year, to expire on June 30,
32 1995; the other member shall be appointed to a term of two years, to
33 expire on June 30, 1996.

34 Thereafter, at the expiration of each stipulated term of office all appointments made
35 by the General Assembly shall be for terms of two years.

36 Appointments by the General Assembly shall be made in accordance with G.S. 120-
37 121, and vacancies in those appointments shall be filled in accordance with G.S. 120-
38 122. Members appointed by the General Assembly may be removed only for reasons
39 provided by G. S. 143B-13.

40 The Governor shall appoint from the members of the Authority the chairman and
41 vice-chairman of the Authority. The members of the Authority shall appoint a treasurer
42 and secretary of the Authority.

43 The Authority shall meet once in each 60 days at such regular meeting time as the
44 Authority by rule may provide and at any place within the State as the Authority may

1 provide, and shall also meet upon the call of its chairman or a majority of its members.
2 A majority of its members shall constitute a quorum for the transaction of business. The
3 members of the Authority shall not be entitled to compensation for their services, but
4 they shall receive per diem and necessary travel and subsistence expense in accordance
5 with G.S. 138-5."

6 Sec. 7. G.S. 143B-453, as recodified as G.S. 143B-363.2 by Section 2 of this
7 act, reads as rewritten:

8 **"§ 143B-363.2. Purposes of Authority.**

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

- 17 (1) To develop and improve the harbors or seaports at Wilmington,
18 Morehead City and Southport, North Carolina, and such other places,
19 including inland ports and facilities, as may be deemed feasible for a
20 more expeditious and efficient handling of waterborne commerce from
21 and to any place or places in the State of North Carolina and other
22 states and foreign countries.
- 23 (2) To acquire, construct, equip, maintain, develop and improve the port
24 facilities at said ports and to improve such portions of the waterways
25 thereat as are within the jurisdiction of the federal government.
- 26 (3) To foster and stimulate the shipment of freight and commerce through
27 said ports, whether originating within or without the State of North
28 Carolina, including the investigation and handling of matters
29 pertaining to all transportation rates and rate structures affecting the
30 same.
- 31 (4) To cooperate with the United States of America and any agency,
32 department, corporation or instrumentality thereof in the maintenance,
33 development, improvement and use of said harbors and seaports in
34 connection with and in furtherance of the war operations and needs of
35 the United States.
- 36 (5) To accept funds from any of said counties or cities wherein said ports
37 are located and to use the same in such manner, within the purposes of
38 said Authority, as shall be stipulated by the said county or city, and to
39 act as agent or instrumentality, of any of said counties or cities in any
40 matter coming within the general purposes of said Authority.
- 41 (6) To act as agent for the United States of America, or any agency,
42 department, corporation or instrumentality thereof, in any matter
43 coming within the purposes or powers of the Authority.

- 1 (7) And in general to do and perform any act or function which may tend
2 or be useful toward the development and improvement of harbors,
3 seaports and inland ports of the State of North Carolina, and to
4 increase the movement of waterborne commerce, foreign and
5 domestic, to, through, and from such harbors and ports.

6 The enumeration of the above purposes shall not limit or circumscribe the broad
7 objective of developing to the utmost the port possibilities of the State of North
8 Carolina.

9 The Authority shall develop a long-range, 10-year capital plan which identifies its
10 total capital needs, available resources, and external funding requirements. The plan
11 shall analyze the competitive position of the Authority relative to ports in other states
12 and shall establish strategic objectives. The plan shall identify capital investments and
13 highway, rail, and navigation channel improvements needed to achieve the strategic
14 objectives established. The plan shall be submitted to the Board of Transportation for
15 approval on or before April 1, 1995, and shall thereafter be reviewed, updated, and
16 submitted to the Board of Transportation on or before January 1 of each year. The
17 Department of Environment, Health, and Natural Resources shall provide information
18 on navigation channels and on potential navigation improvements to the State Ports
19 Authority and to the Department of Transportation, and shall provide other assistance as
20 needed in developing the long-range capital plan for the Authority. The Department of
21 Environment, Health, and Natural Resources shall review the plan as approved by the
22 Board of Transportation when the Department develops the annual Water Resources
23 Development Plan required by G.S. 143-215.73A, and shall set priorities for navigation
24 improvement projects with the approved plan for the Authority."

25 Sec. 8. G.S. 143B-454, as recodified as G.S 143B-363.3 by Section 2 of this
26 act, reads as rewritten:

27 "**§ 143B-363.3. Powers of Authority.**

28 (a) In order to enable it to carry out the purposes of this Part, the said Authority shall:

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

1 construction of beltline roads and highways and bridges and
2 causeways thereon, and other bridges and causeways necessary or
3 useful in connection therewith, and shipyards, shipping facilities, and
4 transportation facilities incident thereto and useful or convenient for
5 the use thereof, ~~excluding terminal railroads;~~ thereof. Prior approval of
6 the Board of Transportation shall be required for all capital
7 improvement projects, equipment purchases, and facility maintenance
8 projects requiring the expenditure of funds in excess of fifty thousand
9 dollars (\$50,000). Requests for appropriations from the General Fund
10 shall be approved by the Board of Transportation and submitted to the
11 Governor through the Department of Transportation;

12 (4a) Be authorized to acquire, own, lease, construct, and maintain railroads
13 at harbors, seaports, and inland terminals, provided that nothing in this
14 subdivision shall be construed to authorize the Authority to operate
15 railroads or in any other manner to function as a common carrier by
16 rail. Prior approval of the Board of Transportation shall be required
17 for all capital improvement projects, equipment purchases, and facility
18 maintenance projects requiring the expenditure of funds in excess of
19 fifty thousand dollars (\$50,000). Requests for appropriations from the
20 General Fund shall be approved by the Board of Transportation and
21 submitted to the Governor through the Department of Transportation;

22 (5) The Authority shall appoint an Executive Director, whose salary shall
23 be fixed by the Authority, to serve at its pleasure. The Executive
24 Director or his designee shall appoint, employ, dismiss and, within the
25 limits of available funding, fix the compensation of such other
26 employees as he deems necessary to carry out the purposes of this Part.
27 There shall be an executive committee consisting of the chairman of
28 the Authority and two other members elected annually by the
29 Authority. The executive committee shall be vested with authority to
30 do all acts which are authorized by the bylaws of the Authority.
31 Members of the executive committee shall serve until their successors
32 are elected;

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

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

39 (8) Be authorized and empowered to pay all necessary costs and expenses
40 involved in and incident to the formation and organization of said
41 Authority, and incident to the administration and operation thereof,
42 and to pay all other costs and expenses reasonably necessary or
43 expedient in carrying out and accomplishing the purposes of this Part;

- 1 (9) Be authorized and empowered to apply for and accept loans and grants
2 of money from any federal agency or the State of North Carolina or
3 any political subdivision thereof or from any public or private sources
4 available for any and all of the purposes authorized in this Article, and
5 to expend the same in accordance with the directions and requirements
6 attached thereto, or imposed thereon by any such federal agency, the
7 State of North Carolina, or any political subdivision thereof, or any
8 public or private lender or donor, and to give such evidences of
9 indebtedness as shall be required, provided, however, that no
10 indebtedness of any kind incurred or created by the Authority shall
11 constitute an indebtedness of the State of North Carolina, or any
12 political subdivision thereof, and no such indebtedness shall involve or
13 be secured by the faith, credit or taxing power of the State of North
14 Carolina, or any political subdivision thereof;
- 15 (10) Be authorized and empowered to act as agent for the United States of
16 America, or any agency, department, corporation, or instrumentality
17 thereof, in any matter coming within the purposes or powers of the
18 Authority;
- 19 (11) Have power to adopt, alter or repeal its own bylaws, rules and
20 regulations governing the manner in which its business may be
21 transacted and in which the power granted to it may be enjoyed, and
22 may provide for the appointment of such committees, and the
23 functions thereof, as the Authority may deem necessary or expedient in
24 facilitating its business;
- 25 (12) Be authorized and empowered to do any and all other acts and things
26 in this Part authorized or required to be done, whether or not included
27 in the general powers in this section mentioned; and
- 28 (13) Be authorized and empowered to do any and all things necessary to
29 accomplish the purposes of this Part: Provided, that said Authority
30 shall not engage in shipbuilding.

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

33 Prior to taking any action under this subsection, the Authority may consult with the
34 Advisory Budget Commission.

35 (b) In order to execute the powers enumerated in subsection (a), the Authority
36 shall determine the policies of the North Carolina State Ports Authority by majority vote
37 of all members of the Authority present and voting. Once a policy is determined, the
38 Authority shall communicate it to the Executive Director, who shall have the sole and
39 exclusive authority to execute the policy of the Authority. No member of the Authority
40 shall have responsibility or authority to give operational directives to any employee of
41 the North Carolina State Ports Authority other than the Executive Director.

42 (c) Notwithstanding any other provision of this section, the Authority shall
43 submit its annual operating budget and plan to the Board of Transportation on or before
44 May 15 of each year. Approval of the budget and plan by the Board of Transportation

1 shall only be required: (i) when the Authority's debt service coverage ratio from the
2 previous fiscal year was in excess of five percent (5%) below budget; or (ii) the
3 Authority's operating ratio of the previous fiscal year was in excess of five percent (5%)
4 below budget; or (iii) the Authority's operating revenues declined in excess of five
5 percent (5%) in the previous fiscal year. For purposes of this section, 'debt service
6 coverage ratio' means the long-term and short-term debt service, including both
7 principal and interest, divided by operating income, before depreciation. For purposes
8 of this section, 'operating ratio' means operating expenses, before depreciation, divided
9 by operating revenues."

10 Sec. 9. G.S. 143B-455, as recodified as G.S. 143B-363.4 by Section 2 of this
11 act, reads as rewritten:

12 **"§ 143B-455. Approval of acquisition and disposition of real property.**

13 Any transactions relating to the acquisition or disposition of real property or any
14 estate or interest in real property, by the North Carolina State Ports Authority, shall be
15 subject to prior review by the Governor and Council of State, and shall become
16 effective only after the same has been approved by the Governor and Council of State.
17 Upon the acquisition of real property or other estate therein, by the North Carolina State
18 Ports Authority, the fee title or other estate shall vest in and the instrument of
19 conveyance shall name the 'North Carolina State Ports Authority' as grantee, lessee, or
20 transferee. Upon the disposition of real property or any interest or estate therein, the
21 instrument of conveyance or transfer shall be executed by the North Carolina State Ports
22 Authority. The approval of any transaction by the Governor and Council of State may
23 be evidenced by a duly certified copy of excerpt of minutes of the meeting of the
24 Governor and Council of State, attested by the private secretary to the Governor or the
25 Governor, reciting such approval, affixed to the instrument of acquisition or transfer,
26 and said certificate may be recorded as a part thereof, and the same shall be conclusive
27 evidence of review and approval of the subject transaction by the Governor and Council
28 of State. The Governor, acting with the approval of the Council of State, may delegate
29 the review and approval of such classes of lease, rental, easement, or right-of-way
30 transactions as he deems advisable, and he may likewise delegate the review and
31 approval of the severance of buildings and timber from the land.

32 In addition to the above requirements, any acquisition or disposition of any interest
33 in real property involving fifty thousand dollars (\$50,000) or more shall require the
34 prior approval of the Board of Transportation."

35 Sec. 10. G.S. 143B-456(b), as recodified as G.S. 143B-363.6(b) by Section 2
36 of this act, reads as rewritten:

37 "(b) Prior to the sale and delivery of any bonds or notes by the Authority, the
38 Governor and the Board of Transportation shall approve the general purposes of and the
39 general security provisions for any such bonds or notes. Such bonds or notes may be
40 sold in such manner, either at public or private sale, and for such price as the Authority
41 shall determine. Bonds or notes may be issued under the provisions of this Part without
42 obtaining, except as otherwise expressly provided in this Part, the consent of any
43 department, division, commission, board, body, bureau or agency of the State, and
44 without any other proceedings or the happening of any conditions or things other than

1 those proceedings, conditions or things which are specifically required by this Part and
2 the provisions of the resolution authorizing the issuance of such bonds or notes or the
3 trust agreement securing the same. Prior to taking any action under this subsection, the
4 Governor may consult with the Advisory Budget Commission."

5 Sec. 11. G.S. 143B-457, as recodified as G.S. 143B-363.8 by Section 2 of
6 this act, reads as rewritten:

7 **"§ 143B-363.8. Power of eminent domain.**

8 For the acquiring of rights-of-way and property necessary for the construction of
9 structures, including railroad ~~crossings~~, facilities, airports, seaplane bases, naval bases,
10 wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants,
11 warehouses and other riparian and littoral terminals and structures and approaches
12 thereto and transportation facilities needful for the convenient use of same, and belt line
13 roads and highways and causeways and bridges and other bridges and causeways, the
14 Authority shall have the right and power to acquire the same by purchase, by
15 negotiation, or by condemnation, and should it elect to exercise the right of eminent
16 domain, condemnation proceedings shall be maintained by and in the name of the
17 Authority, and it may proceed in the manner provided by the general laws of the State
18 of North Carolina for the procedure by any county, municipality or authority organized
19 under the laws of this State, or by the Board of Transportation, or in any other manner
20 provided by law, as the Authority may, in its discretion, elect. The power of eminent
21 domain shall not apply to property of persons, State agency or corporations already
22 devoted to public use."

23 Sec. 12. G.S. 143B-431(a) reads as rewritten:

24 **"§ 143B-431. Department of Commerce – functions.**

25 (a) The functions of the Department of Commerce, except as otherwise
26 expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina,
27 shall include:

- 28 (1) All of the executive functions of the State in relation to economic
29 development including by way of enumeration and not of limitation,
30 the expansion and recruitment of environmentally sound industry,
31 labor force development, the promotion of and assistance in the
32 orderly development of North Carolina counties and communities, the
33 promotion and growth of the travel and tourism industries, the
34 development of our State's ports, energy resource management and
35 energy policy development;
- 36 (2) All functions, powers, duties and obligations heretofore vested in an
37 agency enumerated in Article 15 of Chapter 143A, to wit:
- 38 a. The State Board of Alcoholic Control,
 - 39 b. The North Carolina Utilities Commission,
 - 40 c. The Employment Security Commission,
 - 41 d. The North Carolina Industrial Commission,
 - 42 e. State Banking Commission and the Commissioner of Banks,
 - 43 f. Savings and Loan Association Division,
 - 44 g. The State Savings Institutions Commission,

- 1 h. Credit Union Commission,
2 i. The North Carolina Milk Commission,
3 j. The North Carolina Mutual Burial Association Commission,
4 k. The North Carolina Rural Electrification Authority,
5 ~~l. The North Carolina State Ports Authority,~~ all of which enumerated
6 agencies are hereby expressly transferred by a Type II transfer,
7 as defined by G.S. 143A-6, to this recreated and reconstituted
8 Department of Commerce; and,
9 (3) All other functions, powers, duties and obligations as are conferred by
10 this Chapter, delegated or assigned by the Governor and conferred by
11 the Constitution and laws of this State. Any agency transferred to the
12 Department of Commerce by a Type II transfer, as defined by G.S.
13 143A-6, shall have the authority to employ, direct and supervise
14 professional and technical personnel, and such agencies shall not be
15 accountable to the Secretary of Commerce in their exercise of quasi-
16 judicial powers authorized by statute, notwithstanding any other
17 provisions of this Chapter, ~~provided that the authority of the North~~
18 ~~Carolina State Ports Authority to employ, direct and supervise personnel~~
19 ~~shall be as provided in Part 10 of this Article-Chapter."~~
20 Sec. 13. G.S. 143B-433(a) reads as rewritten:
21 "(a) (1) The North Carolina Alcoholic Beverage Control
22 Commission,
23 (2) The North Carolina Utilities Commission,
24 (3) The Employment Security Commission,
25 (4) The North Carolina Industrial Commission,
26 (5) State Banking Commission,
27 (6) Savings and Loan Association Division,
28 (7) The State Savings Institutions Commission,
29 (8) Credit Union Commission,
30 (9) The North Carolina Milk Commission,
31 (10) The North Carolina Mutual Burial Association Commission,
32 (11) North Carolina Cemetery Commission,
33 (12) The North Carolina Rural Electrification Authority,
34 (13) Repealed by Session Laws 1985, c. 757, s. 179(d),
35 (14) North Carolina Science and Technology Research Center,
36 ~~(15) The North Carolina State Ports Authority,~~
37 (16) North Carolina National Park, Parkway and Forests Development
38 Council,
39 (17) Economic Development Board,
40 (18) Labor Force Development Council,
41 (19) Energy Policy Council,
42 (20) Energy Division,
43 (21) Navigation and Pilotage Commissions established by Chapter 76 of
44 the General Statutes.

1 (22) Repealed by Session Laws 1993, c. 321, s. 313(b)."

2 Sec. 14. G.S. 143B-346 reads as rewritten:

3 **"§ 143B-346. Department of Transportation – purpose and functions.**

4 The general purpose of the Department of Transportation is to provide for the
5 necessary planning, construction, maintenance, and operation of an integrated statewide
6 transportation system for the economical and safe transportation of people and goods as
7 provided for by law. The Department shall also provide and maintain an accurate
8 register of transportation vehicles as provided by statutes, and the Department shall
9 enforce the laws of this State relating to transportation safety assigned to the
10 Department. The Department of Transportation shall be responsible for all of the
11 transportation functions of the executive branch of the State as provided by law except
12 those functions delegated to the Utilities Commission, ~~the State Ports Authority,~~
13 Commission and the Commissioners of Navigation and Pilotage as provided for by
14 Chapter 76. The major transportation functions include aeronautics, highways, mass
15 transportation, motor vehicles, State ports, and transportation safety as provided for by
16 State law. The Department of Transportation shall succeed to all functions vested in the
17 Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

18 Sec. 15. G.S. 143B-350 is amended by adding a new subsection to read:

19 "(i) In addition to the above duties and powers, the Board of Transportation shall
20 have the following duties and powers in regard to the State Ports Authority:

- 21 (1) To approve all capital improvement projects, equipment purchases,
22 and facility maintenance projects requiring the expenditure of funds in
23 excess of fifty thousand dollars (\$50,000);
- 24 (2) To review and approve all proposals for navigation improvement
25 projects related to State ports prepared by the Department of
26 Environment, Health, and Natural Resources for submission to the
27 United States Army Corps of Engineers;
- 28 (3) To review and approve all requests for appropriations from the
29 General Fund for financing of capital improvements, facility
30 maintenance, or navigation improvement projects;
- 31 (4) To review the annual operating budget and plan which the State Ports
32 Authority shall submit on or before May 15 of each year. Board
33 approval of the operating budget and plan is required:
- 34 a. When the debt service coverage ratio from the previous fiscal
35 year was in excess of five percent (5%) below budget; or
- 36 b. The operating ratio of the previous fiscal year was in excess of
37 five percent (5%) below budget; or
- 38 c. Operating revenues declined in excess of five percent (5%) in
39 the previous fiscal year;
- 40 (5) To approve the acquisition or disposition of any interest in real
41 property involving fifty thousand dollars (\$50,000) or more;
- 42 (6) To approve the general purposes of and the general security provisions
43 for any bonds or notes proposed to be sold or delivered.

1 For purposes of subdivision (4) of this section, 'debt service coverage ratio'
2 means the long-term and short-term debt service, including both principal and interest,
3 divided by operating income, before depreciation. For purposes of this section,
4 'operating ratio' means operating expenses, before depreciation, divided by operating
5 revenues."

6 Sec. 16. Section 4 of this act becomes effective September 1, 1994. Section
7 5 of this act becomes effective June 30, 1994. The remainder of this act becomes
8 effective July 1, 1994.