

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS35165-MA-160C* (02/24)

Short Title: Preserving Value of Property/Paving of Roads.

(Public)

Sponsors: Senator Kinnaird.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO MAINTAIN OR
PAVE CERTAIN ROADS IN A MANNER CONSISTENT WITH THE ORIGINAL
CONSTRUCTION OF THE ROAD TO PRESERVE THE HISTORIC APPEARANCE
AND VALUE OF HISTORIC PROPERTIES ADJOINING THE ROAD OR TO
PRESERVE HIGH SCENIC VALUE PROPERTIES OR ENHANCE LOW-VOLUME
BUSINESS OR AGRIBUSINESS VENTURES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2A of Chapter 136 of the General Statutes is amended by
adding a new section to read:

"§ 136-44.13. Paving or maintenance of certain roadways.

(a) Notwithstanding the provisions of G.S. 136-44.5 and G.S. 136-44.7, the Department shall not pave or maintain that portion of a roadway that adjoins a property designated as historic or of any roadway that has been designated as having high scenic value or where leaving the road unpaved enhances a low-volume business or agribusiness venture, unless the owner of the adjoining property consents to having the road paved or maintained at the Department's current standards.

(b) If the owner of property adjoining the roadway does not consent to the upgrade of the roadway to the Department's current standards, the Department may pave or maintain the road in a manner and to a standard that preserves the historic value and appearance of the adjoining historic property, preserves the scenic value, or enhances a low-volume business or agribusiness venture by using different standards, by maintaining the original roadbed, by using the standards in place at the time the road was laid out or constructed, or by not paving or maintaining the roadway at all.

(c) The Department may reevaluate the road conditions at any time to determine if the road should remain unpaved or paved or maintained in a nonstandard way. In choosing between the improvement of an existing highway and complete reconstruction, the Department shall weigh the following factors:

- (1) Disruption to homes and businesses.
- (2) Environmental impacts.
- (3) The benefits attainable by designing and constructing the improvement as a limited access facility.
- (4) The potential effects on the local and State economies.
- (5) Cost-effectiveness of the project.
- (6) Mobility.



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- 1 (7) Safety, as determined by factors such as accident history for motorists,
2 pedestrians, and bicyclists.
3 (8) Local or regional plans as interpreted by the adopting entity, and the
4 Department's transportation plans.
5 (9) The impact on the historic, scenic, and aesthetic values of the property, as
6 interpreted by the county in which the highway is located.
7 (10) If it is a highway under federal jurisdiction.

8 (d) The Department may, without the consent of the owner of property adjoining the
9 road, pave the road in a standard way if the Department determines that the condition of the
10 road places the lives of the motoring public in jeopardy based on all of the following:

- 11 (1) The number of vehicles traveling the road.
12 (2) The condition of the road.
13 (3) The speed limit on the road.
14 (4) The number of crashes occurring on the unpaved portion of the road.
15 (5) The potential effects on the local and State economies based on the use of
16 the road.

17 (e) If the Department acts under subsection (d) of this section, the Department shall pay
18 to the owner or owners of property adjoining the road the depreciation in the historic, scenic, or
19 business goodwill value of the property caused by the paving of the road to the current
20 standard.

21 (f) Notwithstanding the provisions of G.S. 136-44.5, roads that are removed from the
22 secondary roads annual work program under the provisions of this section shall be excluded
23 from the number of unpaved miles of State-maintained roads and shall not be considered for
24 the purposes of determining the amount of funding for roads in the county in which the road is
25 located."

26 **SECTION 2.** This act is effective when it becomes law.