

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.