

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 430

Short Title: Elect Board of Transportation.

(Public)

Sponsors: Representative Miller.

Referred to: Transportation, if favorable, Rules Calendar and Operations of the House.

March 12, 2003

A BILL TO BE ENTITLED

AN ACT TO ELECT STATEWIDE ONE RESIDENT OF EACH HIGHWAY
DIVISION TO SERVE ON THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-350 reads as rewritten:

"§ 143B-350. **Board of Transportation – organization; powers and duties, etc.**

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State.

(b) Membership of the Board. –

(1) Number, appointment. – The Board of Transportation shall have 19 voting members. Fourteen of the members shall be division members ~~appointed by the Governor~~elected by the people, as provided by this section. Five shall be at-large members appointed by the Governor. At least three members of the Board shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. No more than two members of the Board may reside in the same highway division.

(2) Division members. – One member shall be ~~appointed from and be a resident of each of the 14 highway divisions.~~divisions, but all shall be elected on a statewide basis. Each divisional seat shall be elected separately on the statewide ballot. The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the

1 region they represent. Division members shall regularly consult with
2 and consider the views of local government units and Transportation
3 Advisory Committees in the region they represent.

4 (3) At-large members. – Five members shall be appointed by the Governor
5 from the State at large. At-large members appointed pursuant to this
6 subdivision shall develop transportation policy and address
7 transportation problems with a statewide perspective. At-large
8 members appointed under this subdivision shall possess the following
9 qualifications:

- 10 a. One at-large member shall be a person with expertise in
11 environmental issues affecting the State;
- 12 b. One at-large member shall be a person familiar with the State
13 ports and aviation issues;
- 14 c. One at-large member shall be a person residing in a rural area
15 of the State with broad knowledge of and experience in
16 transportation issues affecting rural areas;
- 17 d. One at-large member shall be a person residing in an urban area
18 with broad knowledge of and expertise in mass transit;
- 19 e. One at-large member shall be a person with broad knowledge of
20 and expertise in government-related finance and accounting.

21 (c) Staggered Terms. – The terms of all Board members serving on the Board
22 prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19
23 members shall be appointed with terms beginning on January 15, 2001. The Board shall
24 serve the following terms: ~~division members representing divisions 1, 3, 5, 7, 9, 11, and~~
25 ~~13 and the three at-large members filling the positions designated in sub-subdivisions~~
26 ~~(b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15,~~
27 ~~2001, and four-year terms thereafter; and division members representing divisions 2, 4,~~
28 ~~6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in~~
29 ~~sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning~~
30 ~~January 15, 2001, and four-year terms thereafter. thereafter; division members~~
31 ~~representing divisions 1, 3, 5, 7, 9, 11, and 13 shall be elected in the 2004 general~~
32 ~~election for four-year terms beginning January 1, 2005, and quadrennially thereafter,~~
33 ~~and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 shall be elected in~~
34 ~~the 2004 general election for two-year terms beginning January 1, 2005, and their~~
35 ~~successors shall be elected in the 2006 general election and quadrennially thereafter for~~
36 ~~four-year terms. The offices of divisional members serving on the board prior to January~~
37 ~~15, 2003, shall expire December 31, 2004. Elections shall be conducted in accordance~~
38 ~~with Chapter 163 of the General Statutes.~~

39 (d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve
40 until their successors are appointed. The Governor may appoint a member to serve out
41 the unexpired term of any Board member. The Governor may remove any at-large
42 member of the Board for any cause the Governor finds sufficient. The Governor shall
43 remove any member of the Board upon conviction of a felony, conviction of any
44 offense involving a violation of the Board member's official duties, or for a violation of

1 the provisions of subsections (i), (j), and (k) of this section or any other code of ethics
2 applicable to members of the Board as determined by the Governor or the Governor's
3 designee.

4 (e) Organization and Meetings of the Board. – Within 60 days after January 15,
5 2001, and thereafter within 60 days following the beginning of the regular term of the
6 Governor, the Governor or his designee shall call the Board into session. The Board
7 shall select a chair and vice-chair from among its membership for two-year terms. The
8 Board may select a chair or vice-chair for one additional two-year term. The Board of
9 Transportation shall meet once in each 60 days at such regular meeting times as the
10 Board may by rule provide and at any place in the State as the Board may provide. The
11 Board may hold special meetings at any time at the call of the chairman or any three
12 members. The Board shall have the power to adopt and enforce rules and regulations for
13 the government of its business and proceedings. The Board shall keep minutes of its
14 meetings, which shall at all times be open to public inspection. The majority of the
15 Board shall constitute a quorum for the transaction of business. Board members shall
16 receive per diem and necessary travel and subsistence expenses in accordance with G.S.
17 138-5 and G.S. 138-6, as appropriate.

18 (f) Duties of the Board. – The Board of Transportation shall have duties and
19 powers:

- 20 (1) To formulate policies and priorities for all modes of transportation
21 under the Department of Transportation;
- 22 (2) To advise the Secretary on matters to achieve the maximum public
23 benefit in the performance of the functions assigned to the
24 Department;
- 25 (3) To ascertain the transportation needs and the alternative means to
26 provide for these needs through an integrated system of transportation
27 taking into consideration the social, economic and environmental
28 impacts of the various alternatives;
- 29 (4) To approve a schedule of all major transportation improvement
30 projects and their anticipated cost for a period of seven years into the
31 future. This schedule is designated the Transportation Improvement
32 Program; it must be published and copies must be available for
33 distribution. The document that contains the Transportation
34 Improvement Program, or a separate document that is published at the
35 same time as the Transportation Improvement Program, must include
36 the anticipated funding sources for the improvement projects included
37 in the Program, a list of any changes made from the previous year's
38 Program, and the reasons for the changes;
- 39 (5) To consider and advise the Secretary of Transportation upon any other
40 transportation matter that the Secretary may refer to it;
- 41 (6) To assist the Secretary of Transportation in the performance of his
42 duties in the development of programs and approve priorities for
43 programs within the Department;

- 1 (7) To allocate all highway construction and maintenance funds
2 appropriated by the General Assembly as well as federal-aid funds
3 which may be available;
- 4 (8) To approve all highway construction programs;
- 5 (9) To approve all highway construction projects and construction plans
6 for the construction of projects;
- 7 (10) To review all statewide maintenance functions;
- 8 (11) To award all highway construction contracts;
- 9 (12) To authorize the acquisition of rights-of-way for highway
10 improvement projects, including the authorization for acquisition of
11 property by eminent domain;
- 12 (13) To promulgate rules, regulations, and ordinances concerning all
13 transportation functions assigned to the Department.

14 (f1) Municipal Participation. – The ability of a municipality to pay in part or
15 whole for any transportation improvement project shall not be a factor considered by the
16 Board of Transportation in its development and approval of a schedule of major State
17 highway system improvement projects to be undertaken by the Department under G.S.
18 143B-350(f)(4).

19 (f2) Approval of aircraft and ferry purposes. – Before approving the purchase of
20 an aircraft from the Equipment Fund or a ferry in a Transportation Improvement
21 Program, the Board of Transportation shall prepare an estimate of the operational costs
22 and capital costs associated with the addition of the aircraft or ferry and shall report
23 those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the
24 Joint Legislative Commission on Governmental Operations.

25 (g) Delegation of Board Duties. – The Board of Transportation may, in its
26 discretion, delegate to the Secretary of Transportation the authority:

- 27 (1) To approve all highway construction projects and construction plans
28 for the construction of projects;
- 29 (2) To award all highway construction contracts;
- 30 (3) To promulgate rules, regulations, and ordinances concerning all
31 transportation functions assigned to the Department.

32 The Secretary may, in turn, subdelegate these duties and powers.

33 (h) Consultation of Board Members. – Each member of the Board of
34 Transportation who is appointed to represent a transportation engineering division or
35 who resides in a division shall be consulted before the Board makes a decision affecting
36 that division.

37 (i) Disclosure of Contributions. – Any person serving on the Board of
38 Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on
39 that date any contributions the person or the person's immediate family made to the
40 political campaign of the appointing Governor in the two years preceding December 1,
41 1998. A person appointed or elected to the Board of Transportation and a person
42 appointed as Secretary of Transportation after December 1, 1998, shall disclose at the
43 time the appointment of the person is officially made public any contributions the
44 person or the person's immediate family made to the political campaign of the

1 appointing Governor in the two years preceding the date of appointment. The term
2 "immediate family", as used in this subsection, means a person's spouse, children,
3 parents, brothers, and sisters. Disclosure forms shall be filed with the Governor or the
4 Governor's designee and in a manner as prescribed by the Governor. Disclosure forms
5 shall not be a public record under the provisions of Chapter 132 of the General Statutes
6 until such time as the appointment of the person filing the statement is officially made
7 public.

8 (j) Disclosure of Campaign Fund-Raising. – A person appointed or elected to the
9 Board of Transportation on or after January 1, 2001, and a person appointed as
10 Secretary of Transportation on or after January 1, 2001, shall if elected disclose at the
11 time of filing notice of candidacy or otherwise qualifying for ballot access, and if
12 appointed disclose at the time the appointment of the person is officially made ~~publie~~
13 public, any contributions the person personally acquired in the two years prior to
14 appointment for: any political campaign for a statewide or legislative elected office in
15 North Carolina; any political party executive committee or political committee acting on
16 behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed
17 with the Governor or the Governor's designee and in a manner as prescribed by the
18 Governor. Disclosure forms for persons appointed to office shall not be a public record
19 under the provisions of Chapter 132 of the General Statutes until such time as the
20 appointment of the person filing the statement is officially made public.

21 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics
22 applicable to members of the Board, including the Secretary. Any code of ethics
23 adopted by the Board shall be supplemental to any other code of ethics that may be
24 applicable to members of the Board or to the Secretary. A code of ethics adopted
25 pursuant to this subsection shall:

- 26 (1) Include a prohibition against a member taking action as a Board
27 member when a conflict of interest, or the appearance of a conflict of
28 interest, exists. The ethics policy adopted pursuant to this subsection
29 shall specify that a conflict of interest exists when the use of the Board
30 member's position, or any official action taken by the Board member,
31 would result in financial benefit, direct or indirect, to the Board
32 member, a member of the Board member's immediate family, or an
33 individual with whom, or business with which, the Board member is
34 associated. The ethics policy adopted pursuant to this subsection shall
35 specify that an appearance of a conflict of interest exists when a
36 reasonable person would conclude from the circumstances that the
37 Board member's ability to protect the public interest, or perform public
38 duties, would be compromised by personal interest, even in the
39 absence of an actual conflict of interest. The performance of usual and
40 customary duties associated with the public position or the
41 advancement of public policy goals or constituent services, without
42 compensation, shall not constitute the use of the Board member's
43 position for financial benefit. The conflict of interest provision of the
44 ethics policy adopted pursuant to this subsection shall not apply to

1 financial or other benefits derived by a Board member that the Board
2 member would enjoy to an extent no greater than that which other
3 citizens of the State would or could enjoy.

4 (2) Require the filing of a statement of economic interest. The statement
5 of economic interest shall include a listing of the appointee's legal,
6 equitable, or beneficial interest in real estate holdings in the State, and
7 a statement of the appointee's financial interest in any business related
8 to the State's transportation system. The statement of economic interest
9 shall be filed with the Governor, or the Governor's designee, and in a
10 manner as prescribed by the Governor.

11 (3) Require the filing of a statement of association. The statement of
12 association shall include a statement of the appointee's membership or
13 other affiliation with, including offices held, in societies,
14 organizations, or advocacy groups pertaining to the State's
15 transportation system. The statement of association shall be filed with
16 the Governor, or the Governor's designee, and in a manner as
17 prescribed by the Governor.

18 Board members and the Secretary serving on December 1, 1998, shall file the
19 statement of economic interest and statement of association on that date. Board
20 members and the Secretary appointed after December 1, 1998, shall file the statement of
21 economic interest and statement of association at the time the appointment of the person
22 is officially made ~~public~~-public, or if elected at the time of taking office. The statement
23 of economic interest and the statement of association shall not be a public record under
24 the provisions of Chapter 132 of the General Statutes until the appointment of the
25 person filing the statement is officially made public.

26 (l) Additional Requirements for Disclosure Statements. – All disclosure
27 statements required under subsections (i), (j), and (k) of this section must be sworn
28 written statements.

29 (m) Ethics and Board Duties Education. – The Board shall institute by January 1,
30 1999, and conduct annually an education program on ethics and on the duties and
31 responsibilities of Board members. The training session shall be comprehensive in
32 nature and shall include input from the Institute of Government, the North Carolina
33 Board of Ethics, the Attorney General's Office, the University of North Carolina
34 Highway Safety Research Center, and senior career employees of the various divisions
35 of the Department. This program shall include an initial orientation for new members of
36 the Board and continuing education programs for Board members at least once each
37 year.

38 (n) Review of Appointments by the Joint Legislative Transportation Oversight
39 Committee. – The Governor shall submit the names of all proposed Board of
40 Transportation appointees, along with the disclosure statements required under
41 subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation
42 Oversight Committee prior to Board members' taking office. The Committee shall have
43 30 days to review and submit comments to the Governor on the proposed appointees
44 before they take office. The Governor shall consider the views expressed by the

1 Committee concerning the appointees to the Board. If the Committee does not review or
2 submit comments to the Governor on the proposed Board appointees within the 30 days,
3 the Governor may proceed to appoint the proposed members to the Board."

4 **SECTION 2.** G.S. 163-165.6(b) reads as rewritten:

5 "(b) Order of Precedence for Candidate Ballot Items. – The State Board of
6 Elections shall promulgate rules prescribing the order of offices to be voted on the
7 official ballot. Those rules shall adhere to the following guidelines:

- 8 (1) Federal offices shall be listed before State and local offices. Member
9 of the United States House of Representatives shall be listed
10 immediately after United States Senator.
- 11 (2) State and local offices shall be listed according to the size of the
12 electorate.
- 13 (3) Partisan offices, regardless of the size of the constituency, shall be
14 listed before nonpartisan offices.
- 15 (4) When offices are in the same class, they shall be listed in alphabetical
16 order by office name, or in numerical or alphabetical order by district
17 name. Governor and Lieutenant Governor, in that order, shall be listed
18 before other Council of State offices. Board of Transportation shall be
19 listed after Council of State. Mayor shall be listed before other
20 citywide offices. Chair of a board, where elected separately, shall be
21 listed before other board seats having the same electorate. Chief
22 Justice shall be listed before Associate Justices.
- 23 (5) Ballot items for full terms of an office shall be listed before ballot
24 items for partial terms of the same office."

25 **SECTION 3.** This act is effective when it becomes law.