

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 459
HOUSE BILL 190

AN ACT TO CREATE THE NORTH CAROLINA SEAFOOD INDUSTRIAL PARK
AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Creation of Authority; membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.

(a) There is hereby created The North Carolina Seafood Industrial Park Authority. It shall be governed by a board composed of 11 members to be appointed as follows. The Board is hereby designated as the Authority.

(b) Nine members shall be appointed by the Governor.

The initial appointments by the Governor shall be made on or after the date of ratification, four terms to expire July 1, 1981; four terms to expire July 1, 1983; and one term to expire July 1, 1985. Thereafter, at the expiration of each stipulated term of office all appointments shall be for a term of four years. The members of the Authority shall be selected as follows: One member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of the village or town where the Seafood Industrial Park is located; one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of the county where the Seafood Industrial Park is located; two members be appointed to the Authority for terms which expire July 1, 1981, from the area of the State where the Seafood Industrial Park is located; five members (two terms expire July 1, 1981; two terms expire July 1, 1983; and one term expires July 1, 1985) be appointed to the Authority who are residents of the State at large and insofar as practicable shall represent all the other sections of the State. At the expiration of the terms for the representatives as stated above the Governor shall use his discretion on reappointments. However, there shall be no less than five members of the Authority from coastal counties and there should be at least one member on the Authority from each village or town in which the Seafood Parks are located. Any vacancy occurring in the membership of the Authority shall be filled by the appointing authority for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

(c) The President of the Senate shall appoint one Senator for a two-year term.

(d) The Speaker of the House shall appoint one Representative for a two-year term.

(e) The Governor shall annually appoint from the members of the Authority the chairman and vice-chairman of the Authority. The Secretary of Commerce or his designee shall serve as secretary of the Authority.

(f) No person shall serve on the Authority for more than two complete consecutive terms.

(g) The Authority shall meet once in each 90 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority, who are not members of the General Assembly, shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5 and G.S. 138-6. The members of the

Authority who are members of the General Assembly shall not receive per diem but shall receive travel and subsistence at the rates set out in G.S. 120-3.1.

Sec. 2. Personnel. The Secretary of Commerce shall appoint such management personnel as deemed necessary who shall serve at the pleasure of the Secretary of Commerce. The salaries of these personnel shall be fixed by the Governor with the approval of the Advisory Budget Commission. The Secretary of Commerce shall have the power to appoint, employ and dismiss such number of employees as he may deem necessary to accomplish the purposes of this Article subject to the availability of funds. The power to appoint, employ and dismiss personnel, and to fix the number thereof, may be delegated to one or more of the management personnel upon such terms and subject to such restrictions and limitations as the Secretary of Commerce may deem proper. The compensation of such employees shall be fixed by the Secretary of Commerce. It is recommended that, to the fullest extent possible, the Secretary of Commerce consult with the authority on matters of personnel.

Sec. 3. Executive Committee. There shall be an executive committee consisting of the chairman of the Authority and two other members elected annually by the Authority. The executive committee shall be vested with authority to do all acts which are specifically authorized by the bylaws of the Authority. Members of the executive committee shall serve until their successors are elected.

Sec. 4. Purposes of Authority. Through the Authority hereinbefore created, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating the seafood industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements incident thereto, including the acquisition or construction, maintenance and operation at such seafood industrial parks of watercraft and facilities thereon or essential for the proper operation thereof. Said Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

- (1) to develop and improve the Wanchese Seafood Industrial Park, and such other places, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of seafood commerce from and to any place or places in the State of North Carolina and other states and foreign countries;
- (2) to acquire, construct, equip, maintain, develop and improve the port facilities at said parks and to improve such portions of the waterways thereat as are within the jurisdiction of the federal government;
- (3) to foster and stimulate the shipment of seafood commerce through said ports, whether originating within or without the State of North Carolina, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same;
- (4) to cooperate with the United States of America and any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement and use of said seafood harbors;
- (5) to accept funds from any of said counties or cities wherein said ports are located and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the said county or city, and to act as agent or instrumentality, of any of said counties or cities in any matter coming within the general purposes of said Authority;
- (6) and in general to do and perform any act or function which may tend to be useful toward the development and improvement of seafood industrial parks of the State of North Carolina, and to increase the movement of waterborne seafood commerce, foreign and domestic, to, through, and from said seafood industrial parks.

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

Sec. 5. Powers of Authority. In order to enable it to carry out the purposes of this Article, the said Authority shall:

- (1) have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
- (2) have the authority to make all necessary contracts and arrangements with other seafood industrial park or port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the seafood industries;
- (3) be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal, as said Authority may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (4) be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches thereto;
- (5) be authorized and empowered to pay all necessary costs and expenses involved and incident to the formation and organization of said Authority, and incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article;
- (6) be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina or any political subdivision thereof or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend the same in accordance with the directions and requirements attached thereto, or imposed thereon by any such federal agency, the State of North Carolina, or any political subdivision thereof, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any political subdivisions thereof, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any political subdivision thereof;
- (7) be authorized and empowered to act as agent for the United States of America, or any agency, department, corporation, or instrumentality thereof, in any matter coming within the purposes or powers of the Authority;
- (8) have power to adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary or expedient in facilitating its business;
- (9) be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers in this section mentioned; and
- (10) be authorized and empowered to do any and all things necessary to accomplish the purposes of this Article.

Sec. 6. Approval of acquisition and disposition of real property. Any transactions relating to the acquisition or disposition of real property or any estate or interest in real property, by the North Carolina State Seafood Industrial Park Authority, shall be subject to prior review by the Governor and Council of State, and shall become effective only after the same has been approved by the Governor and Council of State. Upon the acquisition of real property or other estate therein, by the Authority, the fee title or other estate shall vest in and the instrument of conveyance shall name the "Seafood Industrial Park Authority" as grantee, lessee, or transferee. Upon the disposition of real property or any interest or estate therein, the instrument of conveyance or transfer shall be executed by the North Carolina Seafood Industrial Park Authority. The approval of any transaction by the Governor and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and said certificate may be recorded as a part thereof, and the same shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement, or right-of-way transactions as he deems advisable, and he may likewise delegate the review and approval of the severance of buildings and timber from the land.

Sec. 7. Issuance of bonds. (a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, or any other matter or thing which the Authority is herein authorized to acquire, construct, equip, maintain, or operate, all or any of them, the said Authority is hereby authorized at one time or from time to time to issue with the approval of the Advisory Budget Commission negotiable revenue bonds of the Authority. The principal and interest of such revenue bonds shall be payable solely from the revenue to be derived from the operation of all or any part of its properties and facilities.

(b) A pledge of the net revenues derived from the operation of said properties and facilities, all or any of them, shall be made to secure the payment of said bonds as and when they mature.

(c) Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of such revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(d) Such bonds and the income thereof shall be exempt from all taxation within the State.

(e) Notwithstanding any other provisions of this act, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the act upon request of the Authority and with the approval of the Local Government Commission. The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this act. The North Carolina Seafood Industrial Park Authority shall determine when a bond issue is indicated. The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys.

Sec. 8. Power of eminent domain. For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches thereto and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation

proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided by the general laws of the State of North Carolina for the procedure by any county, municipality or authority organized under the laws of this State. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use.

Sec. 9. Exchange of property; removal of buildings, etc. The Authority may exchange any property or properties acquired under the authority of this Chapter for other property, or properties usable in carrying out the powers hereby conferred, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, or other structures, upon the payment of just compensation, if in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for seafood industrial park development, under the authorization of this Article.

Sec. 10. Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police. (a) The jurisdiction of the Authority in any of said harbors or seaports within the State for the shipment of seafood commerce shall extend to all properties owned by or under control of the Authority and shall also extend over the waters and shores of such harbors or seaports and over that part of all tributary streams flowing into such harbors or seaports in which the tide ebbs and flows, and shall extend to the outer edge of the outer bar at such harbors or seaports.

(b) All the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are hereby made applicable to the streets, alleys and driveways on the properties owned by or under the control of the North Carolina Seafood Industrial Park Authority. Any person violating any of the provisions of said Chapter in or on such streets, alleys or driveways shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, alleys and driveways on the properties of said Authority as is now vested by law in the said Authority.

(c) The North Carolina Seafood Industrial Park Authority is hereby authorized to make such reasonable rules, regulations, and adopt such additional ordinances with respect to the use of the streets, alleys, driveways and to the establishment of parking areas on the properties of the Authority and relating to the safety and welfare of persons using the property of the Authority. All rules, regulations and ordinances adopted pursuant to the authority of this subsection shall be recorded in the proceedings of the Authority and printed and copy of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina and the Authority shall cause to be posted, at appropriate places on the properties of the Authority, notice to the public of applicable rules, regulations and ordinances as may be adopted under the authority of this subsection. Any person violating any such rules, regulations or ordinances shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine of not exceeding fifty dollars (\$50.00) or imprisonment not to exceed 30 days.

(d) The Secretary of Commerce is authorized to appoint such number of employees of the Authority as he may think proper as special policemen, who, when so appointed, shall have within the jurisdiction of the Authority all the powers of policemen of incorporated towns. Such policemen shall have the power of arrest of persons committing violations of State law or any rules, regulations and ordinances lawfully adopted by the Authority as herein authorized. Employees appointed as such special policemen shall take the general oath of office prescribed by G.S. 11-11.

Sec. 11. Annual audit; copies to be furnished. At least once in each year the State Auditor shall cause to be made a detailed audit of all moneys received and disbursed by the Authority during the preceding year. Such audit shall show the several sources from which funds were received and the balance on hand at the beginning and end of the preceding year and shall show the complete financial condition of the Authority. A copy of the said audit shall

be furnished to each member of the governing body of the said Authority and to the officers thereof and to the Governor and the Attorney General.

Sec. 12. Purchase of supplies, material and equipment. All the provisions of Article 3 of Chapter 143 of the General Statutes relating to the purchase of supplies, material and equipment by the State government are hereby made applicable to the North Carolina Seafood Industrial Park Authority.

Sec. 13. Liberal construction of Article. It is intended that the provisions of this Article shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

Sec. 14. Warehouses, wharves, etc., on property abutting navigable waters. The powers, authority and jurisdiction granted to the North Carolina Seafood Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent other persons, firms and corporations, including municipalities, from owning, constructing, leasing, managing and operating warehouses, structures and other improvements on property owned, leased or under the control of such other persons, firms and corporations abutting upon and adjacent to navigable waters and streams in this State, nor to prevent such other persons, firms and corporations from constructing, owning, leasing and operating in connection therewith wharves, docks and piers, nor to prevent such other persons, firms and corporations from encumbering, leasing, selling, conveying or otherwise dealing with and disposing of such properties, facilities, lands and improvements after such construction.

Sec. 15. Taxation. The property of the Authority shall not be subject to any taxes or assessments thereon.

Sec. 16. North Carolina Seafood Industrial Park Authority transfer. The North Carolina Seafood Industrial Park Authority, as contained in this Article, will take title to, develop and manage seafood industrial parks which henceforth has been the responsibility of several State agencies.

Sec. 17. If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Sec. 18. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of April, 1979.