

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 686
Committee Substitute Favorable 4/24/13

Short Title: NC Seafood Park/Name Change.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO RENAME THE NC SEAFOOD INDUSTRIAL PARK AUTHORITY TO
3 REFLECT ITS BROADER MISSION AND TO MAKE OTHER MODIFICATIONS TO
4 THE AUTHORITY'S ENABLING LEGISLATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 23C of Chapter 113 of the General Statutes reads as
7 rewritten:

8 "Article 23C.

9 "North Carolina ~~Seafood~~ Marine Industrial Park Authority.

10 "§ 113-315.25. **Creation of Authority; membership; appointment; terms and vacancies;**
11 **officers; meetings and quorum; compensation.**

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

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

16 The initial appointments by the Governor shall be made on or after the date of ratification,
17 four terms to expire July 1, 1981; four terms to expire July 1, 1983; and one term to expire July
18 1, 1985. Thereafter, at the expiration of each stipulated term of office all appointments shall be
19 for a term of four years. The members of the Authority shall be selected as follows: one
20 member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of ~~the~~
21 a village or town where ~~the a~~ Seafood Marine Industrial Park is located; one member be
22 appointed to the Authority for a term to expire July 1, 1983, who is a resident of ~~the a~~ county
23 where ~~the a~~ Seafood Marine Industrial Park is located; two members be appointed to the
24 Authority for terms which expire July 1, 1981, from the area of the State where ~~the a~~ Seafood
25 Marine Industrial Park is located; five members (two terms expire July 1, 1981; two terms
26 expire July 1, 1983; and one term expires July 1, 1985) be appointed to the Authority who are
27 residents of the State at large and insofar as practicable shall represent all the other sections of
28 the State. At the expiration of the terms for the representatives as stated above the Governor
29 shall use his discretion on reappointments. However, there shall be no less than five members
30 of the Authority from coastal counties and there should be at least one member on the
31 Authority from each village or town in which the ~~Seafood~~ Marine Parks are located. Any
32 vacancy occurring in the membership of the Authority shall be filled by the appointing
33 authority for the unexpired term. The Governor shall have the authority to remove any member
34 appointed by the Governor.

35 (c) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 36.



1 (d) The General Assembly shall appoint two persons, one upon the recommendation of
2 the Speaker of the House of Representatives, and one upon the recommendation of the
3 President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in
4 accordance with G.S. 120-121, and vacancies in those appointments shall be filled in
5 accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly
6 shall expire on June 30, 1983. The terms of subsequent appointees by the General Assembly
7 shall be two years.

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

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

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

19 **"§ 113-315.26. Personnel.**

20 The Secretary of Commerce shall appoint ~~such any~~ personnel as deemed necessary who
21 shall serve at the pleasure of the Secretary of Commerce. The Secretary of Commerce shall
22 have the power to appoint, employ and dismiss ~~such number of any~~ employees as ~~he may~~
23 ~~deem~~ deemed necessary to accomplish the purposes of this Article subject to the availability of
24 funds. It is recommended that, to the fullest extent possible, the Secretary of Commerce consult
25 with the Authority on matters of personnel.

26 ...

27 **"§ 113-315.28. Purposes of Authority.**

28 Through the Authority ~~hereinbefore~~ created by this Article, the State of North Carolina may
29 engage in promoting, developing, constructing, equipping, maintaining and operating ~~the~~
30 ~~seafood~~ one or more marine industrial parks within the State, or within the jurisdiction of the
31 State, and works of internal improvements ~~incident thereto~~, related to the purposes set forth in
32 this section, including the acquisition or construction, maintenance and operation ~~as such~~
33 ~~seafood industrial parks~~ of watercraft and facilities ~~thereon~~ located at the parks or essential for
34 the proper operation ~~thereof~~ of the parks. ~~Said~~ The Authority is created as an instrumentality of
35 the State of North Carolina for the accomplishment of the following general purposes:

- 36 (1) To develop and improve the Wanchese ~~Seafood~~ Marine Industrial Park, and
37 such other ~~places~~ marine industrial parks, including inland ports and
38 facilities, as may be deemed feasible for a more expeditious and efficient
39 handling of ~~seafood~~ marine commerce from and to any place or places in the
40 State of North Carolina and other states and foreign countries;
- 41 (2) To acquire, construct, equip, maintain, develop and improve the port
42 facilities at ~~said~~ the parks and to maintain, develop, and improve such
43 ~~portions of the~~ the navigability of waterways thereat ~~in or adjacent to the~~
44 parks as are within the jurisdiction of the federal government and the those
45 waterways connecting the Wanchese Seafood Industrial Park ~~parks~~ with
46 the channels of commerce of the Atlantic Ocean, ~~consistent with the project~~
47 ~~designed by the United States Army Corps of Engineers pursuant to the~~
48 ~~Manteo (Shallowbag) Bay navigation project as authorized in the Rivers and~~
49 ~~Harbors Act of 1970 (P.L. 91-611);~~ Ocean;
- 50 (3) To foster and stimulate the ~~shipment of seafood commerce through said~~
51 ~~ports, whether originating within or without the State of North Carolina,~~

1 including the investigation and handling of matters pertaining to all
 2 transportation rates and rate structures affecting the same; growth of
 3 marine-related industries in the State of North Carolina;

- 4 (4) ~~To cooperate with the United States of America and any agency, department,~~
 5 ~~corporation or instrumentality thereof in the maintenance, development,~~
 6 ~~improvement and use of said seafood harbors and the waterways connecting~~
 7 ~~the parks with the channels of commerce of the Atlantic Ocean;~~
- 8 (5) ~~To accept funds from any of said counties or cities wherein said ports are~~
 9 ~~located containing a marine industrial park and to use the same in such~~
 10 manner, within the purposes of said Authority, as shall be stipulated by the
 11 ~~said funding~~ county or city, and to act as agent or instrumentality of any of
 12 ~~said funding~~ counties or cities in any matter coming within the general
 13 purposes of said Authority;
- 14 (5a) To encourage and develop the general maritime and marine-related
 15 industries and activities at or in the vicinity of the ~~seafood~~ marine industrial
 16 parks;
- 17 (6) And in general to do and perform any act or function which may tend to be
 18 useful toward the development and improvement of ~~seafood~~ marine
 19 industrial parks ~~of in~~ the State of North Carolina, and to increase the
 20 movement of waterborne ~~seafood~~ marine commerce, foreign and domestic,
 21 to, through, and from ~~said seafood~~ the marine industrial parks.

22 The enumeration of the above purposes shall not limit or circumscribe the broad objective
 23 of developing to the utmost the ~~seafood~~ marine industry possibilities of the State of North
 24 Carolina.

25 **"§ 113-315.29. Powers of Authority.**

26 In order to enable it to carry out the purposes of this Article, the Authority shall:

- 27 (1) Have the powers of a body corporate, including the power to sue and be
 28 sued, to make contracts, and to adopt and use a common seal and to alter the
 29 same as may be deemed expedient;
- 30 (2) Have the authority to make all necessary contracts and arrangements with
 31 other ~~seafood~~ marine industrial park or port authorities of this and other
 32 states for the interchange of business, and for such other purposes as will
 33 facilitate and increase the ~~seafood~~ marine industries;
- 34 (3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage,
 35 otherwise encumber, and dispose of such property, real or personal, as said
 36 Authority may deem proper to carry out the purposes and provisions of this
 37 Article, all or any of them;
- 38 (4) Be authorized and empowered to acquire, construct, maintain, equip and
 39 operate any wharves, docks, piers, quays, elevators, compresses,
 40 refrigeration storage plants, warehouses and other structures, and any and all
 41 facilities needful for the convenient use of the same in the aid of commerce,
 42 including the dredging of approaches ~~thereto;~~ to port facilities at the parks
 43 and improving the navigability of those waterways connecting the parks with
 44 the channels of commerce of the Atlantic Ocean;
- 45 (5) Be authorized and empowered to pay all necessary costs and expenses
 46 involved and incident to the formation and organization of ~~said the~~
 47 Authority, and incident to ~~the~~ its administration and ~~operation~~
 48 ~~thereof;~~ operation, and to pay all other costs and expenses reasonably
 49 necessary or expedient in carrying out and accomplishing the purposes of
 50 this Article;

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

32 **"§ 113-315.30. Approval of acquisition and disposition of real property.**

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

"§ 113-315.31. 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~~, operate by this Article, 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 Governor negotiable revenue bonds of the Authority. The principal and interest of 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~~ the properties and facilities, all or any of them, shall be made to secure the payment of ~~said bonds~~ the bonds issued to finance them 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~~ derived from them shall be exempt from all taxation within the State.

(e) Notwithstanding any other provisions of this Article, 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 Governor after receiving the advice 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 Article. The North Carolina ~~Seafood-Marine~~ 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.

"§ 113-315.32. 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, including the navigation stabilization structures ~~recommended by the United States Army Corps of Engineers pursuant to the authorization in United States Public Law 91-611~~, 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 for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use, other than lands subject to the power of eminent domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548.

"§ 113-315.33. 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~~, conferred by this Article, 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-marine~~ industrial park development, under the authorization of this Article.

1 **"§ 113-315.34. Jurisdiction of the Authority; application of Chapter 20; appointment and**
2 **authority of special police.**

3 (a) The jurisdiction of the Authority in any of ~~said harbors or seaports within the State~~
4 ~~for the shipment of seafood commerce~~ the parks shall extend to all properties owned by or
5 under control of the Authority and shall also extend over the waters and shores ~~of such harbors~~
6 ~~or seaports~~ within the parks and over that part of all tributary streams flowing into ~~such harbors~~
7 ~~or seaports~~ the parks in which the tide ebbs and flows, and shall extend to the outer edge of the
8 outer bar situated at such harbors or seaports ~~the approach to the port of any park~~.

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

17 (c) The Authority shall post copies of rules concerning traffic and parking at
18 appropriate places on property of the Authority. Violation of a rule concerning traffic or
19 parking on property of the Authority is a Class 3 misdemeanor.

20 (d) The Secretary of Commerce is authorized to appoint such number of employees of
21 the Authority as he may think proper as special policemen, who, when so appointed, shall have
22 within the jurisdiction of the Authority all the powers of policemen of incorporated towns.
23 Special policemen may arrest persons who violate State law or a rule adopted by the Authority.
24 Employees appointed as such special policemen shall take the general oath of office prescribed
25 by G.S. 11-11.

26 **"§ 113-315.35. Audit.**

27 The operations of the North Carolina ~~Seafood-Marine~~ Industrial Park Authority shall be
28 subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the
29 General Statutes.

30 **"§ 113-315.36. Building contracts.**

31 (a) The following general laws, to the extent provided below, do not apply to the North
32 Carolina ~~Seafood-Marine~~ Industrial Park Authority:

33 (1) Repealed by Session Laws 1999-368, s. 1.

34 (2) Except for G.S. 143-128.2, Article 8 of Chapter 143 of the General Statutes
35 does not apply to public building contracts of the Authority that require the
36 estimated expenditure of public money in an amount less than two hundred
37 fifty thousand dollars (\$250,000). With respect to a contract that is exempted
38 from certain provisions of Article 8 under this subdivision, the powers and
39 duties set out in Article 8 shall be exercised by the Authority, and the
40 Secretary of Administration and other State officers, employees, or agencies
41 shall have no duties or responsibilities concerning the contract.

42 (3) G.S. 143-341(3) does not apply to plans and specifications for construction
43 or renovation authorized by the Authority that require the estimated
44 expenditure of public money in an amount less than two hundred fifty
45 thousand dollars (\$250,000).

46 (b) Notwithstanding the other provisions of this section, the services of the Department
47 of Administration may be made available to the Authority, when requested by the Authority,
48 with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and
49 G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Commission on
50 Governmental Operations on any building contract to which this exemption is applied. The

1 quarterly report required by this subsection shall specifically include information regarding the
2 Authority's compliance with the provisions of G.S. 143-128.2.

3 ...

4 **"§ 113-315.38. Warehouses, wharves, etc., on property abutting navigable waters.**

5 The powers, authority and jurisdiction granted to the North Carolina ~~Seafood~~-Marine
6 Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent
7 other persons, firms and corporations, including municipalities, from owning, constructing,
8 leasing, managing and operating warehouses, structures and other improvements on property
9 ~~owned, leased or under the control of such other persons, firms and corporations~~they own,
10 lease, or control abutting upon and adjacent to navigable waters and streams in this State, nor to
11 prevent ~~such~~ other persons, firms and corporations from constructing, owning, leasing and
12 operating ~~in connection therewith~~ wharves, docks and ~~piers,~~piers associated with the
13 warehouses, structures, and other improvements, nor to prevent ~~such~~ other persons, firms and
14 corporations from encumbering, leasing, selling, conveying or otherwise dealing with and
15 disposing of ~~such~~ the properties, facilities, lands and improvements after ~~such~~ construction.

16 **"§ 113-315.39. Taxation.**

17 The property of the Authority shall not be subject to any taxes or ~~assessments~~
18 ~~thereon.~~assessments."

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