



HOUSE BILL 1168: Murphy Branch Corridor Reduction.

2019-2020 General Assembly

Committee:		Date:	May 28, 2020
Introduced by:	Reps. Corbin, McNeely	Prepared by:	Howard Marsilio
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 1168 would authorize the Department of Transportation (DOT) to transfer interests in certain portions of the Murphy Branch rail corridor to adjacent property owners without consideration and subject to federal requirements.*

CURRENT LAW: Article 2D of Chapter 136 relates to railroad revitalization and the programs for railway corridor preservation. The Department of Transportation is the State agency responsible for administering all State and federal railroad revitalization programs.

Article I, Sec. 32 of the North Carolina Constitution states that "No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services."

BILL ANALYSIS: House Bill 1168 would:

- Uniformly reduce DOT's right-of-way interests in a portion of the Murphy Branch rail corridor to 25ft on each side of the center line of the tracks.
 - Any interest in real property previously held by the State would be transferred to adjacent property owners without consideration.
 - This reduction of right-of-way and transfer would be subject to applicable federal requirements.
- Require real property recipients wanting record evidence of the transfer to petition DOT for a quitclaim deed evidencing the transfer at the recipient's expense within two years of the effective date of this act.
- Exempt transfers under this act from Council of State or Board of Transportation approval.
- Require DOT to retain a 15ft wide easement for maintenance access next to the retained portion of the corridor.
- Require DOT to convey their interests, upon application of any person owning an underlying fee simple interest in that portion of the rail corridor, if the DOT determines that portion is not needed for future transportation or utility purposes.
- Repeal a DOT authorization to enter into a lease agreement with the County of Cherokee and the Towns of Andrews and Murphy for interim public recreation use along part of this corridor.
- Appropriate \$1,000 in nonrecurring funds for FY 2020/2021 from the Highway Fund for costs related to implementing this act.

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The requirement that DOT transfer interests in rights-of-way to adjacent property owners without consideration could be held by a court to be a violation of Article 1, Section 32 of the North Carolina Constitution rendering the transfer void.

EFFECTIVE DATE: Section 7 of this act would become effective July 1, 2020. The remainder of this act would become effective when it becomes law.