

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-172
SENATE BILL 435**

**AN ACT CLARIFYING THE AUTHORITY OF THE COUNTY OF DURHAM TO
ENTER INTO PUBLIC-PRIVATE PROJECTS.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 908 of the 1986 Session Laws, as amended by Section 2 of Chapter 789 of the 1987 Session Laws, reads as rewritten:

"Section 1. (a) Definition. For the purpose of this act, ~~an "urban development project"~~ a "public-private project" is defined as a capital project which is comprised of one or more buildings or other improvements and includes both public and private facilities. ~~By way of illustration and not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center, and a privately owned hotel or office building. The public-private project may be located anywhere within Durham County, including those portions of Durham County within municipal limits.~~

(b) Authorization. If the Board of Commissioners of Durham County determines that the County will significantly benefit from the County's participation in the development of ~~an urban development~~ a public-private project, as defined, then the County may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of ~~an urban development~~ a public-private project, or of specific facilities within such a project, including the making of loans and grants from moneys lawfully available therefore. The County may enter into binding contracts with the City of Durham or one or more private developers, or both, with respect to acquiring, constructing, owning, or operating such a project. ~~Such a~~ The contract shall among other provisions, specify the following:

(1) The property interest of the County and all other participants in the development of the project.

(2) The responsibilities of the County and all other participants in the development of the project.

(3) The responsibilities of the County and all other participants with respect to financing of the project.

~~Such a~~ The contract may be entered into before or after the acquisition of any real property necessary to the project.

(c) Property acquisition. ~~An urban development~~ A public-private project may be constructed on property acquired by the developer or developers, on property acquired by the County, on property acquired by the City, or on property acquired by the County, City, and developers.

(d) Property disposition. The County may lease or convey its interest in ~~urban development-public-private~~ projects property or other property owned by it, including air rights over public facilities, through any of the methods authorized in G.S. 153A-176 and G.S. 160A-266 including private negotiation and sale without limitation as to value of the interest conveyed. Notwithstanding the provisions of G.S. 160A-272, property owned by the County may be leased for a period of 10 years or longer without being treated as a sale of the property.

(e) Construction of the project. The contract between the county and the developer or developers may provide that the developer or developers shall be responsible for: (i) construction of the entire ~~urban development-public-private~~ project, (ii) reconstruction and/or repair of the ~~urban development-public-private~~ project or any part thereof subsequent to construction of said project, (iii) construction of any addition to the ~~urban development-public-private~~ project, (iv) renovation of the ~~urban development-public-private~~ project or any part thereof, and/or (v) purchase of apparatus, supplies, materials, or equipment for the ~~urban development-public-private~~ project (whether during the initial equipping of the said project or subsequent thereto). Additionally, the contract between the county and the developer or developers may provide that the county and the developer or developers shall use the same contractor or contractors in constructing a portion of or the entire public-private project. If so, the contract shall include such provisions as the board of county commissioners deems sufficient to assure that the public facility or facilities included in the project or added thereto are constructed, reconstructed, repaired and/or renovated, and the apparatus, supplies, materials and equipment purchased for the public facility or facilities included in the project, are purchased at a reasonable price and the provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statutes shall not apply to such ~~urban development~~ the public-private project.

(f) Operation. The County may contract for the operation of any public facility or facilities included in ~~an urban development-a public-private~~ project by any person, firm, or corporation, public or private.

(g) Financing. To assist in the financing of its share of ~~an urban development-a public-private~~ project, the County may apply for, accept, and expend funds from the federal or State government or any other lawful source.

(h) Other authority. The authority granted by this section is in addition to and not in derogation of any other lawful authority granted to the County by law. The County may exercise any authority granted to it by local act or general statute or law in furtherance of ~~an urban development-a public-private~~ project. By way of illustration but not of limitation, the County may exercise the following authority in furtherance of ~~an urban development-a public-private~~ project:

(1) The authority granted in G.S. 153A-176 and Article 12 of Chapter 160A with respect to the public or private sale, lease, rent, exchange, or other conveyance of property.

(2) The authority of G.S. 153A-13 and G.S. 153A-449 with respect to contracts with, and appropriation of money to, persons, associations or corporations for the accomplishment of public purposes."

SECTION 2. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 11th day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives