

JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE



REPORT TO THE
2006 SESSION OF THE
2005 GENERAL ASSEMBLY
OF NORTH CAROLINA

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May 8, 2006

TO THE MEMBERS OF THE 2006 SESSION OF THE 2005 GENERAL ASSEMBLY:

The Joint Legislative Transportation Oversight Committee herewith submits to you for your consideration its May, 2006 report. The report was prepared by the Joint Legislative Transportation Oversight Committee pursuant to G.S. 120-70.51(b).

Senator Clark Jenkins

Representative Nelson Cole

Cochairs

JOINT LEGISLATIVE TRANSPORTATION
OVERSIGHT COMMITTEE

COMMITTEE PROCEEDINGS

November 17, 2005

The first meeting of the Joint Legislative Transportation Oversight Committee following the 2005 Session took place at 10:00 a.m. November 17, 2005 in room 1228 of the Legislative Building.

The Committee heard presentations from: Mark Foster, Chief Financial Offer, DOT, on DOT cash management; Calvin Leggett, Manager, Program Development Branch, DOT, on the Transportation Improvement Program for 2006-2012; Susan Coward, DOT Deputy Secretary for Intergovernmental Affairs, Debbie Barbour, Director of Preconstruction, and Calvin Leggett, on the DOT response to the Dye Management report on DOT project delivery; Len Sanderson, State Highway Administrator, DOT, on I-40 repair work in Orange County; and Dave Henderson, State Hydraulics Engineer, DOT, on a coastal stormwater pilot project.

December 13, 2005

The second meeting of the Committee in the 2005-2006 interim took place December 13, 2005 at 10:00 a.m. in room 1228 of the Legislative Building.

The Committee heard presentations from: Lindo Tippett, Secretary of Transportation, DOT and Chair, NC Turnpike Authority, and David Joyner, Executive Director, NC Turnpike Authority, on the work of the Authority; William Carstarphen; Co-chair of NC Go, on its recommendations concerning transportation in the State; Johnny Martin, Moffatt & Nichol, on its shallow draft navigation channel report; Steve Varnedoe, Chief Engineer, DOT, on the NC Moving Ahead program, Jennifer Brandenburg, State Road Maintenance Engineer, DOT, on DOT's productivity pilot program; and Bob Weiss, Fiscal Research Division, on the proposed selection of Dye Management to undertake the DMV online dealer registration study.

January 17, 2006

The third meeting of the Committee in the 2005-2006 interim took place January 17, 2006 at 10:00 a.m. in room 1228 of the Legislative Building.

The Committee heard presentations from: Senator R.C. Soles, Jr., on a proposed resolution supporting a study by the North Carolina Turnpike Authority of the use of tolls to construct, operate and maintain Interstate 74 in Brunswick and Columbus Counties; Colonel W. Fletcher Clay, State Highway Patrol, and Major C.J. Carden, Motor Carrier Enforcement Administration Section, State Highway Patrol, on motor carrier enforcement performance, civilian inspection support teams, and weigh-in-motion data; Mark Foster, Chief Financial Officer, DOT, on the Ecosystem Enhancement Program, GARVEE Bonds and the DOT/Treasurer report on financing, and the rationale for reductions in the Moving Ahead program; Tom Norman, Director, Bicycle and Pedestrian Division, DOT on the Bicycle and Pedestrian Program; and Miriam Perry, Director, Public Transportation Division, DOT, on transportation services for trade shows.

February 21, 2006

The fourth meeting of the Committee in the 2005-2006 interim took place February 21, 2006 at 1:30 p.m. in Room 1228 of the Legislative Building.

The Committee heard presentations from: Senator R.C. Soles, Jr., on a proposed resolution supporting a study by the North Carolina Turnpike Authority on the use of tolls to construct, operate and maintain Interstate 74 in Brunswick and Columbus Counties; Ron Tober, Chief Executive Officer of the Charlotte Area Transit System, on their light rail project; Christie Barbee, Executive Director of the Carolina Asphalt Pavement Association, on rising construction costs; Byron York, President of 2Plus of North Carolina, Inc., on carpooling; Lacy Love, Director of Asset Management, DOT, on the effects of weight exemptions on pavements.

March 22, 2006

The fifth meeting of the Committee in the 2005-2006 interim took place March 22, 2006 at 1:30 p.m. in Room 1228 of the Legislative Building.

The Committee heard presentations from: Glenn Carlson, Managing Director, Business Development, North Carolina Ports Authority, on the State Ports, including their proposed expansion project; John Dillard, Director of Public Affairs, on the operations of CSX Railroad; Scott Saylor, President, North Carolina Railroad, on the Railroad and the State Ports; Darlene Waddell, Executive Director, North Carolina Global TransPark Authority on the current status of operations at the Global TransPark; and Queen Crittendon, Director, Civil Rights and Business Development, DOT, Tiare Smiley, Special Deputy Attorney General, Dept. of Justice, Andrea Harris, NAACP, C.C. Lambeth, NC Association of Minority Contractors, Ron Leeper, United Minority Contractors of North Carolina, Inc., Barry Jenkins, NC Association of General Contractors, and Jim Trogdon, Senate/House Transportation Staff, on DOT Minority Contracting Issues.

April 18, 2006

The sixth meeting of the Committee in the 2005-2006 interim took place April 18, 2006 at 1:30 p.m. in Room 1228 of the Legislative Building.

The Committee heard presentations from: Rob Martinez, Vice President for Business Development, Norfolk Southern, on its Intermodal business and the proposed intermodal facility in the Charlotte Area; Robert Cooney, Dye Management, on its DMV online registration report; Bill Carstarphen, Co-chair of NC GO, on its recommendations for funding the State's transportation needs; Ralph Edelberg, State Purchasing Office, on the State's retreading contract; and Greg Bohn and Jim Clemans of Advanced Drainage Systems, Inc., on its pipe product.

May 8, 2006

The seventh and final meeting of the Committee in the 2005-2006 interim took place May 8, 2006 at 1:00 p.m. in Room 1228 of the Legislative Building.

The Committee heard presentations from Mark Foster, Chief Financial Officer, DOT, on DOT's financial condition and outlook, and Major Woody Sandy, State Highway Patrol, on the VIPER communications system. The Committee also discussed and approved the proposed legislation in this report for introduction in the 2006 session of the General Assembly.

**MEMBERSHIP OF THE
JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE
2005-2006**

G.S. 120-70.50

Pro Tem's Appointments

Sen. Samuel Clark Jenkins Co-Chair
North Carolina Senate
300 N. Salisbury Street, Room 308
Raleigh, NC 27603-5925
(919) 715-3040

Sen. Philip Edward Berger
North Carolina Senate
16 W. Jones Street, Room 1026
Raleigh, NC 27601-2808
(919) 733-5708

Sen. David W. Hoyle
North Carolina Senate
300 N. Salisbury Street, Room 300-A
Raleigh, NC 27603-5925
(919) 733-5734

Sen. Neal Hunt
North Carolina Senate
16 W. Jones Street, Room 1102
Raleigh, NC 27601-2808
(919) 733-5850

Sen. John Hosea Kerr III
North Carolina Senate
300 N. Salisbury Street, Room 526
Raleigh, NC 27603-5925
(919) 733-5621

Sen. Anthony Eden Rand
North Carolina Senate
300 N. Salisbury Street, Room 300-C
Raleigh, NC 27603-5925
(919) 733-9892

Sen. Robert Charles Soles Jr.
North Carolina Senate
16 W. Jones Street, Room 2022
Raleigh, NC 27601-2808
(919) 733-5963

Speaker's Appointments

Rep. E. Nelson Cole Co-Chair
North Carolina House of Representatives
16 W. Jones Street, Room 1218
Raleigh, NC 27601-1096
(919) 733-5779

Rep. Cary Dale Allred
North Carolina House of Representatives
300 N. Salisbury Street, Room 606
Raleigh, NC 27603-5925
(919) 733-5905

Rep. Becky Carney
North Carolina House of Representatives
16 W. Jones Street, Room 1221
Raleigh, NC 27601-1096
(919) 733-5827

Rep. Lorene Thomason Coates
North Carolina House of Representatives
300 N. Salisbury Street, Room 633
Raleigh, NC 27603-5925
(919) 733-5784

Rep. James Walker Crawford Jr.
North Carolina House of Representatives
16 W. Jones Street, Room 2301
Raleigh, NC 27601-1096
(919) 733-5824

Rep. Earl F. Jones
North Carolina House of Representatives
300 N. Salisbury Street, Room 536
Raleigh, NC 27603-5925
(919) 733-5825

Rep. Daniel Francis McComas
North Carolina House of Representatives
300 N. Salisbury Street, Room 506
Raleigh, NC 27603-5925
(919) 733-5786

Sen. Richard Yates Stevens
North Carolina Senate
300 N. Salisbury Street, Room 406
Raleigh, NC 27603-5925
(919) 733-5653

Rep. Drew Paschal Saunders
North Carolina House of Representatives
16 W. Jones Street, Room 2217
Raleigh, NC 27601-1096
(919) 733-5606

Rep. Bonner L. Stiller
North Carolina House of Representatives
300 N. Salisbury Street, Room 301-B
Raleigh, NC 27603-5925
(919) 733-5974

Staff to Committee

Giles Perry
Wendy Graf Ray
Research Division
Research Division
(919) 733-2578

Contact

Carol Resar
(919) 715-3036

Bob Weiss
Lisa Hollowell
Fiscal Research Division
(919) 733-4910

LEGISLATIVE PROPOSALS

At its May, 2006 meeting, the Committee approved for transmittal to the 2006 session of the General Assembly the following proposals:

Proposal #1

DOT Contract Provision Changes

Draft # 2005-RWz-40

Proposal #1 amends current law governing use of alternate contract provisions in DOT contracts. NC DOT is authorized by federal law (23 C.F.R. § 635.109) to use alternative contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work, if the alternative contract provisions are required by State law.

Section 1 of this proposal modifies the State law requirement to use alternate contract provisions in two ways: by correcting a federal Code reference and by changing the source of the alternative contract provisions to provisions developed by NC DOT and approved by the Board of Transportation.

Section 2 of this proposal provides that it would become effective July 1, 2006.

Proposal #2

DOT Secondary Road Formula Change

Draft # 2005-RWz-41

Section 1 of this proposal amends the secondary road construction formula, which was revised in 2005 (HB 750, S.L. 2005-404), to add paved road mileage in the denominator of the formula.

Section 2 of this proposal provides that it would become effective July 1, 2006.

Proposal #3

DOT Performance Based Maintenance Contracts Bonds

Draft # 2005-RWz-42

Section 1 of this proposal authorizes DOT to modify the bonding requirements for two specific performance based contracts for routine maintenance and operations authorized by a 2005 budget provision (Section 28.10 of S.L. 2005-276).

Section 2 of this proposal provides that it would become effective July 1, 2006.

Proposal #4
DOT General Contractor License Exceptions
Draft # 2005-RWz-43

Section 1 of this proposal exempts DOT contracts for: (1) routine maintenance and minor repair of: pavements, bridges, roadside vegetation and plantings, drainage systems, concrete sidewalks, curbs, gutters, and rest areas; and (2) installation and maintenance of: pavement markings and markers, ground mounted signs, guardrail, fencing, and roadside vegetation and plantings from the general contractor licensing requirements of Article 1 of Chapter 87.

Section 2 of the proposal is a cross reference to the exception in Article 1 of Chapter 87.

Section 3 of this proposal provides that it would become effective July 1, 2006.

Proposal #5
Repeal Toll Bridge Authority
Draft # 2005-RWz-45

Section 1 of this proposal repeals the North Carolina Bridge Authority (Article 6F of Chapter 136) and the authorization for NC DOT to issue a private pilot toll project license (Article 6G of Chapter 136).

Section 2 of this proposal provides that it would effective become when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS15282-RWz-40* (04/12)

Short Title: DOT Contract Provision Changes.

(Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE BOARD OF TRANSPORTATION TO APPROVE STANDARD DEPARTMENT OF TRANSPORTATION CONTRACT PROVISIONS ON DIFFERING SITE CONDITIONS, SUSPENSIONS OF WORK, AND CHANGES IN CHARACTER OF WORK, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.1(a) reads as rewritten:

"(a) All contracts over one million two hundred thousand dollars (\$1,200,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and ~~23 C.F.R. § 635.131(a)~~ 23 C.F.R. § 635.109 for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. For those federal aid projects, the Department of Transportation shall use only the contract provisions provided in for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work developed by the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted and approved by the Board of Transportation in accordance with the Administrative Procedure Act. Transportation."

SECTION 2. This act becomes effective July 1, 2006.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS65393-RWz-41* (04/12)

Short Title: DOT Secondary Road Formula Change. (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DEPARTMENT OF TRANSPORTATION SECONDARY
ROAD CONSTRUCTION FORMULA, AS RECOMMENDED BY THE JOINT
LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.5(b) reads as rewritten:

"(b) The first sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated as follows: Each county shall receive a percentage of these funds, the percentage to be determined as a factor of the number of miles of paved and unpaved State-maintained secondary roads in the county divided by the total number of miles of paved and unpaved State-maintained secondary roads in the State, excluding those unpaved secondary roads that have been determined to be eligible for paving as defined in subsection (a) of this section. Beginning in fiscal year 2010-2011, allocations pursuant to this subsection shall be based on the total number of secondary miles in a county in proportion to the total State-maintained secondary road mileage."

SECTION 2. This act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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D

SENATE DRS85321RWz-42* (04/10)

Short Title: DOT Perf. Based Maintenance Contract Bonds. (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE BONDING REQUIREMENTS FOR UP TO TWO DOT PERFORMANCE BASED CONTRACTS FOR ROUTINE MAINTENANCE AND OPERATIONS, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 28.10 of S.L. 2005-276 reads as rewritten:

"SECTION 28.10.(a) The Department of Transportation may implement up to two performance-based contracts for routine maintenance and operations, exclusive of resurfacing. Selection of firms to perform this work shall be made using a best-value procurement process.

Prior to any advertisement for a proposed project, the Department shall report to the Joint Legislative Transportation Oversight Committee on the contractor selection criteria to be used.

SECTION 28.10.(b) For contracts authorized under this section, notwithstanding G.S. 44A-26(a)(1) and (a)(2), the Department of Transportation may require the bonds issued pursuant to Article 3 of Chapter 44A of the General Statutes for public construction to be provided on a periodic basis and in the amount to cover that specific period rather than for the entire project duration.

SECTION 2. This act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55318RWz-43* (04/12)

Short Title: DOT General Contractor License Exceptions. (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN DOT CONTRACTORS FROM THE
REQUIREMENT FOR A GENERAL CONTRACTOR'S LICENSE, AS
RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION
OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a
new section to read:

"§ 136-28.14. Project contractor licensing requirements.

The letting of contracts under this Chapter for the following types of projects shall
not be subject to the licensing requirements of Article 1 of Chapter 87 of the General
Statutes:

(1) Routine maintenance and minor repair of: pavements, bridges, roadside
vegetation and plantings, drainage systems, concrete sidewalks, curbs,
gutters, and rest areas.

(2) Installation and maintenance of: pavement markings and markers, ground
mounted signs, guardrail, fencing, and roadside vegetation and
plantings."

SECTION 2. Chapter 87 of the General Statutes is amended by adding a
new section to read:

"§ 87-1.2 Exception for specified Department of Transportation contractors.

The letting of contracts for the types of projects specified in G.S. 136-28.14 shall not
be subject to the licensing requirement of G.S. 87-1.

SECTION 3. This act becomes effective July 1, 2006.

