

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1443*

Short Title: City Participation–Road Building.

(Public)

Sponsors: Representatives Miner; Blue (Primary Sponsors), Adams, Alexander, Bowie, Cansler, Capps, Cunningham, Decker, Earle, Easterling, Eddins, Ellis, Gray, Gulley, Hensley, Hurley, Jarrell, Jeffus, Kinney, McAllister, McComas, McCombs, McMahan, Morris, Mosley, Pope, Rayfield, Saunders, Sherrill, Starnes, Wainwright, Warner, C. Wilson, Womble, and Wright.

Referred to: Transportation.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE STATUTE GOVERNING MUNICIPAL PARTICIPATION IN IMPROVEMENTS TO THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"§ 136-66.3. Municipal participation in improvements to the State highway system.

(a) ~~Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right of way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

(b) ~~The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by~~

1 ~~funds allocated by the General Assembly for the "Small Urban Construction Program".~~
2 The municipalities may, but shall not be required to, participate in the right-of-way and
3 construction cost of ~~"Small Urban Construction Program"~~ highway improvements.

4 (c) ~~A municipality is authorized and empowered to~~ may acquire land by dedication
5 and acceptance, purchase, or eminent domain, and make improvements to portions of the
6 State highway system lying within or outside the municipal corporate limits utilizing
7 local funds that have been authorized for that ~~purpose by a vote of the citizens of the~~
8 ~~municipality.~~ purpose. The governing body of the municipality may call a special
9 referendum at any time to allow this use of funds. ~~The total cost of the improvements~~
10 ~~authorized by this subsection shall be the responsibility of the municipality and shall not~~
11 ~~be participated in by the Department of Transportation, nor shall the construction of~~
12 ~~improvements~~ be a consideration for any other project by the Department of
13 Transportation. All improvements to the State highway system shall be done in
14 accordance with the specifications and requirements of the Department of Transportation
15 and shall be set forth in an agreement entered into between the municipality and the
16 Department. The Board of Transportation shall not give consideration to or credit for
17 such locally financed improvements in the Transportation Improvement Program under
18 G.S. 143B-350(f)(4).

19 (d) When in the review and approval by a municipality of plans for the
20 development of property abutting the State highway system it is determined by the
21 municipality that improvements to the State highway system are necessary to provide for
22 the safe and orderly movement of traffic, the municipality is authorized to construct, or
23 have constructed, said improvements to the State highway system in vicinity of the
24 development. For purposes of this section, improvements include but are not limited to
25 additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All
26 improvements to the State highway system shall be constructed in accordance with the
27 specifications and requirements of the Department of Transportation and be approved by
28 the Department of Transportation.

29 (e) A municipality may pursuant to an agreement with the Department of
30 Transportation reimburse the Department of Transportation for the cost of all
31 improvements, including additional right-of-way, for a street or highway improvement
32 project approved by the Board of Transportation under G.S. 143B-350(f)(4) that are in
33 addition to those improvements that the Department of Transportation would normally
34 include in the project.

35 (f) ~~Municipalities having a population of less than 10,000 according to the most~~
36 ~~recent annual estimates of population as certified to the Secretary of Revenue by the State~~
37 ~~Budget Officer shall not participate in the right-of-way and construction costs of any~~
38 ~~State highway system improvement project approved by the Board of Transportation~~
39 ~~under G.S. 143B-350(f)(4).~~

40 ~~Municipalities having a population of 10,000 or more according to the most recent~~
41 ~~annual estimates of population as certified to the Secretary of Revenue by the State~~
42 ~~Budget Officer may, but shall not be required by the Department or Board of~~
43 ~~Transportation, participate up to a maximum percentage as shown below in the cost of~~

~~rights-of-way of the portion of any transportation improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal corporate limits:~~

Municipal Maximum Participation	
Population	In
Right-of-Way Costs	
10,000—25,000	5%
25,001—50,000	10%
50,001—100,000	15%
—over 100,000	25%

Any participation shall be set forth in an agreement between the municipality and the Department of Transportation. Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs of rights-of-way necessary for the project. The Department of Transportation shall not charge a municipality ~~any interest on its agreed-upon share of rights-of-way costs during the initial three years.~~ The Secretary-Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State highway system.

1 (i) Either the municipality or the Department of Transportation may at any time
2 propose changes in the agreement setting forth their respective responsibilities ~~for right-~~
3 ~~of-way acquisition~~ by giving notice to the other party, but no change shall be effective
4 until it is adopted by both the municipal governing body and the Department of
5 Transportation.

6 (j) Any municipality that agrees to contribute any part of the cost of ~~acquiring~~
7 ~~rights-of-way for~~ improvements to any State highway system street or highway shall be a
8 proper party in any proceeding in court relating to the acquisition of such rights-of-way."

9 Section 2. This act is effective when it becomes law.