

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 435
State and Local Government Committee Substitute Adopted 6/1/05

Short Title: Durham County Public-Private Partnerships.

(Local)

Sponsors:

Referred to:

March 9, 2005

A BILL TO BE ENTITLED

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

3 The General Assembly of North Carolina enacts:

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

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

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

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

26 (2) The responsibilities of the County and all other participants in the
27 development of the project.
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1 (3) The responsibilities of the County and all other participants with respect to
2 financing of the project.

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

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

9 (d) Property disposition. The County may lease or convey its interest in ~~urban~~
10 ~~development~~ public-private projects property or other property owned by it, including
11 air rights over public facilities, through any of the methods authorized in G.S. 153A-
12 176 and G.S. 160A-266 including private negotiation and sale without limitation as to
13 value of the interest conveyed. Notwithstanding the provisions of G.S. 160A-272,
14 property owned by the County may be leased for a period of 10 years or longer without
15 being treated as a sale of the property.

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

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

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

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

1 not of limitation, the County may exercise the following authority in furtherance of an
2 ~~urban development~~ a public-private project:

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

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

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