

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 1513  
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted  
5/21/07  
Finance Committee Substitute Adopted 7/26/07**

Short Title: County Financing/Powell Bill/City Election.

(Public)

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Sponsors:

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Referred to:

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March 28, 2007

A BILL TO BE ENTITLED

1  
2 AN ACT TO ALLOW COUNTIES TO PARTICIPATE IN FINANCING  
3 IMPROVEMENTS TO PUBLIC STREETS, HIGHWAYS, AND BRIDGES; AND  
4 TO ALLOW MUNICIPALITIES THAT RECEIVE AN ALLOCATION OF  
5 FUNDS FROM THE HIGHWAY FUND AND THE HIGHWAY TRUST FUND  
6 WITH MONIES FOR REPAIR, MAINTENANCE, CONSTRUCTION,  
7 RECONSTRUCTION, WIDENING, OR IMPROVING STREETS OF THE  
8 MUNICIPALITY AN OPTION TO ELECT TO CONTINUE TO RECEIVE  
9 ALLOCATIONS OR HAVE THE ALLOCATION REPROGRAMMED TO FUND  
10 ANY PROJECT ON THE DEPARTMENT OF TRANSPORTATION'S  
11 TRANSPORTATION IMPROVEMENT LIST.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 136-18(29a) reads as rewritten:

14 "(29a) To coordinate with all public and private entities planning schools to  
15 provide written recommendations and evaluations of driveway access  
16 and traffic operational and safety impacts on the State highway system  
17 resulting from the development of the proposed sites. All public and  
18 private entities shall, upon acquiring land for a new school or prior to  
19 beginning construction of a new school, relocating a school, or  
20 expanding an existing school, request from the Department a written  
21 evaluation and written recommendations to ensure that all proposed  
22 access points comply with the criteria in the current North Carolina  
23 Department of Transportation "Policy on Street and Driveway  
24 Access". The Department shall provide the written evaluation and  
25 recommendations within a reasonable time, which shall not exceed 60  
26 days. This subdivision shall not be construed to require the public or  
27 private entities planning schools to meet the recommendations made

1 by the ~~Department~~ Department, except those highway improvements  
2 that are required for safe ingress and egress to the State highway  
3 system."

4 **SECTION 2.** G.S. 136-45 reads as rewritten:

5 **"§ 136-45. General purpose of law; control, repair and maintenance of highways.**

6 The general purpose of the laws creating the Department of Transportation is that  
7 said Department of Transportation shall take over, establish, construct, and maintain a  
8 statewide system of hard-surfaced and other dependable highways running to all county  
9 seats, and to all principal towns, State parks, and principal State institutions, and linking  
10 up with state highways of adjoining states and with national highways into national  
11 forest reserves by the most practical routes, with special view of development of  
12 agriculture, commercial and natural resources of the State, ~~and~~ and, except as otherwise  
13 provided by law, for the further purpose of permitting the State to assume control of the  
14 State highways, repair, construct, and reconstruct and maintain said highways at the  
15 expense of the entire State, and to relieve the counties and cities and towns of the State  
16 of this burden."

17 **SECTION 3.** G.S. 136-51 reads as rewritten:

18 **"§ 136-51. Maintenance of county public roads vested in Department of**  
19 **Transportation.**

20 From and after July 1, 1931, the exclusive control and management and  
21 responsibility for all public roads in the several counties shall be vested in the  
22 Department of Transportation as hereinafter provided, and all county, district, and  
23 township highway or road commissioners, by whatever name designated, and whether  
24 created under public, public-local, or private acts, shall be abolished:

25 Provided, that for the purpose of providing for the payment of any bonded or other  
26 indebtedness, and for the interest thereon, that may be outstanding as an obligation of  
27 any county, district, or township commission herein abolished, the boards of county  
28 commissioners of the respective counties are hereby constituted fiscal agents, and are  
29 vested with authority and it shall be their duty to levy such taxes on the taxable property  
30 or persons within the respective county, district, or township by or for which said bonds  
31 or other indebtedness were issued or incurred and as are now authorized by law to the  
32 extent that the same may be necessary to provide for the payment of such obligations;  
33 and the respective commissions herein abolished shall on or before July 1, 1931, turn  
34 over to said boards of county commissioners any moneys on hand or evidences of  
35 indebtedness properly applicable to the discharge of any such indebtedness (except such  
36 moneys as are mentioned in paragraph (a) above); and all uncollected special road taxes  
37 shall be payable to said boards of county commissioners, and the portion of said taxes  
38 applicable to indebtedness shall be applied by said commissioners to said indebtedness,  
39 or invested in a sinking fund according to law. All that portion of said taxes or other  
40 funds coming into the hands of said county commissioners and properly applicable to  
41 the maintenance or improvement of the public roads of the county shall be held by them  
42 as a special road fund and disbursed upon proper orders of the Department of  
43 Transportation.

1 Provided, further, that in order to fully carry out the provisions of this section the  
2 respective boards of county commissioners are vested with full authority to prosecute all  
3 suitable legal actions.

4 Nothing in this section shall prevent a county from participating in the cost of  
5 rights-of-way, construction, reconstruction, improvement, or maintenance of a road on  
6 the State highway system under agreement with the Department of Transportation. A  
7 county is authorized and empowered to acquire land by dedication and acceptance,  
8 purchase, or eminent domain and make improvements to portions of the State highway  
9 system lying within or outside the county limits utilizing local funds that have been  
10 authorized for that purpose. The provisions of G.S. 153A-15 apply to any county  
11 attempting to acquire property outside its limits. All improvements to the State highway  
12 system shall be done in accordance with the specifications and requirements of the  
13 Department of Transportation."

14 **SECTION 4.** G.S. 136-98 reads as rewritten:

15 "**§ 136-98. Prohibition of local road taxes and bonds and construction of roads by**  
16 **local authorities; existing contracts. Counties authorized to participate in**  
17 **costs of road construction and maintenance.**

18 (a) ~~From and after the first day of July, 1931, no county or road district by~~  
19 ~~authority of any public, public local, or private act shall levy any taxes for the~~  
20 ~~maintenance, improvement, reconstruction, or construction of any of the public roads in~~  
21 ~~the various and several counties of the State, nor shall any county, through the board of~~  
22 ~~commissioners thereof or the highway commission, nor shall any district or township~~  
23 ~~highway commission, issue or sell or enter into any contract to issue or sell any bonds~~  
24 ~~heretofore authorized to be issued and sold, but unissued and unsold, for the purpose of~~  
25 ~~obtaining money with which to improve, maintain, reconstruct, or construct roads,~~  
26 ~~except for the purpose of discharging obligations entered into prior to the ratification of~~  
27 ~~this section, and all acts authorizing the board of county commissioners, the county~~  
28 ~~highway commissions, district highway or township commissions, to issue and sell~~  
29 ~~bonds for the purpose aforesaid, are hereby amended so as to conform to this section.~~  
30 ~~No board of county commissioners nor county highway commission, nor district nor~~  
31 ~~township highway commission from and after the passage of this section shall enter into~~  
32 ~~any contract to build or construct roads in the various and several counties except for~~  
33 ~~such projects as can be completed and paid for prior to July 1, 1931. All contracts~~  
34 ~~heretofore entered into by any county through the board of county commissioners,~~  
35 ~~county highway commission, and all contracts heretofore entered into by any district or~~  
36 ~~township highway commission which shall be incomplete on July 1, 1931, shall be~~  
37 ~~taken over by the Department of Transportation and completed by the Department of~~  
38 ~~Transportation by the use of money and funds applicable thereto, by the terms of the~~  
39 ~~said contracts. Nothing in this section or in any section of Chapter 145 of the Public~~  
40 ~~Laws of 1931 that may appear in this Code shall be construed to prohibit the levying of~~  
41 ~~taxes authorized by law for the payment of interest or principal on outstanding bonds or~~  
42 ~~other evidences of debt lawfully issued. Any county or road district which has~~  
43 ~~heretofore issued bonds or other evidences of debt by authority of law for road~~

1 ~~improvement purposes may refund said bonds or other evidences of debt under and~~  
2 ~~pursuant to the laws of the State of North Carolina relative thereto.~~

3 (b) Nothing in this Article prohibits counties from establishing service districts  
4 for road maintenance under Part 1, Article 16 of Chapter 153A of the General Statutes.

5 (c) A county is authorized to participate in the cost of rights-of-way,  
6 construction, reconstruction, improvement, or maintenance of a road on the State  
7 highway system under agreement with the Department of Transportation."

8 **SECTION 5.** Chapter 136 of the General Statutes is amended by adding a  
9 new section to read:

10 **"§ 136-41.4. Municipal use of allocated funds; election.**

11 A municipality that qualifies for an allocation of funds pursuant to G.S. 136-41.1  
12 shall have the option to accept all funds allocated to the municipality, under that section,  
13 for the repair, maintenance, construction, reconstruction, widening, or improving of the  
14 municipality's streets, or the municipality may elect to have some or all of the allocation  
15 reprogrammed for any Transportation Improvement Project currently on the approved  
16 project list within the municipality's limits or within the area of any metropolitan  
17 planning organization or rural planning organization.

18 If a municipality chooses to have its allocation reprogrammed, the minimum amount  
19 that may be reprogrammed is an amount equal to that amount necessary to complete one  
20 full phase of the project selected by the municipality or an amount that, when added to  
21 the amount already programmed for the Transportation Improvement Project selected,  
22 would permit the completion of at least one full phase of the project."

23 **SECTION 6.** Section 5 of this act becomes effective October 1, 2007. The  
24 remainder of this act is effective when it becomes law.