

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Fiscal Note

BILL NUMBER: House Bill 457 (Third Edition)

SHORT TITLE: Performance Guarantees/Subdivision Streets.

SPONSOR(S):

FISCAL IMPACT					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Estimate Available					
State Impact	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Highway Fund Revenues:					
Highway Fund Expenditures:	\$0.1	\$0.1	\$0.1	\$0.1	\$0.2
State Positions:					
NET STATE IMPACT	(\$0.1)	(\$0.1)	(\$0.1)	(\$0.1)	(\$0.2)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation					
EFFECTIVE DATE: July 1, 2017					
TECHNICAL CONSIDERATIONS: None					

BILL SUMMARY:

This bill enacts a new G.S. 153A-331.1 concerning performance guarantees on county subdivision streets, providing that these newly enacted provisions apply to all developments approved on or after August 1, 2017, and retroactively to all county residential subdivisions or development plans approved on or after October 1, 2010, that include an offer of dedication of roads and the roads have been constructed and opened for travel and are fully completed.

Subsections (c) through (k1) include specific requirements and limitations for performance and residual performance guarantees, including in (c) that the amount of a street performance guarantee (and an extension of the guarantee) cannot exceed 125% of the reasonably estimated cost of completion and that in (d) a performance guarantee can only be used for completion of required improvements and not for repairs or maintenance after completion. This bill further provides in (e) for the extension of a street performance guarantee if required improvements are not complete and the current performance guarantee is expiring. This bill provides for the release or incremental reduction of performance guarantees, establishing in (f) that any performance guarantee on a street must be released when it is confirmed by the Division of Highways that the street has been accepted for maintenance, but no later than 6 months following submission of an SR-2 form and upon presentation of any of four specified documents. Subsection (f1) requires for the release of performance guarantees on streets built with more stringent standards than those

required by the Division of Highways standards of January 1, 2017, upon confirmation from the Division of Highways that the street has been accepted for maintenance, but no later than three months following submission of an SR-2 form and upon presentation of any of four specified documents. Subsection (g) states that the principal amount of the performance guarantee can be incrementally reduced during the course of construction to reflect the level of completion of the road. Concerning residual performance guarantees, provides in (h) that on certification that the road has been fully constructed, the performance guarantee amount must be reduced to a residual amount, the greater of 15% of construction cost or 125% of the pavement cost, providing that this reduced guarantee is known as the residual performance guarantee. Subsection (i) states the purpose and use of the residual performance guarantee is to allow a reasonable period of time so that new roads offered for dedication can attain the density required for acceptance. Subsection (j) states that residual performance guarantees must remain in place either until the road is accepted or for a period of one year from the date of issuance, whichever is less. Subsection (k) requirements and time frames that must be met for the release of a residual performance guarantee, and in (k1) requirements and time frames that must be met for the release of a residual performance guarantee on a street that is built with more stringent standards than those required by the Division of Highways standards of January 1, 2017.

Subsections (l) through (n) include information on the process, procedures, and timelines for Department of Transportation (DOT) acceptance, specifically that DOT must accept subdivision roads offered for public dedication within subdivisions or developments approved on or after October 1, 2010, that are fully completed or confirmed by a built to standards letter as soon as is possible after January 1, 2018, if specified metrics are met. Subsection (m) states that any subdivision street completed prior to January 1, 2018, that has not yet been accepted by the Department, are subject to Division of Highway subdivision street construction standards of January 1, 2017, and shall be accepted by the Department in accordance with this statute. Provides that roads that meet the requirements can be proposed for acceptance by either the county or another party to the Division of Highways and that acceptance by the Division of Highways must be issued as soon as the Division can review the streets and assure that they meet requirements, provided that the review occurs within 60 days of the request.

Subsection (p) states that counties can finance the costs of improvements made under DOT supervision to bring streets up to standards for acceptance if necessary and recover costs in doing so. Provides specified applicability exceptions of the provisions in this section in subsection (q) and details terms for use in this statute as they apply to the components of the road construction in subsection (r). Subsection (s) includes factors that cannot be a basis for denial or delay of acceptance by the DOT for streets or roads completed between October 1, 2010, and September 30, 2017. Subsection (t) directs DOT to work with each county to provide necessary information so that counties can compile a readily available "County Public Street Information Database" to be completed before January 1, 2019. DOT is also directed to update its Subdivision Roads Minimum Construction Standards manual, and any related policies, by July 1, 2018, and regularly thereafter, to reflect current federal and state law, and to report all updates to the Joint Legislative Transportation Oversight Committee.

ASSUMPTIONS AND METHODOLOGY:

Funding for Subdivision Streets

This bill requires DOT to accept to the State highway system all developments approved on or after August 1, 2017 and retroactively accept all subdivisions or development plans approved on or after October 1, 2010, if the road meets DOT standards.

Annual road maintenance costs are minimal for the first 10 years. DOT estimates the average annual per mile maintenance costs are \$500-\$1,500. Periodic maintenance occurs after the first 10 years at a cost of \$10,000 - \$17,000 per mile. After 20 years, the road requires resurfacing at a cost of \$100,000-\$150,000 per mile.

Based on DOT’s data in Figure 1, approximately 171 miles of subdivisions have received Built to Standards letters since October 2010 but have not been added to the State/city maintenance. DOT provided 6 years of data (2011-2016), including:

1. Number of approval letters,
2. Total number of miles included in subdivisions under the approval letter, and
3. Total of remaining miles to date for each of the 5 years that have NOT been added to the State system.

Figure 1. Subdivision Approval Data						
	2011	2012	2013	2014	2015	2016
Number of Subdivisions receiving Built to Standards Approval Letter	98	97	113	115	119	131
Mileage of Subdivisions receiving Built to Standards Approval Letter	44	41	53	40	52	60
Mileage of Subdivisions receiving Built to Standards Approval Letter not added to State (or city) maintenance to Date (04/04/17)	16	15	33	22	31	54

Under this proposed bill, G.S. 153A-331.1(1)(3) requires the road to be opened for public travel for at least six years before it is eligible to become part of the State maintained system. Thus the FY 2017-18 fiscal impact is limited to retroactive developments approved in FY 2011-12 and developments approved after August 1, 2017. The FY 2018-19 fiscal impact includes developments approved in FY 2011-12 and FY 2012-13 and developments approved after August 1, 2017.

This analysis also makes the following assumptions.

1. Excluding the retroactively added developments, it is assumed the State will add 40 miles of subdivision streets per year.
2. Based on the requirement in G.S. 153A-331.1(1)(3), it is assumed that roads will take more time to move from date of the Built to Standards letter to State/city acceptance in the first two years of the fiscal impact but the proposed law will eventually speed up the time frame for the retroactively added roads to be accepted.

Figure 2 estimates the five year fiscal impact of Section 1 to DOT.

Figure 2. Estimated DOT Fiscal Impact of Sec. 1: Funding for Subdivision Streets					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Estimated mileage of Subdivisions added to the State Highway System from Sec. 1 of this bill	50	60	70	70	70
Annual Maintenance Costs	\$ 50,000	\$ 60,000	\$ 70,000	\$ 70,000	\$ 61,410
10 Year Periodic Maintenance Costs	\$ -	\$ -	\$ -	\$ -	\$ 120,000
Total Fiscal Impact	\$ 50,000	\$ 60,000	\$ 70,000	\$ 70,000	\$ 181,410

Subsection (t): Costs for the Development of Street Database

G.S. 153A-331.1(s) requires the development of a “County Public Street Information Database”. The NC Association of County Commissioners (NCACC) reported that the majority, if not all counties, have GIS systems but some counties may need to purchase software to accommodate the GIS requirement. NCACC also reported that additional staff resources may be needed to maintain the database. Due to the lack of specificity provided by NCACC, it is assumed the fiscal impact to the counties will be minimal.

DOT responded that it would incur no additional costs from supplying data to the counties on items 1 (federal maintained roads), 2 (state maintained roads), or 3 (city maintained roads). DOT believes the counties are the best source of data for the remaining items to be included in the database.

SOURCES OF DATA: Department of Transportation

TECHNICAL CONSIDERATIONS: None

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