

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U

D

BILL DRAFT 2011-ME-158 [v.4] (05/09)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

5/10/2012 9:48:39 AM

Short Title: Increase DOT Public-Private Partnerships.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO INCREASE PUBLIC-PRIVATE PARTNERSHIPS FOR TOLLING AND
OTHER FINANCING METHODS ON TRANSPORTATION INFRASTRUCTURE
PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

...
(39) To enter into partnership agreements with private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, and to plan, design, develop, acquire, construct, equip, maintain, and operate transportation infrastructure in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter. In connection with any agreement entered into under this section, the following shall apply:

a. Notwithstanding the provisions of Article 3 of Chapter 44A, an agreement entered into under this subdivision may require the private entity or its contractors to provide performance and payment security in the form and in the amount determined by the Department of Transportation. Such performance and payment security may consist



* 2 0 1 1 - M E - 1 5 8 - V - 4 *

- 1 of bonds, letters of credit, parent guaranties or other instruments
2 acceptable to the Department of Transportation.
- 3 b. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement
4 entered into under this section may allow the private entity to assign,
5 transfer, sell, hypothecate, and otherwise convey some or all of its
6 right, title, and interest in and to such agreement, and any rights and
7 remedies thereunder, to a lender, bondholder, or any other party..
- 8 c. The Department of Transportation, with respect to transportation
9 infrastructure financed in whole or in part by tolls, shall have the
10 powers to fix, revise, charge, and collect tolls and fees with respect to
11 such transportation infrastructure, and an agreement entered into
12 under this section may allow the private entity to fix, revise, charge,
13 and collect such tolls and fees.
- 14 d. Revenues derived from transportation infrastructure that are not
15 allocated to a private entity or repayment of financing or other costs
16 under an agreement entered into under this section may be used for
17 the following:
- 18 i. Administration, development, right of way acquisition,
19 design, construction, operation, and maintenance costs of the
20 Department.
- 21 ii. Debt service on revenue bonds issued by or on behalf of the
22 Department.
- 23 iii. Other financing costs related to transportation infrastructure.
- 24 iv. The establishment of debt service reserve funds.
- 25 v. Any other lawful purpose.
- 26 ...
- 27 (41) The Department shall, prior to the beginning of construction, determine
28 whether all sidewalks and other facilities primarily intended for the use of
29 pedestrians and bicycles that are to be constructed within the right-of-way of
30 a public street or highway that is a part of the State highway system or an
31 urban highway system must be constructed of permeable pavement.
32 "Permeable pavement" means paving material that absorbs water or allows
33 water to infiltrate through the paving material. Permeable pavement
34 materials include porous concrete, permeable interlocking concrete pavers,
35 concrete grid pavers, porous asphalt, and any other material with similar
36 characteristics. Compacted gravel shall not be considered permeable
37 pavement.
- 38 (42) The Department may exercise the powers and duties set forth in Article 6H
39 of this chapter independently of the Authority and may contract to exercise
40 those powers and duties through a vendor, subject to the provisions of
41 subdivision (39) of this section."

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