

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1630
Committee Substitute Favorable 6/15/00

Short Title: Toll Roads.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE CONSTRUCTION OF UP TO THREE PRIVATELY
3 FUNDED TOLL ROAD OR BRIDGE PROJECTS AND TO DIRECT THE
4 DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF
5 STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 136 of the General Statutes is amended by adding a new
8 Article 6G to read:

9 **“ARTICLE 6G.**

10 **“PRIVATE PILOT TOLL PROJECTS.**

11 **“§ 136-89.168. Private toll projects.**

12 (a) Authority to License. – The Department of Transportation is authorized to
13 issue up to three licenses to applicants to finance, design, construct, maintain, improve,
14 own, or operate, or any combination thereof, a transportation project within the State of
15 North Carolina. One of the three licenses authorized by this section may be issued to an
16 applicant for a bridge facility connecting two counties over a major river. Any license
17 authorized by this section must be issued on or before July 1, 2005.

1 **(b) Requirement for Finding of Need.** – Prior to the issuance of any license under
2 this section, the Department shall make a written determination that the proposed project
3 is necessary and in the public interest.

4 **(c) Submission of Financial Data.** – A person applying for a license to construct a
5 project under this section shall submit detailed financial data to the Department
6 concerning the ability of applicant to finance the proposed project. The Department shall
7 independently analyze the data submitted for each project proposal.

8 **(d) Terms of License.** – Additional terms and conditions of any license issued
9 pursuant to this section shall be within the discretion of the Department of
10 Transportation, and shall include, in addition to any other requirements:

11 **(1)** Provisions establishing minimum design and construction standards for
12 the project.

13 **(2)** Provisions establishing minimum maintenance standards for the project.

14 **(3)** Provisions requiring that appropriate traffic signs and other traffic
15 control devices be erected and maintained on the project.

16 **(4)** Provisions establishing the rights and duties of the parties regarding
17 infrastructure improvements and connections between the project and
18 the State highway system.

19 **(5)** Provisions regarding any type of access control, if any, that may be
20 required for the project.

21 **(6)** Provisions establishing the relative responsibilities of the licensee and
22 the Department of Transportation to keep the completed project open
23 and accessible to the public.

24 **(7)** Provisions concerning location of the project.

25 **(e) Acquisition of Project Property.** – A person licensed to construct a project
26 under this section shall, to the extent possible, acquire all right-of-way interests required
27 for the project through private negotiation. The Department is authorized to exercise its
28 power of eminent domain to acquire property rights necessary for construction and
29 maintenance of the project only as to those property interests that cannot be acquired by
30 the licensee at a reasonable price through private negotiation. A licensee requesting that
31 the Department exercise its power of eminent domain shall be required to reimburse the
32 Department in the full amount of its costs incurred in acquiring the necessary property
33 interests for the private portion of the project, including any negotiated settlement or jury
34 verdict, and any attorneys' fees that may be awarded. The acquisition of property
35 interests necessary for inclusion in a project licensed under this section is hereby declared
36 to be for a public transportation purpose.

37 **(f) Transfer of Department Property to Licensee.** – Notwithstanding the
38 provisions of G.S. 136-19, should the Department determine that a licensed project
39 requires property interests held by the Department, such interests as the Department
40 determines to be necessary may be conveyed to the licensee for fair market value.

41 **(g) Applicability of Other Laws.** – For the purpose of entering into contractual
42 licensing agreements under this section, the Department of Transportation is exempted
43 from any provision of the General Statutes that conflicts with the purposes of this section.

1 specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this
2 section shall not be included in the distribution formula under G.S. 136-17.2A but shall
3 require approval of the Board of Transportation under G.S. 143B-350(f)(4). A licensee
4 under this section shall endeavor to comply with the provisions of G.S. 136-28.4
5 concerning participation by disadvantaged businesses.

6 (h) Applicability of Motor Vehicle Laws. – Any project licensed by the
7 Department of Transportation under the authority granted in this section shall be
8 considered a ‘highway’ as defined in G.S. 20-4.01(13) and a ‘public vehicular area’ as
9 defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including
10 the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers
11 and duties on such projects as on any other highway or public vehicular area.

12 (i) Resolution of Support Required. – The Department shall not license any
13 project under this section prior to receiving a resolution of support for the project
14 approved by the county commissioners of each county in which the project will be
15 located.

16 (j) Exclusive License. – Upon the issuance of a license by the Department of
17 Transportation, no further license of any type may be required by the State or local
18 government body for the ownership, construction, or operation of the project.

19 (k) Definitions. – The following definitions shall apply as used in this section:

20 (1) ‘Person’ shall mean any natural person, partnership, corporation, trust,
21 association, sole proprietorship, or any other legal entity other than the
22 State or its agencies, institutions, or political subdivisions.

23 (2) ‘Project’ shall mean a privately constructed, maintained, and operated
24 toll highway, road, bridge, or other transportation-related facility.

25 (3) ‘License’ shall mean a person authorized through a contractual
26 agreement with the Department of Transportation to finance, design,
27 construct, maintain, improve, own, or operate, or any combination
28 thereof, a project.

29 (l) Report. – The Department shall report to the Joint Legislative Transportation
30 Oversight Committee and to the Transportation Appropriations Subcommittee by
31 February 1, 2001, and every year thereafter, on any toll project planning, construction, or
32 operation commenced pursuant to the provisions of this Article."

33 Section 2. The Department shall study the feasibility of construction of State-
34 owned and operated toll roads and the areas where any State-owned and operated toll
35 roads are proposed and report its findings to the Joint Legislative Transportation
36 Oversight Committee and to the Transportation Appropriations Subcommittee by
37 February 1, 2001.

38 Section 3. This act is effective when it becomes law.