

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 964

Short Title: City Participation–Road Building.

(Public)

Sponsors: Senator Gulley.

Referred to: Transportation.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE STATUTE GOVERNING MUNICIPAL PARTICIPATION IN IMPROVEMENTS TO THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-66.3 reads as rewritten:

"§ 136-66.3. Municipal participation in improvements to the State highway system.

(a) ~~Except as otherwise authorized by this Article, no municipality shall participate in the cost of any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4). No municipality shall be required to contribute to the right of way and construction costs of any State highway system improvement approved by the Board of Transportation under G.S. 143B-350(f)(4), nor shall the Department of Transportation accept any participation, directly or indirectly, from a municipality except as authorized by this Article.~~

(b) ~~The restrictions imposed by this section on participation by municipalities in the implementation of improvements on the State highway system shall not apply to those improvements approved by the Board of Transportation which are financed by funds allocated by the General Assembly for the "Small Urban Construction Program".~~ The municipalities may, but shall not be required to, participate in the right-of-way and construction cost of "Small Urban Construction Program" highway improvements.

1 (c) A municipality ~~is authorized and empowered to~~ may acquire land by dedication
2 and acceptance, purchase, or eminent domain, and make improvements to portions of the
3 State highway system lying within or outside the municipal corporate limits utilizing
4 local funds that have been authorized for that ~~purpose by a vote of the citizens of the~~
5 ~~municipality.~~ purpose. The governing body of the municipality may call a special
6 referendum at any time to allow this use of funds. The ~~total cost of the~~ improvements
7 authorized by this subsection shall be the responsibility of the municipality and shall not
8 ~~be participated in by the Department of Transportation, nor shall the construction of~~
9 ~~improvements~~ be a consideration for any other project by the Department of
10 Transportation. All improvements to the State highway system shall be done in
11 accordance with the specifications and requirements of the Department of Transportation
12 and shall be set forth in an agreement entered into between the municipality and the
13 Department. The Board of Transportation shall not give consideration to or credit for
14 such locally financed improvements in the Transportation Improvement Program under
15 G.S. 143B-350(f)(4).

16 (d) When in the review and approval by a municipality of plans for the
17 development of property abutting the State highway system it is determined by the
18 municipality that improvements to the State highway system are necessary to provide for
19 the safe and orderly movement of traffic, the municipality is authorized to construct, or
20 have constructed, said improvements to the State highway system in vicinity of the
21 development. For purposes of this section, improvements include but are not limited to
22 additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All
23 improvements to the State highway system shall be constructed in accordance with the
24 specifications and requirements of the Department of Transportation and be approved by
25 the Department of Transportation.

26 (e) A municipality may pursuant to an agreement with the Department of
27 Transportation reimburse the Department of Transportation for the cost of all
28 improvements, including additional right-of-way, for a street or highway improvement
29 project approved by the Board of Transportation under G.S. 143B-350(f)(4) that are in
30 addition to those improvements that the Department of Transportation would normally
31 include in the project.

32 (f) ~~Municipalities having a population of less than 10,000 according to the most~~
33 ~~recent annual estimates of population as certified to the Secretary of Revenue by the State~~
34 ~~Budget Officer shall not participate in the right of way and construction costs of any~~
35 ~~State highway system improvement project approved by the Board of Transportation~~
36 ~~under G.S. 143B-350(f)(4).~~

37 ~~Municipalities having a population of 10,000 or more according to the most recent~~
38 ~~annual estimates of population as certified to the Secretary of Revenue by the State~~
39 ~~Budget Officer may, but shall not be required by the Department or Board of~~
40 ~~Transportation, participate up to a maximum percentage as shown below in the cost of~~
41 ~~rights-of-way of the portion of any transportation improvement project approved by the~~
42 ~~Board of Transportation under G.S. 143B-350(f)(4) that is located within the municipal~~
43 ~~corporate limits:~~

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2	Municipal Maximum Participation	
3	Population	It
4	Right-of-Way Costs	
5		
6	10,000—25,000	5%
7	25,001—50,000	10%
8	50,001—100,000	15%
9	—over 100,000	25%

10 Any participation shall be set forth in an agreement between the municipality and the
 11 Department of Transportation. Upon request of the municipality, the Department of
 12 Transportation shall allow the municipality a period of not less than three years from the
 13 date construction of the project is initiated to reimburse the Department their agreed upon
 14 share of the costs of rights-of-way necessary for the project. The Department of
 15 Transportation shall not charge a municipality ~~any interest on its agreed upon share of rights-~~
 16 ~~of-way costs during the initial three years.~~ The ~~Secretary~~ Department shall report in
 17 writing, on a monthly basis, to the Joint Legislative Commission on Governmental
 18 Operations on all agreements entered into between municipalities and the Department of
 19 Transportation. The report shall state in summary form the contents of such agreements.

20 (g) In the acquisition of rights-of-way for any State highway system street or
 21 highway in or around a municipality, the municipality shall be vested with the same
 22 authority to acquire such rights-of-way as is granted to the Department of Transportation
 23 in this Chapter. In the acquisition of such rights-of-way, municipalities may use the
 24 procedures provided in Article 9 of this Chapter, and wherever the words "Department of
 25 Transportation" appear in Article 9 they shall be deemed to include "municipality" or
 26 "municipal governing body," and wherever the words "Administrator," "Administrator of
 27 Highways," "Administrator of the Department of Transportation," or "Chairman of the
 28 Department of Transportation" appear in Article 9 they shall be deemed to include
 29 "municipal clerk". It is the intention of this subsection that the powers herein granted to
 30 municipalities for the purpose of acquiring rights-of-way shall be in addition to and
 31 supplementary to those powers granted in any local act or in any other general statute,
 32 and in any case in which the provisions of this subsection or Article 9 of this Chapter are
 33 in conflict with the provisions of any local act or any other provision of any general
 34 statute, then the governing body of the municipality may in its discretion proceed in
 35 accordance with the provisions of such local act or other general statute, or, as an
 36 alternative method of procedure, in accordance with the provisions of this subsection and
 37 Article 9 of this Chapter.

38 (h) In the absence of an agreement, the Department of Transportation shall retain
 39 authority to pay the full cost of acquiring rights-of-way where the proposed project is
 40 deemed important to a coordinated State highway system.

41 (i) Either the municipality or the Department of Transportation may at any time
 42 propose changes in the agreement setting forth their respective responsibilities ~~for right-~~
 43 ~~of-way acquisition~~ by giving notice to the other party, but no change shall be effective

1 until it is adopted by both the municipal governing body and the Department of
2 Transportation.

3 (j) Any municipality that agrees to contribute any part of the cost of ~~acquiring~~
4 ~~rights-of-way for~~ improvements to any State highway system street or highway shall be a
5 proper party in any proceeding in court relating to the acquisition of such rights-of-way."

6 Section 2. This act is effective when it becomes law.