GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-188
SENATE BILL 1200

AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY MUNICIPAL PARTICIPATION IN ROAD CONSTRUCTION.

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.~~

(a) Municipal Participation Authorized. – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. – A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. – A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that ~~purpose~~ purpose. ~~by a vote of the citizens of the municipality. The governing body of the municipality may call a special referendum at any time to allow this use of funds.~~

~~The total cost of the improvements authorized by this subsection shall be the responsibility of the municipality and shall not be participated in by the Department of Transportation, nor shall the construction of improvements be a consideration for any other project by the Department of Transportation.~~ All improvements to the State highway system shall be done in accordance with the specifications and requirements of the Department of ~~Transportation and shall be set forth in an agreement entered into between the municipality and the Department. The Board of Transportation shall not give consideration to or credit for such locally financed improvements in the Transportation Improvement Program under G.S. 143B-350(f)(4).~~ Transportation.

(c1) No TIP Disadvantage for Participation. – If a municipality participates in a State highway system improvement project, as authorized by this section, the Department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.

(c2) Distribution of State Funds Made Available by Municipal Participation. – Any State or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. – The Department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

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

(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, ~~A~~ a municipality may ~~pursuant to an agreement with the Department of Transportation~~ reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

~~(f) Municipalities having a population of less than 10,000 according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer shall not participate in the right-of-way and construction costs of~~

~~any State highway system improvement project approved by the Board of Transportation under G.S. 143B-350(f)(4).~~

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

~~Municipal Population~~	~~Maximum Participation In Right-of-Way Costs~~
~~10,000 – 25,000~~	~~5%~~
~~25,001 – 50,000~~	~~10%~~
~~50,001 – 100,000~~	~~15%~~
~~over 100,000~~	~~25%~~

(e1) Reimbursement Procedure. – ~~Any participation shall be set forth in an agreement between the municipality and the Department of Transportation.~~ Upon request of the municipality, the Department of Transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs ~~of rights-of-way~~ necessary for the project. The Department of Transportation shall not charge a municipality any interest ~~on its agreed upon share of rights-of-way costs.~~ during the initial three years.

(f) Report to General Assembly. – The ~~Secretary~~ Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Municipal Acquisition of Rights-of-Way. – In the acquisition of rights-of-way for any State highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "municipality" or "municipal governing body," and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the

provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

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

(i) Changes to Municipal Participation Agreement. – Either the municipality or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities ~~for right-of-way acquisition~~ by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Municipality Party to Rights-of-Way Proceeding. – Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Specified County Participation. – In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Section 2. This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:20 a.m. this 2nd day of August, 2000