

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1200\*

Short Title: Municipal Participation.

(Public)

Sponsors: Senator Gulley.

Referred to: Finance.

May 10, 2000

A BILL TO BE ENTITLED

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 When any one or more street construction or highway improvement projects are proposed on the State highway system in and around a municipality, the Department of Transportation and the municipal governing body shall reach agreement

1 on their respective responsibilities for such project or projects. In reaching such  
2 agreement, the Department of Transportation and the municipality shall take into  
3 consideration:

4 (1) The relative importance of the project to a coordinated statewide system  
5 of highways.

6 (2) The relative benefit of the project to the municipality.

7 (3) The degree to which the cost of acquisition of rights-of-way can be  
8 reduced or minimized through action by the municipality and/or the  
9 Department of Transportation to acquire all or part of the rights-of-way  
10 for proposed projects well in advance of construction of such projects.  
11 Municipalities may, but shall not be required to, participate in the right-  
12 of-way and construction cost of "Small Urban Construction Program" State  
13 highway system improvements.

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

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

38 (e) A municipality may pursuant to an agreement with the Department of  
39 Transportation reimburse the Department of Transportation for the cost of all  
40 improvements, including ~~additional~~ right-of-way, for a street or highway improvement  
41 project approved by the Board of Transportation under ~~G.S. 143B-350(f)(4) that are in~~  
42 ~~addition to those improvements that the Department of Transportation would normally include in~~  
43 ~~the project.~~ G.S. 143B-350(f)(4). Funds expended by a municipality pursuant to an

1 agreement with the Department of Transportation shall not be considered in calculating  
 2 distribution of construction funds under G.S. 136-17.2A.

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

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

|    |  |     |
|----|--|-----|
| 15 |  |     |
| 16 | <del>Municipal</del> Maximum Participation |     |
| 17 | Population                                 | It  |
| 18 | <del>Right of Way Costs</del>              |     |
| 19 |  |     |
| 20 | <del>10,000—25,000</del>                   | 5%  |
| 21 | <del>25,001—50,000</del>                   | 10% |
| 22 | <del>50,001—100,000</del>                  | 15% |
| 23 | <del>over 100,000</del>                    | 25% |
| 24 |  |     |

25 Any participation shall be set forth in an agreement between the municipality and the  
 26 Department of Transportation. Upon request of the municipality, the Department of  
 27 Transportation shall allow the municipality a period of not less than three years from the  
 28 date construction of the project is initiated to reimburse the Department their agreed upon  
 29 share of the costs ~~of rights-of-way~~ necessary for the project. The Department of  
 30 Transportation shall not charge a municipality any interest ~~on its agreed upon share of~~  
 31 ~~rights-of-way costs during the initial three years.~~ The Secretary-Department shall report in  
 32 writing, on a monthly basis, to the Joint Legislative Commission on Governmental  
 33 Operations on all agreements entered into between municipalities and the Department of  
 34 Transportation. The report shall state in summary form the contents of such agreements.

35 (g) In the acquisition of rights-of-way for any State highway system street or  
 36 highway in or around a municipality, the municipality shall be vested with the same  
 37 authority to acquire such rights-of-way as is granted to the Department of Transportation  
 38 in this Chapter. In the acquisition of such rights-of-way, municipalities may use the  
 39 procedures provided in Article 9 of this Chapter, and wherever the words "Department of  
 40 Transportation" appear in Article 9 they shall be deemed to include "municipality" or  
 41 "municipal governing body," and wherever the words "Administrator," "Administrator of  
 42 Highways," "Administrator of the Department of Transportation," or "Chairman of the  
 43 Department of Transportation" appear in Article 9 they shall be deemed to include

1 "municipal clerk". It is the intention of this subsection that the powers herein granted to  
2 municipalities for the purpose of acquiring rights-of-way shall be in addition to and  
3 supplementary to those powers granted in any local act or in any other general statute,  
4 and in any case in which the provisions of this subsection or Article 9 of this Chapter are  
5 in conflict with the provisions of any local act or any other provision of any general  
6 statute, then the governing body of the municipality may in its discretion proceed in  
7 accordance with the provisions of such local act or other general statute, or, as an  
8 alternative method of procedure, in accordance with the provisions of this subsection and  
9 Article 9 of this Chapter.

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

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

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

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