

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1200\*  
Finance Committee Substitute Adopted 6/14/00

Short Title: Municipal Participation.

(Public)

Sponsors:

Referred to:

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 may, but shall not be required to, participate in the right of way and construction cost of "Small Urban Construction Program" highway improvements.~~

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

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

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

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

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

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

38       (d) Authorization to Participate in Development-Related Improvements. – When  
39 in the review and approval by a municipality of plans for the development of property  
40 abutting the State highway system it is determined by the municipality that improvements  
41 to the State highway system are necessary to provide for the safe and orderly movement  
42 of traffic, the municipality is authorized to construct, or have constructed, said  
43 improvements to the State highway system in vicinity of the development. For purposes

1 of this section, improvements include but are not limited to additional travel lanes, turn  
 2 lanes, curb and gutter, and drainage facilities. All improvements to the State highway  
 3 system shall be constructed in accordance with the specifications and requirements of the  
 4 Department of Transportation and be approved by the Department of Transportation.

5 (e) Authorization to Participate in Project Additions. – Pursuant to an agreement  
 6 with the Department of Transportation, ~~A~~ a municipality may pursuant to an agreement  
 7 with the Department of Transportation reimburse the Department of Transportation for the  
 8 cost of all improvements, including additional right-of-way, for a street or highway  
 9 improvement ~~project~~ projects approved by the Board of Transportation under ~~G.S. 143B-~~  
 10 ~~350(f)(4)~~ G.S. 143B-350(f)(4), that are in addition to those improvements that the  
 11 Department of Transportation would normally include in the project.

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

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

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

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

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

1 (g) Municipal Acquisition of Right-of-Way. – In the acquisition of rights-of-way  
2 for any State highway system street or highway in or around a municipality, the  
3 municipality shall be vested with the same authority to acquire such rights-of-way as is  
4 granted to the Department of Transportation in this Chapter. In the acquisition of such  
5 rights-of-way, municipalities may use the procedures provided in Article 9 of this  
6 Chapter, and wherever the words "Department of Transportation" appear in Article 9 they  
7 shall be deemed to include "municipality" or "municipal governing body," and wherever  
8 the words "Administrator," "Administrator of Highways," "Administrator of the  
9 Department of Transportation," or "Chairman of the Department of Transportation" appear  
10 in Article 9 they shall be deemed to include "municipal clerk". It is the intention of this  
11 subsection that the powers herein granted to municipalities for the purpose of acquiring  
12 rights-of-way shall be in addition to and supplementary to those powers granted in any  
13 local act or in any other general statute, and in any case in which the provisions of this  
14 subsection or Article 9 of this Chapter are in conflict with the provisions of any local act  
15 or any other provision of any general statute, then the governing body of the municipality  
16 may in its discretion proceed in accordance with the provisions of such local act or other  
17 general statute, or, as an alternative method of procedure, in accordance with the  
18 provisions of this subsection and Article 9 of this Chapter.

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

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

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

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

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