

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 253*
Committee Substitute Favorable 5/31/05
Senate Transportation Committee Substitute Adopted 6/14/05**

Short Title: NC Turnpike Authority Changes.

(Public)

Sponsors:

Referred to:

February 16, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE NORTH CAROLINA TURNPIKE AUTHORITY TO
2 ADOPT TRANSPORTATION CORRIDOR OFFICIAL MAPS, TO INCREASE
3 THE NUMBER OF PROJECTS THE AUTHORITY MAY UNDERTAKE FROM
4 THREE TO NINE, TO AUTHORIZE USE OF INCENTIVES IN TURNPIKE
5 CONTRACTS, TO REQUIRE THE AUTHORITY TO CONTRACT WITH A
6 SINGLE FIRM TO DESIGN, ACQUIRE PERMITS FOR, AND CONSTRUCT A
7 DESCRIBED BRIDGE, TO AMEND THE AUTHORITY OF THE
8 DEPARTMENT OF TRANSPORTATION TO ISSUE A PRIVATE PILOT TOLL
9 PROJECT LICENSE, AND TO REQUIRE AN EIGHTEEN-HOUR HURRICANE
10 EVACUATION STANDARD TO BE USED FOR BRIDGE OR HIGHWAY
11 CONSTRUCTION.
12

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 136-44.50 reads as rewritten:

15 "**§ 136-44.50. Transportation corridor official map act.**

16 (a) A transportation corridor official map may be adopted or amended by any of
17 the following:

- 18 (1) The governing board of any city for any thoroughfare included as part
19 of a comprehensive plan for streets and highways adopted pursuant to
20 G.S. 136-66.2 or for any proposed public transportation corridor
21 included in the adopted long-range transportation plan.
- 22 (2) The Board of Transportation for any portion of the existing or
23 proposed State highway system or for any public transportation
24 corridor, to include rail, that is in the Transportation Improvement
25 Program.
- 26 (3) Regional public transportation authorities created pursuant to Article
27 26 of Chapter 160A of the General Statutes or regional transportation
28 authorities created pursuant to Article 27 of Chapter 160A of the

1 General Statutes for any proposed public transportation corridor, or
2 adjacent station or parking lot, included in the adopted long-range
3 transportation plan.

- 4 (4) The North Carolina Turnpike Authority for any project being studied
5 pursuant to G.S. 136-89.183.

6 Before a city adopts a transportation corridor official map that extends beyond the
7 extraterritorial jurisdiction of its building permit issuance and subdivision control
8 ordinances, or adopts an amendment to a transportation corridor official map outside the
9 extraterritorial jurisdiction of its building permit issuance and subdivision control
10 ordinances, the city shall obtain approval from the Board of County Commissioners.

11 No transportation corridor official map shall be adopted or amended, nor may any
12 property be regulated under this Article until:

- 13 (1) The governing board of the city, the regional transportation authority,
14 the North Carolina Turnpike Authority, or the Department of
15 Transportation has held a public hearing in each county affected by the
16 map on the proposed map or amendment. Notice of the hearing shall
17 be provided:

- 18 a. By publication at least once a week for four successive weeks
19 prior to the hearing in a newspaper having general circulation in
20 the county in which the transportation corridor to be designated
21 is located.
22 b. By two week written notice to the Secretary of Transportation,
23 the Chairman of the Board of County Commissioners, and the
24 Mayor of any city or town through whose corporate or
25 extraterritorial jurisdiction the transportation corridor passes.
26 c. By posting copies of the proposed transportation corridor map
27 or amendment at the courthouse door for at least 21 days prior
28 to the hearing date. The notice required in sub-subdivision a.
29 above shall make reference to this posting.
30 d. By first-class mail sent to each property owner affected by the
31 corridor. The notice shall be sent to the address listed for the
32 owner in the county tax records.

- 33 (2) A permanent certified copy of the transportation corridor official map
34 or amendment has been filed with the register of deeds. The
35 boundaries may be defined by map or by written description, or a
36 combination thereof. The copy shall measure approximately 20 inches
37 by 12 inches, including no less than one and one-half inches binding
38 space on the left-hand side.

- 39 (3) The names of all property owners affected by the corridor have been
40 submitted to the Register of Deeds.

41 (b) Transportation corridor official maps and amendments shall be distributed
42 and maintained in the following manner:

- 43 (1) A copy of the official map and each amendment thereto shall be filed
44 in the office of the city clerk and in the office of the district engineer.

- 1 (2) A copy of the official map, each amendment thereto and any variance
2 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the
3 tax supervisor of any county and tax collector of any city affected
4 thereby. The portion of properties embraced within a transportation
5 corridor and any variance granted shall be clearly indicated on all tax
6 maps maintained by the county or city for such period as the
7 designation remains in effect.
- 8 (3) Notwithstanding any other provision of law, the certified copy filed
9 with the register of deeds shall be placed in a book maintained for that
10 purpose and cross-indexed by number of road, street name, or other
11 appropriate description. The register of deeds shall collect a fee of five
12 dollars (\$5.00) for each map sheet or page recorded.
- 13 (4) The names submitted as required under subdivision (a)(3) of this
14 section shall be indexed in the "grantor" index by the Register of
15 Deeds.
- 16 (c) Repealed by Session Laws 1989, c. 595, s. 1.
- 17 (d) Within one year following the establishment of a transportation corridor
18 official map or amendment, work shall begin on an environmental impact statement or
19 preliminary engineering. The failure to begin work on the environmental impact
20 statement or preliminary engineering within the one-year period shall constitute an
21 abandonment of the corridor, and the provisions of this Article shall no longer apply to
22 properties or portions of properties embraced within the transportation corridor. A city
23 may prepare environmental impact studies and preliminary engineering work in
24 connection with the establishment of a transportation corridor official map or
25 amendments to a transportation corridor official map. When a city prepares a
26 transportation corridor official map for a street or highway that has been designated a
27 State responsibility pursuant to G.S. 136-66.2, the environmental impact study and
28 preliminary engineering work shall be reviewed and approved by the Department of
29 Transportation. An amendment to a corridor shall not extend the two-year period
30 provided by this section unless it establishes a substantially different corridor in a
31 primarily new location.
- 32 (e) The term "amendment" for purposes of this section includes any change to a
33 transportation corridor official map, including:
- 34 (1) Failure of the Department of Transportation, the North Carolina
35 Turnpike Authority, a city, or a regional transportation authority to
36 begin work on an environmental impact statement or preliminary
37 engineering as required by this section; or
- 38 (2) Deletion of the corridor from the transportation corridor official map
39 by action of the Board of Transportation, the North Carolina Turnpike
40 Authority, or deletion of the corridor from the long-range
41 transportation plan of a city or regional transportation authority by
42 action of the city or regional transportation authority governing Board.
- 43 (f) The term "transportation corridor" as used in this Article does not include
44 bikeways or greenways."

1 **SECTION 2.** G.S. 136-89.183 reads as rewritten:

2 **"§ 136-89.183. Powers of the Authority.**

3 (a) The Authority shall have all of the powers necessary to execute the provisions
4 of this Article, including the following:

5 (1) The powers of a corporate body, including the power to sue and be
6 sued, to make contracts, to adopt and use a common seal, and to alter
7 the adopted seal as needed.

8 (2) To study, plan, develop, and undertake preliminary design work on up
9 to nine Turnpike Projects. At the conclusion of these activities, the
10 Turnpike Authority is authorized to ~~To study, plan, develop, design,~~
11 ~~establish, purchase, construct, operate, and maintain three up to nine~~
12 ~~Turnpike Projects. Projects, either on its own initiative or at the request~~
13 ~~of the Board of Transportation. One of the Turnpike Projects shall be~~
14 ~~located in whole or in part in a county with a population equal to or~~
15 ~~greater than 650,000 persons, according to the latest decennial census,~~
16 ~~and one Turnpike Project shall be located in a county or counties that~~
17 ~~each have a population of fewer that 650,000 persons, according to the~~
18 ~~latest decennial census. One of the Turnpike Projects shall be a bridge~~
19 ~~of more than two miles in length going from the mainland to a~~
20 ~~peninsula bordering the State of Virginia.~~ A Turnpike Project selected
21 for construction by the Turnpike Authority shall be included in any
22 applicable locally adopted comprehensive transportation plans and
23 shall be shown in the current State Transportation Improvement Plan
24 prior to the letting of a contract for the Turnpike Project.

25 ~~(3) To study, plan, develop and undertake preliminary design work on~~
26 ~~three Turnpike Projects, in addition to the three turnpike projects~~
27 ~~described in subdivision (2) of this subsection, either on its own~~
28 ~~initiative or at the request of the Board of Transportation. The~~
29 ~~Authority shall take no further action on a project described by this~~
30 ~~subdivision unless authorized to do so by Statute.~~

31 (4) To rent, lease, purchase, acquire, own, encumber, dispose of, or
32 mortgage real or personal property, including the power to acquire
33 property by eminent domain pursuant to G.S. 136-89.184.

34 (5) To fix, revise, charge, and collect tolls and fees for the use of the
35 Turnpike Projects. Prior to the effective date of any toll or fee for use
36 of a Turnpike Facility, the Authority shall submit a description of the
37 proposed toll or fee to the Board of Transportation, the Joint
38 Legislative Transportation Oversight Committee and the Joint
39 Legislative Commission on Governmental Operations for review.

40 (6) To issue bonds or notes of the Authority as provided in this Article.

41 (7) To establish, construct, purchase, maintain, equip, and operate any
42 structure or facilities associated with the Turnpike System.

43 (8) To pay all necessary costs and expenses in the formation, organization,
44 administration, and operation of the Authority.

- 1 (9) To apply for, accept, and administer loans and grants of money or real
2 or personal property from any federal agency, the State or its political
3 subdivisions, local governments, or any other public or private sources
4 available.
- 5 (10) To adopt, alter, or repeal its own bylaws or rules implementing the
6 provisions of this Article, in accordance with the review and comment
7 requirements of G.S. 136-89.182(j).
- 8 (11) To utilize employees of the Department; to contract for the services of
9 consulting engineers, architects, attorneys, real estate counselors,
10 appraisers, and other consultants; to employ administrative staff as
11 may be required in the judgment of the Authority; and to fix and pay
12 fees or compensation to the Department, contractors, and
13 administrative employees from funds available to the Authority.
- 14 (12) To receive and use appropriations from the State and federal
15 government.
- 16 (13) To adopt procedures to govern its procurement of services and
17 delivery of Turnpike Projects.
- 18 (14) To perform or procure any portion of services required by the
19 Authority.
- 20 (15) To use officers, employees, agents, and facilities of the Department for
21 the purposes and upon the terms as may be mutually agreeable.
- 22 (16) To contract for the construction, maintenance, and operation of a
23 Turnpike Project.
- 24 (17) To enter into partnership agreements, agreements with political
25 subdivisions of the State, and agreements with private entities, and to
26 expend such funds as it deems necessary, pursuant to such agreements,
27 for the purpose of financing the cost of acquiring, constructing,
28 equipping, operating, or maintaining any Turnpike Project.
- 29 (18) To utilize incentives in any contract for development or construction
30 of a Turnpike Project, in order to promote expedited delivery of the
31 project.

32 (b) To execute the powers provided in subsection (a) of this section, the
33 Authority shall determine its policies by majority vote of the members of the Authority
34 Board present and voting, a quorum having been established. Once a policy is
35 established, the Authority Board shall communicate it to the Executive Director or the
36 Executive Director's designee, who shall have the sole and exclusive authority to
37 execute the policy of the Authority. No member of the Authority Board shall have the
38 responsibility or authority to give operational directives to any employee of the
39 Authority other than the Executive Director or the Director's designee."

40 **SECTION 3.** Article 6H of Chapter 136 of the General Statutes is amended
41 by adding a new section to read:

42 **"§ 136-89.183A. Accelerated Pilot Toll Bridge Project.**

43 (a) Contract to Construct Accelerated Pilot Toll Bridge Project. – The Authority
44 shall contract with a single private firm to design, obtain all necessary permits for, and

1 construct the toll bridge described in G.S. 136-89.183(a)(2), a bridge of more than two
2 miles in length going from the mainland to a peninsula bordering the State of Virginia,
3 in order to provide accelerated, efficient, and cost-effective completion of the project.

4 (b) Preconstruction Participation. – In addition to the authority granted by
5 G.S. 136-89.191, the Department shall participate in the cost of preconstruction
6 activities related to the project described in this section, if requested by the Authority.

7 (c) Report on Project. – The Authority shall report to the Joint Legislative
8 Transportation Oversight Committee on December 1, 2005, and each December 1
9 thereafter until completion, on the progress of the accelerated pilot toll bridge project
10 described in this section."

11 **SECTION 4.** G.S. 136-89.172 reads as rewritten:

12 **"§ 136-89.172. Private Pilot Toll Project.**

13 (a) Authority to License. – The Department of Transportation is authorized to
14 issue a license to an applicant to finance, design, construct, maintain, improve, own, or
15 operate solely from private resources one pilot toll transportation project within the
16 State of North Carolina. Any license authorized by this section must be issued on or
17 before July 1, ~~2003~~-2009.

18 (b) Requirement for Finding of Need. – Prior to the issuance of any license under
19 this section, the Department shall make a written determination that the proposed
20 project is in the public interest.

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

25 (d) License Period. – A license issued under this section shall not exceed 50
26 years from beginning of the operations of the road or bridge. A license may be renewed
27 for an additional 50-year term at the discretion of the Department and in conformity
28 with this Article.

29 (e) State Use for Other Purposes. – A license issued pursuant to this section shall
30 reserve unto the State or its designee the authority to enter and utilize the project
31 right-of-way for other transportation or utility-related purposes, as long as those
32 purposes do not interfere with the use by the licensee.

33 (f) Terms of License. – Additional terms and conditions of any license issued
34 pursuant to this section shall be within the discretion of the Department of
35 Transportation, and shall include, in addition to any other requirements:

- 36 (1) Provisions establishing minimum design and construction standards
37 for the project.
- 38 (2) Provisions establishing minimum maintenance standards for the
39 project and the responsibility for such maintenance.
- 40 (3) Provisions requiring that appropriate traffic signs and other traffic
41 control devices be erected and maintained on the project.
- 42 (4) Provisions establishing the rights and duties of the parties regarding
43 infrastructure improvements and connections between the project and
44 the State highway system.

- 1 (5) Provisions regarding any type of access control, if any, that may be
2 required for the project.
- 3 (6) Provisions establishing the relative responsibilities of the licensee and
4 the Department of Transportation to keep the completed project open
5 and accessible to the public.
- 6 (7) Provisions requiring that the State of North Carolina, its agencies,
7 officials, and employees be indemnified and held harmless by the
8 licensee for any liability incurred on the project in connection with
9 project construction, maintenance, or operation.
- 10 (8) Provisions concerning location of the project.

11 (g) Department Powers. – The Department may exercise any power possessed by
12 it with respect to the development and construction of State transportation projects to
13 facilitate the development and construction of transportation projects pursuant to this
14 Article.

15 (h) Acquisition of Project Property. – A person licensed to construct a project
16 under this section shall make all reasonable efforts to acquire all right-of-way interests
17 required for the project through private negotiation. The Department is authorized to
18 exercise its power of eminent domain to acquire property rights necessary for
19 construction and maintenance of the project only as to those property interests that
20 cannot be acquired by the licensee at a reasonable price through private negotiation, and
21 only as required to control access to the project. A licensee requesting that the
22 Department exercise its power of eminent domain shall be required to reimburse the
23 Department in the full amount of its costs incurred in acquiring the necessary property
24 interests for the private portion of the project, including any negotiated settlement or
25 jury verdict, and any attorneys' fees that may be awarded. The acquisition of property
26 interests necessary for inclusion in a project licensed under this section is hereby
27 declared to be for a public transportation purpose.

28 (i) Transfer of Department Property to Licensee. – Notwithstanding the
29 provisions of G.S. 136-19, should the Department determine that a licensed project
30 require property interests held by the Department, such interests as the Department
31 determines to be necessary may be conveyed to the licensee for fair market value.

32 (j) Applicability of Other Laws. – For the purpose of entering into contractual
33 licensing agreements under this section, the Department of Transportation is exempted
34 from any provision of the General Statutes that conflicts with the purposes of this
35 section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under
36 this section shall not be included in the distribution formula under G.S. 136-17.2A but
37 shall require approval of the Board of Transportation under G.S. 143B-350(f)(4). A
38 licensee under this section shall endeavor to comply with the provisions of
39 G.S. 136-28.4 concerning participation by disadvantaged businesses.

40 (k) Applicability of Motor Vehicle Laws. – Any project licensed by the
41 Department of Transportation under the authority granted in this section shall be
42 considered a "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as
43 defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including

1 the State Highway Patrol and the Division of Motor Vehicles, shall have the same
2 powers and duties on such projects as on any other highway or public vehicular area.

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

6 (m) Definitions. – The following definitions apply as used in this section:

7 (1) "Person" means any natural person, partnership, corporation, trust,
8 association, sole proprietorship, or any other legal entity other than the
9 State or its agencies, institutions, or political subdivisions.

10 (2) "Project" means a ~~privately constructed, maintained, and operated toll~~
11 ~~highway, road, bridge, or other transportation-related facility.~~ bridge of
12 more than two miles in length going from the mainland to a peninsula
13 bordering the State of Virginia.

14 (3) "Licensee" means a person authorized through a contractual agreement
15 with the Department of Transportation to finance, design, construct,
16 maintain, improve, own, or operate, or any combination thereof, a
17 project.

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

22 **SECTION 5.** Chapter 136 of the General Statutes is amended by adding a
23 new section to read:

24 "**§ 136-102.7. Hurricane evacuation standard.**

25 (a) Evacuation Standard. – The hurricane evacuation standard to be used for any
26 bridge or highway construction project pursuant to this Chapter shall be no more than
27 18 hours, as recommended by the State Emergency Management officials."

28 **SECTION 6.** This act is effective when it becomes law.