

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 881*

Short Title: Transportation Corridor Mapping Changes. (Public)

Sponsors: Representatives Cole; Lucas and Wray.

Referred to: Transportation, if favorable, Appropriations.

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE FUNDING FORMULA FOR CITIES REGARDING
3 APPROPRIATIONS FOR MUNICIPAL STREETS, TO INCLUDE CITIES AND
4 COUNTIES IN TRANSPORTATION CORRIDOR MAPPING, TO CONFORM
5 STATUTES TO COUNTY AUTHORITY AUTHORIZED BY THE GENERAL
6 ASSEMBLY, AND TO CLARIFY THE DEFINITION OF THE STATE HIGHWAY
7 SYSTEM.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 136-41.1(a) reads as rewritten:

10 "(a) There is annually appropriated out of the State Highway Fund a sum equal to the net
11 amount after refunds that was produced during the fiscal year by a one and three-fourths cents
12 (1 3/4¢) tax on each gallon of motor fuel taxed under Article 36C of Chapter 105 of the General
13 Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that
14 Chapter. The amount appropriated shall be allocated in cash on or before October 1 of each
15 year to the cities and towns of the State in accordance with this section. In addition, as provided
16 in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to
17 the cities and towns of this State to be used for the same purposes and distributed in the same
18 manner as the revenue appropriated to them under this section from the Highway Fund. Like
19 the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund
20 shall be based on revenue collected during the fiscal year preceding the date the distribution is
21 made.

22 Seventy-five percent (75%) of the funds appropriated for cities and towns shall be
23 distributed among the several eligible municipalities of the State in the percentage proportion
24 that the population of each eligible municipality bears to the total population of all eligible
25 municipalities according to the most recent annual estimates of population as certified to the
26 Secretary of Revenue by the State Budget Officer. This annual estimation of population shall
27 include increases in the population within the municipalities caused by annexations
28 accomplished through July 1 of the calendar year in which these funds are distributed.
29 Twenty-five percent (25%) of said fund shall be distributed among the several eligible
30 municipalities of the State in the percentage proportion that the mileage of public streets in
31 each eligible municipality which does not form a part of the State highway system bears to the
32 total mileage of the public streets in all eligible municipalities which do not constitute a part of
33 the State highway system.

34 It shall be the duty of the mayor of each municipality to report to the Department of
35 Transportation such information as it may request for its guidance in determining the eligibility
36 of each municipality to receive funds under this section and in determining the amount of
37 allocation to which each is entitled. Upon failure of any municipality to make such report



1 within the time prescribed by the Department of Transportation, the Department of
2 Transportation may disregard such defaulting unit in making said allotment.

3 Beginning in fiscal year 2011, the ~~The~~ funds to be allocated under this section ~~shall~~may be
4 paid in cash to the various eligible municipalities ~~on or before October 1 of each~~
5 ~~year,~~biannually in two equal payments on or before December 1 and June 1 of each year.
6 Should the total yearly allocation for a municipality be less than fifty thousand dollars
7 (\$50,000), the Department shall pay the entire amount in one payment before November 1 of
8 that year. Provided that eligible municipalities are authorized within the discretion of their
9 governing bodies to enter into contracts for the purpose of maintenance, repair, construction,
10 reconstruction, widening, or improving streets of such municipalities at any time after January
11 1 of any calendar year in total amounts not to exceed ninety percent (90%) of the amount
12 received by such municipality during the preceding fiscal year, in anticipation of the receipt of
13 funds under this section during the next fiscal year, to be paid for out of such funds when
14 received.

15 The Department of Transportation may withhold each year an amount not to exceed one
16 percent (1%) of the total amount appropriated for distribution under this section for the purpose
17 of correcting errors in allocations: Provided, that the amount so withheld and not used for
18 correcting errors will be carried over and added to the amount to be allocated for the following
19 year.

20 The word "street" as used in this section is hereby defined as any public road maintained by
21 a municipality and open to use by the general public, and having an average width of not less
22 than 16 feet. In order to obtain the necessary information to distribute the funds herein
23 allocated, the Department of Transportation may require that each municipality eligible to
24 receive funds under this section submit to it a statement, certified by a registered engineer or
25 surveyor of the total number of miles of streets in such municipality. The Department of
26 Transportation may in its discretion require the certification of mileage on a biennial basis."

27 **SECTION 2.** G.S. 136-44.50(a) reads as rewritten:

28 "(a) A transportation corridor official map may be adopted or amended by any of the
29 following:

- 30 (1) The governing board of any local government for any thoroughfare included
31 as part of a comprehensive plan for streets and highways adopted pursuant to
32 G.S. 136-66.2 or for any proposed public transportation corridor included in
33 the adopted long-range transportation plan.
- 34 (2) ~~The Board of Transportation~~Transportation, or the governing board of any
35 county, for any portion of the existing or proposed State highway system or
36 for any public transportation corridor, to include rail, that is in the
37 Transportation Improvement Program.
- 38 (3) Regional public transportation authorities created pursuant to Article 26 of
39 Chapter 160A of the General Statutes or regional transportation authorities
40 created pursuant to Article 27 of Chapter 160A of the General Statutes for
41 any portion of the existing or proposed State highway system, or for any
42 proposed public transportation corridor, or adjacent station or parking lot,
43 included in the adopted long-range transportation plan.
- 44 (4) The North Carolina Turnpike Authority for any project being studied
45 pursuant to G.S. 136-89.183.
- 46 (5) The Wilmington Urban Area Metropolitan Planning Organization for any
47 project that is within its urbanized boundary and identified in G.S. 136-179.

48 Before a city adopts a transportation corridor official map that extends beyond the
49 extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances,
50 or adopts an amendment to a transportation corridor official map outside the extraterritorial

1 jurisdiction of its building permit issuance and subdivision control ordinances, the city shall
2 obtain approval from the Board of County Commissioners."

3 **SECTION 3.** G.S. 136-44.50(a1) reads as rewritten:

4 "(a1) No ~~transportation corridor official map shall be adopted or amended, nor may any~~
5 property may be regulated under this Article until:

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

10 a. By publication at least once a week for four successive weeks prior
11 to the hearing in a newspaper having general circulation in the
12 county in which the transportation corridor to be designated is
13 located.

14 b. By two week written notice to the Secretary of Transportation, the
15 Chairman of the Board of County Commissioners, and the Mayor of
16 any city or town through whose corporate or extraterritorial
17 jurisdiction the transportation corridor passes.

18 c. By posting copies of the proposed transportation corridor map or
19 amendment at the courthouse door for at least 21 days prior to the
20 hearing date. The notice required in sub-subdivision a. above shall
21 make reference to this posting.

22 d. By first-class mail sent to each property owner affected by the
23 corridor. The notice shall be sent to the address listed for the owner
24 in the county tax records.

25 (1a) The transportation corridor official map has been adopted or amended by the
26 governing board of the city, the county, the regional transportation authority,
27 the North Carolina Turnpike Authority, or the Department.

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

33 (3) The names of all property owners affected by the corridor have been
34 submitted to the Register of Deeds."

35 **SECTION 4.** G.S. 136-66.1(1) reads as rewritten:

36 "(1) The State Highway System. – The State highway system inside the corporate
37 limits of municipalities shall only consist of a system of major streets and
38 highways necessary to move volumes of traffic efficiently and effectively
39 from points beyond the corporate limits of the municipalities through the
40 municipalities and to major business, industrial, governmental and
41 institutional destinations located inside the municipalities. The Department
42 of Transportation shall be responsible for the maintenance, repair,
43 improvement, widening, construction and reconstruction of this system.
44 These streets and highways within corporate limits are of primary benefit to
45 the State in developing a statewide coordinated system of primary and
46 secondary streets and highways. Each highway division shall develop an
47 annual work plan for maintenance and contract resurfacing, within their
48 respective divisions, consistent with the needs, inasmuch as possible, as
49 identified in the report developed in accordance with G.S. 136-44.3. In
50 developing the annual work plan, the highway division shall give
51 consideration to any special needs or information provided by the

1 municipalities within their respective divisions. The plan shall be made
2 available to the municipalities within the respective divisions upon request."

3 **SECTION 5.** G.S. 136-66.2 reads as rewritten:

4 **"§ 136-66.2. Development of a coordinated transportation system and provisions for**
5 **streets and highways in and around municipalities.**

6 (a) Each municipality, not located within a metropolitan planning organization (MPO)
7 as recognized in G.S. 136-200.1, with the cooperation of the Department of Transportation,
8 shall develop a comprehensive transportation plan that will serve present and anticipated travel
9 demand in and around the municipality. The plan shall be based on the best information
10 available including, but not limited to, population growth, economic conditions and prospects,
11 and patterns of land development in and around the municipality, and shall provide for the safe
12 and effective use of the transportation system. In the development of the plan, consideration
13 shall be given to all transportation modes including, but not limited to, the street system, transit
14 alternatives, bicycle, pedestrian, and operating strategies. The Department of Transportation
15 may provide financial and technical assistance in the preparation of such plans. Each MPO,
16 with cooperation of the Department of Transportation, shall develop a comprehensive
17 transportation plan in accordance with 23 U.S.C. § 134. In addition, an MPO may include
18 projects in its transportation plan that are not included in a financially constrained plan or are
19 anticipated to be needed beyond the horizon year as required by 23 U.S.C. § 134. For
20 municipalities located within an MPO, the development of a comprehensive transportation plan
21 will take place through the metropolitan planning organization. For purposes of transportation
22 planning and programming, the MPO shall represent the municipality's interests to the
23 Department of Transportation.

24 (b) After completion and analysis of the plan, the plan shall be adopted by both the
25 governing body of the municipality or MPO and the Department of Transportation as the basis
26 for future transportation improvements in and around the municipality or within the MPO. The
27 governing body of the municipality and the Department of Transportation shall reach
28 agreement as to which of the existing and proposed streets and highways included in the
29 adopted plan will be a part of the State highway system and which streets will be a part of the
30 municipal street system. As used in this Article, the State highway system shall mean both the
31 primary highway system of the State and the secondary road system of the State within
32 municipalities, municipalities that meet the functionality test established in subsection (c) of this
33 section, or is mutually agreed upon.

34 (b1) The Department of Transportation may participate in the development and adoption
35 of a transportation plan or updated transportation plan when all local governments within the
36 area covered by the transportation plan have adopted land development plans within the
37 previous five years. The Department of Transportation may participate in the development of a
38 transportation plan if all the municipalities and counties within the area covered by the
39 transportation plan are in the process of developing a land development plan. The Department
40 of Transportation may not adopt or update a transportation plan until a local land development
41 plan has been adopted. A qualifying land development plan may be a comprehensive plan, land
42 use plan, master plan, strategic plan, or any type of plan or policy document that expresses a
43 jurisdiction's goals and objectives for the development of land within that jurisdiction. At the
44 request of the local jurisdiction, the Department may review and provide comments on the plan
45 but shall not provide approval of the land development plan.

46 (b2) The municipality or the MPO shall provide opportunity for public comments prior
47 to adoption of the transportation plan.

48 (b3) Each county, with the cooperation of the Department of Transportation, may
49 develop a comprehensive transportation plan utilizing the procedures specified for
50 municipalities in subsection (a) of this section. This plan may be adopted by both the governing
51 body of the county and the Department of Transportation. For portions of a county located

1 within an MPO, the development of a comprehensive transportation plan shall take place
2 through the metropolitan planning organization.

3 (b4) To complement the roadway element of the transportation plan, municipalities and
4 MPOs may develop a collector street plan to assist in developing the roadway network. The
5 Department of Transportation may review and provide comments but is not required to provide
6 approval of the collector street plan.

7 (c) From and after the date that the plan is adopted, the streets and highways designated
8 in the plan as the responsibility of the Department of Transportation must be functionally
9 classified as major collectors, arterials, or interstate routes according to the most recent
10 functional classification system map approved by both the Department and the Federal
11 Highway Administration, and shall become a part of the State highway system and all such
12 system streets shall be subject to the provisions of G.S. 136-93, and all streets designated in the
13 plan as the responsibility of the municipality shall become a part of the municipal street system.

14 (d) For municipalities not located within an MPO, either the municipality or the
15 Department of Transportation may propose changes in the plan that meet the eligibility
16 requirements of subsection (c) of this section at any time by giving notice to the other party, but
17 no change shall be effective until it is adopted by both the Department of Transportation and
18 the municipal governing board. For MPOs, either the MPO or the Department of
19 Transportation may propose changes in the plan at any time by giving notice to the other party,
20 but no change shall be effective until it is adopted by both the Department of Transportation
21 and the MPO.

22 (e) Until the adoption of a comprehensive transportation plan that includes future
23 development of the street system in and around municipalities, the Department of
24 Transportation and any municipality ~~may shall~~ reach an agreement as to which existing or
25 proposed streets and highways within the municipal boundaries shall be added to or removed
26 from the State highway ~~system~~ system based on the most recent functional classification of the
27 roadways within the municipal limits.

28 (f) Streets within municipalities which are on the State highway system as of July 1,
29 1959, shall continue to be on that system until changes are made ~~as provided in this section to~~
30 comply with the eligibility requirements of subsection (c) of this section. These new
31 agreements shall become effective on or before June 30, 2015. The Department shall bring all
32 State-maintained roads up to acceptable maintenance standards prior to placing them in the
33 municipal system.

34 (g) The street and highway elements of the plans developed pursuant to G.S. 136-66.2
35 shall serve as the plan referenced in G.S. 136-66.10(a)."

36 **SECTION 6.** This act becomes effective July 1, 2009.