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Short Title: Toll Road and Bridge Authority Created.

(Public)

Sponsors:

Referred to:

March 15, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PUBLIC TOLL ROADS AND BRIDGES IN NORTH
CAROLINA AND THE CREATION OF A TURNPIKE AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a
new Article to read:

"Article 6H.

"Public Toll Roads and Bridges.

"§ 136-89.180. Legislative findings.

The General Assembly finds that the existing State road system is becoming increasingly congested and overburdened with traffic in many areas of the State; that the sharp surge of vehicle miles traveled is overwhelming the State's ability to build and pay for adequate road improvements; and that an adequate answer to this challenge will require the State to be innovative and utilize several new approaches to transportation improvements in North Carolina.

Toll funding of highway construction is feasible in North Carolina and can contribute to addressing the critical transportation needs of the State. A toll program can speed the implementation of needed transportation improvements by funding some projects with tolls.

"§ 136-89.181. Definitions.

The following definitions apply to this Article:

(1) "Turnpike Authority" means the public agency created by this Article.

(2) "Turnpike Authority Board" means the governing board of the Turnpike Authority.

1 (3) "Turnpike Project" means a project planned and constructed in
2 accordance with the provisions of this Article that is:

3 a. A primary or secondary road, bridge, or tunnel project located
4 in whole or in part in a county with a population equal to or
5 greater than six hundred fifty thousand (650,000) persons,
6 according to the latest decennial census.

7 b. A primary or secondary road, bridge or tunnel project located in
8 a county or counties that each have a population of fewer that
9 six hundred fifty thousand (650,000) persons, according to the
10 latest decennial census.

11 (4) "Turnpike System" means collectively all Turnpike Projects developed
12 in accordance with the provisions of this Article.

13 **§ 136-89.182. North Carolina Turnpike Authority.**

14 (a) Creation. – There is created a body politic and corporate to be known as the
15 "North Carolina Turnpike Authority". The Authority is constituted as a public agency,
16 and the exercise by the Authority of the powers conferred by this Article in the
17 construction, operation, and maintenance of toll roads and bridges shall be deemed and
18 held to be the performance of an essential governmental function.

19 (b) Administrative Placement. – The Authority shall be located within the
20 Department of Transportation for administrative purposes but shall exercise all of its
21 powers independently of the Department of Transportation except as otherwise
22 specified in this Article.

23 (c) Board of Directors. – The North Carolina Turnpike Authority shall be
24 governed by a nine member Board of Directors consisting of three members appointed
25 by the General Assembly upon the recommendation of the President Pro Tempore of the
26 Senate in accordance with G.S. 120-121, three members appointed by the General
27 Assembly upon the recommendation of the Speaker of the House of Representatives in
28 accordance with G.S. 120-121, two members appointed by the Governor, and the
29 Secretary of Transportation. Each appointing authority shall appoint members who
30 reside in diverse regions of the State. The Chair of the Authority shall be selected by the
31 Board of Directors.

32 (d) Board of Transportation Members. – No more than two members of the North
33 Carolina Board of Transportation may serve as members of the Authority Board.

34 (e) Staggered Terms. – Two of the initial appointments to the Authority Board by
35 the General Assembly upon the recommendation of the President Pro Tempore of the
36 Senate and the General Assembly upon the recommendation of the Speaker of the
37 House of Representatives, and one initial appointment of the Governor, shall be
38 appointed to terms ending January 14, 2007. One of the initial appointments to the
39 Authority Board by the General Assembly upon the recommendation of the President
40 Pro Tempore of the Senate and the General Assembly upon the recommendation of the
41 Speaker of the House of Representatives, and one initial appointment of the Governor,
42 shall be appointed to terms ending January 14, 2005. The Secretary of Transportation
43 shall serve as an ex-officio voting member of the Board. Thereafter, at the expiration of

1 each stipulated term of office, all appointments shall be to a term of four years from the
2 date of the expiration of the term.

3 (f) Vacancies. – All members of the Authority Board shall remain in office until
4 their successors are appointed and qualified. The original appointing authority may
5 appoint a member to serve out the unexpired term of any member.

6 (g) Removal of Board Members. – Each member of the Authority Board,
7 notwithstanding subsection (e) of this section, shall serve at the pleasure of the
8 appointing authority. The Chair of the Authority serves at the pleasure of the Authority
9 Board.

10 (h) Conflicts of Interest, Ethics – Members of the Authority Board shall be
11 subject to provisions of G.S. 136-13, 136-13.1, and 136-14.

12 (i) Compensation. – The appointed members of the Authority Board shall
13 receive no salary for their services but shall be entitled to receive per diem and travel
14 allowances in accordance with the provisions of G.S. 138-5 and G.S. 138-6 as
15 appropriate.

16 (j) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with
17 respect to the calling of meetings, quorums, voting procedures, the keeping of records,
18 and other organizational, staffing, and administrative matters as the Authority Board
19 may determine. Any bylaws, or subsequent changes or amendments to the bylaws, shall
20 be submitted to the Board of Transportation and the Joint Legislative Transportation
21 Oversight Committee for review and comment at least 45 days prior to adoption by the
22 Authority Board.

23 (k) Executive Director and Administrative Employees. – The Authority Board
24 shall appoint an Executive Director, whose salary shall be fixed by the Authority, to
25 serve at its pleasure. The Executive Director shall be the Authority's chief
26 administrative officer and shall be responsible for the daily administration of the toll
27 roads and bridges constructed, maintained, or operated pursuant to this Article. The
28 Executive Director or his designee shall appoint, employ, dismiss, and within the limits
29 approved by the Authority Board, fix the compensation of administrative employees as
30 the Executive Director deems necessary to carry out this Article. The Authority shall
31 report the hiring of all administrative employees to the Joint Legislative Transportation
32 Oversight Committee within 30 days of the date of employment.

33 (l) Office. – The offices of the Authority may be housed in one or more facilities
34 of the Department of Transportation.

35 **"§ 136-89.183. Powers of the Authority.**

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

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

41 (2) To study, plan, develop, design, establish, purchase, construct, operate,
42 and maintain a Turnpike Project, either on its own initiative or at the
43 request of the Board of Transportation. The Authority shall be limited
44 to planning and developing one turnpike project located in whole or in

1 part in a county with a population equal to or greater than six hundred
2 fifty thousand (650,000) persons, according to the latest decennial
3 census, and one turnpike project located in a county or counties that
4 each have a population of fewer than six hundred fifty thousand
5 (650,000) persons, according to the latest decennial census.

6 (3) To rent, lease, purchase, acquire, own, encumber, dispose of, or
7 mortgage real or personal property, including the power to acquire
8 property by eminent domain pursuant to G.S. 136-89.184.

9 (4) To fix, revise, charge, and collect tolls and fees for the use of the
10 Turnpike Projects. Sixty days prior to the effective date of any toll or
11 fee for use of a Turnpike Facility, the Authority shall submit a
12 description of the proposed toll or fee to the Board of Transportation,
13 the Joint Legislative Transportation Oversight Committee and the Joint
14 Legislative Commission on Governmental Operations for review.

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

16 (6) To establish, construct, purchase, maintain, equip, and operate any
17 structure or facilities associated with the Turnpike System.

18 (7) To pay all necessary costs and expenses in the formation, organization,
19 administration, and operation of the Authority.

20 (8) To apply for, accept, and administer loans and grants of money or real
21 or personal property from any federal agency, from the State or its
22 political subdivisions, local government, or from any other public or
23 private sources available.

24 (9) To adopt, alter, or repeal its own bylaws or rules implementing the
25 provisions of this Article, in accordance with the review and comment
26 requirements of G.S. 136-89.182(j).

27 (10) To utilize employees of the Department of Transportation; to contract
28 for the services of consulting engineers, architects, attorneys, real
29 estate counselors, appraisers, and other consultants; to employ
30 administrative staff as may be required in the judgment of the
31 Authority; and to fix and pay fees or compensation to the Department,
32 contractors, and administrative employees from funds available to the
33 Authority.

34 (11) To receive and use appropriations from the State.

35 (12) To adopt procedures to govern its procurement of services and
36 delivery of Turnpike Projects.

37 (13) To perform or procure any portion of services required by the
38 Authority.

39 (14) To use officers, employees, agents, and facilities of the Department of
40 Transportation for the purposes and upon the terms as may be mutually
41 agreeable.

42 (15) To contract for the construction, maintenance, and operation of a
43 Turnpike Project.

1 (16) To enter into partnership agreements, agreements with political
2 subdivisions of the State, and agreements with private entities, and to
3 expend such funds as it deems necessary, pursuant to such agreements,
4 for the purpose of financing the cost of acquiring, constructing,
5 equipping, operating, or maintaining any Turnpike Project.

6 (b) To execute the powers provided in subsection (a) of this section, the
7 Authority shall determine its policies by majority vote of the members of the Authority
8 present and voting, a quorum having been established. Once a policy is established, the
9 Authority Board shall communicate it to the Executive Director or the Director's
10 designee, who shall have the sole and exclusive authority to execute the policy of the
11 Authority. No member of the Authority Board shall have the responsibility or authority
12 to give operational directives to any employee of the Authority other than the Executive
13 Director or the Director's designee.

14 **"§ 136-89.184. Acquisition of real property.**

15 (a) General. – The Authority may acquire public or private real property by
16 purchase, negotiation, gift, or devise, or condemnation that it determines to be necessary
17 and convenient for the construction, expansion, enlargement, extension, improvement,
18 or operation of a Turnpike Project. When the Authority acquires real property owned by
19 the State, the Secretary of the Department of Administration shall execute and deliver to
20 the Authority a deed transferring fee simple title to the property to the Authority.

21 (b) Condemnation. – To exercise the power of eminent domain, the Authority
22 shall commence a proceeding in its name and shall follow the procedure set forth in
23 Article 9 of Chapter 136 of the General Statutes.

24 **"§ 136-89.185. Taxation of property of Authority.**

25 Property owned by the Authority is exempt from taxation in accordance with Section
26 2 of Article V of the North Carolina Constitution.

27 **"§ 136-89.186. Audit.**

28 The operations of the Authority shall be subject to the oversight of the State Auditor
29 pursuant to Article 5A of Chapter 147 of the General Statutes.

30 **"§ 136-89.187. Conversion of free highways prohibited.**

31 The Authority Board is prohibited from converting any segment of the nontolled
32 State highway system to a toll facility.

33 **"§ 136-89.188. Use of revenues.**

34 (a) Revenues derived from Turnpike Projects authorized under this Article shall
35 be used only for Authority administration costs; Turnpike Project development,
36 construction, operation, and maintenance; and debt service on the Authority's revenue
37 bonds.

38 (b) The Authority may use up to one hundred percent (100%) of the revenue
39 derived from a Turnpike Project for debt service on the Authority's revenue bonds or for
40 a combination of debt service and operation and maintenance expenses of the Turnpike
41 Projects.

42 (c) The Authority shall use not more than five percent (5%) of total revenue
43 derived from all Turnpike Projects for Authority administration costs.

44 **"§ 136-89.189. Turnpike Authority revenue bonds.**

1 The Authority shall be a municipality for purposes of Article 5 of Chapter 159 of the
2 General Statutes, the State and Local Government Revenue Bond Act, and may issue
3 revenue bonds pursuant to that Act to pay all or a portion of the cost of a Turnpike
4 Project or to refund any previously issued bonds. In connection with the issuance of
5 revenue bonds, the Authority shall have all powers of a municipality under the State and
6 Local Government Revenue Bond Act, and revenue bonds issued by the Authority shall
7 be entitled to the protection of all provisions of the State and Local Government
8 Revenue Bond Act.

9 **"§ 136-89.190. Sale of Turnpike Authority revenue bonds.**

10 Revenue bonds of the Authority issued pursuant to G.S. 136-89.189 and the State
11 and Local Government Revenue Bond Act shall be sold in accordance with and
12 pursuant to Article 7 of Chapter 159 of the General Statutes.

13 **"§ 136-89.191. Cost participation by Department of Transportation.**

14 The Department of Transportation may participate in the cost of preconstruction
15 activities, construction, maintenance, or operation of a Turnpike Project.

16 **"§ 136-89.192. Equity distribution formula.**

17 Only those funds applied to a Turnpike Project from the State Highway Fund, State
18 Highway Trust Fund, or federal-aid funds that might otherwise be used for other
19 roadway projects within the State, and are otherwise already subject to the distribution
20 formula under G.S. 136-17.2A, shall be included in the distribution formula.

21 Other revenue from the sale of bonds, project loans, or toll collections shall not be
22 included in the distribution formula.

23 **"§ 136-89.193. Annual plan of work; annual and quarterly reports.**

24 (a) Annual Plan of Work. – The Authority shall annually develop a plan of work
25 for the fiscal year, describing the activities and projects to be undertaken, accompanied
26 by a budget. This annual plan of work shall be subject to the concurrence of the Board
27 of Transportation.

28 (b) Annual Reports. – The Authority shall, promptly following the close of each
29 fiscal year, submit an annual report of its activities for the preceding year to the
30 Governor, the General Assembly, and the Department of Transportation. Each report
31 shall be accompanied by an audit of its books and accounts.

32 (c) Quarterly Reports. – The Authority shall submit quarterly reports to the Joint
33 Legislative Transportation Oversight Committee. The reports shall summarize the
34 Authority's activities during the quarter and contain any information about the
35 Authority's activities that is requested by the Committee.

36 (d) Report prior to let of contracts.—The Authority shall consult with and report
37 to the Joint Legislative Transportation Oversight Committee and the Joint Legislative
38 Commission on Governmental Operations prior to the letting of any contract for
39 turnpike project construction.

40 **"§ 136-89.194. Laws applicable to the Authority; exceptions.**

41 (a) Motor Vehicle Laws. – The Turnpike System shall be considered a
42 "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as defined in
43 G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State

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

3 (b) Contracting. – For the purposes of implementing this Article, the Authority
4 shall solicit competitive proposals for the construction of Turnpike Projects in
5 accordance with the provisions of Article 2 of this Chapter. Contracts for professional
6 engineering services and other kinds of professional or specialized services necessary in
7 connection with construction of Turnpike Projects shall be solicited in accordance with
8 procedures utilized by the Department of Transportation.

9 (c) Alternative Contracting Methods. – Notwithstanding the provisions of
10 subsection (b) of this section, the Authority may authorize the use of alternative
11 contracting methods if:

12 (1) The authorization applies to an individual project;

13 (2) The Authority has concluded, and documented in writing, that the
14 alternative contracting method is necessary because the project cannot
15 be completed utilizing the procedures of Article 2 of this Chapter
16 within the necessary time frame or available funding or for other
17 reasons the Authority deems in the public interest;

18 (3) The Authority has provided, to the extent possible, for the solicitation
19 of competitive proposals prior to awarding a contract; and

20 (4) The approved alternative contracting method provides for reasonable
21 compliance with the disadvantaged business participation goals of G.S.
22 136-28.4.

23 **"§ 136-89.195. Internet report of funds expended.**

24 The Department shall publish and update annually on its Internet web site a record
25 of all expenditures of the Turnpike Authority for highway construction, maintenance,
26 and administration. The record shall include a total expenditure amount by county. For
27 each Turnpike Project, the record shall include a readily identifiable project name or
28 location, the nature of the project, the amount of the project, the contractor for the
29 project, the date of project letting, and the actual or expected project completion date.

30 **"§ 136-89.196. Removal of tolls.**

31 The Authority shall, upon fulfillment of and subject to any restrictions included in
32 the agreements entered into by the Authority in connection with the issuance of the
33 Authority's revenue bonds, remove tolls from a Turnpike Project.

34 **"§ 136-89.197. Maintenance of nontoll routes.**

35 The Department shall maintain an alternate, nontoll primary route corresponding to
36 each toll road project constructed pursuant to this Article."

37 **SECTION 2.** Chapter 20 of the General Statutes is amended by adding a
38 new section to read:

39 **"§ 20-158.2. Control of vehicles on Turnpike System.**

40 The North Carolina Turnpike Authority may control vehicles at appropriate places
41 by erecting traffic control devices to collect tolls."

42 **SECTION 3.** G.S. 136-176(b) reads as rewritten:

43 "(b) Funds in the Trust Fund are annually appropriated to the Department of
44 Transportation to be allocated and used as provided in this subsection. A sum, not to

1 exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust
2 Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year
3 by the Department for expenses to administer the Trust Fund. Operation and project
4 development costs of the North Carolina Turnpike Authority are eligible administrative
5 expenses under this subsection. Any funds allocated to the Authority pursuant to this
6 subsection shall be repaid by the Authority from its toll revenue as soon as possible,
7 subject to any restrictions included in the agreements entered into by the Authority in
8 connection with the issuance of the Authority's revenue bonds. Beginning one year after
9 the Authority begins collecting tolls on a completed Turnpike Project, interest shall
10 accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the
11 State Treasurer's average annual yield on its investment of Highway Trust Fund funds
12 pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the
13 Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be
14 allocated and used as follows:

- 15 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,
16 and construct the projects of the Intrastate System described in G.S.
17 136-179 and to pay debt service on highway bonds and notes that are
18 issued under the State Highway Bond Act of 1996 and whose proceeds
19 are applied to these projects.
- 20 (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and
21 construct the urban loops described in G.S. 136-180 and to pay debt
22 service on highway bonds and notes that are issued under the State
23 Highway Bond Act of 1996 and whose proceeds are applied to these
24 urban loops.
- 25 (3) Six and one-half percent (6.5%) to supplement the appropriation to
26 cities for city streets under G.S. 136-181.
- 27 (4) Six and one-half percent (6.5%) for secondary road construction as
28 provided in G.S. 136-182 and to pay debt service on highway bonds
29 and notes that are issued under the State Highway Bond Act of 1996
30 and whose proceeds are applied to secondary road construction.

31 The Department must administer funds allocated under subdivisions (1), (2), and (4)
32 of this subsection in a manner that ensures that sufficient funds are available to make
33 the debt service payments on bonds issued under the State Highway Bond Act of 1996
34 as they become due."

35 **SECTION 4.** G.S. 126-5(c1) is amended by adding a new subdivision to
36 read:

37 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
38 of this Chapter shall not apply to:

39 ...

40 (21) Employees of the North Carolina Turnpike Authority."

41 **SECTION 5.** G.S. 120-123 is amended by adding a new subdivision to read:
42 "§ 120-123. **Service by members of the General Assembly on certain boards and**
43 **commissions.**

1 No member of the General Assembly may serve on any of the following boards or
2 commissions:

3 ...

4 (75) The North Carolina Turnpike Authority."

5 **SECTION 6.** G.S. 159-81(1) reads as rewritten:

6 "(1) 'Municipality' means a county, city, town, incorporated village,
7 sanitary district, metropolitan sewerage district, metropolitan water
8 district, county water and sewer district, water and sewer authority,
9 hospital authority, hospital district, parking authority, special airport
10 district, regional public transportation authority, regional
11 transportation authority, regional natural gas district, regional sports
12 authority, airport authority, joint agency created pursuant to Part 1 of
13 Article 20 of Chapter 160A of the General Statutes, ~~and a~~ joint agency
14 authorized by agreement between two cities to operate an airport
15 pursuant to G.S. 63-56, and the North Carolina Turnpike Authority
16 created pursuant to Article 6H of Chapter 136 of the General Statutes,
17 but not any other forms of State or local government."

18 **SECTION 7.** G.S. 159-81(3) is rewritten to read:

19 "(3) 'Revenue bond project' means any undertaking for the acquisition,
20 construction, reconstruction, improvement, enlargement, betterment,
21 or extension of any one or combination of the following
22 revenue-producing utility or public service enterprise facilities or
23 systems owned or leased as lessee by the issuing unit, to be financed
24 through the issuance of revenue bonds, thereby providing funds to pay
25 the costs of the undertaking or to reimburse funds loaned or advanced
26 by the State or a municipality to pay the costs of the undertaking:

- 27 a. Water systems or facilities, including all plants, works,
28 instrumentalities and properties used or useful in obtaining,
29 conserving, treating, and distributing water for domestic or
30 industrial use, irrigation, sanitation, fire protection, or any other
31 public or private use.
- 32 b. Sewage disposal systems or facilities, including all plants,
33 works, instrumentalities, and properties used or useful in the
34 collection, treatment, purification, or disposal of sewage.
- 35 c. Systems or facilities for the generation, production,
36 transmission, or distribution of gas (natural, artificial, or mixed)
37 or electric energy for lighting, heating, or power for public and
38 private uses, where gas systems shall include the purchase
39 and/or lease of natural gas fields and natural gas reserves and
40 the purchase of natural gas supplies, and where any parts of
41 such gas systems may be located either within the State or
42 without.
- 43 d. Systems, facilities and equipment for the collection, treatment,
44 or disposal of solid waste.

- 1 e. Public transportation systems, facilities, or equipment,
2 including but not limited to bus, truck, ferry, and railroad
3 terminals, depots, trackages, vehicles, and ferries, and mass
4 transit systems.
- 5 f. Public parking lots, areas, garages, and other vehicular parking
6 structures and facilities.
- 7 g. Aeronautical facilities, including but not limited to airports,
8 terminals, and hangars.
- 9 h. Marine facilities, including but not limited to marinas, basins,
10 docks, dry docks, piers, marine railways, wharves, harbors,
11 warehouses, and terminals.
- 12 i. Hospitals and other health-related facilities.
- 13 j. Public auditoriums, gymnasiums, stadiums, and convention
14 centers.
- 15 k. Recreational facilities.
- 16 l. In addition to the foregoing, in the case of the State of North
17 Carolina, low-level radioactive waste facilities developed
18 pursuant to Chapter 104G of the General Statutes, hazardous
19 waste facilities developed pursuant to Chapter 130B of the
20 General Statutes, and any other project authorized by the
21 General Assembly.
- 22 m. Economic development projects, including the acquisition and
23 development of industrial parks, the acquisition and resale of
24 land suitable for industrial or commercial purposes, and the
25 construction and lease or sale of shell buildings in order to
26 provide employment opportunities for citizens of the
27 municipality.
- 28 n. Facilities for the use of any agency or agencies of the
29 government of the United States of America.
- 30 o. Structural and natural stormwater and drainage systems of all
31 types.
- 32 p. In the case of the North Carolina Turnpike Authority, a
33 Turnpike Project, as defined in G.S. 136-89.181, including the
34 planning and design of a Turnpike Project, that is designated by
35 the Authority to be a revenue bond project.

36 The cost of an undertaking may include all property, both real and personal
37 and improved and unimproved, plants, works, appurtenances, machinery, equipment,
38 easements, water rights, air rights, franchises, and licenses used or useful in connection
39 with any of the foregoing utilities and enterprises; the cost of demolishing or moving
40 structures from land acquired and the cost of acquiring any lands to which such
41 structures are to be moved; financing charges; the cost of plans, specifications, surveys,
42 and estimates of cost and revenues; administrative and legal expenses; and any other
43 expense necessary or incident to the project."

44 **SECTION 8.** G.S. 159-96 is amended by adding a new subsection to read:

1 "(e) In the case of a Turnpike Project of the North Carolina Turnpike
2 Authority, the project may be located anywhere in the State the Authority is authorized
3 to maintain a Turnpike Project."

4 **SECTION 9.** The Authority shall evaluate the feasibility of encouraging
5 mass transit and ridesharing in proposed toll road facilities.

6 **SECTION 10.** This act is effective when it becomes law.