

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH70236-MA-317A* (3/12)

Short Title: Transportation Corridor Mapping Changes. (Public)

Sponsors: Representative Cole.

Referred to:

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



1 of each municipality to receive funds under this section and in determining the amount of
2 allocation to which each is entitled. Upon failure of any municipality to make such report
3 within the time prescribed by the Department of Transportation, the Department of
4 Transportation may disregard such defaulting unit in making said allotment.

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

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

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

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

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

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

50 Before a city adopts a transportation corridor official map that extends beyond the
51 extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances,

1 or adopts an amendment to a transportation corridor official map outside the extraterritorial
2 jurisdiction of its building permit issuance and subdivision control ordinances, the city shall
3 obtain approval from the Board of County Commissioners."

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

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

- 7 (1) The governing board of the city, the county, the regional transportation
8 authority, the North Carolina Turnpike Authority, or the Department of
9 Transportation has held a public hearing in each county affected by the map
10 on the proposed map or amendment. Notice of the hearing shall be provided:
11 a. By publication at least once a week for four successive weeks prior
12 to the hearing in a newspaper having general circulation in the
13 county in which the transportation corridor to be designated is
14 located.
15 b. By two week written notice to the Secretary of Transportation, the
16 Chairman of the Board of County Commissioners, and the Mayor of
17 any city or town through whose corporate or extraterritorial
18 jurisdiction the transportation corridor passes.
19 c. By posting copies of the proposed transportation corridor map or
20 amendment at the courthouse door for at least 21 days prior to the
21 hearing date. The notice required in sub-subdivision a. above shall
22 make reference to this posting.
23 d. By first-class mail sent to each property owner affected by the
24 corridor. The notice shall be sent to the address listed for the owner
25 in the county tax records.

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

- 29 (2) A permanent certified copy of the transportation corridor official map or
30 amendment has been filed with the register of deeds. The boundaries may be
31 defined by map or by written description, or a combination thereof. The
32 copy shall measure approximately 20 inches by 12 inches, including no less
33 than one and one-half inches binding space on the left-hand side.
34 (3) The names of all property owners affected by the corridor have been
35 submitted to the Register of Deeds."

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

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

1 consideration to any special needs or information provided by the
2 municipalities within their respective divisions. The plan shall be made
3 available to the municipalities within the respective divisions upon request."

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

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

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

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

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

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

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

1 body of the county and the Department of Transportation. For portions of a county located
2 within an MPO, the development of a comprehensive transportation plan shall take place
3 through the metropolitan planning organization.

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

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

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

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

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

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

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