

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: Senate Bill 778 (Fourth Edition)

SHORT TITLE: Performance Guarantees/Subdivision Streets.

SPONSOR(S):

FISCAL IMPACT					
(\$ in millions)					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
State Impact					
Highway Fund Revenues:	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Highway Fund Expenditures:					
Sec. 1	\$0.0	\$0.1	\$0.1	\$0.1	\$0.2
Sec. 2 - Part 1	\$3.2	\$2.7	\$2.6	\$2.5	\$2.4
Sec. 2 - Part 2 & Sec. 3	\$18.4 - \$94.0	\$14.0 - \$71.8	\$13.2 - \$67.4	\$12.3 - \$62.9	\$11.4 - \$58.5
State Positions:	0	0	0	0	0
NET STATE IMPACT	\$21.6 - \$97.2	\$16.8 - \$74.6	\$15.9 - \$70.1	\$14.9 - \$65.5	\$14.0 - \$61.1
Local Impact					
Revenues:	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Expenditures: Sec. 1	Minimal Cost to Counties				
Expenditures: Sec.2 - Part 2 (Counties/Schools) and Sec. 3 (Cities/Schools)	(\$18.4 - \$94.0)	(\$14.0 - \$71.8)	(\$13.2 - \$67.4)	(\$12.3 - \$62.9)	(\$11.4 - \$58.5)
NET LOCAL IMPACT	(\$18.4 - \$94.0)	(\$14.0 - \$71.8)	(\$13.2 - \$67.4)	(\$12.3 - \$62.9)	(\$11.4 - \$58.5)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation					
EFFECTIVE DATE: Sections 1-3 become effective on October 1, 2016.					
TECHNICAL CONSIDERATIONS: Yes - See Technical Considerations Section					

BILL SUMMARY:

Section 1 concerns subdivision streets. It makes changes to the State law concerning performance guarantees on county subdivision streets offered for public dedication. Section 1 expedites the approval process for subdivision streets to become part of the State system. Under the exceptions, terms, and grounds for denial set forth in G.S. 153A-331.1(p), G.S. 153A-331.1(q), and G.S. 153A-331.1(r), DOT must accept developments retroactively that were approved on or after October 1, 2010 and accept all developments approved on or after October 1, 2016. G.S. 153A-331.1(s) requires counties to develop a public street information database that lists which roads are federal, state, city, or privately owned, or the stage of pending public acceptance.

Section 2 requires DOT to reimburse public schools up to \$60,000 for construction and maintenance related to school bus drives, school bus parking, school driveways and entrances located on the school site. Charter schools opened on or after July 1, 2015, including expansion buildings, are included in these requirements.

Section 2 also requires DOT to fully reimburse for road improvements not located on school property for new or relocated schools and school expansions. DOT, or independent traffic engineers, will make recommendations for schools but the schools must only make changes that are required for safe ingress and egress to the State highway system. DOT must pay for those changes that are required for safe ingress and egress to the State highway system. Unless the school is owned by an entity that has private domain power, DOT must also reimburse for the acquisition of right-of-way. This section applies to traditional public schools, charter schools, and private schools.

Section 3 requires DOT to fund school related improvements on municipally-owned streets required by the city. The proposed bill limits improvements to those required for safe ingress and egress to the municipal street system and that are physically connected to a driveway on the school site. Unless the school is owned by an entity that has private domain power, DOT must also reimburse for the acquisition of right-of-way. This section applies to traditional public schools, charter schools, and private schools.

ASSUMPTIONS AND METHODOLOGY:

Sec. 1: Part 1: Funding for Subdivision Streets

This bill requires DOT to accept to the State highway system all developments approved on or after October 1, 2016 and retroactively accept all subdivisions or development plans approved on or after October 1, 2010, if the road meets DOT standards. DOT stated that if the reduction in home density requirements occurs, as proposed in this bill, DOT will revise the minimum pavement design standards for subdivisions to reflect construction traffic rather than typical traffic for a completed subdivision.

Annual road maintenance costs are minimal for the first 10 years. DOT estimates the average annual per mile maintenance costs are \$500-\$1,500. Periodic maintenance occurs after the first 10 years at a cost of \$10,000 - \$17,000 per mile. After 20 years, the road requires resurfacing at a cost of \$100,000-\$150,000 per mile.

Based on the data in Figure 1, which was provided by DOT, approximately 175 miles of subdivisions have received Built to Standards letters since October 2010 but have not been added to the State/city maintenance. DOT provided 5 years of data (2011-2015), including:

1. Number of approval letters,
2. Total number of miles included in subdivisions under the approval letter, and
3. Total of remaining miles to date for each of the 5 years that have NOT been added to the State system.

Figure 1. Subdivision Approval Data					
	2011	2012	2013	2014	2015
Number of Subdivisions receiving Built to Standards Approval Letter	94	96	109	114	117
Mileage of Subdivisions receiving Built to Standards Approval Letter	43.538	40.21	52.733	40.231	44.6369
Mileage of Subdivisions receiving Built to Standards Approval Letter not added to State (or city) maintenance to Date (03/03/16)	23.288	23.182	32.214	31.176	40.1709

Under this proposed bill, G.S. 153A-331.1(l)(3) requires the road to be opened for public travel for at least six years before it is eligible to become part of the State maintained system. Thus the FY 2016-17 fiscal impact is limited to retroactive developments approved in FY 2010-11 and developments approved after October 1, 2016. The FY 2017-18 fiscal impact includes developments approved in FY 2010-11 and FY 2011-12 and developments approved after October 1, 2016.

This analysis also makes the following assumptions.

1. Excluding the retroactively added developments, it is assumed the State will add 40 miles of subdivision streets per year.
2. Based on the requirement in G.S. 153A-331.1(l)(3), it is assumed that roads will take more time to move from date of the Built to Standards letter to State/city acceptance in the first two years of the fiscal impact but the proposed law will eventually speed up the time frame for the retroactively added roads to be accepted.
3. Based on Figure 1, it is assumed that $\frac{1}{4}$ of subdivision roads will be accepted to the municipal system and $\frac{3}{4}$ of subdivision streets will be accepted to the State system.

Figure 2 estimates the five year fiscal impact of Section 1 to DOT.

Figure 2. Estimated DOT Fiscal Impact of Sec. 1: Funding for Subdivision Streets					
	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Estimated mileage of Subdivisions added to the State Highway System from Sec. 1 of this bill	48	57	63	63	60
Annual Maintenance Costs	\$ 48,000	\$ 57,000	\$ 63,000	\$ 63,000	\$ 61,410
10 Year Periodic Maintenance Costs	\$ -	\$ -	\$ -	\$ -	\$ 120,000
Total Fiscal Impact	\$ 48,000	\$ 57,000	\$ 63,000	\$ 63,000	\$ 181,410

Sec. 1: Part 2: Costs for the Development of Street Database

G.S. 153A-331.1(s) requires the development of a “County Public Street Information Database”. The NC Association of County Commissioners (NCACC) reported that the majority, if not all counties, have GIS systems but some counties may need to purchase software to accommodate the GIS requirement. NCACC also reported that additional staff resources may be needed to maintain the database. Due to the lack of specificity provided by NCACC, it is assumed the fiscal impact to the counties will be minimal.

DOT responded that it would incur no additional costs from supplying data to the counties on items 1 (federal maintained roads), 2 (state maintained roads), or 3 (city maintained roads). DOT believes the counties are the best source of data for the remaining items to be included in the database.

Sec. 2: Part 1: DOT Reimbursement for Road School Improvements Located on the School Site

The changes in Section 2 affecting G.S. 136-18(17) require DOT to reimburse public schools up to \$60,000 for construction and maintenance related to school bus drives, school bus parking, school driveways and entrances located on the school site. Charter schools opened on or after July 1, 2015, including expansion buildings, are included in these requirements. The Department of Public Instruction (DPI) provided data on the number of traditional public schools that have opened in the last three years. This data is used to estimate the number of future traditional school openings over the next five fiscal years. In 2014, 27 new charter schools opened, and an additional 21 charter schools opened in 2015. This analysis assumes 25 charter schools will open in FY 2016-17. The Charter School Advisory Board is recommending to the State Board of Education approval for 15 of the 28 applications to open a charter school in school year 2017-18. The number of new charter schools openings is expected to decline annually. Figure 3 includes estimates on the number of traditional public schools and charter schools opened over the next five years and the cost for road improvements related to this section.

DOT generally pays up to \$50,000 per school site for the construction of bus drives and bus parking areas for traditional public schools. Over the last five years, DOT has paid an average of \$43,000 per school on 63 bus drive reimbursements but 39 schools requested and were denied reimbursements over the \$50,000 cap. Based on this data, this analysis assumes DOT will incur an additional \$10,000 on half of the traditional public schools. For charter schools, this analysis assumes an average cost of \$50,000 per school.

DOT estimates additional maintenance costs for a seal treatment in 10 years at \$2.60/Square Yards (SY) and to resurface at 20 years at \$10.50/SY, assuming schools have roughly 10,000 SYs of bus drives/parking and other drives. The annualized maintenance cost per school is \$7,900. If drive and parking maintenance were performed at 10% of the schools annually, the total would be approximately \$1.9 million annually.

Figure 3. Estimated DOT Fiscal Impact of Sec. 2 per G.S. 136-18(17) changes					
	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Estimated Number of New Traditional Public Schools	12	12	12	12	12
Estimated Number of New Charter Public Schools	25	15	13	11	9
Estimated Additional Cost to DOT for New Schools	\$1,310,000	\$810,000	\$710,000	\$610,000	\$510,000
Estimated Maintenance Costs on 10% of Schools	\$1,900,000	\$1,900,000	\$1,900,000	\$1,900,000	\$1,900,000
Total Fiscal Impact	\$3,210,000	\$2,710,000	\$2,610,000	\$2,510,000	\$2,410,000

Sec. 2: Part 2: DOT Reimbursement for State Maintained Street Improvements Located Near New Schools

The changes in Section 2 affecting G.S. 136-18(29a) requires DOT to fully reimburse for: 1) road improvement that are required for safe ingress and egress to the State highway system that are not located on school property for new or relocated schools and school expansions; and 2) the acquisition of right-of-way, unless the school is owned by an entity that has private domain power. This section applies to traditional public schools, charter schools, and private schools.

Based on the 2010-2011 through 2014-15 Conventional Private School Stats publications, the number of private schools grew from 693 in 2010-11 to 720 in 2014-15. This analysis assumes the five-year annual average of 5.4 new private schools will open each year. The data included in Figure 3 used to estimate the number of new traditional public schools and charter schools is also used in this section.

According to DOT, the current reimbursement program “is subject to the availability of funding, and allows for limits on scope of project that will be reimbursed, and is only the base and asphalt for the bus drive and bus parking. The proposed language requires total “cradle to grave” reimbursement for design, r/w, drainage, erosion control, construction, then maintain not only for the bus drives, but for all drives associated with the each school, plus road improvements, signals associated with traffic operations.” Current law authorizes but does not require DOT to pay these costs for all traditional public schools, including charter schools, but DOT has not been paying for charter schools.

DPI was unable to estimate the costs incurred by schools to construct or improve roads because the amount is incorporated into the overall cost of the school construction budget. Under current law, planning and paying for new schools occurs at the local level, the school district or county/municipality for traditional schools and by the Board of Directors for charter schools. DPI continues to evaluate if it can break out transportation related road expenses from the construction budgets of recently opened schools.

DOT provided data on the amount it has paid and the amount it was requested to pay for some types of road construction or improvements for traditional public schools. Figure 3 contains data from DOT used to estimate the additional construction cost to be incurred by DOT per school. Due to variations in cost related to school size, location, and other factors, DOT provided a low, middle, and high per school estimate.

	Low	Mid	High
All other Drives	\$42,000	\$341,000	\$640,000
Left Turn Lane	\$300,000	\$525,000	\$750,000
Signal and/or Round-about	\$50,000	\$325,000	\$600,000
Design Fees (10%)	\$41,300	\$133,650	\$226,000
Total	\$433,300	\$1,324,650	\$2,216,000

The fiscal impact analysis uses the data located in Figure 3 for the number of new traditional public schools and new charter schools per year, and the estimate of 5.4 new private schools per year. Based on the number of new school openings and the low/medium/high estimates provided by DOT in Figure 4, the five-year fiscal impact is included in Figure 5.

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Total Number of New Schools	42.4	32.4	30.4	28.4	26.4
Estimated Additional Cost to DOT:					
Low	\$18,371,920	\$14,038,920	\$13,172,320	\$12,305,720	\$11,439,120
Medium	\$56,165,160	\$42,918,660	\$40,269,360	\$37,620,060	\$34,970,760
High	\$93,958,400	\$71,798,400	\$67,366,400	\$62,934,400	\$58,502,400

The fiscal impact is estimated to range from \$18.4 million to \$94.0 million in FY 2016-17, from \$14.0 million to \$71.8 million in FY 2017-18, from \$13.2 million to \$67.4 million in FY 2018-19, from \$12.3 million to \$62.9 million in FY 2019-20, and from \$11.4 million to \$58.5 million in FY 2020-21. Subsequently, schools, funded by counties or local school districts (LEAs) for traditional schools and by charter school operators, will save the equivalent amount annually. Based on the State's shifting demographics, new schools are generally located in more urban and suburban areas, thus the positive fiscal impact to counties will be less in rural counties and more in urban counties. It is not known how much of the anticipated cost savings will be divided between counties, LEAs, charter school operators, and private schools.

Sec. 3: DOT Reimbursement for Municipal Street Improvements Related to Schools

This bill limits the authority of municipalities to require street improvements related to schools. Under this proposed bill, municipalities can only require changes to streets required for safe ingress and egress to the municipal street system and streets that are physically connected to a

school driveway. According to the NC League of Municipalities (NCLM), municipalities may pay for the cost of some road improvements related to schools, but policies likely vary by city. According to NCLM survey information of a few large municipalities, “there is opportunity for the city to pay for at least some of the required traffic improvements. In Cary, they said that the required improvements go before the council, and the council has the opportunity to modify or waive the requirements after discussion with the school. In one recent case the Town waived all traffic improvement requirements at this point. In Winston-Salem, only turn lanes are required of schools. They’re now funding some road widening needed in part because of schools through a city-wide transportation bond. The bottom line ... is that there is opportunity for negotiation after the traffic impact study is conducted.”

This proposed bill requires DOT to reimburse schools, not the municipalities, for the street improvements on municipally-owned streets related to schools. This section applies to traditional public schools, charter schools, and private schools.

No data is available on how many schools are physically connected to municipally-owned roads vs. State-owned roads. It is assumed the fiscal impact from Sec. 3 is included in the range of estimates shown in Figure 5.

Based on the State’s shifting demographics, new schools are generally located in more urban and suburban areas, thus the positive fiscal impact to counties/cities/LEAs/charter school operators will be less in rural counties and more in urban counties. It is not known how much of the anticipated cost savings will be divided between counties, cities, LEAs, charter school operators, and private schools.

SOURCES OF DATA: Department of Transportation, Department of Public Instruction, NC Association of County Commissioners, NC League of Municipalities

TECHNICAL CONSIDERATIONS:

1. The fiscal analysis assumes that the changes to G.S. 136-18(17) mean DOT pays a maximum of \$60,000 per school, not per project. This section may need to be clarified.
2. Two requirements in Sec. 2 to G.S. 136-18(17) seem to conflict with each other. One section requires a maximum DOT reimbursement of \$60,000 and one section requires DOT to “fully reimburse for the associated costs incurred by the school including design fees and costs of right-of-way or easements.” This fiscal analysis assumes the maximum cost is \$60,000.
3. Section 1, subsection (g) has an incorrect reference to subsection (g).
4. Line 40 on page 5 should read “...to grant final approval of the project...”
5. DOT requests lines 41-42 on page 5 be clarified to read “ For purposes of this subdivision, project cost *responsibility to the Department of Transportation* shall not exceed sixty thousand dollars (\$60,000). DOT also request line 49 on page 5 to read “...and the Department provides full reimbursement *up to \$60,000* for the associated costs...”
6. DOT requests the terms “connected to the school driveway” be clarified as to whether it means a direct attachment or the network of roads in the immediate vicinity of the school.
7. Prior to the formation of the Strategic Transportation Investment (STI) fund, school construction was paid from the secondary road construction fund within the Highway Trust

Fund (HTF). STI eliminated the secondary road construction fund within the HTF and established criteria to be eligible for HTF monies. Constructing school driveways and school bus parking lots, or short-term construction projects do not fit within the parameters established for STI/HTF funding. Since the passage of STI, DOT has funded school construction from the secondary maintenance account or from discretionary funds in the Highway Fund (HF), but due to the amount of funds available and restrictions on how maintenance funds can be expended, DOT does not have sufficient funds to fully pay or fully reimburse school construction costs. Establishing a dedicated HF account for school construction may be the most viable solution to ensure school construction is fully funded.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Amna Cameron

Brian Matteson

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

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