

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 206

Short Title: DOT Legislative Changes.-AB (Public)

Sponsors: Representative Torbett.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Transportation, if favorable, Rules, Calendar, and Operations of the House

February 28, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO LAWS RELATED TO TRANSPORTATION, AS  
3 RECOMMENDED BY THE DEPARTMENT OF TRANSPORTATION.

4 The General Assembly of North Carolina enacts:

5  
6 **NONPUBLIC SCHOOL RIGHT-OF-WAY CONDEMNATION AUTHORITY**

7 **SECTION 1.** G.S. 40A-3(a) reads as rewritten:

8 "(a) Private Condemnors. – For the public use or benefit, the persons or organizations  
9 listed below shall have the power of eminent domain and may acquire by purchase or  
10 condemnation property for the stated purposes and other works which are authorized by law.

11 ...

12 (2) School committees or boards of trustees or of directors of any corporation  
13 holding title to real estate upon which any private educational institution is  
14 situated, have the power of eminent domain in order to obtain a pure and  
15 adequate water supply for such ~~institution~~.institution or to accommodate  
16 transportation improvements required by the Department of Transportation.

17 ...."

18  
19 **AIRPORT IMPROVEMENT PROGRAM**

20 **SECTION 2.(a)** Article 7 of Chapter 63 of the General Statutes is amended by adding  
21 a new section to read:

22 **"§ 63-74. Airport Improvement Program.**

23 (a) Purpose. – There is established an Airport Improvement Program that shall serve to  
24 (i) fund improvements at eligible airports and (ii) pay debt service or related financing costs and  
25 expenses on revenue bonds or notes issued by eligible airports. The Department of Transportation  
26 shall allocate funds appropriated to this program to eligible airports based on the findings in the  
27 biennial economic impact study, as described in this section. The Department shall adopt rules  
28 governing the distribution and use of these funds.

29 (b) Eligible Airport. – Any publicly owned, commercial service airport with more than  
30 10,000 passenger boardings during the two calendar years preceding the fiscal year in which  
31 funds are allocated is eligible to apply for airport improvement program funds.

32 (c) Economic Impact Study and Distribution Formula. – The Department of  
33 Transportation shall conduct a biennial economic impact study that examines the annual  
34 economic impact of each commercial and general aviation airport in North Carolina. Funds  
35 appropriated to the Airport Improvement Program shall be disbursed by the Department based



1 on the percentage of the total economic impact of each eligible airport as determined by the  
2 economic impact study. The three largest airports, as defined by the total number of passenger  
3 boardings used to determine eligibility for this program, shall receive no more than eighty percent  
4 (80%) of the total funds allocated to the program. Should the formula developed by the  
5 Department for allocation of these funds result in an allocation to the three largest airports in  
6 excess of eighty percent (80%) of the total funds allocated, the allocation to the three largest  
7 airports in excess of eighty percent (80%) shall be reduced proportionately among the three  
8 largest airports and redistributed to the remaining eligible airports as follows. Of the funds  
9 redistributed to the remaining eligible airports, twenty-five percent (25%) shall be allocated  
10 equally among the remaining eligible airports and seventy-five percent (75%) shall be allocated  
11 proportionally to the remaining eligible airports based on the total number of passenger boardings  
12 used to establish eligibility for the program.

13 (d) Permissible Uses, Reporting, and Return of Funds. – The Department of  
14 Transportation shall not allocate funds to an airport under this section until that airport has  
15 provided a report outlining how the airport will use the funds in conformance with the purposes  
16 of the program. No later than 45 days from the date the Department receives the report required  
17 under this subsection, the Department shall make a determination whether the intended use of  
18 the funds matches the purposes of the program and, if so, allocate funds under this section to the  
19 compliant airport. An airport that receives funds under this section shall return the funds to the  
20 Department if the funds are in the possession or control of the airport and not expended or made  
21 subject to an encumbrance by August 31 of the year following the fiscal year in which the  
22 Department makes the allocation. All funds returned to the Department under this section, or  
23 retained by the Department for failure of an eligible airport to submit a report under this  
24 subsection, shall be credited to the fund from which they were appropriated and shall remain  
25 unexpended and unencumbered until appropriated by the General Assembly.

26 (e) Limitation. – Notwithstanding any provision of law to the contrary, the allocation of  
27 funds under this section to eligible airports, the enactment of this section, and the issuance of  
28 bonds or notes by the airports in reliance thereon, shall not in any manner constitute a pledge of  
29 the full faith and credit and taxing power of the State. Additionally, allocations under this section  
30 are subject to the availability of funds appropriated to the Airport Improvement Program. A  
31 security interest shall not be granted in funds allocated under this section."

32 **SECTION 2.(b)** Section 34.19(b) of S.L. 2017-57 is repealed.  
33

### 34 **SMALL PROFESSIONAL SERVICES FIRMS**

35 **SECTION 3.** G.S. 136-28.4 reads as rewritten:

36 **"§ 136-28.4. State policy concerning participation by disadvantaged minority-owned and**  
37 **women-owned businesses in transportation contracts.**

38 ...

39 (c) The following definitions apply in this section:

40 (1) "Contract" includes, but is not limited to, contracts let under the procedures  
41 set forth in G.S. 136-28.1(a) and (b).

42 (1a) "Disadvantaged Business" has the same meaning as "disadvantaged business  
43 enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated  
44 replacement regulation.

45 (2) "Minority" includes only those racial or ethnicity classifications identified by  
46 a study conducted in accordance with this section that have been subjected to  
47 discrimination in the relevant marketplace and that have been adversely  
48 affected in their ability to obtain contracts with the Department.

49 (3) "Small Professional Services Firm" is an independent, for-profit firm that  
50 meets size standards as defined by the Small Business Administration (SBA)

1 regulations, 13 C.F.R. Part 121, and Sector 54 of the North American  
2 Industrial Classifications System (NAICS).

3 ~~(3)~~(4) "Women" means nonminority persons born of the female sex.

4 (d) The Department shall report annually to the Joint Legislative Transportation  
5 Oversight Committee on the utilization of disadvantaged minority-owned businesses and  
6 women-owned businesses and any program adopted to promote contracting opportunities for  
7 those businesses. Following each study of availability and utilization, the Department shall report  
8 to the Joint Legislative Transportation Oversight Committee on the results of the study for the  
9 purpose of determining whether the provisions of this section should continue in force and effect.

10 (e) The Department of Transportation's Office of Civil Rights is directed to increase  
11 outreach efforts to small professional service firms. The Office of Civil Rights shall set a goal  
12 that the utilization of small professional service firms increases by five percent (5%) by January  
13 1, 2021.

14 ~~(e)~~(f) This section expires August 31, 2022."  
15

16 **REENACT AUTHORIZATION FOR PARTNERSHIP WITH PRIVATE DEVELOPERS**

17 **SECTION 4.** Section 2 of S.L. 2009-235, as amended by Section 7 of S.L. 2014-58  
18 and Section 2.3 of S.L. 2016-90, reads as rewritten:

19 "SECTION 2. This act is effective when it becomes law. ~~This act shall expire on July 1,~~  
20 ~~2017.~~"

21  
22 **EFFECTIVE DATE**

23 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
24 law.