

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

SESSION LAW 2008-164  
HOUSE BILL 2318

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO PRIVATE PARTNERSHIP AGREEMENTS FOR CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-18(39) reads as rewritten:

**"§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

- (39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and ~~bridges~~bridges, and to plan, design, develop, acquire, construct, equip, maintain, and operate highways, roads, streets, bridges, and existing rail, as well as properties adjoining existing rail lines in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter."

**SECTION 2.** G.S. 136-28.6 reads as rewritten:

**"§ 136-28.6. ~~Private contract participation~~ Participation by the Department of Transportation with private developers.**

- (a) The Department of Transportation may participate in private engineering and construction contracts for State highways.
- (b) In order to qualify for State participation, the project must be:
- (1) The construction of a street or highway on the Transportation Improvement Plan adopted by the Department of Transportation; or
  - (2) The construction of a street or highway on a mutually adopted transportation plan that is designated a Department of Transportation responsibility.
- (c) Only those projects in which ~~the developer furnishes~~ the right-of-way is furnished without cost to the Department of Transportation are eligible.

(d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let ~~by the developer~~ for the project.

(e) ~~Participation~~ Department of Transportation participation in the contracts shall be limited to cost associated with normal practices of the Department of Transportation.

(f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.

(g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation.

(h) The Secretary shall report in writing, on a quarterly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this section.

(i) ~~Municipalities~~ Counties and municipalities may participate financially in private ~~engineering~~ engineering, land acquisition, and construction contracts for projects pertaining to streets or highways which ~~are on a mutually adopted transportation plan for said municipality.~~ meet the requirements of subsection (b) of this section within their jurisdiction."

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2008.

s/ Beverly E. Perdue  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 3:38 a.m. this 3<sup>rd</sup> day of August, 2008