

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1077*
Committee Substitute Favorable 6/26/12
PROPOSED COMMITTEE SUBSTITUTE H1077-PCS30660-RBx-91

Short Title: PPP I-77 High Occupancy Toll Project.

(Public)

Sponsors:

Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PILOT PROJECT FOR TOLLING THE I-77 HIGH
3 OCCUPANCY TOLL PROJECT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 136-18 reads as rewritten:

6 "**§ 136-18. Powers of Department of Transportation.**

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

8 ...

9 (39) To enter into partnership agreements with private entities, and authorized
10 political subdivisions to finance, by tolls, contracts, and other financing
11 methods authorized by law, the cost of acquiring, constructing, equipping,
12 maintaining, and operating transportation infrastructure in this State, and to
13 plan, design, develop, acquire, construct, equip, maintain, and operate
14 transportation infrastructure in this State. An agreement entered into under
15 this subdivision requires the concurrence of the Board of Transportation.
16 The Department shall report to the Chairs of the Joint Legislative
17 Transportation Oversight Committee, the Chairs of the House of
18 Representatives Appropriations Subcommittee on Transportation, and the
19 Chairs of the Senate Appropriations Committee on the Department of
20 Transportation, at the same time it notifies the Board of Transportation of
21 any proposed agreement under this subdivision. No contract for
22 transportation infrastructure subject to such an agreement that commits the
23 Department to make nonretainage payments for undisputed capital costs of a
24 completed transportation infrastructure to be made later than 18 months after
25 final acceptance by the Department of such transportation infrastructure
26 shall be executed without approval of the Local Government Commission.
27 Any contracts for construction of highways, roads, streets, and bridges
28 which are awarded pursuant to an agreement entered into under this section
29 shall comply with the competitive bidding requirements of Article 2 of this
30 Chapter.

31 The following provisions may apply to an agreement entered into in
32 connection with the I-77 High Occupancy Toll project that extends from the
33 junction at NC 150 at Exit 36 to I-277 at Exit 9B:



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- 1 a. A private entity or its contractors must provide performance and
- 2 payment security in the form and in the amount determined by the
- 3 Department of Transportation. The form of the performance and
- 4 payment security may consist of bonds, letters of credit, parent
- 5 guaranties, or other instruments acceptable to the Department of
- 6 Transportation.
- 7 b. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement
- 8 entered into under this subdivision may allow the private entity to
- 9 assign, transfer, sell, hypothecate, and otherwise convey some or all
- 10 of its right, title, and interest in and to such agreement, and any rights
- 11 and remedies thereunder, to a lender, bondholder, or any other party.
- 12 However, in no event shall any such assignment create additional
- 13 debt or debt-like obligations of the State of North Carolina, the
- 14 Department, or any other agency, authority, commission, or similar
- 15 subdivision of the State to any lender, bondholder, entity purchasing
- 16 a participation in the right to receive the payment, trustee, trust, or
- 17 any other party providing financing or funding of projects described
- 18 in this section. The foregoing shall not preclude the Department from
- 19 making any payments due and owing pursuant to an agreement
- 20 entered into under this section.
- 21 c. The Department of Transportation may fix, revise, charge, and
- 22 collect tolls and fees to the same extent allowed under Article 6H of
- 23 Chapter 136 of the General Statutes. The Department may assign its
- 24 authority to fix, revise, charge, and collect tolls and fees to the
- 25 private entity.
- 26 ...
- 27 (43) For the purposes of financing the I-77 High Occupancy Toll project that
- 28 extends from the junction at NC 150 at Exit 36 to I-277 at Exit 9B, the
- 29 Department of Transportation may act as a conduit issuer for private activity
- 30 bonds to the extent the bonds do not constitute a debt obligation of the State.
- 31 The issuance of private activity bonds under this subdivision and any related
- 32 actions shall be governed by The State and Local Government Revenue
- 33 Bond Act, Article 5 of Chapter 159 of the General Statutes, with
- 34 G.S. 159-88 satisfied by adherence to the requirements of subdivision (39)
- 35 of this section."
- 36 **SECTION 2.** This act is effective when it becomes law.