

GENERAL ASSEMBLY OF NORTH CAROLINA  
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Short Title: Toll Road and Bridge Authority Created.

(Public)

Sponsors:

Referred to:

March 15, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PUBLIC TOLL ROADS AND BRIDGES IN NORTH  
CAROLINA AND THE CREATION OF A TURNPIKE AUTHORITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 136 of the General Statutes is amended by adding a  
new Article to read:

"Article 6H.

"Public Toll Roads and Bridges.

**"§ 136-89.180. Legislative findings.**

The General Assembly finds that the existing State road system is becoming increasingly congested and overburdened with traffic in many areas of the State; that the sharp surge of vehicle miles traveled is overwhelming the State's ability to build and pay for adequate road improvements; and that an adequate answer to this challenge will require the State to be innovative and utilize several new approaches to transportation improvements in North Carolina.

Toll funding of highway construction is feasible in North Carolina and can contribute to addressing the critical transportation needs of the State. A toll program can speed the implementation of needed transportation improvements by funding some projects with tolls.

**"§ 136-89.181. Definitions.**

The following definitions apply to this Article:

(1) "Turnpike Authority" means the public agency created by this Article.

(2) "Turnpike Authority Board" means the governing board of the Turnpike Authority.

(3) "Turnpike Project" means any primary or secondary road, bridge, or tunnel project that is included in the Transportation Improvement

1 Program prior to construction; and is planned and constructed in  
2 accordance with the provisions of this Article.

3 (4) "Turnpike System" means collectively all Turnpike Projects developed  
4 in accordance with the provisions of this Article.

5 **"§ 136-89.182. North Carolina Turnpike Authority.**

6 (a) Creation. – There is created a body politic and corporate to be known as the  
7 "North Carolina Turnpike Authority". The Authority is constituted as a public agency,  
8 and the exercise by the Authority of the powers conferred by this Article in the  
9 construction, operation, and maintenance of toll roads and bridges shall be deemed and  
10 held to be the performance of an essential governmental function.

11 (b) Administrative Placement. – The Authority shall be located within the  
12 Department of Transportation for administrative purposes but shall exercise all of its  
13 powers independently of the Department of Transportation except as otherwise  
14 specified in this Article.

15 (c) Board of Directors. – The North Carolina Turnpike Authority shall be  
16 governed by a seven-member Board of Directors consisting of the Secretary of  
17 Transportation and six members appointed by the Governor. One Authority member  
18 shall reside in each of the seven regions of the State specified in G.S. 136-17.2A(a). The  
19 Chair of the Authority shall be selected by the Board of Directors.

20 (d) Board of Transportation Members. – Not more than two members of the  
21 North Carolina Board of Transportation may serve as members of the Authority Board.

22 (e) Staggered Terms. – The initial appointments by the Governor to the Authority  
23 Board shall consist of three members appointed to terms ending January 14, 2003, and  
24 three members appointed to terms ending January 14, 2005. Thereafter, at the expiration  
25 of each stipulated term of office, all appointments shall be to a term of four years from  
26 the date of the expiration of the term.

27 (f) Vacancies. – All members of the Authority Board shall remain in office until  
28 their successors are appointed and qualify. The Governor may appoint a member to  
29 serve out the unexpired term of any member appointed by the Governor.

30 (g) Removal of Board Members. – Each member of the Authority Board  
31 appointed by the Governor, notwithstanding subsection (e) of this section, shall serve at  
32 the pleasure of the Governor. The Chair of the Authority serves at the pleasure of the  
33 Authority Board.

34 (h) Conflicts of Interest, Ethics, Etc. – Members of the Authority Board shall be  
35 subject to provisions of G.S. 136-13, 136-13.1, and 136-14.

36 (i) Compensation. – The appointed members of the Authority Board shall  
37 receive no salary for their services but shall be entitled to receive per diem and travel  
38 allowances in accordance with the provisions of G.S. 138-5 and G.S. 138-6 as  
39 appropriate.

40 (j) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with  
41 respect to the calling of meetings, quorums, voting procedures, the keeping of records,  
42 and other organizational, staffing, and administrative matters as the Authority Board

1 may determine. Any bylaws, or subsequent changes or amendments to the bylaws, shall  
2 be submitted to the Board of Transportation and the Joint Legislative Transportation  
3 Oversight Committee for review and comment at least 45 days prior to adoption by the  
4 Authority Board.

5 (k) Executive Director and Administrative Employees. – The Authority Board  
6 shall appoint an Executive Director, whose salary shall be fixed by the Authority, to  
7 serve at its pleasure. The Executive Director shall be the Authority’s chief  
8 administrative officer and shall be responsible for the daily administration of the toll  
9 roads and bridges constructed, maintained, or operated pursuant to this Article. The  
10 Executive Director or his designee shall appoint, employ, dismiss, and within the limits  
11 approved by the Authority Board, fix the compensation of administrative employees as  
12 the Executive Director deems necessary to carry out this Article. The Authority shall  
13 report the hiring of all administrative employees to the Joint Legislative Transportation  
14 Oversight Committee within 30 days of the date of employment.

15 (l) Office. – The offices of the Authority may be housed in one or more facilities  
16 of the Department of Transportation.

17 **"§ 136-89.183. Powers of the Authority.**

18 (a) The Authority shall have all of the powers necessary to execute the provisions  
19 of this Article including the following:

- 20 (1) The powers of a corporate body, including the power to sue and be  
21 sued, to make contracts, to adopt and use a common seal, and to alter  
22 the adopted seal as needed.
- 23 (2) To study, plan, develop, design, establish, purchase, construct, operate,  
24 and maintain a Turnpike Project, either on its own initiative or at the  
25 request of the Board of Transportation.
- 26 (3) To rent, lease, purchase, acquire, own, encumber, dispose of, or  
27 mortgage real or personal property, including the power to acquire  
28 property by eminent domain pursuant to G.S. 136-89.184.
- 29 (4) To fix, revise, charge, and collect tolls and fees for the use of the  
30 Turnpike Projects. Sixty days prior to the effective date of any toll or  
31 fee for use of a Turnpike Facility, the Authority shall submit a  
32 description of the proposed toll or fee to the Board of Transportation  
33 for review.
- 34 (5) To issue bonds or notes of the Authority as provided in this Article.
- 35 (6) To establish, construct, purchase, maintain, equip, and operate any  
36 structure or facilities associated with the Turnpike System.
- 37 (7) To pay all necessary costs and expenses in the formation, organization,  
38 administration, and operation of the Authority.
- 39 (8) To apply for, accept, and administer loans and grants of money or real  
40 or personal property from any federal agency, from the State or its  
41 political subdivisions, local government, or from any other public or  
42 private sources available.

- 1           (9)    To adopt, alter, or repeal its own bylaws or rules implementing the  
2           provisions of this Article, in accordance with the review and comment  
3           requirements of G.S. 136-89.182(j).
- 4           (10)   To utilize employees of the Department of Transportation; to contract  
5           for the services of consulting engineers, architects, attorneys, real  
6           estate counselors, appraisers, and other consultants; to employ  
7           administrative staff as may be required in the judgment of the  
8           Authority; and to fix and pay fees or compensation to the Department,  
9           contractors, and administrative employees from funds available to the  
10          Authority.
- 11          (11)   To receive and use appropriations from the State.
- 12          (12)   To adopt procedures to govern its procurement of services and  
13          delivery of Turnpike Projects.
- 14          (13)   To perform or procure any portion of services required by the  
15          Authority.
- 16          (14)   To use officers, employees, agents, and facilities of the Department of  
17          Transportation for the purposes and upon the terms as may be mutually  
18          agreeable.
- 19          (15)   To contract for the construction, maintenance, and operation of a  
20          Turnpike Project.
- 21          (16)   To enter into partnership agreements, agreements with political  
22          subdivisions of the State, and agreements with private entities, and to  
23          expend such funds as it deems necessary, pursuant to such agreements,  
24          for the purpose of financing the cost of acquiring, constructing,  
25          equipping, operating, or maintaining any Turnpike Project.
- 26          (b)   To execute the powers provided in subsection (a) of this section, the  
27          Authority shall determine its policies by majority vote of the members of the Authority  
28          present and voting, a quorum having been established. Once a policy is established, the  
29          Authority Board shall communicate it to the Executive Director or the Director's  
30          designee, who shall have the sole and exclusive authority to execute the policy of the  
31          Authority. No member of the Authority Board shall have the responsibility or authority  
32          to give operational directives to any employee of the Authority other than the Executive  
33          Director or the Director's designee.
- 34          **"§ 136-89.184. Acquisition of real property.**
- 35          (a)    General. – The Authority may acquire public or private real property by  
36          purchase, negotiation, gift, or devise, or condemnation that it determines to be necessary  
37          and convenient for the construction, expansion, enlargement, extension, improvement,  
38          or operation of a Turnpike Project. When the Authority acquires real property owned by  
39          the State, the Secretary of the Department of Administration shall execute and deliver to  
40          the Authority a deed transferring fee simple title to the property to the Authority.

1 (b) Condemnation. – To exercise the power of eminent domain, the Authority  
2 shall commence a proceeding in its name and shall follow the procedure set forth in  
3 Article 9 of Chapter 136 of the General Statutes.

4 **"§ 136-89.185. Taxation of property of Authority.**

5 Property owned by the Authority is exempt from taxation in accordance with Section  
6 2 of Article V of the North Carolina Constitution.

7 **"§ 136-89.186. Audit.**

8 The operations of the Authority shall be subject to the oversight of the State Auditor  
9 pursuant to Article 5A of Chapter 147 of the General Statutes.

10 **"§ 136-89.187. Conversion of free highways prohibited.**

11 The Authority Board is prohibited from converting any segment of the nontolled  
12 State highway system to a toll facility.

13 **"§ 136-89.188. Use of revenues.**

14 (a) Revenues derived from Turnpike Projects authorized under this Article shall  
15 be used only for Authority administration costs; Turnpike Project development,  
16 construction, operation, and maintenance; and debt service on the Authority's revenue  
17 bonds.

18 (b) The Authority may use up to one hundred percent (100%) of the revenue  
19 derived from a Turnpike Project for debt service on the Authority's revenue bonds or for  
20 a combination of debt service and operation and maintenance expenses of the Turnpike  
21 Projects.

22 (c) The Authority shall use not more than five percent (5%) of total revenue  
23 derived from all Turnpike Projects for Authority administration costs.

24 **"§ 136-89.189. Turnpike Authority revenue bonds.**

25 The Authority shall be a municipality for purposes of Article 5 of Chapter 159 of the  
26 General Statutes, the State and Local Government Revenue Bond Act, and may issue  
27 revenue bonds pursuant to that Act to pay all or a portion of the cost of a Turnpike  
28 Project or to refund any previously issued bonds. In connection with the issuance of  
29 revenue bonds, the Authority shall have all powers of a municipality under the State and  
30 Local Government Revenue Bond Act, and revenue bonds issued by the Authority shall  
31 be entitled to the protection of all provisions of the State and Local Government  
32 Revenue Bond Act.

33 **"§ 136-89.190. Sale of Turnpike Authority revenue bonds.**

34 Revenue bonds of the Authority issued pursuant to G.S. 136-89.189 and the State  
35 and Local Government Revenue Bond Act shall be sold in accordance with and  
36 pursuant to Article 7 of Chapter 159 of the General Statutes.

37 **"§ 136-89.191. Cost participation by Department of Transportation.**

38 The Department of Transportation may participate in the cost of preconstruction  
39 activities, construction, maintenance, or operation of a Turnpike Project.

40 **"§ 136-89.192. Equity distribution formula.**

41 Only those funds applied to a Turnpike Project from the State Highway Fund, State  
42 Highway Trust Fund, or federal-aid funds that might otherwise be used for other

1 roadway projects within the State, and are otherwise already subject to the distribution  
2 formula under G.S. 136-17.2A, shall be included in the distribution formula.

3 Other revenue from the sale of bonds, project loans, or toll collections shall not be  
4 included in the distribution formula.

5 **"§ 136-89.193. Annual plan of work; annual and quarterly reports.**

6 (a) Annual Plan of Work. – The Authority shall annually develop a plan of work  
7 for the fiscal year, describing the activities and projects to be undertaken, accompanied  
8 by a budget. This annual plan of work shall be subject to the concurrence of the Board  
9 of Transportation.

10 (b) Annual Reports. – The Authority shall, promptly following the close of each  
11 fiscal year, submit an annual report of its activities for the preceding year to the  
12 Governor, the General Assembly, and the Department of Transportation. Each report  
13 shall be accompanied by an audit of its books and accounts.

14 (c) Quarterly Reports. – The Authority shall submit quarterly reports to the Joint  
15 Legislative Transportation Oversight Committee. The reports shall summarize the  
16 Authority's activities during the quarter and contain any information about the  
17 Authority's activities that is requested by the Committee.

18 **"§ 136-89.194. Laws applicable to the Authority; exceptions.**

19 (a) Motor Vehicle Laws. – The Turnpike System shall be considered a  
20 "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as defined in  
21 G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State  
22 Highway Patrol and the Division of Motor Vehicles, shall have the same powers and  
23 duties on the Turnpike System as on any other highway or public vehicular area.

24 (b) Contracting. – For the purposes of implementing this Article, the Authority  
25 shall solicit competitive proposals for the construction of Turnpike Projects in  
26 accordance with the provisions of Article 2 of this Chapter. Contracts for professional  
27 engineering services and other kinds of professional or specialized services necessary in  
28 connection with construction of Turnpike Projects shall be solicited in accordance with  
29 procedures utilized by the Department of Transportation.

30 (c) Alternative Contracting Methods. – Notwithstanding the provisions of  
31 subsection (b) of this section, the Authority may authorize the use of alternative  
32 contracting methods if:

33 (1) The authorization applies to an individual project;

34 (2) The Authority has concluded, and documented in writing, that the  
35 alternative contracting method is necessary because the project cannot  
36 be completed utilizing the procedures of Article 2 of this Chapter  
37 within the necessary time frame or available funding or for other  
38 reasons the Authority deems in the public interest;

39 (3) The Authority has provided, to the extent possible, for the solicitation  
40 of competitive proposals prior to awarding a contract; and

- 1           (4) The approved alternative contracting method provides for reasonable  
2           compliance with the disadvantaged business participation goals of G.S.  
3           136-28.4.

4 **"§ 136-89.195. Internet report of funds expended.**

5           The Department shall publish and update annually on its Internet web site a record  
6           of all expenditures of the Turnpike Authority for highway construction, maintenance,  
7           and administration. The record shall include a total expenditure amount by county. For  
8           each Turnpike Project, the record shall include a readily identifiable project name or  
9           location, the nature of the project, the amount of the project, the contractor for the  
10          project, the date of project letting, and the actual or expected project completion date.

11 **"§ 136-89.196. Removal of tolls.**

12          The Authority shall, upon fulfillment of and subject to any restrictions included in  
13          the agreements entered into by the Authority in connection with the issuance of the  
14          Authority's revenue bonds, remove tolls from a Turnpike Project.

15 **"§ 136-89.197. Maintenance of nontoll routes.**

16          The Department shall maintain an alternate, nontoll primary route corresponding to  
17          each toll road project constructed pursuant to this Article."

18                 **SECTION 2.** Chapter 20 of the General Statutes is amended by adding a  
19 new section to read:

20 **"§ 20-158.2. Control of vehicles on Turnpike System.**

21          The North Carolina Turnpike Authority may control vehicles at appropriate places  
22          by erecting traffic control devices to collect tolls."

23                 **SECTION 3.** G.S. 136-176(b) reads as rewritten:

24          "(b) Funds in the Trust Fund are annually appropriated to the Department of  
25 Transportation to be allocated and used as provided in this subsection. A sum, not to  
26 exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust  
27 Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year  
28 by the Department for expenses to administer the Trust Fund. Operation and project  
29 development costs of the North Carolina Turnpike Authority are eligible administrative  
30 expenses under this subsection. Any funds allocated to the Authority pursuant to this  
31 subsection shall be repaid by the Authority from its toll revenue as soon as possible.  
32 Beginning one year after the Authority begins collecting tolls on a completed Turnpike  
33 Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at  
34 a rate equal to the State Treasurer's average annual yield on its investment of Highway  
35 Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall  
36 be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the  
37 Trust Fund shall be allocated and used as follows:

- 38                 (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design,  
39                 and construct the projects of the Intrastate System described in G.S.  
40                 136-179 and to pay debt service on highway bonds and notes that are  
41                 issued under the State Highway Bond Act of 1996 and whose proceeds  
42                 are applied to these projects.

- 1           (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and  
2           construct the urban loops described in G.S. 136-180 and to pay debt  
3           service on highway bonds and notes that are issued under the State  
4           Highway Bond Act of 1996 and whose proceeds are applied to these  
5           urban loops.
- 6           (3) Six and one-half percent (6.5%) to supplement the appropriation to  
7           cities for city streets under G.S. 136-181.
- 8           (4) Six and one-half percent (6.5%) for secondary road construction as  
9           provided in G.S. 136-182 and to pay debt service on highway bonds  
10          and notes that are issued under the State Highway Bond Act of 1996  
11          and whose proceeds are applied to secondary road construction.

12          The Department must administer funds allocated under subdivisions (1), (2), and (4)  
13          of this subsection in a manner that ensures that sufficient funds are available to make  
14          the debt service payments on bonds issued under the State Highway Bond Act of 1996  
15          as they become due."

16          **SECTION 4.** G.S. 126-5(c1) is amended by adding a new subdivision to  
17          read:

18          "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions  
19          of this Chapter shall not apply to:

20                 ...

21                 (21) Employees of the North Carolina Turnpike Authority."

22          **SECTION 5.** G.S. 120-123 is amended by adding a new subdivision to read:

23          "**§ 120-123. Service by members of the General Assembly on certain boards and**  
24          **commissions.**

25          No member of the General Assembly may serve on any of the following boards or  
26          commissions:

27                 ...

28                 (75) The North Carolina Turnpike Authority."

29          **SECTION 6.** G.S. 159-81(1) reads as rewritten:

30          "(1) 'Municipality' means a county, city, town, incorporated village,  
31          sanitary district, metropolitan sewerage district, metropolitan water  
32          district, county water and sewer district, water and sewer authority,  
33          hospital authority, hospital district, parking authority, special airport  
34          district, regional public transportation authority, regional  
35          transportation authority, regional natural gas district, regional sports  
36          authority, airport authority, joint agency created pursuant to Part 1 of  
37          Article 20 of Chapter 160A of the General Statutes, ~~and a~~ joint agency  
38          authorized by agreement between two cities to operate an airport  
39          pursuant to G.S. 63-56, and the North Carolina Turnpike Authority  
40          created pursuant to Article 6H of Chapter 136 of the General Statutes,  
41          but not any other forms of State or local government."

42          **SECTION 7.** G.S. 159-81(3) is rewritten to read:



- 1           "(3) 'Revenue bond project' means any undertaking for the acquisition,  
2           construction, reconstruction, improvement, enlargement, betterment,  
3           or extension of any one or combination of the following  
4           revenue-producing utility or public service enterprise facilities or  
5           systems owned or leased as lessee by the issuing unit, to be financed  
6           through the issuance of revenue bonds, thereby providing funds to pay  
7           the costs of the undertaking or to reimburse funds loaned or advanced  
8           by the State or a municipality to pay the costs of the undertaking:
- 9           a.     Water systems or facilities, including all plants, works,  
10           instrumentalities and properties used or useful in obtaining,  
11           conserving, treating, and distributing water for domestic or  
12           industrial use, irrigation, sanitation, fire protection, or any other  
13           public or private use.
  - 14           b.     Sewage disposal systems or facilities, including all plants,  
15           works, instrumentalities, and properties used or useful in the  
16           collection, treatment, purification, or disposal of sewage.
  - 17           c.     Systems or facilities for the generation, production,  
18           transmission, or distribution of gas (natural, artificial, or mixed)  
19           or electric energy for lighting, heating, or power for public and  
20           private uses, where gas systems shall include the purchase  
21           and/or lease of natural gas fields and natural gas reserves and  
22           the purchase of natural gas supplies, and where any parts of  
23           such gas systems may be located either within the State or  
24           without.
  - 25           d.     Systems, facilities and equipment for the collection, treatment,  
26           or disposal of solid waste.
  - 27           e.     Public transportation systems, facilities, or equipment,  
28           including but not limited to bus, truck, ferry, and railroad  
29           terminals, depots, trackages, vehicles, and ferries, and mass  
30           transit systems.
  - 31           f.     Public parking lots, areas, garages, and other vehicular parking  
32           structures and facilities.
  - 33           g.     Aeronautical facilities, including but not limited to airports,  
34           terminals, and hangars.
  - 35           h.     Marine facilities, including but not limited to marinas, basins,  
36           docks, dry docks, piers, marine railways, wharves, harbors,  
37           warehouses, and terminals.
  - 38           i.     Hospitals and other health-related facilities.
  - 39           j.     Public auditoriums, gymnasiums, stadiums, and convention  
40           centers.
  - 41           k.     Recreational facilities.

- 1                   l.     In addition to the foregoing, in the case of the State of North  
2                   Carolina, low-level radioactive waste facilities developed  
3                   pursuant to Chapter 104G of the General Statutes, hazardous  
4                   waste facilities developed pursuant to Chapter 130B of the  
5                   General Statutes, and any other project authorized by the  
6                   General Assembly.
- 7                   m.    Economic development projects, including the acquisition and  
8                   development of industrial parks, the acquisition and resale of  
9                   land suitable for industrial or commercial purposes, and the  
10                  construction and lease or sale of shell buildings in order to  
11                  provide employment opportunities for citizens of the  
12                  municipality.
- 13                 n.    Facilities for the use of any agency or agencies of the  
14                  government of the United States of America.
- 15                 o.    Structural and natural stormwater and drainage systems of all  
16                  types.
- 17                 p.    In the case of the North Carolina Turnpike Authority, a  
18                  Turnpike Project, as defined in G.S. 136-89.181, including the  
19                  planning and design of a Turnpike Project, that is designated by  
20                  the Authority to be a revenue bond project.

21                 The cost of an undertaking may include all property, both real and personal  
22                 and improved and unimproved, plants, works, appurtenances, machinery, equipment,  
23                 easements, water rights, air rights, franchises, and licenses used or useful in connection  
24                 with any of the foregoing utilities and enterprises; the cost of demolishing or moving  
25                 structures from land acquired and the cost of acquiring any lands to which such  
26                 structures are to be moved; financing charges; the cost of plans, specifications, surveys,  
27                 and estimates of cost and revenues; administrative and legal expenses; and any other  
28                 expense necessary or incident to the project."

29                 **SECTION 8.** G.S. 159-96 is amended by adding a new subsection to read:

30                 "(e) In the case of a Turnpike Project of the North Carolina Turnpike Authority,  
31                 the project may be located anywhere in the State the Authority is authorized to maintain  
32                 a Turnpike Project."

33                 **SECTION 9.** This act is effective when it becomes law.