



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 551: DOT Sales of Unused Property

2013-2014 General Assembly

Committee:	House Judiciary IV	Date:	April 15, 2015
Introduced by:	Reps. Brawley, Iler, Adams, Bishop	Prepared by:	Kara McCraw*
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 551 creates a process for the classification and sale of property acquired by DOT that is unused and no longer needed for current or future transportation purposes.

CURRENT LAW: Pursuant to G.S. 136-19, the NC Department of Transportation (DOT) is authorized to acquire property for the construction of highways and related infrastructure. Property may be acquired by purchase, donation, or condemnation. When acquired land is no longer needed for highway right-of-way or other transportation projects, DOT is required to give first consideration to any offer to purchase the property made by the former owner. However, DOT may refuse any offer that is less than the current market value of the property. If DOT acquired the land by condemnation, it may sell the property to the former owner at the price paid when the property was taken by the State.

Article 7 of Chapter 146 of the General Statutes requires that every sale, lease, rental, or gift of land owned by the State or by any State agency be made by the Department of Administration and approved by the Governor and Council of State. The sale of land with an appraised value of at least \$25,000 requires consultation with the Joint Legislative Commission on Governmental Operations. Real property owned by the State or any State agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate for profit.

BILL ANALYSIS: House Bill 551 directs DOT to continuously identify and promptly sell its unused property. Unused property is defined in the bill as real property owned by or allocated to DOT that is not needed for current or future transportation purposes. DOT would be required to classify each unused lot or tract as one of the following:

- **Class A.** — A property whose size and road access are sufficient to allow commercial or residential development of one or more stand-alone projects without requiring the acquisition of additional real property; and whose size and shape are sufficient to allow compliance with zoning and development standards for parking, setbacks, side and front yard requirements, and access. Property in this classification would be sold by public sale to the highest bidder following advertisement in a newspaper having general circulation in the county in which the property is situated. Specified information about the property being sold would be made available on DOT's website and by mail, and DOT would be required to solicit upset bids from the public for bids in excess of \$10,000. DOT would be required to consider any upset bid received during the 10 business days following the conclusion of bidding on a particular property, and receipt of an upset bid would restart the 10-day period for upset bids.
- **Class B.** — A property that does not meet the definition of a Class A property and that would enhance the value of adjacent land by allowing larger or more extensive uses when joined to the adjacent land. Property in this classification would be offered for sale to the owner(s) of adjacent real property. If only one adjacent landowner makes an offer to purchase, the property would be sold to that person so long as the offered price is at least 40% of the



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appraised value of the property. If more than one adjacent landowner offers to purchase the property, it would be sold to the landowner offering the highest purchase price. No upset bids would be considered if the highest price offered is 80% or more of the appraised value of the property; otherwise DOT would be required to consider any upset bid received during the 40 calendar days following receipt of the highest offer. If the highest bid exceeds \$10,000, DOT would be required to provide public notice of the upset bid period by publication.

- **Class C.** – A property that does not meet the definition of a Class A or Class B property. Property in this classification would be offered for sale to the owner(s) of adjacent real property, and upset bids would not be considered.

Unused property of any classification that remains unsold after one year would be sold at public auction. The one year period would begin when the sale of the property is first advertised or when the property is first offered for sale to adjacent landowners, whichever applies. Properties that do not sell at auction would periodically be re-offered, first to adjacent landowners and then at public auction.

DOT would be required to notify the Governor and the Council of State of any proposed sale of land with an appraised value of at least \$25,000. If the Governor and the Council of State may disapprove of a proposed sale with 30 days of receiving notification, and if disapproved the sale will not be completed.

The bill would require DOT to report to the Joint Legislative Commission on Governmental Operations on the classification and sale of properties pursuant to the provisions of the bill. The bill would eliminate the requirement that DOT give first consideration to any offer to purchase made by the former property owner, and eliminate the provision that allows DOT the right to refuse any offer that is less than the current market value of the property.

The bill would require DOT to treat the Rodney Orr Bypass surplus right-of-way property as unused property to be sold in accordance with the provisions in the bill. The Rodney Orr Bypass (NC 143 Business) is a one-mile three-lane road through Robbinsville, in Graham County.

EFFECTIVE DATE: The bill would become effective October 1, 2015.

**This summary was substantially contributed to by Giles Perry, Staff Attorney, Research Division.*