



HOUSE BILL 206: Various Transportation Changes.

2019-2020 General Assembly

Committee:		Date:	August 7, 2019
Introduced by:	Rep. Torbett	Prepared by:	Wendy Ray
Analysis of:	Conference Committee Substitute (H206-CCSSU-5)		Staff Attorney

OVERVIEW: *House Bill 206 would amend various transportation laws of this State as follows:*

- *Reenact, and remove an expiration date for, a provision first enacted in 2009 to authorize the Department to participate in private developer contracts for engineering, design, or construction of improvements in limited circumstances.*
- *Clarify various provisions within current law that proceeds from the disposition of real property, facilities, and products owned by the NCDOT would be credited to the State Highway Fund.*
- *Amend the Neuse River Basin Riparian Buffer Rule.*
- *Authorize the NCDOT to enter into airspace encroachment agreements with FirstHealth of the Carolinas, Pinehurst related to State Road 1208, Page Road.*
- *Enact a new Airport Improvement Program to provide for allocation of funds to airports.*
- *Authorize the NCDOT to enter into Public Private Partnership (P3) agreements with private entities related to DOT owned communications infrastructure within interstate right-of-way.*
- *Require the State agency for State surplus property to develop and put out an RFP to conduct public auctions for DOT surplus property without requiring the DOT to move surplus property to those centralized auction locations.*
- *Authorize the NCDMV to waive license restoration fees under certain circumstances when a licensee has been issued a subsequent license by the Division.*
- *Clarify that parking spaces for handicapped persons include clearly marked access aisles and all statutory provisions, restrictions, and penalties applicable to spaces also apply to those aisles.*
- *Authorize airport operators to charge fees/regulate peer-to-peer vehicle sharing providers.*
- *Authorize the NCDOT to sell listed parcels of property without being subject to certain statutory requirements.*

CURRENT LAW/BILL ANALYSIS:

Section 1 - Reenact authorization for partnership with private developers. This provision was first enacted in 2009 and expired in 2011. It was subsequently reenacted in 2014, with an expiration of 2016, and then was extended in 2016. It expired last on July 1, 2017. This section of the bill would reenact the provision, which authorizes the Department to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements. The

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Department's participation under this law would be limited to the lesser of 10% of the contract or \$250,000. The Department would be required to report annually on all agreements entered into.

Section 2 – Proceeds from property disposition to highway fund. Generally, current law provides that all funds and property collected by the NCDOT go to the State Highway Fund, and this specifically includes real property originally purchased with funds from the State Highway Fund. This section of the bill would clarify, that the disposition of proceeds for real property, owned by the NCDOT, would go to the State Highway Fund, regardless of the original source of funds. This section would also clarify that no State Land Fund deductions would apply to the lease, rentals, or easements of lands, and timber, owned by the NCDOT, and these proceeds would go to the State Highway Fund.

Sections 3 and 3.1 – Neuse River Basin Riparian Buffer Rule. Currently, 15A NCAC 02B .0233 ("Rule") outlines a management strategy for maintaining and protecting existing riparian buffers in the Neuse River Basin, and this Rule designates certain airport facility uses and their designation under this Rule as "exempt", "allowable", "allowable with mitigation", or "prohibited". These sections would amend the definition of "airport facilities" for purposes of the Rule and would designate uses of airport impacted properties as allowable with mitigation.

Section 3.5 – NCDOT Authorization to permit airspace encroachment for FirstHealth of the Carolinas, Pinehurst. This section would authorize the NCDOT to enter into airspace encroachment agreements with FirstHealth of the Carolinas, Pinehurst, for the purpose of construction of a parking facility which would encroach on airspace over State Road 1208, Page Road. Agreements must be approved by the Board of Transportation, and subject to additional requirements of the Department and pursuant to this section.

Section 4 - Airport improvement program. The 2017 budget appropriated funds for infrastructure improvements at the State's commercial service airports and further directed the Division of Aviation to assess airport funding needs and to develop a formula for allocating future funds to airports based on their needs and economic output. This section of the bill would implement recommendations resulting from that assessment and enact a new Airport Improvement Program to provide for allocation of funding to eligible airports based on a biennial economic impact study conducted by the Department.

Section 5 – NCDOT authorization for public-private partnerships for Department owned communications infrastructure within highway ROW. Currently, the NCDOT has authority to utilize public-private partnerships under the procedures set out in G.S. 136-18(39) and (39a) for transportation infrastructure projects. This section would create a specific authority for the NCDOT to enter into Public-Private Partnership (P3) agreements with private entities only related to communications infrastructure supporting transportation infrastructure, which includes the fiber optic trunk lines (and related facilities), owed by the NCDOT and located within the right-of-way on the Interstate system. More specifically, this would allow NCDOT to utilize P3 agreements, as a way to finance communications infrastructure supporting transportation infrastructure with the additional potential to lease out excess capacity (if available). The authority pursuant to this section is limited to projects which receive federal discretionary grants issued by the USDOT. This section would also add reporting requirements, and make conforming changes to existing law to the extent there is overlap with current procedures.

Section 6 – DOT surplus property auction pilot. Currently, the North Carolina Department of Administration is designated as the State agency for State surplus property, which includes being the agency which manages the NCDOT's state surplus property. This section would require the State agency for State surplus property to conduct a three auction pilot program specifically for NCDOT surplus property, which includes their surplus equipment and motor vehicles. This pilot program requires the State agency for State surplus property to issue a Request for Proposal (RFP) to solicit a private, licensed, auction company to hold 3 separate live auctions, located in 3 locations distributed across the State, and

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via live simulcast or other electronic means. Information and documents (e.g. pictures and videos) would be available for inspection prior to auctions so that motor vehicles and equipment will not be required to be moved to the centralized live auction locations, among other RFP requirements.

Section 7 – License restoration fee waiver authority. Currently, licensees who have had their licenses revoked, as outlined in statute, are required to pay a \$65 or \$130 restoration fee depending on circumstances. The Division of Motor Vehicles does not have any authority to waive this restoration fee. This section would give the Division the authority to waive only the restoration fee when the fee remains unpaid for 10 years, and the person owing the fee has been issued a drivers license by the Division since the effective date of the revocation, and is otherwise eligible to hold the license.

Section 8 – Handicapped parking spaces and access aisle designation clarification. Current law requires parking spaces for handicapped persons to be designated with appropriate signage/markings and provides penalties for parking in designated spaces without authorization. This section clarifies that all provisions, restrictions, and penalties applicable to parking in spaces designated for handicapped persons would also apply to clearly marked access aisles.

Section 9 – Peer-to-peer vehicle sharing. Currently, there are no statutes that relate to peer-to-peer vehicle sharing. This section would create a new article within the motor vehicle laws relating to peer-to-peer vehicle sharing, which is the authorized use of a shared vehicle by an individual other than the owner through a peer-to-peer vehicle sharing program for compensation. This section would codify applicable definitions and authorize airport operators to charge airport facility usage fees, require identifying decals for shared vehicles on their property, require purchase of vehicle monitoring equipment, create auditing requirements, and designate shared vehicle staging lots.

Section 10 – Sale of certain DOT property. This section authorizes the Department to sell five listed parcels of property in Wake County with exemptions from certain statutory provisions that generally apply to sales of State property. The properties listed in the section would not be subject to the Department of Administration's assessment of present and future need for the land, they could not be offered at less than fair market value to a public entity or nonprofit, and there would be a cap of \$50,000 on the service charge paid into the State Land Fund. The service charge is capped by statute at 10% of the gross amount received from the sale, but for these properties it would be capped at 10% of the gross amount received or \$50,000, whichever is less.

EFFECTIVE DATE: Section 4 would become effective July 1, 2019. Sections 7 and 9 would become effective October 1, 2019. The remainder of the act would be effective when it becomes law.