



# HOUSE BILL 77: DOT 2020-2021 FY Budget/Governance.

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

2019-2020 General Assembly

<b>Committee:</b>	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	June 17, 2020
<b>Introduced by:</b>	Reps. Torbett, Presnell, Iler, Shepard	<b>Prepared by:</b>	Joshua Freeman
<b>Analysis of:</b>	Fourth Edition		Howard Marsilio Staff Attorneys

**OVERVIEW:** House Bill 77 would adjust the Department of Transportation's FY 2020/21 Certified Budget, and implement various financial governance provisions, including the restructuring of the Board of Transportation.

### CURRENT LAW/BILL ANALYSIS:

#### Part 1

Part 1 appropriates funds to the Department of Transportation (DOT) for the 2020-2021 fiscal year, as adjusted by the General Assembly.

#### Part 2

Part 2 contains the current operations and availability schedules for the Highway Fund and Highway Trust Fund, as adjusted by this act for the 2020-2021 fiscal year.

#### Part 3

Part 3 contains the adjustments to the programs and fund codes of the Department for the 2020-2021 fiscal year.

#### Part 4

Part 4 contains the following: (4.1) four year schedule of anticipated revenue for the Highway Fund and Highway Trust Fund; (4.2) motor fuel excise tax rate adjustment for the 2021-2022 calendar year; (4.3) authorization for the State Treasurer to issue \$700 million in Build NC Bonds for Department use on currently existing projects; (4.4) directs the Department to use any unexpended Build NC Series 2019A Bond proceeds on currently existing projects; (4.5) increases the maximum annual debt service on GARVEE bonds from 15% to 20% and requires the Department to maintain a reserve with the funds necessary to make the next GARVEE debt service payment; (4.6) revises the motor fuels tax distribution formula between Highway Fund and Highway Trust Fund; (4.7) requires the Secretary of Transportation to notify the Governor when anticipated costs from major disasters will exceed funds in the Emergency Reserve and urges the Governor to convene a special session to appropriate additional funds to the Department for disaster costs; (4.8) clarifies that if funds allocated for snow, ice, and other emergencies are depleted, Department must reduce the budget of listed categories by the same percentage; (4.9) extension of the period the CARES Act funds are allocated to Department, in case federal government revises guidelines on use of these funds; (4.10) revises Department's Cash Watch Weekly Report and Balance Sheet Report; (4.11) repeal of prior fiscal year limited expansion of Powell Bill funds and revises calculation for 2020-2021 fiscal year funds; (4.11A) Powell Bill preference for native NC seeds and plants

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for city and town projects that include landscaping; (4.12) repeals 2020-2021 fiscal year allocation of funds for Capital, Repairs, and Renovations; (4.13) authorizes \$1.5 million dollars for DMV information technology upgrades related to headquarters move; (4.14) allocates Commercial Airport Funds and extends period funds allocated to airports in the 2019-2021 biennium may be used before reversion; (4.15) requires the Rail Division to develop and submit a management plan for rolling stock and dispose of idle and specified assets; (4.16) authorizes lease of Hatteras/Ocracoke Ferry for 2020 summer season; and (4.17) requires the Department to allocate funds to the NC Ports Authority on a quarterly basis.

## **Part 5**

**Section 5.1** would amend current law as it relates to the membership, powers and duties, and requirements of the Board of Transportation. The section would terminate the current membership of the Board July 30, 2020, and reconstitute and increase the membership of the Board to 20 voting members beginning July 31, 2020. The Governor would appoint 14 Highway Division members, with at least three of another political party, and the President Pro Tem and Speaker would appoint three at-large members each. The Secretary of Transportation and a person elected by the Executive Committee of the Local Government Commission would be ex officio non-voting members. This section would also make various changes to the Board's duties and powers that relate to transportation finance and provide that the Board's primary duty is to serve as fiduciaries and ensure the solvency of the Highway Fund and Highway Trust Fund.

**Section 5.2** would modify the cash balance requirement of the Department to clarify its capability to enter into project contract commitments for transportation projects leading up to and when below the available cash balance requirement of 7.5% of the total appropriations for the current fiscal year from the Highway Fund and the Highway Trust Fund.

**Section 5.3** would create a statutory monthly, and year end, Department reporting requirement to address various financial aspects of the Department and require that the Department update its Performance Dashboard to include certain information.

**Section 5.4** would create a definition for a Spend Plan for the Department and procedures for submission and approval, or a report of objections, from the Board of Transportation, the Director of Transportation Budget at the Office of State Budget and Management (OSBM), and the State Budget Director for the Department's Spend Plan or for modifications to the Spend Plan.

**Section 5.5** would require the Department to transfer one vacant FTE to the OSBM to reclassify as a Director of Transportation Budget within OSBM and specify that position's duties and involvement with monitoring and assisting the Department with cash management and required financial reporting.

**Section 5.6** would require the Department to develop and establish a uniform financial management personnel structure for Highway Division offices for the purposes of financial management and require the Department to develop uniform procedures and training.

**Section 5.7** would require the Department to transfer one vacant FTE to the Department of the State Treasurer to reclassify as a Financial Analyst position focused on reviewing and monitoring the Department's bond program, and activities which utilize bond proceeds, and assisting the Department of the State Treasurer in fulfilling various compliance duties.

**Section 5.8** would require Department, in consultation with the Director of Transportation Budget at the OSBM, to create, develop, modify, and implement Department forecasting methodology, best practices, and accuracy standards for the forecasting of spending.

**Section 5.9** would require the Office of the State Auditor to conduct an annual performance audit of the Department and to include budget adherence, cash management, project delivery and other items deemed appropriate, and produce an annual report.

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**Section 5.10** would amend the law that relates to the Department's allocation formula for primary and secondary road maintenance to require biennial development of the formula, to consider reallocation of funds based on Highway Division expenditures, and to specify quarterly allotments to Division offices based on the Spend Plan.

**Section 5.11** would require the Department to produce and submit a detailed report to the Joint Legislative Transportation Oversight Committee and the Office of the State Auditor on the Department's use of federal Advance Construction authorizations, and would require the State Auditor to conduct a performance audit of the Department's report.

## **Part 6**

Part 6 contains boilerplate language governing enactment of the Department of Transportation budget and also authorization to Office of State Budget and Management (OSBM) to adjust the Department of Transportation General Maintenance Reserve to account for any change in employee benefit costs as a result of the enactment of certain pending legislation.

## **Part 7**

**EFFECTIVE DATE:** Except as otherwise provided, this act becomes effective July 1, 2020.