



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

2019-2020 General Assembly

Committee:		Date:	October 20, 2020
Introduced by:		Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2020-91		

OVERVIEW: *S.L. 2020-91 adjusts the North Carolina Department of Transportation's FY 2020/2021 Certified Budget, and implements various financial governance provisions, including changes to the North Carolina Board of Transportation.*

- *Parts 1 through 4 of the act make various changes and clarifications to the Department's FY 2020/2021 budget.*
 - *Sections 4.2 and 4.6 relate to Motor Fuel Tax changes, and these provisions and their effective dates are summarized separately.*
- *Part 5 makes various changes to laws that relate to the governance, reporting requirements, and financial management of the Department.*
- *Parts 6 and 7 contain miscellaneous and technical provisions of this act.*

The act became effective July 1, 2020, except for Section 4.9, which became effective June 15, 2020, and Section 5.1, which became effective July 31, 2020.

CURRENT LAW/BILL ANALYSIS:

Part 1

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

Part 2

Part 2 contains 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 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 (see summary specific to that section for additional details); (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

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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 (see summary specific to that section for additional details); (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, the Department must reduce the budget of listed categories by the same percentage; (4.9) extends 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) repeals prior fiscal year limited expansion of Powell Bill funds and revises calculation for 2020-2021 fiscal year funds; (4.11A) provides preference for native NC seeds and plants for city and town projects using Powell Bill funds 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 Department of Motor Vehicles information technology upgrades related to the 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 a 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 amends the laws as it relates to the membership, structure, staggered terms, powers and duties, and requirements of the North Carolina Board of Transportation. The section terminates the current membership of the Board July 30, 2020, and reconstitutes and increases the membership of the Board to 20 voting members beginning July 31, 2020. The Governor appoints 14 Highway Division members, and the General Assembly appoints six at-large members, three upon recommendation of the President Pro Tem and three upon recommendation of the Speaker. The Secretary of Transportation continues to be an ex officio non-voting member. This section also makes various changes to the Board's duties and powers that relate to transportation finance and provides 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 modifies 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. The Department must not enter into further transportation contract commitments which would cause the cash position to fall below this statutory requirement, with an exception for changes that result in project savings or are needed for ongoing projects.

Section 5.3 creates a statutorily required monthly and year-end Department report to address various financial aspects of the Department and requires that the Department update its Performance Dashboard to include certain information.

Section 5.4 creates a definition for the Department's Spend Plan. It also provides a procedure for submission of the Spend Plan and modifications to it for approval, or a report of objections, from the Board of Transportation, the Transportation Oversight Manager at the Office of State Budget and Management (OSBM), and the State Budget Director.

Section 5.5 requires the Department to transfer one vacant FTE to the OSBM to reclassify as a Transportation Oversight Manager within OSBM and specifies that position's duties and involvement with monitoring and assisting the Department with cash management and required financial reporting.

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

Section 5.7 requires 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 requires the Department, in consultation with the Transportation Oversight Manager at OSBM, to create, develop, modify, and implement Department forecasting methodology, best practices, and accuracy standards for the forecasting of spending.

Section 5.9 requires 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 to produce an annual report.

Section 5.10 amends 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 requires 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 requires 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's budget and authorization to 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: This act became effective July 1, 2020, except for Section 4.9, which became effective June 15, 2020, and Section 5.1, which became effective July 31, 2020.