

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

H

1

HOUSE BILL 10

Short Title: Clarify Funding Eligibility/Charter Schools. (Public)

Sponsors: Representatives Torbett and Stam (Primary Sponsors).

Referred to: Transportation, if favorable, Appropriations

December 14, 2016

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE ELIGIBILITY OF CHARTER SCHOOLS FOR CERTAIN STATE FUNDING TO IMPROVE OR MAINTAIN ROADS, DRIVEWAYS, ENTRANCES, AND PARKING FACILITIES USED BY SCHOOL BUSES FOR TRANSPORTING STUDENTS AND TO MAKE OTHER CHANGES TO STATE LAW CONCERNING REQUIREMENTS FOR ROAD IMPROVEMENTS ADJACENT TO SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18(17) reads as rewritten:

"(17) The Department of Transportation is hereby authorized and required to maintain and keep in repair, sufficient to accommodate ~~the public~~ school buses, ~~roads~~ roads, including roads owned or leased by charter schools, leading from the state-maintained public roads to all public ~~schools and~~ schools, public school ~~buildings~~ buildings, and charter school expansion buildings, to which children are transported on ~~public~~ school buses to and from their homes. ~~Said~~The Department of Transportation is further authorized and required to construct, pave, and maintain school bus driveways and sufficient parking ~~facilities~~ facilities, including school bus driveways and parking facilities owned or leased by charter schools, for the school buses at those schools. The Department of Transportation is further authorized and required to construct, pave, and maintain all other driveways and entrances to the public ~~schools~~ schools, including driveways and entrances owned or leased by charter schools, leading from public roads not required in the preceding portion of this subdivision. Notwithstanding any provision of this subdivision to the contrary, driveways, entrances, and parking facilities covered by this subdivision do not include driveways, entrances, and parking facilities, used by a charter school located in a multitenant facility, such as a shopping center or office building, where the driveways, entrances, and parking facilities are shared. All requests for reimbursement under this subdivision shall include a copy of the invoice from the contractor that has performed the work. For purposes of this subdivision, the term "charter school" means a charter school authorized under G.S. 115C-218.5 and opened or expanded on or after July 1, 2015."

SECTION 2. G.S. 136-18(29a) reads as rewritten:

"(29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon



1 acquiring land for a new school or prior to beginning construction of a new
2 school, relocating a school, or expanding an existing school, request from the
3 Department a written evaluation and written recommendations to ensure that all
4 proposed access points comply with the criteria in the current North Carolina
5 Department of Transportation "Policy on Street and Driveway Access". The
6 Department shall provide the written evaluation and recommendations within a
7 reasonable time, which shall not exceed 60 days. This subdivision applies to
8 improvements that are not located on the school property. For purposes of this
9 subdivision, the Department shall have the power to grant final approval of any
10 project design. To facilitate completion of the evaluation and recommendations
11 within the required 60 days, in lieu of the evaluation by the Department,
12 schools may engage their own independent traffic engineer. The resulting
13 evaluation and recommendations from the independent traffic engineer shall
14 also fulfill any similar requirements imposed by a unit of local government.
15 This subdivision shall not be construed to require the public or private entities
16 planning schools to meet the recommendations made by the Department,
17 Department or the independent traffic engineer, except those highway
18 improvements that are required for safe ingress and egress to the State highway
19 system-system, pursuant to subdivision (29) of this section, and that are
20 physically connected to a driveway on the school site. The total cost of any
21 improvements to the State highway system provided by a school pursuant to
22 this subdivision, including those improvements pursuant to subdivision (29) of
23 this section, shall be reimbursed by the Department. Any agreement between a
24 school and the Department to make improvements to the State highway system
25 shall not include a requirement for acquisition of right-of-way by the school,
26 unless the school is owned by an entity that has eminent domain power.
27 Nothing in this subdivision shall preclude the Department from entering into an
28 agreement with the school, providing that the school installs the agreed upon
29 improvements and the Department provides full reimbursement for the
30 associated costs incurred by the school, including design fees and any costs of
31 right-of-way or easements. The term "school," as used in this subdivision,
32 means any facility engaged in the educational instruction of children in any
33 grade or combination of grades from kindergarten through the twelfth grade at
34 which attendance satisfies the compulsory attendance law and includes charter
35 schools authorized under G.S. 115C-218.5. The term "improvements" as used
36 in this subdivision refers to all facilities within the right-of-way required to be
37 installed to satisfy the road cross-section requirements depicted upon the
38 approved plans. These facilities shall include, but not be limited to, roadway
39 construction, including pavement installation and medians; ditches and
40 shoulders; storm drainage pipes, culverts, and related appurtenances; and,
41 where required, curb and gutter; signals, including pedestrian safety signals;
42 street lights; sidewalks; and design fees. Improvements shall not include any
43 costs for public utilities."

44 **SECTION 3.** Chapter 160A of the General Statutes is amended by adding a new
45 section to read:

46 **"§ 160A-307.1. Limitation on city requirements for street improvements related to schools.**

47 A city may only require street improvements related to schools that are required for safe
48 ingress and egress to the municipal street system and that are physically connected to a driveway
49 on the school site. The required improvements shall not exceed those required pursuant to
50 G.S. 136-18(29). G.S. 160A-307 shall not apply to schools. A city may only require street
51 improvements related to schools as provided in G.S. 160A-372. The cost of any improvements to

1 the municipal street system shall be reimbursed by the Department of Transportation. For
2 purposes of this section, the Department of Transportation shall have the power to grant final
3 approval of any project design for which it provides reimbursement. Any agreement between a
4 school and a city to make improvements to the municipal street system shall not include a
5 requirement for acquisition of right-of-way by the school, unless the school is owned by an entity
6 that has eminent domain power. Any right-of-way costs incurred by a school for required
7 improvements pursuant to this section shall be reimbursed by the Department of Transportation.
8 The term "school," as used in this section, means any facility engaged in the educational
9 instruction of children in any grade or combination of grades from kindergarten through the
10 twelfth grade at which attendance satisfies the compulsory attendance law, and includes charter
11 schools authorized under G.S. 115C-218.5."

12 **SECTION 4.** Any rule or policy adopted by the Department of Transportation that
13 does not comply with the provisions of this act shall be null, void, and without effect.

14 **SECTION 5.** The Department of Transportation may adopt temporary rules to
15 implement the provisions of this act. Any temporary rules adopted in accordance with this section
16 shall remain in effect until permanent rules that replace the temporary rules become effective.

17 **SECTION 6.** Sections 1, 4, 5, and 6 of this act become effective July 1, 2016. The
18 remainder of this act is effective when it becomes law.