

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-169
HOUSE BILL 804

AN ACT TO GIVE LINCOLN COUNTY AUTHORITY TO BUILD AND IMPROVE
ROADS WITHIN LINCOLN COUNTY THAT ARE NOT PART OF THE STATE
HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. A county may build, construct, improve, reconstruct, widen, pave, install curbs and gutters, and otherwise build and improve roads and streets that are located in the county and outside a city and that are not part of the State highway system and may advertise, accept bids, enter into contracts, and undertake any other action reasonably necessary to carry out the powers granted by this act. A county shall make special assessments against benefitted property to pay for any work in accordance with the procedures set forth in this act. The authority granted by this act shall include the authority to make any improvements necessary to bring roads up to State standards so that they may be accepted into the State highway system.

Section 2. Before a county may finance all or a portion of the cost of improvements to a subdivision or residential street, it must receive a petition for the improvements signed by at least seventy-five percent (75%) of the owners of property to be assessed, who must represent at least seventy-five percent (75%) of all the lineal feet of frontage of the lands abutting on the street or portion thereof to be improved. The petition shall state that portion of the cost of the improvement to be assessed, which shall be the local share required by policies of the Secondary Roads Council. A county may treat as a unit and consider as one street two or more connecting State-maintained subdivision or residential streets in a petition filed under this subsection calling for the improvement of subdivision or residential streets subject to property owner sharing in the cost of improvement under policies of the Department of Transportation.

Property owned by the United States shall not be included in determining the lineal feet of frontage on the improvement, nor shall the United States be included in determining the number of owners of property abutting the improvement. Property owned by the State of North Carolina shall be included in determining frontage and the number of owners only if the State has consented to assessment as provided in G.S. 153A-189. Property owned, leased, or controlled by railroad companies shall be included in determining frontage and the number of owners to the extent the property is subject to assessment under G.S. 160A-222. Property owned, leased, or controlled by railroad companies that is not subject to assessment shall not be included in determining frontage or the number of owners.

No right of action or defense asserting the invalidity of street assessments on grounds that the county did not comply with this subsection in securing a valid petition may be asserted except in an action or proceeding begun within 90 days after the day of publication of the notice of adoption of the preliminary assessment resolution.

Section 3. This act is intended to provide a means of assisting in financing improvements to streets and roads that are not on the State highway system. By financing improvements under this act, a county does not acquire or assume any responsibility for the streets or roads involved, and a county has no liability arising from the construction of an improvement to a road or the maintenance of the street or road.

Section 4. A county may make assessments against benefitted property to recoup all or part of the costs of the work authorized in this act on the basis of:

- (1) The frontage abutting on the project, at an equal rate per foot of frontage; or
- (2) The street frontage of the lots served, or subject to being served, by the project, at an equal rate per foot of frontage; or
- (3) The area of land served, or subject to being served, by the project, at an equal rate per unit of area; or
- (4) The valuation of land served, or subject to being served, by the project, being the value of the land without improvements as shown on the tax records of the county, at an equal rate per dollar of valuation; or
- (5) A combination of two or more of these bases. For each project, the Board of Commissioners shall endeavor to establish an assessment method from among the bases set out in this section that will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the project. The Board's decision as to the method of assessment is final and not subject to further review and challenge.

Section 5. The Board of Commissioners shall develop guidelines for determining which projects, authorized by this act, to pursue and in what order. The Board of Commissioners may consider, among other reasonable factors:

- (1) The chronological order in which it receives petitions as provided for in this act;
- (2) The number of citizens to be served per mile by the proposed project;
- (3) The severity of the need to be alleviated by the proposed project relative to other similar situations in the county; or
- (4) Funds advanced, if any, by the citizens to be served by the proposed project to participate in paying for the project.

Section 6. Except as otherwise provided in this act, a county shall follow the procedures set forth in Article 9 of Chapter 153A of the General Statutes in making, giving notice of, providing for payment of, and enforcing assessments for projects authorized in this act.

Section 7. This act applies to Lincoln County only.

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives