

## ADDITIONAL COMMENTS/CONCERNS WITH SB257

§ 136-41.5. Return of Bicycle and Pedestrian Planning Grant funds.

### **Project Implementation Timeline:**

The 6 year project window is a best case scenario in that it takes two years for the SPOT process, two years for design and two years for construction if the project is selected and immediately funded. It will likely take a community/firm around two years to complete/adopt their bike and/or pedestrian plan. Since the language currently states from six years of receiving the grant funds, then a community will be left with four years to complete a project. The planning horizon / timelines in the plan typically extend out ten years or more as these are dependent on the final product of the adopted plan. Given that Bike/Pedestrian projects are competing with other modes of transportation at the Division level, the likelihood of a project getting funded immediately, progressing without any delays, and therefore meeting the six-year deadline, is very small. For example, there were **over 460** projects submitted to the SPOT 3.0 process and **only 70** were programmed in the 2016-2025 STIP.

For rural communities, the timeline for implementing projects could be even longer as discussed below. For many small communities, the STI/Prioritization is their primary opportunity to get projects constructed. To compete in STI/Prioritization, bike and pedestrian projects need be identified in an adopted plan. Further, if, for example, during the Prioritization process, an RPO submits a project(s) for a local community and the project(s) does not score well enough to be programmed, then this may result in the community being at risk of returning its grant funds, which would likely be around \$36,000 (plans in communities under 5,000 population cost around \$40,000 with 10% local match). This provision would require a return of the grant funds even though the local community is making efforts to implement its plan but is limited by the current project funding framework established by the state.

Project construction depends on many factors, a number of which are not directly or not at all within a locality's control. Economic conditions, public-private partnerships, the availability of federal and state funding, STIP prioritization, and divisional project competitiveness in SPOT all affect whether and how soon projects can be built. The proposed legislation puts the municipality on the hook for the actions of others. It is both punitive of the wrong entity, and not well targeted at the more common barriers to project implementation -- which arise not from local reluctance to get projects built, but other factors.

### **Confusing Provision Language:**

The words "a project" can be read either way. Legal-drafting-wise, it either needs to read "all" or "at least one of," so that at least everyone knows whether you have to

do everything in your plan, or one of the things in your plan, to avoid the big return of funds.

(b) Use of Funds. – Funds returned pursuant to subsection (a) of this section shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly. Nothing in this subsection shall be construed as authorizing the expenditure of funds in violation of any applicable federal law.

(c) Notice. – The Division of Bicycle and Pedestrian Transportation shall include a clause in any Bicycle and Pedestrian Planning Grant agreement or contract setting forth the requirement imposed under subsection (a) of this section.

**Program Impact:**

With such limited numbers of projects being funded, municipal or regional authorities will be very hesitant in signing the agreements and moving forward with the award as they will not want to put themselves at a financial risk for paying the funding back. Furthermore, if the planning grant initiative presents itself as difficult to participate in or financially risky, awardees will less likely participate and less likely to apply for the program. The risk of loss will merely deter towns from participating as their financial managers and attorneys review the contract language and see that project outcomes that are not entirely within the community's control. In terms of community motivation to implement projects, the local match and the competitive grant process already ensure that communities that participate in the program are thoroughly vetted for their commitment to implementation. The communities that would be most affected by the financial risks presented in the proposed language are smaller (generally more rural) communities.

Small and rural communities have access to far fewer funding resources than larger cities and more populous counties; as a result, NCDOT has found that the reliance on the planning program is even more urgent and vital for the smaller and rural communities. In a number of cases, the importance of the planning grant has been such that some small towns have applied as often as three times before successfully competing for a planning grant award. The competitive process is such that only highly motivated towns and counties are likely to receive a grant. After completion of these plans, NCDOT frequently receives requests for technical assistance from the communities in following through on plan recommendations. Most communities are able to move forward with projects, as well as programs, recommended in their local plans.

If the Legislature has concerns about the pace of implementation, there are better strategies that could get at the issues communities face in moving their projects forward – be it through improved funding mechanisms (e.g., modify STI to allow state funding

for bike and pedestrian projects), potential future adjustments to SPOT criteria and process, or a focus on other factors that in some cases have presented difficulties for communities.

NCDOT grant applicants and recipients *very much want* to get projects built and avail of the many benefits of active transportation. To improve implementation beyond the successes these communities have posted, the need would be for improved resources, rather than disincentives or looming financial risks.

Over the fourteen-year track record of the planning grant program, it is clear that North Carolina communities have a need and desire to plan and build for active transportation, are strongly motivated and work hard to overcome limitations in the process to complete the projects they want very much.