No High Speed Rail Money from Federal Government (HB 422 – Killian)

Action: **Approve resolution expressing Council's opposition to HB 422 that would prohibit the North Carolina Department of Transportation from applying for, accepting or expending any federal grants for high speed rail unless specifically authorized by the General Assembly.**

Committee Chair: Councilmember Nancy Carter
Chair, Governmental Affairs Committee

Staff Resource: Dana Fenton, City Manager's Office
Ron Kimble, City Manager's Office

Policy: None

Explanation

- In October 2009, the North Carolina Department of Transportation (NCDOT) applied for funding from the federal government's High-Speed Intercity Passenger Rail (HSIPR) program to make improvements to the North Carolina Railroad (NCRR) corridor from Raleigh to Charlotte. The purpose of the application was to improve speed and capacity of the corridor, improve safety and efficiency of freight commerce and transit, improve safety for vehicles and pedestrians, and improve environment and quality of life. NCDOT staff presented the improvements proposed for the Charlotte area to Council on October 12, 2009.
- In January 2010, the federal government awarded the State of North Carolina $545 million in American Reinvestment & Recovery Act funding. Projects in the Charlotte area able to be funded from this grant include the double tracking from Haydock to Junker ($95 million), maintenance facility ($23 million), and NS/CSX mail line grade separation ($129 million). NCDOT staff updated the Council on this award on April 12, 2010.
- After the initial award, the federal government awarded an additional $22 million for the Sugar Creek Road Grade Separation to remove the at-grade crossing. Approximately 23,000 vehicles traverse this at-grade crossing daily making it the most highly used at-grade crossing in the NCRR rail corridor between Raleigh and Charlotte. The grade separation will greatly improve the safety of the travelling public.
- On March 22, 2011, NCDOT announced that the Federal Railroad Administration (FRA) approved the agreement NCDOT negotiated with NCRR, Norfolk Southern (NS) and Amtrak to make improvements to the corridor. According to NCDOT, over 4,000 construction jobs will be created. NCDOT will very shortly be seeking bids for 24 construction projects along the corridor.
- NCDOT is also preparing another application for further improvements to the corridor. Included among the projects in the Charlotte area include construction of the Charlotte Gateway Station ($40 million), track and bridge improvements near the Charlotte Gateway Station ($56 million), 36th Street Grade Separation project ($32 million), and construction of a wye at the Charlotte junction east of the Charlotte-Douglas International

Airport that will enable NS to more efficiently use the intermodal terminal being built at the Airport ($28 million).

- On March 22, 2011 Representative Killian (Mecklenburg) introduced HB 422 that would prohibit NCDOT action to "...apply for, accept, or expend any grant funding from the federal government for any high-speed rail project unless the project has been approved through an act of the General Assembly." Since most the funds awarded to the State have not been expended, this would require the General Assembly to authorize the projects including those in the Charlotte area.
- On March 23, 2011, the Metropolitan Transit Commission adopted a position of opposition to HB 422 due to the impacts of not completing the planned grade separations of Sugar Creek Road and NS/CSX mainlines upon the Blue Line Extension and Red Line Commuter Rail.
- On March 29, 2011, a hearing on HB 422 was held in the House Transportation Committee. Representative Killian testified that the operating costs will require subsidization from the Highway Trust Fund resulting in fewer road projects completed, negatively impact the freight capacities of the NCRR, not relieve congestion due to the growth of both passenger and freight rail, and exacerbate long term federal budgetary issues. Due to time constraints, the hearing will be completed on April 5, 2011.
- If HB 422 is enacted, then all activities in applying, accepting and expending federal funds for these projects will be suspended until such time as the General Assembly grants approval. Any delay potentially imperils the timely completion of the projects.
- Council is requested to approve the attached resolution opposing HB 422.

Attachment
Proposed Resolution
HB 422

RESOLUTION PASSED BY THE CITY COUNCIL
OF THE CITY OF CHARLOTTE, NORTH CAROLINA ON APRIL 4, 2011

A motion was made by _____ and seconded by _____ for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the State of North Carolina has been awarded federal funds to make improvements to the rail corridor from Raleigh to Charlotte of which approximately $269 million is expected be expended in the Charlotte area for economic development and safety purposes; and,

WHEREAS, the North Carolina Department of Transportation is preparing an application for federal funding to make additional improvements in the corridor of which approximately $156 million would be expended in the Charlotte area for economic development and safety purposes; and,

WHEREAS, HB 422 has been filed that would require General Assembly approval prior to the State applying for, accepting and expending any federal funds for high speed rail projects which would imperils the use of the funds that have been accepted by the State.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Charlotte opposes HB 422.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H 1

HOUSE BILL 422*

Short Title:	No High-Speed Rail Money from Federal Gov't.	(Public)
Sponsors:	Representatives Killian, Frye, and Shepard (Primary Sponsors). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Transportation, if favorable, Commerce and Job Development, if favorable, Finance.	

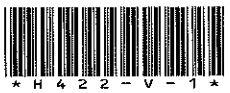
March 22, 2011

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM ACCEPTING FEDERAL FUNDS FOR A HIGH-SPEED RAIL PROJECT WITHOUT EXPLICIT AUTHORIZATION FROM THE GENERAL ASSEMBLY, AND TO PROVIDE A PENALTY FOR THE DEPARTMENT OF TRANSPORTATION FOR NONCOMPLIANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 136-44.36 or any other provision of law, the Department of Transportation shall not apply for, accept, or expend any grant funding from the federal government for any high-speed rail project unless the project has been approved through an act of the General Assembly.

SECTION 2. If the Department of Transportation accepts funds in contravention of Section 1 of this act, then, notwithstanding Section 5.6 of S.L. 2009-451, as amended by Section 5.4 of S.L. 2010-31, G.S. 136-44.36, or any other provision of law, any funds received by the State from the federal government for high-speed rail projects shall be deposited into the General Fund to be appropriated at the discretion of the General Assembly by a later act. Additionally, the Department of Transportation shall pay from the Highway Fund any penalties, interest, or other charges that result from its acceptance of funds in contravention of Section 1 of this act.

SECTION 3. Except as otherwise provided, this act becomes effective March 1, 2011.