

THE PROPOSED SAWYER AMENDMENT IS UNLAWFUL

H1094 proposes punitive measures, including *ex post facto* confiscation of assets to retroactively punish lawful conduct. This proposal violates both the Constitution and federal transportation law.

H1094, authored by Senator Vickie Sawyer (hereinafter “the Sawyer Amendment”) proposes to punish the specific local governments who exercised their right to vote as members of the Charlotte Regional Transportation Planning Organization (“CRPTO”) to rescind support for NCDOT’s I-77 South toll lane project. This rescission occurred after widespread constituent criticism that the NCDOT design was problematic. The punishment proposed for this lawful conduct is to require those specific communities to “reimburse” NCDOT for design costs and, if they do not, freeze and withholding other state transportation funding to those communities.

The Sawyer Amendment also effectively overrides CRPTO’s rescission action, thus maintaining the I-77 South toll lane project on the state transportation plan, while ordering the State to spend funds studying termination of the I-77 North toll lanes in Senator Sawyer’s district.

H1094’s retroactive applicability is an unconstitutional *ex post facto* bill of attainder.

Legislation that seeks to retroactively punish lawful conduct as to specific and identifiable groups was the very type of legislative mischief that the Framers of the Constitution sought to curtail by prohibiting bills of attainder in not one-- but two-- provisions of the Constitution, taking the extraordinary step in Article I, Section 10 of the Constitution to proactively forbid states from doing so.

The Framers’ prohibition on bills of attainder and *ex post facto* laws are rooted in the separation of powers and the belief that legislative bodies must pass laws of general applicability and not target individuals or entities. In the same way, legislatures cannot retroactively punish legal conduct by declaring it illegal and punishing those who partook in the then-legal conduct.

This is exactly what the Sawyer Amendment proposes to do, by first imposing a financial penalty on CRPTO members who voted to rescind in response to constituent concerns, then restricting the sources from which those communities may raise funds to pay this legislatively-imposed penalty, and then withholding state funding of other transportation projects in those communities until the retroactive penalty is paid.

The proposed amendment seeks to retroactively punish local governments for engaging in the democratic process and, rather, unlawfully coerces the members of CRTPO to vote out of fear of state reprisal. The threats contained in this legislation already has had a chilling effect on local elected officials’ ability and right to vote their conscience on important issues impacting their communities. This is not reimbursement, it is retribution.

The Sawyer Amendment also then instructs NCDOT to “not take any action to amend the North Carolina State Transportation Improvement Program (STIP) to remove, reprioritize, *or reprogram* the I-77 South Express Lanes (STIP Project I-5718) project, or reprogram any funds related to that project.” (Emphasis added.) This instruction effectively nullifies CRPTO’s rescission

vote and underscores that this proposal is not about making the State whole, as by the amendment's own terms, nothing is lost-- but rather is about punishing communities for lawfully exercising their right to vote.

H1094 violates federal transportation law, putting North Carolina's federal funding at risk.

The Sawyer Amendment also imperils funding from the federal government for North Carolina's state transportation plan by purporting to penalize localities for participating in CRPTO, this area's federally-mandated metropolitan planning organization. Section 134 of Title 23 of the United States Code, and related statutes and federal regulations, requires local elected officials, public transportation agencies, and state officials to engage in a continuing, cooperative, and comprehensive transportation planning process. This is known as "the 3-Cs" of the transportation planning process that is required for federal funding of the state's transportation plan.

The Sawyer Amendment coerces results on the state's various local planning organizations such to make participation in the design process an illusory rubber stamp of state plans. Even the threat of this sort of action vitiates the contemplated cooperative process by imposing the will of state officials upon local elected officials.

Where the Sawyer Amendment seeks to impose its will on local governments through threats and financial penalties, besides offending the Constitution, it also abridges those local governments' rights to meaningfully participate on transportation planning organizations.

Whether one agrees with the I-77 South project is beside the point. The Sawyer Amendment offends due process, attacks local governments for listening to constituents, violates the rights of local elected officials to vote their conscience without fear of unconstitutional retribution, and seeks to impose the already immense power of the North Carolina General Assembly to coerce a result on a federally-mandated cooperative process.

Respectfully submitted, this, the 16th day of June, 2026.



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