

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-370
HOUSE BILL 576**

AN ACT TO SIMPLIFY THE BID PROCESS FOR SMALL COMMUNITY COLLEGE CAPITAL IMPROVEMENT PROJECTS AND TO STUDY THE USE OF REVERSE AUCTIONS FOR THE PROCUREMENT OF ARCHITECTURAL, ENGINEERING, SURVEYING, CONSTRUCTION MANAGEMENT AT-RISK, OR CONSTRUCTION SERVICES BY A PRIVATE ENTITY THAT HAS RECEIVED PUBLIC MONEY AS AN INCENTIVE TO COMPLETE THE PROJECT WITH RESPECT TO WHICH THE SERVICES ARE REQUIRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.34 reads as rewritten:

"§ 143-64.34. Exemption of certain projects.

(a) ~~State Capital Improvement Projects~~ capital improvement projects under the jurisdiction of the State Building Commission and community college capital improvement projects, where the estimated expenditure of public money is less than one hundred thousand dollars ~~(\$100,000)~~ (\$100,000), are exempt from the provisions of this Article.

(b) A capital improvement project of The University of North Carolina under G.S. 116-31.11 where the estimated expenditure of public money is less than three hundred thousand dollars (\$300,000) is exempt from this Article ~~if~~ if all of the following apply:

- (1) The architectural, engineering, or surveying services to be rendered are under an open-end design ~~agreement;~~ agreement.
- (2) The open-end design agreement has been publicly ~~announced;~~ and announced.
- (3) The open-end design agreement complies with procedures adopted by the University and approved by the State Building Commission under G.S. 116-31.11(a)(3).

(c) A community college capital improvement project where the estimated expenditure of public money is less than three hundred thousand dollars (\$300,000) is exempt from this Article if all of the following apply:

- (1) The architectural, engineering, or surveying services to be rendered are under an open-end design agreement.
- (2) The open-end design agreement has been publicly announced.
- (3) The open-end design agreement complies with procedures adopted by the State Board of Community Colleges and approved by the State Building Commission."

SECTION 2. G.S. 143-135.26(12) reads as rewritten:

"§ 143-135.26. Powers and duties of the Commission.

The State Building Commission shall have the following powers and duties with regard to the State's capital facilities development and management program:

...

- (12) To adopt rules governing the use of open-end design agreements for State capital improvement projects and community college buildings as defined in subdivision (4) of this section, where the fee-expenditure of public money does not exceed the amount specified in G.S. 143-64.34(b)-G.S. 143-64.34(b) or (c).

...."

SECTION 3. As part of the study of the William S. Lee Act and the Job Development Investment Grant Program directed in Section 8 of S.L. 2005-241, the Economic Development Oversight Committee (Committee) shall study the use of reverse auctions for the procurement of professional services, including architectural, engineering, surveying and construction management at risk, or other construction services, by businesses that receive economic development incentives from the State or a local government. The Committee shall consider the advisability of making business incentives contingent upon a business's commitment not to use a reverse auction procurement process. The Economic Development Oversight Committee shall complete the study and submit it to the General Assembly before the beginning of the 2006 Regular Session of the 2005 General Assembly.

SECTION 4. Sections 3 and 4 of this act are effective when this act becomes law. The remainder of this act becomes effective October 1, 2005.

In the General Assembly read three times and ratified this the 24th day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:33 p.m. this 8th day of September, 2005