REPORT OF THE STATE-OWNED PROPERTY STUDY COMMISSION

REPORT TO THE 1987 GENERAL ASSEMBLY OF NORTH CAROLINA

STATE OF NORTH CAROLINA

SPECIAL LEGISLATIVE COMMITTEE TO STUDY STATE-OWNED PROPERTY

STATE LEGISLATIVE BUILDING

RALEIGH 27611

C. R. EDWARDS
CO-CHAIRMAN

MR. TOM BRADSHAW
CO-CHAIRMAN

January 12, 1987

TO MEMBERS OF THE 1987 GENERAL ASSEMBLY:

The State-Owned Property Study Committee herewith submits its report regarding the improvement of the State's Capital Facilities Development process.

Respectfully Submitted,

Representative C. R. Edwards

Thomas W. Bradshaw, Jr.

Co-Chairmen

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STATE-OWNED PROPERTY

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STATE OF NORTH CAROLINA

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INTRODUCTION

For more than a decade the Legislature has been studying the State's building construction program in an effort to improve our capital facilities development process. A resolution adopted in 1983 and signed by the presidents of eight leading construction industry associations stated:

> "...there exists within the structure of state government an uncoordinated maze of regulations and fragmented building construction programs which decreases productivity and increases cost of operations not only to the State, but also to the building construction industry..."

In response to the industry's continuing concerns and the concerns of those involved in the State's capital facilities development process, the 1985 General Assembly enacted legislation creating the State-Owned Property Study Committee to study matters related to our capital assets.

This Committee reviewed some of the recommendations of past Legislative Study Committees as well as two studies

involving the private sector: a study in 1983 by the State Construction Advisory Committee and the 1985 Governor's Efficiency Study Team's recommendation.

During the 1986 Session of the General Assembly, this Study Committee recommended and the Legislature approved $300,000 to begin a survey of the condition, operations, and maintenance of all state-owned buildings and to develop an automated capital facilities preventive maintenance program. These recommendations were in response to the concern for meeting the needs of our public facilities' infrastructure and were also addressed in part in the Governor's Efficiency Study recommendations.

The Legislation to be recommended to the 1987 General Assembly by the State-Owned Property Study Committee will also embody some of the recommendations proposed by the Governor's Efficiency Study: (a) abolish the Capital Building Authority; (b) evaluate the performance of architects and engineers; and (c) develop a method for evaluating building contractors. Moreover, the proposed legislation responds to the concerns presented to this study committee by the State Construction Advisory Council and other public and private sector individuals during our deliberations.

The State-Owned Property Study Committee thinks it is time to quit studying the problems and recommends the proposed legislation as a step toward improving, streamlining, coordinating, and expediting our State's capital facilities process.

COMMITTEE PROCEEDINGS

The State-Owned Property Study Committee held its first meeting on December 9, 1985, and met thereafter monthly during 1986. The Committee had a broad charge to look at both the state construction and maintenance area and the lease of real property area and to recommend any changes that would benefit the taxpayers of this state.

During the course of the Committee's meetings, Mr. Ray DeBruhl, Director of the State Building Division; Mr. Charles Holliday, State Property Officer; the Office of State Budget and Management; the Attorney General's Office; a number of other State departments; and private sector representatives from all areas of the Building Construction Industry appeared before the Committee and presented their observations and recommendations regarding the lease, construction, and maintenance of state buildings.

It became apparent after several meetings that time would not permit an effective review of both the lease and the construction and maintenance area. Therefore, concentration was placed on the construction and maintenance of State-owned buildings primarily because the State has $5 billion worth of capital facilities to protect and because the appropriation for capital construction has approximated $200 million each year for the past several years. Moreover, the greatest potential for cost savings or cost avoidance could be realized in the construction and maintenance area.

The Committee was successful during the 1986 Session of

the General Assembly in obtaining approval of an initial appropriation for a survey of the conditions of all State owned buildings and for development of a software package for a capital facilities maintenance program.

Since the end of that Session, the Committee has worked very hard to develop legislation that would establish a State Building Commission, composed of building industry professionals and University and State agency representatives, to develop procedures that would assist the State in its Capital Facilities Program. They have accomplished this difficult task and have a bill that is acceptable in concept and scope to all associated with the State's Capital Facilities Program to recommend to the 1987 Session of the General Assembly.

In addition, on December 1, 1986, the Legislative Research Commission's Committee on State Infrastructure Needs voted to endorse the bill that the State-Owned Property Study Committee would introduce in the 1987 Session.

FINDINGS AND RECOMMENDATIONS

1. FINDING:

There is a need, a continuous one, for professional review from the private sector of the State's capital facilities program.

RECOMMENDATION:

(a) Create a State Building Commission composed of construction industry professionals to advise the State on procedures for effective and efficient development and management of its capital facilities. The Commission would have no authority other than to study and recommend.

(b) Abolish the Capital Building Authority. (This also was a recommendation of the 1985 Governor's Efficiency Study Team. Moreover, it was a recommendation of the 1973 Governor's Efficiency Study Team; the 1980 Study of Capital Construction Delays by the Advisory Budget Commission; and the 1983 Legislative Research Commission Study of the Design, Construction and Inspection of Public Facilities.)

2. FINDING:

Currently there are no statewide procedures for the selection of designers based on qualifications and experience for state capital improvement projects. Even the federal government has uniform selection procedures based on legislation commonly referred to as the Brooks Bill. The American Bar Association also has recommended

guidelines and procedures to all state and local government based on the Brooks Bill. Several states have adopted the ABA recommendations.

RECOMMENDATION:

The State Building Commission would assist the State in establishing standard procedures and criteria for selecting designers on the basis of their qualifications and experience for all State capital improvement projects, but would not be involved in the administration of them. State agencies would continue to be responsible for final designer selection.

3. FINDING:

In a 1982 study of the rules, regulations and procedures affecting state capital improvement projects, the Office of Budget and Management found that there were more than 40 reviews and/or permits required on state projects by 17 different division-level State agencies without any coordination among them. The study indicated the projects were unnecessarily delayed by the maze of uncoordinated regulations.

RECOMMENDATION:

All State agencies would continue their authority for reviews and/or permits on state projects. The State Building Commission would assist the State by developing a process for coordinating these reviews and/or permits which should speed up State projects. The Commission, however,

would have no authority to administer the process.

4. FINDING:

There is no organized process for the State to get feed-back on projects that have been occupied by user agencies in order to determine if the building is performing properly. Many of the plant operations people have indicated they need some direction from the State in their maintenance programs.

RECOMMENDATION:

The State Building Commission would assist the State in developing rules for establishing a post-occupancy evaluation, annual inspection and preventive maintenance program for all state buildings, but would have no authority for implementation.

5. FINDING:

The State currently has no procedure for evaluating the work performed by designers and contractors on state capital improvement projects.

RECOMMENDATION:

The State Building Commission would develop evaluation criteria to be used in judging a designer's or contractor's performance in fulfilling their contract commitments, but would not be involved in the evaluation process.

NOTE: The findings in 2, 3, 4, and 5 have previously been put forth and recommendations made in whole or in part by the 1976 Governor's Advisory Panel on Design and Construction Practices in State Government, by the Advisory Budget Commission's 1980 Study of Capital Construction Delays, by the 1983 Legislative Research Commission Study on Design, Construction and Inspection of Public Facilities, and by the 1985 Governor's Efficiency Study Team.

6. FINDING:

There is a need to continue reviewing our capital facilities maintenance and construction program and to review the implementation of the State Building Commission and their progress in improving the current capital construction procedures.

RECOMMENDATION:

To continue the Legislative Study Committee on State-Owned Property during the 1987-89 biennium.

SESSION 19____

INTRODUCED BY:

ST: State Bldg. Comm. Created 20slf7

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE THE STATE BUILDING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 8B

"State Building Commission.

" 143-135.25. State Building Commission - creation; membership; appointments; terms; vacancies; chairman; compensation.--(a) A State Building Commission is created within the Department of Administration to develop procedures to guide the State's capital facilities development and management program.

(b) The Commission shall consist of twelve members qualified and appointed as follows:

(1) The Secretary of the Department of Administration or his designee.

(2) The State Budget Officer or his designee.

(3) A licensed architect whose primary practice is in the design of buildings, chosen from three persons nominated by the North Carolina Chapter of the

American Institute of Architects, appointed by the Governor.

(4) A registered engineer whose primary practice is in the design of engineering systems for buildings, chosen from three persons nominated by the Consulting Engineers Council and the Professional Engineers of North Carolina, appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.

(5) A licensed building contractor whose primary business is in the construction of buildings, chosen from three persons nominated by the Carolinas Branch, Associated General Contractors, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(6) A licensed electrical contractor whose primary business is in the installation of electrical systems for buildings, chosen from three persons nominated by the North Carolina Association of Electrical Contractors, and the Carolinas Chapter, National Electrical Contractor's Association, appointed by the Governor.

(7) A licensed real estate broker, or other person, whose primary business is in property and facilities management, chosen from three persons nominated by the North Carolina Association of Realtors, appointed

by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.

(8) A licensed mechanical contractor whose primary business is in the installation of mechanical systems for buildings, chosen from three persons nominated by the North Carolina Association of Plumbing, Heating, Cooling Contractors, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(9) A manager of physical plant operations whose responsibilities are in the operations and maintenance of physical facilities, chosen from three persons nominated by the North Carolina Association of Physical Plant Administrators, appointed by the Governor.

(10) An employee of the university system currently involved in the capital facilities development process, chosen from three persons nominated by the Board of Governors of The University of North Carolina, appointed by the Governor.

(11) A public member who is knowledgeable in the building construction or building maintenance area, appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.

(12) A public member who is knowledgeable in the building construction or building maintenance area, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

The terms of the Secretary of the Department of Administration and the State Budget Officer shall be coterminous with their terms of office. The other 10 members shall be appointed for staggered two-year terms: Provided, however, the initial terms of members appointed pursuant to subdivisions (3), (5), (7), (9), and (11) shall expire June 30, 1990 and the initial terms of members appointed pursuant to (4), (6), (8), (10), and (12) shall expire June 30, 1989. Members may serve no more than six consecutive years.

Vacancies in appointments made by the Governor shall be filled by the Governor for the remainder of the unexpired terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Persons appointed to fill vacancies shall qualify in the same manner as persons appointed for full terms.

The chairman of the Commission shall be elected by the Commission.

(c) The Commission shall meet at least four times a year on or about January 15, April 15, July 15, and October 15, and upon the call of the chairman.

(d) Members of the Commission who are not State officers or employees shall receive per diem of one hundred dollars

($100.00) a day when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5. Members who are State officers or employees shall be reimbursed for travel and subsistence as provided in G.S. 138-6.

" 143-135.26. Powers and duties of the Commmission.-- The State Building Commission shall have the following powers and duties with regard to State buildings and State capital improvement projects:

(1) To adopt rules establishing standard procedures and criteria to assure that the designer selected for each State capital improvement project has the qualifications and experience necessary for that capital improvement project. The rules shall provide that the funded agency is responsible and accountable for the final selection of the designer.

(2) To adopt rules for coordinating the plan review, approval, and permit process for State capital improvement projects.

(3) To adopt rules for establishing a post-occupancy evaluation, annual inspection and preventive maintenance program for all State buildings.

(4) To develop procedures for evaluating the work performed by designers and contractors on State capital improvement projects.

(5) To continuously study and recommend ways to improve the effectiveness and efficiency of the State's

capital facilities development and management program.

(6) To perform any other related duties as may be assigned to the Commission by the Governor.

The Commission shall submit an annual report of its activities to the Governor and the General Assembly.

" 143-135.27. Definition of capital improvement project.--As used in this Article, 'State capital improvement project' means the construction of and any alteration, renovation, or addition to State buildings, as defined in G.S. 143-336, for which State funds, as defined in G.S. 143-1, are used and which is required by G.S. 143-129 to be publicly advertised.

" 143-135.28. State Building Division.--(a) The State Building Division of the Department of Administration shall provide staff to the State Building Commission.

(b) The Director of the State Building Division shall be a registered engineer or licensed architect and shall be technically qualified by educational background and professional experience in building design, construction, or facilities management. The Director shall be appointed by the Secretary of the Department of Administration after consultation with the State Building Commission."

Sec. 2. Article 7 of Chapter 129 of the General Statutes is repealed.

Sec. 3. G.S. 143-18.1(c) is amended by deleting the language "and the Capital Building Authority" both times it appears.

Sec. 4. G.S. 120-123(39) and (12) are repealed.

Sec. 5. G.S. 120-123 is amended by adding a new subdivision to read:

"(46) The State Building Commission, as established by G.S. 143-135.25."

Sec. 6. Sections 2 and 4 of this act shall become effective December 31, 1987. The remaining sections of this act are effective upon ratification.

REASONS FOR AMENDING LEVEL OF EXPENDITURE IN G. S. 143-129

A. G. S. 143-128 establishes $50,000 as the threshold amount on public building projects for which separate prime contractors are required. Changing the threshold amount for informal bidding on public building projects to $50,000 in G. S. 143-129 would put these two sections of statutes for Public Building Contracts in harmony.

B. Raising the limits for informal bidding would serve to expedite small construction projects.

SESSION 19____

INTRODUCED BY:

ST: Informal bid limits.
20slf98

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RAISE THE LEVEL OF EXPENDITURE ON PUBLIC BUILDING PROJECTS ON WHICH INFORMAL COMPETITIVE BID PROCEDURES MAY BE USED.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 143-129 is amended by deleting the language "thirty thousand dollars ($30,000)" and substituting "fifty thousand dollars ($50,000)".

Sec. 2. This act is effective upon ratification.

SESSION 19____

INTRODUCED BY:

ST: State Prop. Study Continued
23s1f31

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONTINUE THE LEGISLATIVE STUDY COMMITTEE ON STATE-OWNED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. There is established the Legislative Study Committee on State-owned Property. The Committee shall consist of six members of the Senate appointed by the President of the Senate and six members of the House of Representatives appointed by the Speaker of the House of Representatives. The President of the Senate and the Speaker of the House of Representatives shall each appoint a cochairman from their appointees.

The Committee shall study:

(1) The current system of planning for the space needs of the State and the allocation and current use of State-owned property;

(2) The need for more coordinated management of or central management of State-owned capital assets;

(3) The current system of making capital budget decisions, including decisions on whether to lease space or use State-owned space;

(4) The current capital facilities construction procedures; and

(5) Any related issues the Committee deems appropriate.

The Committee shall make an interim report to the 1988 Session of the 1987 General Assembly and a final report to the 1989 General Assembly.

Upon the prior approval of the Legislative Services Commission, the Committee may obtain staff assistance from the Legislative Services Office.

Sec. 2. There is appropriated from the General Fund to the General Assembly the sum of twenty thousand dollars ($20,000) for the 1987-88 fiscal year for the study authorized in Section 1 of this act. Funds not used for this purpose during the 1987-88 fiscal year shall remain available for expenditure for the 1988-89 fiscal year.

Sec. 3. This act shall become effective July 1, 1987.

PART XIII.----STATE-OWNED PROPERTY STUDY COMMITTEE.

Sec. 14.1. There is established the Legislative Study Committee on State-owned property. Four members of the Committee shall be appointed by the Lieutenant Governor and four members shall be appointed by the Speaker of the House of Representatives. The Lieutenant Governor and the Speaker shall each appoint a cochairman from their appointees.

The Committee shall study:

(1) The current system of planning for the space needs of the State and the allocation of State-owned property;

(2) The current use of State-owned property;

(3) The need for regional State office buildings;

(4) The need for more coordinated management of or central management of State-owned capital assets;

(5) The current system of making capital budget decisions, including decisions on whether to lease space or use State-owned space; and

(6) Any related issues the Committee deems appropriate.

The Committee shall make a report to the Appropriations Committees of the 1987 General Assembly.

Upon the prior approval of the Legislative Services Commission, the Committee may obtain staff assistance from the Legislative Services Office.

Sec. 14.2. There is appropriated from the General Fund to the Legislative Services Commission the sum of twenty thousand dollars ($20,000) for the 1985-86 fiscal year for the study established in this Part.

HOUSE BILL 1494

We have all been made aware of the condition and the staggering cost to repair our public works infrastructure. While most of the attention has been focused on the problems related to roads, bridges, water and sewer needs, we cannot ignore the continuing deterioration of our State-owned buildings.

The State owns approximately 10,800 buildings with more than 70 million square feet of space and a current replacement value of more than 5 billion dollars. No one really knows the current conditions of our State-owned buildings.

This bill would begin a study on the conditions of our State-owned buildings to identify our repair and maintenance needs.

We cannot continue to fund new facilities and not provide adequate funds to maintain existing facilities.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1985

H 1

HOUSE BILL 1494

(INCLUDED AS A PART OF RATIFIED HOUSE BILL 2055, 1985 SESSION, REGULAR SESSION 1986)

Short Title: State Bldg. Survey/Maint. (Public)

Sponsors: Representatives Edwards; Evans, Duncan, Sparrow,*

Referred to: State Government.

June 10, 1986

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A STUDY OF STATE BUILDINGS AND FOR A STATE CAPITAL FACILITIES MAINTENANCE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The Department of Administration, State Building Division, and the Office of State Budget and Management shall conduct an operations and maintenance study of all State buildings. The study shall include a survey of the conditions of all State buildings.

The Department of Administration, State Building Division, and the Office of State Budget and Management may contract for assistance from non-State personnel to perform the study.

The Department of Administration, State Building Division, and the Office of State Budget and Management shall report their progress on the study to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by March 1, 1988.

There is appropriated from the General Fund to the Department of Administration, State Building Division, the sum of

two hundred fifty thousand dollars ($250,000) for the 1986-87 fiscal year to begin the study mandated by this section.

Sec. 2. There is appropriated from the General Fund to the Department of Administration, State Building Division, the sum of fifty thousand dollars ($50,000) for the 1986-87 fiscal year to develop a software package for a capital facilities maintenance program.

Sec. 3. This act shall become effective July 1, 1986.

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*Additional Sponsor: Hauser.

A STATEMENT TO THE SPECIAL LEGISLATIVE COMMITTEE TO STUDY STATE-OWNED PROPERTY

BY THE STATE CONSTRUCTION ADVISORY COUNCIL

OCTOBER 2, 1986

Introduction

This presentation today is on behalf of the State Construction Advisory Council. We appreciate the opportunity to present the collective views of this group that exists for the express purpose of improving construction procedures of the State of North Carolina. The organizations and agencies whose representatives comprise the Council are listed at the end of this document. These individuals are:

* Leaders from 13 organizations and State agencies that are involved in construction for the State in a hands-on, day to day basis, and appointed to the Advisory Council by those bodies;

* Professionals who also deal with private construction and governmental agencies at levels other than the State and who thereby have acquired some knowledge as to alternate methods of planning and completing capital improvement programs;

* Volunteers whose only reason for service is the improvement of the system with which we are intimately familiar;

* Citizens who have served for several years, through two Administrations and several General Assembly sessions, and have therefore carried out the Council's goals without respect to personalities in positions of political power; and

* Taxpayers of this State who want the State and its people to get the maximum benefit from the tax dollars spent in construction programs.

Without detailing at length the history of suggested changes in State Construction, which is well understood by your Committee, it should be stated that our Council has favored many improvements to the system and policies in the past, some of which have been acted on favorably by legislative and executive bodies. Others have not yet been enacted, and it is to those that we wish to speak. The Advisory Council met recently specifically to consider this statement to your Study Committee. Based on this recent review of past proposals and current needs, we present our recommendations on the major issues that deserve your consideration.

In particular, we have approached your study task from the standpoint of looking at the issues independently and with a fresh viewpoint, not by attempting a modification of any past legislative proposals.

These major issues will be singled out for discussion as issues, not in terms of proposed wording for legislation. Naturally, we would be pleased to consult with the appropriate parties when legislation is drafted in detail.

Creation of a State Building Commission

A key part of our recommendations and of past legislative proposals is the establishment of a State Building Commission. This body should be composed of individuals who are personally very familiar with construction in general and in State construction in particular. Past legislation has listed specific professions that should be represented and has called for appointment by certain officials on the basis of recommendations made by certain organizations. We strongly support the concept of a State Building Commission as being needed to provide guidance in establishing and implementing policies and procedures that would, simultaneously, strengthen our system for capital improvements and streamline the process. The breadth of interest would span from early planning through design, construction, operation, and maintenance. The depth of involvement would be to insure that the all important details were carried out by performing an oversight function. This experienced group would bring the viewpoint of the related professions and industries to State construction, including the best ideas that have been successfully employed in other governmental circles or by private enterprise.

Such a State Building Commission would not replace or render impotent the state agencies that now bear the responsibilities for administering the system. Rather, a State Building Commission as envisioned would give State construction a broader outlook than it can have with only the full-time employees. It would provide a forum for determination of successes and failures together with a basis for acting upon those determinations. While the management of the construction program would remain in the hands of elected officials and their appointed representatives, the technical and professional policies needed for efficient construction would be set down by this body of knowledgeable experts.

Recommendations for Specific Responsibilities

The first step in the capital improvement process should be advance planning to determine needs and how best to meet those needs. Advance planning should be carried out adequately and consistently. It should be a prerequisite for any funding and funds should be appropriated in logical sequence, first for design, then for construction, and finally for maintenance. The planning procedures that are central to this process need to be strengthened and applied more universally, under the direction of state agencies. The establishment of the policies that will work best should be a responsibility of the State Building Commission.

Another early step that greatly affects the quality of the capital improvement is the selection of the designer. Procedures for this important step are not applied uniformly by all State agencies or institutions. While selection should be the responsibility of the State organization that receives the appropriation, the procedures to give the State the best professional services should be established by the State Building Commission. It would also provide general oversight to assure that the procedures are followed.

The greatest need for "streamlining" State construction processes lies in the approval processes required by many different agencies for even the smallest projects These permitting regulations generally serve valuable purposes and

should not be repealed just for the sake of expediting capital improvements. However, more efficient methods of coordinating reviews and establishing early the permits that will be required should be one of the responsibilities of the State Building Commission.

The quality of services by designers and contractors should be reviewed and evaluated, a step that is not now carried out. The State Building Commission should establish mechanisms for these reviews to become a part of the system, working within all legal and ethical guidelines.

Operational and maintenance phases of a project do not currently receive as much attention as do the design and construction phases. Yet, a well planned facility can lose its value without adequate emphasis on these activities. The State Building Commission should adopt rules that will assure proper attention to completed facilities.

The State Building Commission itself must be held accountable and to that end, it should submit periodic reports on its activities and accomplishments. These reports should summarize the status of the properties over which the Commission exercises its authority.

Qualifications of Members of the State Building Commission

The members of the State Building Commission should represent each of the various segments of the construction industry. This diversity will give the Commission the broad outlook necessary for carrying out its responsibilities. Ever since the concept of a State Building Commission was broached, the membership has been generally discussed in that light. The Advisory Council reaffirms that principle. We have recommendations as to the makeup of the Building Commission to offer when the time comes to consider these details. The key issue is determination of the professions to be represented on the Commission and the organizations responsible for recommending the appointees. The term of office is also important. Without getting into too much detail at this time, we favor longer terms of service than previously proposed, say three years minimum, with the terms staggered to provide continuity. It is not important to our Council which official appoints which Commission member.

Applicability to the University System, Community Colleges, and Public Schools

None of the proposed legislation was ever intended to apply to the Public Schools System. Earlier legislation was intended to apply to the University and Community College systems, but they were excluded by amendments in the legislative process. The issue has been deferred within the Advisory Council until meetings between representatives of the Council and the two systems can be held. All parties have expressed a desire to discuss proposals in depth to produce legislation that will have the most beneficial effect on State construction within these two large sectors. Our specific recommendations will be available after more deliberations. Recommendations may be partially dependent on items discussed in the paragraph below,"Issues to Be Excluded from This Bill."

Miscellaneous Issues

The recommended list of responsibilities of the State Building Commission presumes a span of control that includes management of physical facilities from conception until eventual demolition. Such a scope of authority implies that the Commission "fits" the internal organization structure of related activities within the Department of Administration. Specifically, the offices charged with administering the Commission's policies with respect to planning, design, construction, and operation should be grouped -- say, into the State Building Division under its Director. The most efficient grouping of these functions has been left to each Secretary of Administration, but the establishment of the State Building Commission and the State Building Division along the lines advocated should be done by statute so that the the permanent staff can be structured consistently.

One past proposal called for the State Building Commission, in essence, to select the full-time Director of State Construction who would then report to other appointed officials within the Department of Administration. The Advisory Council believes that such a proposal is unnecessarily complex and would lead to ambiguous relationships that contribute nothing. We do recommend that the qualifications of the Director as a registered architect or engineer be included in any bill. Beyond those qualifications, appointment of the Director by the Governor or by his Secretary of Administration in consultation with the State Building Commission would seem to be the ideal.

The existing Capital Building Authority (CBA) has limited duties with respect to some of the issues discussed herein. Questions, and even conflict, have arisen regularly because this body is statutorily assigned such a small role within the total spectrum of administrative decision making and within the total list of agencies that become involved with State construction. The CBA is called upon to perform what should be a perfunctory duty if the overall system is organized properly. The correct solution to "the CBA problem," as recognized by all related past legislation, is to eliminate the body in favor of the more comprehensive State Building Commissionn, which would have the total scope of responsibilities together with corresponding authority.

Issues to Be Excluded from This Bill

In addition to the above recommendations as to what issues should be resolved through a new bill authorizing a State Building Commission, it is equally important to set forth those issues that have sometimes been linked with the Commission proposals. The Advisory Council recommends strongly that the following issues be addressed separately. Legislation may be appropriate in some cases or simple administrative procedures may be adequate in others.

* The question of how best to separate or combine construction contracts arises from time to time. A related issue is how best to enter into contract for facilities -- whether by the traditional method of separate and sequential design and construction or whether to embrace faster but more complex methods used in private construction. These issues are truly important ones and deserve full consideration, but any legislation to confirm or change current policies should be considered separately from that which sets up the

State Building Commission. The Commission, once organized, can administer any set of construction rules that the General Assembly decides is best for North Carolina.

* The establishment of a State Building Commission has also been linked in the past with an assignment that the Commission conduct a survey of the condition of all State-owned facilities. The Advisory Council understands that such a worthwhile effort has been or will be addressed separately. Accordingly, this task has been deleted from our list of proposed responsibilities.

* Just as the proposed State Building Commission should "streamline" certain procedures within State construction, so also have there been other proposals intended to bring greater efficiency through the realignment of certain offices from one Department to another. The State should seek greater efficiency wherever and however it can be achieved, but any inter-Departmental transfer of functions should be considered completely apart from the State Building Commission concepts.

Closure

The State Construction Advisory Council sincerely appreciates the opportunity to present these preliminary opinions to your important Commission. Between now and your next meeting, we will continue to develop a consensus among members of the construction industry and state agencies on the concepts described above. At your next meeting, we hope to have the opportunity to present specific recommendations in detail.

The State Construction Advisory Council
Consisting of representatives of:

American Subcontractors Association of the Carolinas
Carolinas Branch, Associated General Contractors
Carolinas Branch, National Electrical Contractors Association
Consulting Engineers Council of North Carolina
North Carolina Association of Electrical Contractors
North Carolina Association of Plumbing, Heating & Cooling Contractors
North Carolina Chapter, The American Institute of Architects
Professional Engineers of North Carolina

The University of North Carolina System
The North Carolina Community College System

North Carolina State Government Agencies represented by
Department of Administration
Department of Agriculture
Department of Human Resources

by Donald H. Kline, P.E.
Spokesman

Statement of North Carolina Chapter

of the American Institute of Architects

Concerning a Bill to Create the State Building Commission

November 17, 1986

My name is Frank DePasquale, and I am from Durham. I am in the private practice of architecture and am the Chairman of the NCAIA Government Affairs Committee.

We have been keenly interested in the evolution of this bill which establishes the State Building Commission. We supported the general concepts of greater efficiency and coordination in the construction of state owned projects in the original bill, but that bill also contained some very controversial areas that made parts of the bill unacceptable to various professions and agencies.

But now, thanks to the hard work of the folks in fiscal research and state construction, we have a bill that is far more acceptable in concept and scope. Linda Powell should be commended for transforming a political hot potato into a reasonable workable proposal. As you know, that was not an easy job.

With the contracted responsibilities of the State Building Commission in this bill revision, it is our opinion that you may want to decrease the size of the commission membership. As you know, any procedural and rule making body works most effectively when its size is not too unwieldy.

At a recent briefing session held by fiscal research for members of the design and construction professions, there was expressed some concern for the continuity of design selection while procedures and standards are being formulated by the State Building Commission. Members of our professions have volunteered to help during the interim period of the CBA to BC change over. We are very knowledgeable about selection based on qualification and can bring our corporate experience to help state government make the transition easily and quickly.

The NCAIA is here today to voice its support for the establishment of a State

Building Commission and for the establishment of standards for designer selection. Plan review and post occupancy evaluation all need to be centralized as well.

The NCAIA is willing and ready to assist in the process to increase efficiency, economy and coordination of state projects.

STATE OF NORTH CAROLINA

SPECIAL LEGISLATIVE COMMITTEE TO STUDY STATE-OWNED PROPERTY

STATE LEGISLATIVE BUILDING

RALEIGH 27611

REP. C R. EDWARDS
CO-CHAIRMAN

MR. TOM BRADSHA
CO-CHAIRMAN

October 3, 1986

The Honorable Lacy H. Thornburg
Attorney General
P. O. Box 629
Raleigh, North Carolina 27602

Dear Mr. Thornburg:

The Special Legislative Committee to Study State-Owned Property recommended to the 1986 Session of the 1985 General Assembly a bill to create a State Building Commission and to designate the powers and duties of that Commission. A copy of this proposed legislation, which was introduced as House Bill 1495, is enclosed.

The Special Legislative Committee to Study State-Owned Property hereby requests your opinion as to whether or to what extent it would be improper for a person who was a member of the proposed State Building Commission to engage in business with the State of North Carolina.

The next meeting of the Special Legislative Committee to Study State-Owned Property is scheduled for November 6, 1986. We would appreciate your advice on this matter prior to that meeting.

Sincerely,

Rep. C. R. Edwards

Representative C. R. Edwards

Tom Bradshaw

Tom Bradshaw
Co-chairmen

SLF/no
N26-35

Enclosure

CY H. THORNBURG
TTORNEY GENERAL

State of North Carolina
Department of Justice
P.O. BOX 629
RALEIGH
27602-0629

27 October 1986

The Honorable C. R. Edwards
The Honorable Tom Bradshaw
Co-chairmen
Special Legislative Committee
to Study State-Owned Property
State Legislative Building
Raleigh, North Carolina 27611

Re: H.B. 1495 - State Building Commission

Gentlemen:

Your letter of October 3, 1986, to Attorney General Thornburg has been referred to me for reply. Your letter requests an opinion from this Office as to whether, or to what extent, it would be improper for a member of the proposed State Building Commission to engage in business with the State of North Carolina.

As officials of the State, it would not be permissible for either the Secretary of Administration or the State Budget Officer to engage in business with the State of North Carolina. Assuming that the other members of the proposed Commission are not officials or employees of the State, we are of the opinion they would not be precluded from engaging in business with the State merely because of their membership on the proposed Commission.

In reaching the above conclusion, we have reviewed the proposed powers and duties of the Commission as set forth in proposed Section 143-426.36(1) through (7). Subsection (8) of this proposed section would allow the Commission to perform such other duties as may be assigned to it by the Governor. Since we do not know what other duties, if any, may be assigned to the Commission by the Governor, we are not in a position to express any opinion with regard to this proposed subsection.

Yours very truly,

LACY H. THORNBURG
Attorney General
Roy A. Giles, Jr.
Roy A. Giles, Jr.
Assistant Attorney General

RAGjr:fpt

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