

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

2

SENATE BILL 754\*

State Personnel and State Government Committee Substitute Adopted 5/12/93

Short Title: Amend State Real Property Management.

(Public)

---

Sponsors:

---

Referred to: Appropriations.

---

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING THE ACQUISITION,  
DISPOSITION, AND MANAGEMENT OF STATE REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-4 reads as rewritten:

**"§ 146-4. Sales of certain lands; procedure; deeds; disposition of proceeds.**

The Department of Administration may sell the vacant and unappropriated lands, swamplands, and lands acquired by the State by virtue of being sold for taxes, at public or private sale, at such times, upon such consideration, in such portions, and upon such terms as are deemed proper by the Department and approved by the Governor and Council of State, provided that any disposition shall only be made after the highest and best price, as determined by the Department of Administration and approved by the Governor and Council of State, is obtained after public bid, or public auction, after advertisement in one or more newspapers having general circulation in the general area where the property is located, including circulation in the county in which the property is located, for a minimum of once a week, for three weeks prior to the disposition.

Every deed conveying any part of those lands in fee shall be executed in the manner required by G.S. 146-74 through 146-78, and shall be approved by the Governor and Council of State as therein required. The net proceeds of all such sales of those lands shall be paid into the State Literary Fund. Whenever negotiations are begun by the Department for the purpose of selling swampland or the timber thereon, the Department shall promptly notify the State Board of Education of that fact. If the Board deems the proposed sale inadvisable, it may so inform the Governor and Council of State, who

1 may give due consideration to the representations of the Board in determining whether  
2 to approve or disapprove the proposed transaction."

3 Sec. 2. G.S. 146-15 reads as rewritten:

4 **"§ 146-15. Definition of net proceeds.**

5 For the purposes of this Subchapter, the term 'net proceeds' means the gross amount  
6 received from the sale, lease, rental, or other disposition of any State lands, less

7 (1) Such expenses incurred incident to that sale, lease, rental, or other  
8 disposition as may be allowed under rules and regulations adopted by  
9 the Governor and approved by the Council of State; and,

10 ~~-~~ (2) ~~Amounts paid pursuant to G.S. 105-296.1 if any; and~~

11 ~~(3)~~(2) A service charge to be paid into the State Land Fund.

12 The amount or rate of such service charge shall be fixed by rules and regulations  
13 adopted by the Governor and approved by the Council of State, but as to any particular  
14 sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross  
15 amount received from such sale, lease, rental, or other disposition. Notwithstanding any  
16 other provision of this Subchapter, no service charge shall be paid into the State Land  
17 Fund from proceeds derived from the sale of land or products of land owned or held for  
18 the use of the Wildlife Resources Commission, or purchased or acquired with funds of  
19 the Wildlife Resources Commission."

20 Sec. 3. G.S. 146-22 reads as rewritten:

21 **"§ 146-22. All acquisitions to be made by Department of Administration.**

22 Every acquisition of land on behalf of the State or any State agency, whether by  
23 purchase, condemnation, exchange, lease, ~~or~~ rental, or gift, shall be made by the  
24 Department of Administration and approved by the Governor and Council of State;  
25 provided that if the proposed acquisition is ~~a purchase of land~~ an acquisition of land with  
26 an appraised value of at least twenty-five thousand dollars (\$25,000), or its lease or  
27 rental, with a term which could exceed three years, or the annual rent of which could  
28 exceed twelve thousand dollars (\$12,000), and the acquisition is for other than a  
29 transportation purpose, the acquisition may only be made after consultation with the  
30 Joint Legislative Commission on Governmental Operations. In determining whether the  
31 appraised value is at least twenty-five thousand dollars (\$25,000), the value of the  
32 property in fee simple shall be used. The State may not purchase land as a tenant-in-  
33 common without consultation with the Joint Legislative Commission on Governmental  
34 Operations if the appraised value of the property in fee simple is at least twenty-five  
35 thousand dollars (\$25,000). Prior to the required presentation of any proposed  
36 acquisition of an interest in land, except for easements, and leases for the State Farmers  
37 Markets, the State Fairgrounds, The University of North Carolina residential facilities,  
38 or other leases for periods of less than 45 days, to either the Joint Legislative  
39 Commission on Governmental Operations or the Council of State, a signed agreement,  
40 binding on the party the State is dealing with, shall be obtained."

41 Sec. 4. G.S. 146-22.2 is repealed.

42 Sec. 5. G.S. 146-26 reads as rewritten:

43 **"§ 146-26. Donations and devises to State.**

1 No devise or donation of land or any interest therein to the State or to any State  
2 agency shall be effective to vest title to the said land or any interest therein in the State  
3 or in any State agency until the devise or donation is accepted by the Governor and  
4 Council of State. If the proposed devise or donation has an appraised value of at least  
5 twenty-five thousand dollars (\$25,000), and the devise or donation is for other than a  
6 transportation purpose, the devise or donation shall be accepted only after consultation  
7 with the Joint Legislative Commission on Governmental Operations. In determining  
8 whether the appraised value is at least twenty-five thousand dollars (\$25,000), the value  
9 of the property in fee simple shall be used. Notwithstanding the provisions of this  
10 section, no devise or donation shall be accepted until the State Budget Office has  
11 furnished to the Council of State, and, if applicable, the Joint Legislative Commission  
12 on Governmental Operations, for matters subject to their consultation, an estimate,  
13 previously reviewed by the Fiscal Research Division, of the projected renovation,  
14 maintenance, and operating costs of the property for the first 20 fiscal years after the  
15 devise or donation would be accepted. Upon acceptance by the Governor and Council  
16 of State, title to the said land or interest therein shall immediately vest as of the time  
17 title would have vested but for the above requirement of acceptance by the Governor  
18 and Council of State."

19 Sec. 6. G.S. 146-26.1 reads as rewritten:

20 **"§ 146-26.1. Relocation assistance.**

21 In the acquisition of any real property by the Department of Administration for a  
22 public use, the Department of Administration shall be vested with the ~~same~~ authority as  
23 ~~is given the Department of Transportation in Article 13 of Chapter 136~~ set forth in Article 2  
24 of Chapter 133 of the General Statutes."

25 Sec. 7. G.S. 146-27 reads as rewritten:

26 **"§ 146-27. The role of the Department of Administration in sales, leases, exchanges,**  
27 **and rentals.**

28 Every sale, lease, exchange, or rental of land owned by the State or by any State  
29 agency shall be made by the Department of Administration and approved by the  
30 Governor and Council of State; provided that if the proposed disposition is a ~~sale~~ of  
31 disposition of land with an appraised value of at least twenty-five thousand dollars  
32 (\$25,000), or its lease or rental with a term which could exceed three years, or the  
33 annual rent of which could exceed twelve thousand dollars (\$12,000), the sale  
34 disposition may only be made after consultation with the Joint Legislative Commission  
35 on Governmental Operations. The Department of Administration may initiate  
36 proceedings for sales, leases, exchanges, and rentals of land owned by the State or by  
37 any State agency."

38 Sec. 8. G.S. 146-28 reads as rewritten:

39 **"§ 146-28. Agency must file application with Department; Department must**  
40 **investigate.**

41 Any State agency, including the Department of Administration, desiring to sell,  
42 lease, exchange, or rent any land owned by the State or by any State agency shall file  
43 with the Department of Administration an application setting forth the facts relating to  
44 the proposed transaction, and shall furnish the Department with such additional

1 information as the Department may request relating thereto. Upon receipt of such  
2 application, the Department of Administration shall promptly investigate all aspects of  
3 the proposed transaction, including particularly present and future State need for the  
4 land proposed to be conveyed, leased, or rented. Prior to the disposition of any State  
5 real property with a value in excess of ten thousand dollars (\$10,000), except for  
6 disposition by easements, and leases for the State Farmers Markets, the State  
7 Fairgrounds, The University of North Carolina residential facilities, or other leases for  
8 periods of less than 45 days, all State agencies must be notified in writing of the  
9 availability of such property at least 60 days in advance. Any requests for, or interest  
10 in, any real property by any agency shall be carefully reviewed and considered by the  
11 State Property Office before the State proceeds to dispose of the property. Any property  
12 not disposed of within 180 days of the date of the original notice to the agencies, shall  
13 be renoticed prior to a subsequent disposition."

14 Sec. 9. G.S. 146-29 reads as rewritten:

15 "**§ 146-29. Procedure for sale, lease, exchange, or rental.**

16 (a) If, after investigation, the Department of Administration determines that it is  
17 in the best interest of the State that land be sold, leased, exchanged, or rented, the  
18 Department shall proceed with its sale, lease, exchange, or rental, as the case may be, in  
19 accordance with rules adopted by the Governor and approved by the Council of State.

20 (b) All lands to be disposed of valued in excess of fifty thousand dollars  
21 (\$50,000), except for easements, and leases for the State Farmers Markets, the State  
22 Fairgrounds, The University of North Carolina residential facilities, or other leases for  
23 periods of less than 45 days, shall only be disposed of after first receiving the highest  
24 and best price, under the best circumstances for the State, after advertisement in one or  
25 more newspapers having general circulation in the general area where the property is  
26 located, including circulation in the county in which the property is located, for a  
27 minimum of once a week, for three weeks prior to the disposition, in the classified  
28 advertisement section of the newspaper, in an advertisement, a minimum size of two  
29 columns wide and three column inches long.

30 (c) Where land valued in excess of one hundred thousand dollars (\$100,000), is  
31 to be disposed of by exchange, except exchanges with federal, county, or municipal  
32 governmental bodies, or other political subdivisions, the agreement shall not be  
33 approved until the disposition of the land has been advertised for a higher bid than the  
34 agreed exchange value as determined by applicable appraisals obtained by the State, in a  
35 newspaper having general circulation in the general area where the property is located,  
36 including circulation in the county in which the property is located, for a minimum of  
37 once a week, for three weeks prior to the disposition, in the classified advertisement  
38 section of the newspaper, in an advertisement, a minimum size of two columns wide  
39 and three column inches long.

40 (d) All members of the General Assembly within whose districts the property to  
41 be disposed of is located, except for easements, and leases for the State Farmers  
42 Markets, the State Fairgrounds, The University of North Carolina residential facilities,  
43 or other leases for periods of less than 45 days, shall be notified of the State's plan to  
44 dispose of the land, at least 30 days prior to the presentation of the proposed transaction

1 to either the Joint Legislative Commission on Governmental Operations or the Council  
2 of State.

3 (e) Prior to the required presentation of any proposed disposition of an interest in  
4 land, except for easements, and leases for the State Farmers Markets, the State  
5 Fairgrounds, The University of North Carolina residential facilities, or other leases for  
6 periods of less than 45 days, to either the Joint Legislative Commission on  
7 Governmental Operations or the Council of State, a signed agreement, binding on the  
8 party the State is dealing with, shall be obtained.

9 (f) If an agreement of sale, lease, exchange, or rental is reached, the proposed  
10 transaction shall then be submitted to the Governor and Council of State for their  
11 approval or disapproval. Every conveyance in fee of land owned by the State or by any  
12 State agency shall be made and executed in the manner prescribed in G.S. 146-74  
13 through 146-78."

14 Sec. 10. G.S. 146-30 reads as rewritten:

15 "**§ 146-30. Application of net proceeds.**

16 The net proceeds of any disposition made in accordance with this Subchapter shall  
17 be handled in accordance with the following priority: First, in accordance with the  
18 provisions of any trust or other instrument of title whereby title to such real property  
19 was heretofore acquired or is hereafter acquired; second, as provided by any other act of  
20 the General Assembly; third, the net proceeds shall be deposited with the State  
21 Treasurer. Provided, however, nothing herein shall be construed as prohibiting the  
22 disposition of any State lands by exchange for other lands, but if the appraised value in  
23 fee simple of any property involved in the exchange is at least twenty-five thousand  
24 dollars (\$25,000), then such exchange may not be made without consultation with the  
25 Joint Legislative Commission on Governmental Operations.

26 For the purposes of this Subchapter, the term 'net proceeds' means the gross amount  
27 received from the sale, lease, rental, or other disposition of any State lands, less

28 (1) Such expenses incurred incident to that sale, lease, rental, or other  
29 disposition as may be allowed under rules and regulations adopted by  
30 the Governor and approved by the Council of State;

31 ~~(2) Amounts paid pursuant to G.S. 105-296.1, if any; and~~

32 ~~(3)~~ (2) A service charge to be paid into the State Land Fund.

33 The amount or rate of such service charge shall be fixed by rules and regulations  
34 adopted by the Governor and approved by the Council of State, but as to any particular  
35 sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross  
36 amount received from such sale, lease, rental, or other disposition. Notwithstanding any  
37 other provision of this Subchapter, the net proceeds derived from the sale of land or  
38 products of land owned by or under the supervision and control of the Wildlife  
39 Resources Commission, or acquired or purchased with funds of that Commission, shall  
40 be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived  
41 from the sale of land or timber from land owned by or under the supervision and control  
42 of the Department of Agriculture shall be deposited with the State Treasurer in a capital  
43 improvement account to the credit of the Department of Agriculture, to be used for such  
44 specific capital improvement projects or other purposes as are provided by transfer of

1 funds from those accounts in the Current Operations Appropriations Act. Provided  
2 further, the net proceeds derived from the sale of park land owned by or under the  
3 supervision and control of the Department of Environment, Health, and Natural  
4 Resources shall be deposited with the State Treasurer in a capital improvement account  
5 to the credit of the Department of Administration to be used for the purpose of park land  
6 acquisition as provided by transfer of funds from those accounts in the Current  
7 Operations Appropriations Act. In the Current Operations Appropriations Act, line  
8 items for purchase of park and agricultural lands will be established for use by the  
9 Departments of Administration and Agriculture. The use of such funds for any specific  
10 capital improvement project or land acquisition is subject to approval by the Director of  
11 the Budget. No other use may be made of funds in these line items without approval by  
12 the General Assembly except for incidental expenses related to the project or land  
13 acquisition. Additionally with the approval of the Director of the Budget, either  
14 Department may request funds from the Contingency and Emergency Fund when the  
15 necessity of prompt purchase of available land can be demonstrated and funds in the  
16 capital improvement accounts are insufficient. Provided further, the net proceeds  
17 derived from the sale of any portion of the land in or around the unincorporated area  
18 known as Butner on or after July 1, 1980, shall be deposited with the State Treasurer in  
19 a capital improvement account to the credit of the Hospital to provide water and sewers  
20 and to bring those streets in the unincorporated area known as Butner not on the State  
21 highway system up to standards adequate for acceptance on the system, according to a  
22 plan adopted by the Department of Administration, and the Office of State Budget and  
23 Management, with the approval of the Board of County Commissioners of Granville  
24 County, to build industrial access roads to industries on the Butner lands, to construct  
25 new city streets on the Butner lands, extend water and sewer service on the Butner  
26 lands, and repair storm drains on the Butner lands."

27 Sec. 11. Article 8 of Chapter 146 of the General Statutes is amended by  
28 adding a new section to read:

29 **"§ 146-36.1. Appraisal of property to be acquired or disposed of by the State.**

30 (a) Where an appraisal of real estate or an interest in real estate is required by law  
31 to be made before acquisition or disposition of the property by the State or an agency of  
32 the State, the appraisal shall be made by a real estate appraiser licensed or certified by  
33 the State under Article 5 of Chapter 93A of the General Statutes.

34 (b) All acquisitions and dispositions of real property by the State, exceeding five  
35 thousand dollars (\$5,000) in value, except for easements, and leases for the State  
36 Farmers Markets, the State Fairgrounds, The University of North Carolina residential  
37 facilities, or other leases for periods of less than 45 days, shall only be acquired or  
38 disposed of after the State Property Office obtains at least one appraisal conducted by an  
39 independent appraiser for property appraised at less than one hundred thousand dollars  
40 (\$100,000), and at least two appraisals for property appraised at one hundred thousand  
41 dollars (\$100,000) or more.

42 (c) Effective January 1, 1995, all appraisals relied upon by the State Property  
43 Office, shall be reviewed on behalf of the State by an appraiser, licensed or certified by  
44 the State under Article 5 of Chapter 93A of the General Statutes."

1           Sec. 12. G.S. 146-65 reads as rewritten:

2   **"§ 146-65. Exemptions from Chapter.**

3       None of the provisions of Chapter 146 shall apply to:

4           (1)    The acquisition of highway rights-of-way, borrow pits, or other  
5               interests or estates in land acquired for the same or similar purposes, or  
6               to the disposition thereof, by the Board of Transportation; or

7           (2)    The North Carolina State Ports Authority, the authority and powers  
8               thereof set forth or provided for by ~~G.S. 143-216 through G.S. 143-228.1~~  
9               G.S. 143B-452 through G.S. 143B-467 or to the exercise of all or any  
10              of such authority and powers,

11       Nor shall the provisions of Chapter 146 abrogate or alter any otherwise valid  
12       contract or agreement heretofore made and entered into by the State of North Carolina  
13       or by any of its subdivisions or agencies during the term or period of such contract or  
14       agreement."

15           Sec. 13. G.S. 63A-23 reads as rewritten:

16   **"§ 63A-23. Annual and quarterly reports.**

17       The Authority shall, promptly following the close of each fiscal year, submit an  
18       annual report of its activities for the preceding year to the Governor, the General  
19       Assembly, and the Local Government Commission. Each report shall be accompanied  
20       by an audit of its books and accounts. The costs of all audits, whether conducted by the  
21       State Auditor's staff or contracted with a private auditing firm, shall be paid from funds  
22       of the Authority.

23       The Authority shall submit quarterly reports to the Joint Legislative Commission on  
24       Governmental Operations. The reports shall summarize the Authority's activities during  
25       the quarter and contain any information about the Authority's activities that is requested  
26       by the Commission.

27       The Authority shall report at least annually to the Joint Legislative Commission on  
28       Governmental Operations, at such time as directed by the Commission, all acquisitions,  
29       dispositions, or exchanges of real property, the value of which exceeds twenty-five  
30       thousand dollars (\$25,000), or all leases of real property, the terms which could exceed  
31       three years, or annual rents which could exceed twelve thousand dollars (\$12,000)."

32           Sec. 14. G.S. 113-315.30 reads as rewritten:

33   **"§ 113-315.30. Approval of acquisition and disposition of real property.**

34       Any transactions relating to the acquisition or disposition of real property or any  
35       estate or interest in real property, by the North Carolina State Seafood Industrial Park  
36       Authority, shall be subject to prior review by the Governor and Council of State, and  
37       shall become effective only after the same has been approved by the Governor and  
38       Council of State. Upon the acquisition of real property or other estate therein, by the  
39       Authority, the fee title or other estate shall vest in and the instrument of conveyance  
40       shall name the 'North Carolina Seafood Industrial Park Authority' as grantee, lessee, or  
41       transferee. Upon the disposition of real property or any interest or estate therein, the  
42       instrument of conveyance or transfer shall be executed by the North Carolina Seafood  
43       Industrial Park Authority. The approval of any transaction by the Governor and Council  
44       of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting

1 of the Governor and Council of State, attested by the private secretary to the Governor  
2 or the Governor, reciting such approval, affixed to the instrument of acquisition or  
3 transfer, and said certificate may be recorded as a part thereof, and the same shall be  
4 conclusive evidence of review and approval of the subject transaction by the Governor  
5 and Council of State. The Governor, acting with the approval of the Council of State,  
6 may delegate the review and approval of such classes of lease, rental, easement, or  
7 right-of-way transactions as he deems advisable, and he may likewise delegate the  
8 review and approval of the severance of buildings and timber from the land.

9 The Authority shall report at least annually to the Joint Legislative Commission on  
10 Governmental Operations, at such time as directed by the Commission, all acquisitions,  
11 dispositions, or exchanges of real property, the value of which exceeds twenty-five  
12 thousand dollars (\$25,000), or all leases of real property, the terms which could exceed  
13 three years, or annual rents which could exceed twelve thousand dollars (\$12,000)."

14 Sec. 15. G.S. 143B-426.19 reads as rewritten:

15 "**§ 143B-426.19. Purchase of supplies, ~~material~~ material, and ~~equipment~~ equipment,**  
16 **and real property.**

17 All the provisions of Article 3 of Chapter 143 of the General Statutes relating to the  
18 purchase of supplies, material and equipment by the State government and  
19 provisions of Chapter 146 of the General Statutes relating to real property are applicable  
20 to the North Carolina Agency for Public Telecommunications."

21 Sec. 16. G.S. 143B-455 reads as rewritten:

22 "**§ 143B-455. Approval of acquisition and disposition of real property.**

23 Any transactions relating to the acquisition or disposition of real property or any  
24 estate or interest in real property, by the North Carolina State Ports Authority, shall be  
25 subject to prior review by the Governor and Council of State, and shall become  
26 effective only after the same has been approved by the Governor and Council of State.  
27 Upon the acquisition of real property or other estate therein, by the North Carolina State  
28 Ports Authority, the fee title or other estate shall vest in and the instrument of  
29 conveyance shall name the 'North Carolina State Ports Authority' as grantee, lessee, or  
30 transferee. Upon the disposition of real property or any interest or estate therein, the  
31 instrument of conveyance or transfer shall be executed by the North Carolina State Ports  
32 Authority. The approval of any transaction by the Governor and Council of State may  
33 be evidenced by a duly certified copy of excerpt of minutes of the meeting of the  
34 Governor and Council of State, attested by the private secretary to the Governor or the  
35 Governor, reciting such approval, affixed to the instrument of acquisition or transfer,  
36 and said certificate may be recorded as a part thereof, and the same shall be conclusive  
37 evidence of review and approval of the subject transaction by the Governor and Council  
38 of State. The Governor, acting with the approval of the Council of State, may delegate  
39 the review and approval of such classes of lease, rental, easement, or right-of-way  
40 transactions as he deems advisable, and he may likewise delegate the review and  
41 approval of the severance of buildings and timber from the land.

42 The North Carolina State Ports Authority shall report at least annually to the Joint  
43 Legislative Commission on Governmental Operations, and at such other times as  
44 directed by the Commission, all acquisitions, dispositions, or exchanges of real



1 property, the value of which exceeds twenty-five thousand dollars (\$25,000), or all  
2 leases of real property, the terms which could exceed three years, or annual rents which  
3 could exceed twelve thousand dollars (\$12,000)."

4 Sec. 17. G.S. 143B-469.1(2) reads as rewritten:

5 "(2) To rent, lease, buy, own, acquire, mortgage, otherwise encumber, and  
6 dispose of all such property, real or personal, as the Commission may  
7 deem ~~necessary~~; necessary. The North Carolina Ports Railway  
8 Commission shall report at least annually to the Joint Legislative  
9 Commission on Governmental Operations, and at such other times as  
10 directed by the Commission, all acquisitions, dispositions, or  
11 exchanges of real property, the value of which exceeds twenty-five  
12 thousand dollars (\$25,000), or all leases of real property, the terms  
13 which could exceed three years, or annual rents which could exceed  
14 twelve thousand dollars (\$12,000);".

15 Sec. 18. Sections 1, 3, 4, 5, 7, 8, 9, 11, 13, 14, 16, and 17 of this act become  
16 effective October 1, 1993. Sections 2, 6, 10, 12, and 15 of this act are effective upon  
17 ratification.