

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 862

Short Title: No Preferences Granted.

(Public)

Sponsors: Representatives Capps; K. Miller, Pate, and Watson.

Referred to: Judiciary I.

April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE GRANTING OF PREFERENCES, BASED ON RACE, SEX, COLOR, OR ETHNICITY, IN PUBLIC HIRING, IN THE LETTING OF PUBLIC CONTRACTS, AND IN APPOINTMENTS TO VARIOUS AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. No laws enacted by the General Assembly, no rules adopted by a State agency pursuant to Chapter 150B of the General Statutes, no regulations or ordinances adopted by a unit of local government pursuant to Chapter 153A or 160A of the General Statutes, and no policies of a State agency, department, institution, or political subdivision of the State shall discriminate or grant a preference to a person on the basis of race, sex, color, or ethnicity, and any such laws, rules, regulations, ordinances, or policies that are in effect on the effective date of this act shall be amended or modified so as to remove the discrimination or preference within 180 days of the effective date of this act, or, if not amended or modified within that period, shall be repealed 180 days after the effective date of this act.

Sec. 2. G.S. 143-48 reads as rewritten:

"§ 143-48. State policy; cooperation in promoting the use of ~~small, minority, small~~ contractors and physically handicapped ~~and women~~ contractors; purpose; required annual reports.

(a) It is the policy of this State to encourage and promote the use of ~~small, minority, small contractors and physically handicapped and women~~ contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of ~~small, minority, small contractors and physically handicapped and women~~ contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

(b) Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars (\$500,000) or more during a fiscal year from the General Assembly shall report to the department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from ~~minority-owned businesses, what percentage from female-owned businesses, what percentage from disabled-owned businesses and what percentage from disabled business enterprises~~. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

(1) ~~Except as provided in subdivision (1a) of this section, a business in one of the categories above means one:~~

- ~~a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and~~
- ~~b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.~~

~~'A disabled-owned business' means a business:~~

- ~~a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons who are disabled; and~~
- ~~b. Of which the management and daily business operations are controlled by one or more disabled persons.~~

(1a) A 'disabled business enterprise' means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.

(2) ~~A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(2)a through d.~~

(3) A disabled person means a 'handicapped person' as defined in G.S. 168A-3.

The Department of Administration shall collect and compile the data described in this section and report it annually to the General Assembly.

In seeking contracts with the State, a disabled business enterprise must provide assurances to the Secretary of Administration that the payments that would be received from the State under these contracts are directed to the training and employment of and payment of competitive wages to handicapped employees."

Sec. 3. G.S. 143-128(c) is repealed.

Sec. 4. G.S. 143-135.5 reads as rewritten:

"§ 143-135.5. State policy; cooperation in promoting the use of ~~small, minority, small~~ contractors and physically handicapped and women contractors; purpose.

It is the policy of this State to encourage and promote the use of ~~small, minority, small~~ contractors and physically handicapped and women contractors in State construction projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of ~~small, minority, small~~ contractors and physically handicapped and women contractors in achieving the purpose of this Article, which is the effective and economical construction of public buildings."

Sec. 5. G.S. 126-4 reads as rewritten:

"§ 126-4. Powers and duties of State Personnel Commission.

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

- (1) Position classification plans which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.
- (4) Recruitment programs designed to promote public employment, communicate current hiring activities within State government, and attract a sufficient flow of internal and external applicants; and determine the relative fitness of applicants for the respective positions.
- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than 11 paid holidays per year except that in those years in which Christmas Day falls on a

Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.

(6) The appointment, promotion, transfer, demotion and suspension of ~~employees-employees; provided, however, these policies and rules shall not grant preferences or establish goals based on race, color, national origin, or sex.~~

(7) Cooperation with the State Board of Education, the Department of Public Instruction, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program.

(7a) The separation of employees.

(8) A program of meritorious service awards.

(9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.

(10) Programs of employee assistance, productivity incentives, equal opportunity, safety and health as required by Part 1 of Article 63 of Chapter 143 of the General Statutes, and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.

(11) In cases where the Commission finds discrimination or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.

(12) Repealed by Session Laws 1987, c. 320, s. 2.

(13) Repealed by Session Laws 1987, c. 320, s. 3.

(14) The implementation of G.S. 126-5(e).

(15) Recognition of State employees, public personnel management, and management excellence.

(16) The implementation of G.S. 126-7.

Such policies and rules shall not limit the power of any elected or appointed department head, in his discretion and upon his determination that it is in the best interest of the Department, to transfer, demote, or separate a State

- (1) Employee in a primary level position who has not been continuously employed by the State of North Carolina for the immediate 12 preceding months;
- (2) Employee in a secondary level or professional position who has not been continuously employed by the State of North Carolina for the immediate 24 preceding months; [or]
- (3) Employee in a management level or consultant position who has not been continuously employed by the State of North Carolina for the immediate 36 preceding months.
- (4) Repealed by Session Laws 1991, c. 354, s. 2, effective July 1, 1993."

Sec. 6. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age. All State departments and agencies and all local political subdivisions of North Carolina shall not grant preferences for employment or compensation and shall not establish goals for employment, based on race, color, national origin, or sex."

Sec. 7. G.S. 115D-77 reads as rewritten:

"§ 115D-77. Nondiscrimination policy.

It is the policy of the State Board of Community Colleges and of local boards of trustees of the State of North Carolina not to discriminate among students on the basis of race, gender or national origin.

The State Board and each board of trustees shall give equal opportunity for employment and compensation of personnel at community colleges, without regard to ~~race, religion, color, creed, national origin, sex, age, or handicapping conditions~~, except where specific age, ~~sex or physical~~ physical, or mental requirements constitute bona fide occupational qualifications."

Sec. 8. G.S. 136-28.4 reads as rewritten:

"§ 136-28.4. State policy concerning participation by disadvantaged businesses in highway contracts.

(a) It is the policy of this State to encourage and promote participation by disadvantaged businesses in contracts let by the Department pursuant to this Chapter for the design, construction, alteration, or maintenance of State highways, roads, streets, or bridges and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and all other State agencies, institutions, and political subdivisions in efforts to encourage and promote the use of disadvantaged businesses in these contracts.

(b) A ten percent (10%) goal is established for participation by ~~minority businesses~~ and a five percent (5%) goal for participation by ~~women businesses~~ disabled-owned businesses is established in contracts let by the Department of Transportation for the design, construction, alteration, or maintenance of State highways, roads, streets, or bridges and for the procurement of materials for these projects. The Department of Transportation shall endeavor to award to ~~minority businesses~~ disabled-owned businesses at least ten percent (10%), by value, of the contracts it lets for these purposes, ~~and shall endeavor to award to women businesses at least five percent (5%), by value, of the contracts it lets for these purposes.~~ The Department shall adopt written procedures specifying the steps it will take to achieve these goals. The Department shall give equal opportunity for contracts it lets without regard to ~~race, religion, color, creed, national origin, sex, age, or handicapping condition,~~ as defined in G.S. 168A-3, to all contractors and businesses otherwise qualified.

(c) ~~The following definitions apply in this section:~~

(1) ~~"Disadvantaged business" has the same meaning as in 49 C.F.R. § 23.62.~~

(2) ~~"Minority" has the same meaning as in 49 C.F.R. § 23.5. As used in this section, 'disabled-owned business' has the same meaning as in G.S. 143-48."~~

Sec. 9. G.S. 63A-19 reads as rewritten:

"§ 63A-19. Goals for participation by minorities, women, and the disabled.

(a) The Authority shall verify its efforts to achieve the goals established in this section for participation by ~~minority business enterprises, women's business enterprises, and disabled business enterprises~~ in the total value of contracts awarded by the Authority in each of the following categories:

(1) Contracts for capital construction or repair projects.

(2) Contracts for goods.

(3) Contracts for professional and other services.

(b) ~~The goals goal for the Authority are as follows:~~

(1) ~~Ten percent (10%) participation by minority business enterprises.~~

(2) ~~Five percent (5%) participation by women's business enterprises.~~

(3) ~~Two is two percent (2%) participation by disabled business enterprises.~~

~~In determining participation in contract awards, a contract shall be counted as participation by a minority business enterprise without regard to the gender of the owner, but only if the business does not qualify as a disabled business enterprise. A contract shall be counted as participation by a women's business enterprise only if the business does not also qualify as a disabled business enterprise. A contract shall be counted as participation by a disabled business enterprise without regard to the race or gender of the owner. The goals goal in this section, instead of any goals in Article 8 of Chapter 143 of the General Statutes, apply applies to the Authority. With respect to projects for which the Authority would not receive federal funds if it adhered to the goals in this section because the goals are contrary to or are inconsistent with 14 C.F.R. Part 152, Subpart E,~~

1 Nondiscrimination in Airport Aid Program, the federal law and regulations supersede this
2 section to the extent it is contrary to or inconsistent with the federal law and regulations.

3 (c) The following definitions apply in this section:

4 (1) Disabled business enterprise. – A legal entity, other than a joint venture,
5 that is organized to engage in commercial transactions and is at least
6 fifty-one percent (51%) owned and controlled by one or more disabled
7 persons.

8 (2) Disabled person. – A handicapped person as defined in G.S. 168A-3.

9 ~~(3) Minority business enterprise. – A legal entity, other than a joint venture,~~
10 ~~that is organized to engage in commercial transactions and is at least~~
11 ~~fifty-one percent (51%) owned and controlled by one or more minority~~
12 ~~persons.~~

13 ~~(4) Minority person. – A member of one of the following groups: African-~~
14 ~~Americans, Hispanic Americans, American Indians, or Asian-~~
15 ~~Americans.~~

16 ~~(5) Women's business enterprise means a legal entity, other than a joint~~
17 ~~venture, that is organized to engage in commercial transactions and is at~~
18 ~~least fifty one percent owned and controlled by one or more women."~~

19 Sec. 10. G.S. 113A-104(d) reads as rewritten:

20 "(d) Nominations for Membership. – On or before May 1 in every even-numbered
21 year the Governor shall designate and transmit to the board of commissioners in each
22 county in the coastal area four nominating categories applicable to that county for that
23 year. Said nominating categories shall be selected by the Governor from among the
24 categories represented, respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11)
25 – two persons, and (12) – two persons, of subsection (b) of this section (or so many of the
26 above-listed paragraphs as may correspond to vacancies by expiration of term that are
27 subject to being filled in that year). On or before June 1 in every even-numbered year the
28 board of commissioners of each county in the coastal area shall nominate (and transmit to
29 the Governor the names of) one qualified person in each of the four nominating
30 categories that was designated by the Governor for that county for that year. In
31 designating nominating categories from biennium to biennium, the Governor shall
32 equitably rotate said categories among the several counties of the coastal area as in his
33 judgment he deems best; and he shall assign, as near as may be, an even number of
34 nominees to each nominating category and shall assign in his best judgment any excess
35 above such even number of nominees. On or before June 1 in every even-numbered year
36 the governing body of each incorporated city within the coastal area shall nominate and
37 transmit to the Governor the name of one person as a nominee to the Commission. ~~In~~
38 ~~making nominations, the boards of county commissioners and city governing bodies shall give~~
39 ~~due consideration to the nomination of women and minorities.~~ The Governor shall appoint 12
40 persons from among said city and county nominees to the Commission. The several
41 boards of county commissioners and city governing bodies shall transmit the names,
42 addresses, and a brief summary of the qualifications of their nominees to the Governor on
43 or before June 1 in each even-numbered year, beginning in 1974; provided, that the

Governor, by registered or certified mail, shall notify the chairman or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not transmitted by the board of commissioners or city governing body; Provided however, the Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated city within the coastal area that neither has a population of 2,000 or more nor is contiguous with the Atlantic Ocean. Within the meaning of this section, the 'governing body' is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration."

Sec. 11. G.S. 116-6 reads as rewritten:

"§ 116-6. Election and terms of members of Board of Governors.

(a) As the terms of members of the Board of Governors provided for in G.S. 116-5 expire, their successors shall be elected by the Senate and House of Representatives. Sixteen members shall be elected at the regular legislative session in 1993 and every two years thereafter. The Senate and the House of Representatives shall each elect one-half of the persons necessary to fill the vacancies on the Board of Governors. Of the 16 members elected every two years beginning in 1993, ~~at least two shall be women, at least two other members shall be members of a minority race, and at least two other members shall~~ be members of the political party to which the largest minority of the members of the General Assembly belongs.

(b) In 1993 and every four years thereafter ~~the Senate shall elect at least two women and two members of a minority race, and thereafter, the House of Representatives shall elect at least two members of the political party to which the largest minority of the members of the General Assembly belongs. In 1995 and every four years thereafter the Senate shall elect at least two members of the political party to which the largest minority of the members of the General Assembly belongs, and the House of Representatives shall elect at least two women and two members of a minority race. belongs.~~

(c) In electing members to the Board of Governors, the Senate and the House of Representatives shall select from a slate of candidates made in each house. The slate shall be prepared as provided by resolution of each house. If a sufficient number of nominees who are legally qualified are submitted in a category for which members of the Board of Governors are to be elected, then the slate of candidates shall list at least twice the number of candidates for the total seats open in a category. All qualified candidates in a category shall compete against all other qualified candidates in a category. In 1993 and biennially thereafter, each house shall hold their elections within 30 legislative days after appointments to their education committees are complete.

(d) All terms shall commence on July 1 of odd-numbered years and all members shall serve for four-year overlapping terms.

(e) No person may be elected to:

(1) More than three full four-year terms in succession;

1 (2) A four-year term if preceded immediately by election to two full eight-
2 year terms in succession; or

3 (3) A four-year term if preceded immediately by election to an eight-year
4 term and a four-year term in succession.

5 Resignation from a term of office does not constitute a break in service for the purpose of
6 this subsection. Service prior to the beginning of those terms in 1989 shall be included in
7 the limitations.

8 (f) Any person who has served at least one full term as chairman of the Board of
9 Governors shall be a member emeritus of the Board of Governors for one four-year term
10 beginning at the expiration of that member's regular elected term. Any person already
11 serving as an emeritus member may serve an additional four-year term beginning July 1,
12 1991. Members emeriti have all the rights and privileges of membership except they do
13 not have a vote.

14 (g) Effective July 1, 1991, and thereafter, any person who has served at least one
15 term as a member of the Board of Governors after having served as Governor of North
16 Carolina shall be a member emeritus of the Board of Governors, with all the rights and
17 privileges of membership as in G.S. 116-6(f)."

18 Sec. 12. G.S. 143-135.25(c) reads as rewritten:

19 "(c) The Commission shall consist of nine members qualified and appointed as
20 follows:

21 (1) A licensed architect whose primary practice is or was in the design of
22 buildings, chosen from among not more than three persons nominated
23 by the North Carolina Chapter of the American Institute of Architects,
24 appointed by the Governor.

25 (2) A registered engineer whose primary practice is or was in the design of
26 engineering systems for buildings, chosen from among not more than
27 three persons nominated by the Consulting Engineers Council and the
28 Professional Engineers of North Carolina, appointed by the General
29 Assembly upon the recommendation of the President of the Senate in
30 accordance with G.S. 120-121.

31 (3) A licensed building contractor whose primary business is or was in the
32 construction of buildings, or an employee of a company holding a
33 general contractor's license, chosen from among not more than three
34 persons nominated by the Carolinas AGC (Associated General
35 Contractors), appointed by the General Assembly upon the
36 recommendation of the Speaker of the House of Representatives in
37 accordance with G.S. 120-121.

38 (4) A licensed electrical contractor whose primary business is or was in the
39 installation of electrical systems for buildings, chosen from among not
40 more than three persons nominated by the North Carolina Association
41 of Electrical Contractors, and the Carolinas Electrical Contractors'
42 Association, appointed by the Governor.

- (5) A public member appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.
- (6) A licensed mechanical contractor whose primary business is or was in the installation of mechanical systems for buildings, chosen from among not more than 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.
- (7) An employee of the university system currently involved in the capital facilities development process, chosen from among not more than three persons nominated by the Board of Governors of The University of North Carolina, appointed by the Governor.
- (8) 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.
- (9) A manager of physical plant operations whose responsibilities are or were in the operations and maintenance of physical facilities, chosen from among not more than three persons nominated by the North Carolina Association of Physical Plant Administrators, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

The members shall be appointed for staggered three-year terms: The initial appointments to the Commission shall be made within 15 days of the effective date of this act [April 14, 1987]. The initial terms of members appointed pursuant to subdivisions (1), (2), and (3) shall expire June 30, 1990; the initial terms of members appointed pursuant to (4), (5), and (6) shall expire June 30, 1989; and the initial terms of members appointed pursuant to (7), (8), and (9) shall expire June 30, 1988. Members may serve no more than six consecutive years. ~~In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Commission.~~

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. The Secretary of State shall serve as chairman until a chairman is elected."

Sec. 13. G.S. 143-136(a) reads as rewritten:

"(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 15 members appointed by the Governor, consisting of one registered architect, one licensed general contractor, one registered architect or licensed general contractor specializing in residential design or construction, one registered engineer practicing structural engineering, one registered engineer practicing

1 mechanical engineering, one registered engineer practicing electrical engineering, one
2 licensed plumbing and heating contractor, one municipal or county building inspector,
3 one licensed liquid petroleum gas dealer/contractor involved in the design of natural and
4 liquid petroleum gas systems who has expertise and experience in natural and liquid
5 petroleum gas piping, venting and appliances, a representative of the public who is not a
6 member of the building construction industry, a licensed electrical contractor, a registered
7 engineer on the engineering staff of a State agency charged with approval of plans of
8 State-owned buildings, a municipal elected official or city manager, a county
9 commissioner or county manager, and an active member of the North Carolina fire
10 service with expertise in fire safety. In selecting the municipal and county members,
11 preference should be given to members who qualify as either a registered architect,
12 registered engineer, or licensed general contractor. Of the members initially appointed by
13 the Governor, three shall serve for terms of two years each, three shall serve for terms of
14 four years each, and three shall serve for terms of six years each. Thereafter, all
15 appointments shall be for terms of six years. The Governor may remove appointive
16 members at any time. Neither the architect nor any of the above named engineers shall be
17 engaged in the manufacture, promotion or sale of any building material, and any member
18 who shall, during his term, cease to meet the qualifications for original appointment
19 (through ceasing to be a practicing member of the profession indicated or otherwise) shall
20 thereby forfeit his membership on the Council. ~~In making new appointments or filling~~
21 ~~vacancies, the Governor shall ensure that minorities and women are represented on the Council.~~

22 The Governor may make appointments to fill the unexpired portions of any terms
23 vacated by reason of death, resignation, or removal from office. In making such
24 appointment, he shall preserve the composition of the Council required above."

25 Sec. 14. G.S. 143B-80.9(b) reads as rewritten:

26 "(b) Criteria for appointments – Each of the individuals making appointments and
27 recommendations for appointments ~~shall have as a goal that minority persons and women are~~
28 ~~represented on the Commission and~~ shall seek to achieve a balanced membership
29 representing, to the maximum extent practicable, the State as a whole. No member
30 appointed to serve on the Commission shall be an officer or employee of the legislative
31 branch of State government. No member appointed to serve on the Commission, other
32 than in an ex officio capacity or as a designee of an ex officio member, shall be a member
33 of the executive or judicial branch of State government at the time of the member's
34 appointment."

35 Sec. 15. G.S. 143B-273.6(b) reads as rewritten:

36 "(b) The membership of the State Board shall be selected as follows:

- 37 (1) The Governor shall appoint the following members: the county sheriff,
38 the chief of a city police department, the member of the public who has
39 been the victim of a crime, a rehabilitated ex-offender, the members
40 selected from each of the service areas.
- 41 (2) The Lieutenant Governor shall appoint the following members: the
42 member of the business community, one member of the general public
43 who is a person recovering from chemical dependency or who is a

1 previous consumer of substance abuse treatment services, the victim
2 service provider.

3 (3) The Chief Justice of the North Carolina Supreme Court shall appoint the
4 following members: the superior court judge, the district court judge,
5 the district attorney, the criminal defense attorney, the representative of
6 an existing community-based corrections program.

7 (4) The President Pro Tempore of the Senate shall appoint the following
8 members: the member of the Senate, the county commissioner from a
9 predominantly urban county, one member of the general public.

10 (5) The Speaker of the House shall appoint the following members: the
11 member of the House of Representatives, the county commissioner from
12 a predominantly rural county, one member of the general public.

13 In appointing the members of the State Board, the appointing authorities shall make
14 every effort to ensure fair geographic representation of the State Board ~~membership and~~
15 ~~that minority persons and women are fairly represented.~~ membership."

16 Sec. 16. G.S. 143B-273.10(c) reads as rewritten:

17 "(c) Before an appointment is made under this section, the appointing authority
18 shall publish advance notice of the appointments and shall request that the names of
19 persons interested in being considered for appointment be submitted to the appointing
20 authority. ~~In appointing the members of a county board, the county shall make every effort to~~
21 ~~ensure that minority persons and women are fairly represented.~~"

22 Sec. 17. G.S. 143B-289.5(a) reads as rewritten:

23 "(a) Members, Selection. – The Marine Fisheries Commission shall consist of 17
24 members appointed by the Governor. The Governor shall select the members so that all
25 the following interests are represented:

26 (1) Four who shall at the time of appointment represent commercial fishing
27 interests. Of the four, three shall at the time of appointment be actively
28 connected with and have experience in commercial fishing, as
29 demonstrated by deriving at least fifty percent (50%) of earned income
30 from taking and selling food resources living in coastal fishing waters.
31 The spouse of a commercial fisherman may be appointed under this
32 subdivision provided that either spouse meets the criteria set forth
33 herein. Of the four, one shall at the time of appointment be actively
34 connected with and have experience in seafood processing and
35 distribution as demonstrated by deriving at least fifty percent (50%) of
36 earned income from activities involving processing and distributing
37 seafood.

38 (2) Four who shall at the time of appointment be actively connected with
39 and have experience in sport fishing.

40 (2a) Three who shall at the time of appointment represent
41 shellfishing interests.

(3) Three who shall at the time of appointment have special training and expertise in marine or estuarine sciences or the environment affecting the marine and estuarine resources.

(4) Repealed by Session Laws 1993, c. 321, s. 263.

(5) Three at large who shall at the time of appointment have knowledge of and experience related to the subjects and persons regulated by the Commission.

~~In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities."~~

Sec. 18. G.S. 143B-394 reads as rewritten:

"§ 143B-394. North Carolina Council for Women – members; selection; quorum; compensation.

The North Carolina Council for Women of the Department of Administration shall consist of 20 members appointed by the Governor. The initial members of the Council shall be the appointed members of the North Carolina Council for Women, three of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1978. Thirteen additional members shall be appointed in 1977, six of whom shall serve terms expiring June 30, 1978, and seven of whom shall serve terms expiring June 30, 1979. At the ends of the respective terms of office of the initial members of the Council and of the 13 members added in 1977, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members of the Council shall be representative of ~~age, sex, ethnic~~ age and geographic backgrounds.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

Sec. 19. G.S. 143B-426.9 reads as rewritten:

"§ 143B-426.9. North Carolina Agency for Public Telecommunications – creation; membership; appointments, terms and vacancies; officers; meetings and quorum; compensation.

The North Carolina Agency for Public Telecommunications is created. It is governed by the Board of Public Telecommunications Commissioners, composed of 27 members as follows:

- (1) A Chairman appointed by, and serving at the pleasure of, the Governor;
- (2) Ten at-large members, appointed by the Governor from the general public;
- (3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
- (4) Two members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121;
- (5) The Secretary of Administration, ex officio;
- (6) The Chairman of the Board of Trustees of The University of North Carolina Center for Public Television (if and when established), ex officio;
- (7) The Chairman of the State Board of Education, ex officio;
- (8) The Chairman of the OPEN/net Committee, ex officio, so long as such person is not a State employee;
- (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- (10) The Director of the Public Staff of the North Carolina Utilities Commission, ex officio;
- (11) The Chairman of the Public Radio Advisory Committee of the North Carolina Agency for Public Telecommunications, ex officio;
- (12) The Superintendent of Public Instruction, ex officio;
- (13) The President of the University of North Carolina, ex officio;
- (14) The President of the Department of Community Colleges, ex officio; and
- (15) Two members ex officio who shall rotate from among the remaining heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6, appointed by the Governor.

The 10 at-large members shall serve for terms staggered as follows: four terms shall expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for full four-year terms and until their successors are appointed and qualified. In making appointments of members at large, the Governor shall seek to appoint persons from the various geographic areas of the State including both urban and rural areas; persons from various classifications as to ~~sex, race, age, age~~ and handicapped persons; and persons who are representatives of the public broadcast, commercial broadcast, nonbroadcast distributive systems and private education communities of the State.

The terms of the ex officio members are coterminous with their respective terms of office. In the event that any of the offices represented on the Board ceases to exist, the successor officer to the designated member shall become an ex officio member of the Board; if there shall be no successor, then the position on the Board shall be filled by a

1 member to be appointed by the Governor from the general public. The ex officio
2 members shall have the right to vote.

3 The initial members appointed to the Board by the General Assembly shall serve for
4 terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms
5 beginning July 1 of odd-numbered years.

6 The terms of the rotating ex officio members shall be of one-year duration, and the
7 schedule of rotation is determined by the Governor.

8 Each State official who serves on the Board may designate a representative of his
9 department, agency or institution to sit in his place on the Board and to exercise fully the
10 official's privileges of membership.

11 The Secretary of Administration or his designee serves as secretary of the Board.

12 Vacancies in appointments made by the General Assembly shall be filled in
13 accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the
14 original appointment.

15 The Governor may remove any member of the Board from office in accordance with
16 the provisions of G.S. 143B-16.

17 The Board meets quarterly and at other times at the call of the chairman or upon
18 written request of at least six members.

19 A majority of the Board members shall constitute a quorum for the transaction of
20 business."

21 Sec. 20. G.S. 158-35(a) reads as rewritten:

22 "(a) Commission Membership. – The governing body of the Zone is the Global
23 TransPark Development Commission. The members of the Commission must be
24 residents of the Zone and shall be appointed as follows:

25 (1) The board of commissioners of each county participating in the Zone
26 shall appoint three voting members, one of whom shall be a minority
27 person as defined in G.S. 143-128(c) and one of whom may be a
28 member of the board of commissioners.

29 (2) The Authority shall appoint at least three but no more than seven voting
30 members. ~~By the appointment of these members, the Authority shall~~
31 ~~ensure that the voting membership of the Commission includes at least~~
32 ~~seven women and seven members of a racial minority described in G.S.~~
33 ~~143-128(c). The Authority shall appoint the fewest number of members~~
34 ~~necessary to achieve these minimums.~~

35 (3) Four nonvoting members shall be appointed as follows:

36 a. One appointed by the Chancellor of East Carolina University to
37 represent the University.

38 b. One appointed by a majority vote of the presidents of the
39 community colleges located in the Zone, to represent the
40 community colleges.

41 c. One appointed by the chair of the State Ports Authority, to
42 represent the sea ports of the State.

- 1 d. One member of the board of directors of the Global TransPark
2 Foundation, Inc., appointed by that board."
3 Sec. 21. This act becomes effective July 1, 1995, and applies to public
4 hirings, the letting of public contracts, and any appointments that occur on or after that
5 date.