

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 46

Short Title: NC Government Competition Commission.

(Public)

Sponsors: Representative Baker.

Referred to: Ways and Means.

February 20, 2003

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE NORTH CAROLINA GOVERNMENT
3 COMPETITION COMMISSION TO PROVIDE FOR BETTER GOVERNMENT
4 IN NORTH CAROLINA THROUGH A COMPREHENSIVE STATE
5 GOVERNMENT COMPETITION INITIATIVE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. The General Statutes are amended by adding a new Chapter to
8 read:

"Chapter 143C.

"North Carolina Government Competition Act of 2003.

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11 **"§ 143C-1. Short title.**

12 This Chapter shall be known and may be cited as the 'North Carolina Government
13 Competition Act of 2001.'

14 **"§ 143C-2. Definitions.**

15 As used in this Chapter, unless the context otherwise requires:

16 (1) 'Commission' means the North Carolina Government Competition
17 Commission.

18 (2) 'State agency' means any State department, agency, or institution.

19 **"§ 143C-3. North Carolina Government Competition Commission created; duties.**

20 (a) The North Carolina Government Competition Commission is created within
21 the Department of Commerce. The Commission shall exercise its power independently
22 of the Secretary of Commerce and shall be subject to the direction and supervision of
23 the Secretary of Commerce only with respect to the management functions of
24 coordination and reporting. The purpose of the Commission is to be the catalyst to cause
25 the use of competition to improve the delivery of State government services, to make
26 State government more effective and more efficient, and to reduce the costs of
27 government to taxpayers.

28 (b) The Commission shall:

- 1 (1) Develop an institutional framework for a statewide competition
2 initiative to encourage innovation and competition within State
3 government.
- 4 (2) Establish a system to encourage the use of feasibility studies and
5 innovation to determine where competition could reduce government
6 costs without adversely affecting essential services.
- 7 (3) Monitor the activities, products, and services of State agencies to bring
8 an element of competition and to ensure a spirit of innovation and
9 entrepreneurship to compete with the private sector to increase the
10 quality of services or reduce costs to taxpayers.
- 11 (4) Identify any barriers to competition in State government and
12 recommend actions to overcome those barriers.
- 13 (5) Promote acceptance of competition by State government officials and
14 State employees as a viable alternative to in-house operations for
15 delivering State government services where savings to the State may
16 be realized through competition, including the development and
17 implementation of State employee adjustment and incentive programs.
- 18 (6) Advocate, develop, and accelerate implementation of a competitive
19 program for State agencies to ensure competition for the provision or
20 production of government services from both public sector and private
21 sector entities.
- 22 (7) Establish approval, planning, and reporting processes required to carry
23 out the functions of the Commission.
- 24 (8) Determine the competition potential of a State program or activity,
25 perform cost and benefit analyses, and conduct public and private
26 competition analyses.
- 27 (9) Devise evaluation criteria to be used in conducting performance
28 reviews of any State program or activity that is subject to a
29 competition recommendation.
- 30 (10) Assess the short-term and long-term results of State government
31 competition efforts.
- 32 (11) Appoint, as needed, ad hoc committees relating to specific matters
33 within the Commission's purview.

34 "**§ 143C-4. Membership; appointment; terms; vacancies; chair; quorum;**
35 **compensation.**

36 (a) The Commission shall be composed of nine members to be appointed as
37 follows:

- 38 (1) Three members appointed by the Governor, one of whom shall be a
39 State employee and two of whom shall be members of the private
40 sector. One of the private sector members shall have large-scale
41 purchasing experience.
- 42 (2) Three members appointed by the General Assembly upon the
43 recommendation of the Speaker of the House of Representatives in

1 accordance with G.S. 120-121, two of whom shall be members of the
2 private sector and one of whom shall be a State employee.

3 (3) Three members appointed by the General Assembly upon the
4 recommendation of the President Pro Tempore of the Senate in
5 accordance with G.S. 120-121, two of whom shall be members of the
6 private sector and one of whom shall be a State employee.

7 Members of the Commission shall serve two-year terms. In making the initial
8 appointments to the Commission, the respective appointing authorities shall appoint at
9 least one member for a one-year term so that subsequent terms stagger.

10 (b) All initial appointments shall be effective July 1, 2003. The initial members'
11 terms shall end on June 30 of the applicable year in which a term expires, with the
12 subsequent term beginning on July 1 of that year. No member may serve more than two
13 consecutive terms. Vacancies shall be filled by the appointing authority for any
14 unexpired portion of a term. Members shall receive subsistence, per diem, and travel
15 allowances as provided by G.S. 138-5.

16 (c) A majority of the members shall constitute a quorum. The Commission shall
17 annually elect its chair and vice-chair from among its members.

18 **"§ 143C-5. Cooperation of other State agencies.**

19 All State agencies shall cooperate with the Commission and, upon request, assist the
20 Commission in the performance of its duties and responsibilities. The Commission shall
21 not impose unreasonable burdens or costs in connection with requests of State agencies.

22 **"§ 143C-6. Application for and acceptance of gifts and grants; authority to enter**
23 **into contract; applicability of State purchasing laws.**

24 (a) The Commission may apply for, accept, and expend gifts, grants, or
25 donations from governmental sources or from nonprofit foundations organized for
26 taxation purposes under section 501(c)(3) of the Internal Revenue Code to enable it to
27 better carry out its objectives. No entity that provides a gift, donation, or grant shall be
28 eligible for a contract award that results from action of a Commission recommendation.

29 (b) The Commission may enter into contracts for professional or consultant
30 service. Any consultant awarded a contract shall be ineligible for a contract award
31 resulting from the consultant's recommendations.

32 (c) The Commission is subject to the provisions of Articles 3, 3C, and 3D of
33 Chapter 143 of the General Statutes.

34 **"§ 143C-7. Public-private competition analysis; proposals for competition.**

35 (a) The Governor, the General Assembly, or the Commission may direct any
36 State agency to perform a public-private competition analysis covering any service for
37 which the Commission has received a qualifying unsolicited proposal for competition
38 from a private entity which is consistent with the Commission's purposes and duties as
39 provided by this Chapter.

40 (b) The Commission may solicit competition proposals from private entities in
41 order to make cost-comparison decisions. Any State agency may submit proposals to
42 the Commission for cost-comparison analyses.

43 (c) If a service contract is awarded to a private vendor as a result of a
44 recommendation by the Commission, cancellation of the contract requires the prior

1 approval of both the Commission and the Division of Purchase and Contract. The
2 Commission's executive director may act on behalf of the Commission under this
3 subsection pursuant to rules adopted by the Commission.

4 **"§ 143C-8. Duties of the Office of State Budget and Management.**

5 The Office of State Budget and Management shall determine the amount of an
6 existing appropriation that would no longer be needed by a State agency as the result of
7 savings realized through competition and shall report annually, by February 1, the
8 nature and amount of the savings to the Governor and to the General Assembly.

9 **"§ 143C-9. Reports to the Governor and General Assembly.**

10 The Commission shall report annually, by February 1, its findings and
11 recommendations to the Governor and to the General Assembly and may make other
12 interim reports it deems advisable."

13 **SECTION 2.** This act is effective when it becomes law.