

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**HOUSE BILL 73*
Committee Substitute Favorable 4/2/07**

Short Title: Improve State Construction Process.

(Public)

Sponsors:

Referred to:

February 6, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO IMPROVE THE STATE CAPITAL FACILITIES PROGRAM BY
3 DIRECTING THE STATE BUILDING COMMISSION TO REVIEW THE
4 PROGRAM AND IMPLEMENT MEASURES TO REDUCE DELAYS AND
5 INCREASE ACCOUNTABILITY AMONG THE PARTIES TO THE DESIGN
6 AND CONSTRUCTION PROCESS, BY INCREASING THE BIDDING AND
7 DESIGNER SELECTION THRESHOLDS FOR STATE CONSTRUCTION
8 CONTRACTS, BY DIRECTING THE STATE PERSONNEL OFFICE TO
9 CONDUCT A MARKET STUDY OF ARCHITECT AND ENGINEERING
10 POSITION CLASSIFICATIONS, AND BY APPROPRIATING FUNDS FOR
11 ADDITIONAL PLAN REVIEW AND ENFORCEMENT PERSONNEL AT THE
12 DEPARTMENT OF INSURANCE.

13 Whereas, delays in the completion of State capital improvement projects that
14 occur during designer selection, the construction plan review process, construction, and
15 the construction inspection process can result in millions of dollars in increased
16 construction costs due to inflation; and

17 Whereas, the State Building Commission was created within the Department
18 of Administration to direct and guide the State's capital facilities development and
19 management program; and

20 Whereas, the State Building Commission has the responsibility for
21 establishing the criteria for and overseeing designer selection for State facilities,
22 adopting rules, coordinating the plan review, approval, and permit process for State
23 capital improvements, and studying and recommending ways to improve the
24 effectiveness and efficiency of the State's capital facilities development and
25 management program; and

26 Whereas, greater clarity, coordination, and accountability among the agencies
27 responsible for the examination of plans and specifications for the construction and
28 renovation of State facilities and for the construction inspections of those facilities, the
29 owning agencies/institutions as defined in the State Construction Manual, designers, and

1 contractors could reduce these delays and facilitate the timely completion of such
2 projects resulting in significant dollar savings to the State; and

3 Whereas, the influx of project reviews occasioned by the 2000 Higher
4 Education Bond Act created serious workload and resource issues for the State
5 Construction Office and the Department of Insurance; and

6 Whereas, costly delays in the plan review and inspections process for State
7 construction projects are occurring in part due to the inability of the State to attract
8 qualified architects and engineers to conduct such reviews and inspections, and there are
9 no plans at this time for a State Personnel Office market study of architect and
10 engineering positions; Now, therefore,

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** The State Building Commission shall examine the State capital
13 improvement process and shall establish or modify, as necessary, the guidelines for the
14 selection of designers and the rules governing the design, plan review, and inspection of
15 State building projects. In carrying out its examination and proposing and modifying its
16 guidelines and rules, the Commission shall consult with all of the State departments
17 involved in the capital improvement process, including (i) the agencies responsible for
18 the examination of plans and specifications for the construction and renovation of State
19 facilities and for the supervision and inspection of all work done and materials used in
20 the construction or renovation of State facilities ("review and inspection agencies"), (ii)
21 the owning agencies/institutions as defined in the State Construction Manual ("owning
22 agencies"), (iii) the Board of Governors of The University of North Carolina, and (iv)
23 the State Board of Community Colleges. In carrying out the provisions of this section,
24 the Commission shall:

- 25 (1) Examine the State Construction Manual for opportunities to increase
26 the accountability of all parties to the State capital improvement
27 process.
- 28 (2) Determine whether the review and inspection agencies have
29 sufficiently formalized and documented their review standards and
30 processes.
- 31 (3) Oversee the proper documentation of review standards and processes
32 where necessary.
- 33 (4) Facilitate the establishment of clear expectations for all parties to the
34 process, including the owning agencies, review and inspection
35 agencies, designers, and contractors. The Commission shall work with
36 owning agencies and review and inspection agencies to develop a
37 standard set of time measurements for the design process and the
38 construction process and shall consider the development of other
39 standard measures of performance for all the parties to the design,
40 review, inspection, and construction process.
- 41 (5) Review the State's standard design contract for opportunities to
42 strengthen the accountability of design firms to the owning agencies.
43 In particular, the Commission shall consider the inclusion of a

1 designer's e-mail address as a requirement of the standard design
2 contract.

3 **SECTION 2.** The State Building Commission shall file an interim report on
4 or before April 30, 2008, and a final report on or before December 31, 2008, with the
5 Joint Legislative Commission on Governmental Operations, the Joint Legislative
6 Oversight Committee on Capital Improvements, the Appropriations Committees of the
7 House of Representatives and Senate, and the Fiscal Research Division of the General
8 Assembly. The report shall cover the activities of the Commission in implementing the
9 provisions of Section 1 of this act and any recommendations to improve the
10 coordination and efficacy of the design, review, inspection, and construction process.
11 The report also shall cover the implementation of the recommendations from the
12 Legislative Study Commission on State Construction Inspections, including:

- 13 (1) Efforts to include owning agencies on all correspondence between
14 review and inspection agencies, designers, and contractors.
- 15 (2) Implementation of new services by review and inspection agencies,
16 including the use of face-to-face meetings.
- 17 (3) The impact of any statutory changes providing State agencies with
18 greater flexibility in design and construction contracts.

19 **SECTION 3.** The State Personnel Office shall work with the Department of
20 Administration, the Department of Insurance, and other State agencies employing
21 architects and engineers to perform a market study of architect and engineer salaries and
22 position classifications. The State Personnel Office shall complete the study as soon as
23 possible, but in no event later than six months from the effective date of this section.

24 **SECTION 4.** G.S. 143-129(a) reads as rewritten:

25 "(a) Bidding Required. – No construction or repair work requiring the estimated
26 expenditure of public money in an amount equal to or more than ~~three hundred thousand~~
27 ~~dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) or purchase of apparatus,
28 supplies, materials, or equipment requiring an estimated expenditure of public money in
29 an amount equal to or more than ninety thousand dollars (\$90,000) may be performed,
30 nor may any contract be awarded therefor, by any board or governing body of the State,
31 or of any institution of the State government, or of any political subdivision of the State,
32 unless the provisions of this section are complied with.

33 For purchases of apparatus, supplies, materials, or equipment, the governing body of
34 any political subdivision of the State may, subject to any restriction as to dollar amount,
35 or other conditions that the governing body elects to impose, delegate to the manager,
36 school superintendent, chief purchasing official, or other employee the authority to
37 award contracts, reject bids, or readvertise to receive bids on behalf of the unit. Any
38 person to whom authority is delegated under this subsection shall comply with the
39 requirements of this Article that would otherwise apply to the governing body."

40 **SECTION 5.** G.S. 143-64.34 reads as rewritten:

41 **"§ 143-64.34. Exemption of certain projects.**

42 (a) State capital improvement projects under the jurisdiction of the State Building
43 ~~Commission~~ Commission, capital improvement projects of The University of North
44 Carolina, and community college capital improvement projects, where the estimated

1 expenditure of public money is less than ~~one hundred thousand dollars (\$100,000)~~, five
2 hundred thousand dollars (\$500,000), are exempt from the provisions of this Article.

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

7 (1) ~~The architectural, engineering, or surveying services to be rendered are~~
8 ~~under an open end design agreement.~~

9 (2) ~~The open end design agreement has been publicly announced.~~

10 (3) ~~The open end design agreement complies with procedures adopted by~~
11 ~~the University and approved by the State Building Commission under~~
12 ~~G.S. 116-31.11(a)(3).~~

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

16 (1) ~~The architectural, engineering, or surveying services to be rendered are~~
17 ~~under an open end design agreement.~~

18 (2) ~~The open end design agreement has been publicly announced.~~

19 (3) ~~The open end design agreement complies with procedures adopted by~~
20 ~~the State Board of Community Colleges and approved by the State~~
21 ~~Building Commission."~~

22 **SECTION 6.** There is appropriated from the General Fund to the
23 Department of Insurance the sum of seven hundred seventy-seven thousand three
24 hundred eighty-six dollars (\$777,386) for the 2007-2008 fiscal year and the sum of
25 seven hundred twenty-nine thousand three hundred eighty six dollars (\$729,386) for the
26 2008-2009 fiscal year to establish one building systems engineer III position, five
27 building systems engineer II positions, and two State Building Code enforcement officer
28 positions.

29 **SECTION 7.** Sections 1, 2, and 3 of this act are effective when they become
30 law. Sections 4 and 5 are effective when they become law and apply to projects that are
31 funded by the General Assembly on or after July 1, 2007. Section 6 of this act becomes
32 effective July 1, 2007.