

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 73\*  
Committee Substitute Favorable 4/2/07  
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Short Title: Improve State Construction Process.

(Public)

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Sponsors:

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Referred to:

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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, AND BY DIRECTING THE STATE PERSONNEL OFFICE TO  
9 CONDUCT A MARKET STUDY OF ARCHITECT AND ENGINEERING  
10 POSITION CLASSIFICATIONS.

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

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

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

24       Whereas, greater clarity, coordination, and accountability among the agencies  
25 responsible for the examination of plans and specifications for the construction and  
26 renovation of State facilities and for the construction inspections of those facilities, the  
27 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.** Sections 4 and 5 are effective when they become law and  
23 apply to projects that are funded on or after July 1, 2007. The remainder of this act is  
24 effective when it becomes law.