

**GENERAL ASSEMBLY OF NORTH CAROLINA
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Senate Commerce, Small Business and Entrepreneurship Committee Substitute
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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, 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

1 renovation of State facilities and for the construction inspections of those facilities, the
2 owning agencies/institutions as defined in the State Construction Manual, designers, and
3 contractors could reduce these delays and facilitate the timely completion of such
4 projects resulting in significant dollar savings to the State; and

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

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

13 The General Assembly of North Carolina enacts:

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

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

1 In particular, the Commission shall consider the inclusion of a
2 designer's e-mail address as a requirement of the standard design
3 contract.

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

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

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

26 **SECTION 4.** G.S. 143-135.26(2) reads as rewritten:

- 27 "(2) To adopt rules for coordinating the plan review, approval, and permit
28 process for State capital improvement and community college
29 buildings, as defined in subdivision (4) of this section. The rules shall
30 provide for a specific time frame for plan review and approval and
31 permit issuance by each agency, consistent with applicable laws. The
32 time frames shall be established to provide for expeditious review,
33 approval, and permitting of State capital improvement projects and
34 community college buildings. To further expedite the plan review,
35 approval, and permit process, the State Building Commission shall
36 develop a standard memorandum of understanding to be executed by
37 the funded agency and all reviewing agencies for each State capital
38 improvement project. The memorandum of understanding, at
39 minimum, shall include provisions for establishing:
- 40 a. The type and frequency of plan reviews.
 - 41 b. The submittal dates for each plan review.
 - 42 c. The estimated plan review time for each review and reviewing
43 agency.
 - 44 d. A schedule of meeting dates."

1 **SECTION 5.** G.S. 143-341(3) reads as rewritten:

2 "(3) Architecture and Engineering:

- 3 a. To examine and approve all plans and specifications for the
4 construction or renovation of:
- 5 1. All State buildings or buildings located on State lands,
6 except those buildings over which a local building code
7 inspection department has and exercises jurisdiction; and
 - 8 2. All community college buildings requiring the estimated
9 expenditure for construction or repair work for which
10 public bidding is required under G.S. 143-129 prior to
11 the awarding of a contract for such work; and to examine
12 and approve all changes in those plans and specifications
13 made after the contract for such work has been awarded.
- 14 a1. To organize and schedule, within three weeks of designer
15 selection and before the design contract is let, a meeting of the
16 stakeholders for each State capital improvement project to
17 discuss plan review requirements and to define the terms of the
18 memorandum of understanding developed by the State Building
19 Commission pursuant to G.S. 143-135.26(2). The stakeholders
20 shall include the funded agency, each State agency having plan
21 review responsibilities for the project, and the selected designer.
22 Notwithstanding the foregoing, the meeting need not be
23 scheduled if the funded agency so requests.
- 24 b. To assist, as necessary, all agencies in the preparation of
25 requests for appropriations for the construction or renovation of
26 all State buildings.
- 27 b1. To certify that a statement of needs pursuant to G.S. 143C-3-3
28 is feasible. For purposes of this sub-subdivision, "feasible"
29 means that the proposed project is sufficiently defined in overall
30 scope; building program; site development; detailed design,
31 construction, and equipment budgets; and comprehensive
32 project scheduling so as to reasonably ensure that it may be
33 completed with the amount of funds requested. At the discretion
34 of the General Assembly, advanced planning funds may be
35 appropriated in support of this certification. This
36 sub-subdivision shall not apply to requests for appropriations of
37 less than one hundred thousand dollars (\$100,000).
- 38 c. To supervise the letting of all contracts for the design,
39 construction or renovation of all State buildings and all
40 community college buildings whose plans and specifications
41 must be examined and approved under a.2. of this subdivision.
- 42 d. To supervise and inspect all work done and materials used in
43 the construction or renovation of all State buildings and all
44 community college buildings whose plans and specifications

1 must be examined and approved under a.2. of this subdivision;
2 and no such work may be accepted by the State or by any State
3 agency until it has been approved by the Department.

4 e. To require all State agencies to use existing plans and
5 specifications for construction projects, where feasible. Prior to
6 designing a project, State agencies shall consult with the
7 Department of Administration on the availability of appropriate
8 existing plans and specifications and the feasibility of using
9 them for a project.

10 Except for sub-subdivisions b., b1., and e. of this subdivision, this
11 subdivision does not apply to the design, construction, or renovation of
12 projects by The University of North Carolina pursuant to
13 G.S. 116-31.11."

14 **SECTION 6.** G.S. 143-129(a) reads as rewritten:

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

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

30 **SECTION 7.** G.S. 143-64.34 reads as rewritten:

31 "**§ 143-64.34. Exemption of certain projects.**

32 (a) State capital improvement projects under the jurisdiction of the State Building
33 ~~Commission~~ Commission, capital improvement projects of The University of North
34 Carolina, and community college capital improvement projects, where the estimated
35 expenditure of public money is less than ~~one hundred thousand dollars (\$100,000),~~ five
36 hundred thousand dollars (\$500,000), are exempt from the provisions of this Article.

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

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

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

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

4 (e) ~~A community college capital improvement project where the estimated~~
5 ~~expenditure of public money is less than three hundred thousand dollars (\$300,000) is~~
6 ~~exempt from this Article if all of the following 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 State Board of Community Colleges and approved by the State~~
12 ~~Building Commission."~~

13 **SECTION 8.** Sections 4, 5, 6, and 7 of this act are effective when it becomes
14 law and apply to projects that are funded on or after July 1, 2007. The remainder of this
15 act is effective when it becomes law.