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HOUSE BILL 13
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Short Title: State Agency Property Use/Biennial Report.

(Public)

Sponsors:

Referred to:

January 31, 2013

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE STATE AGENCIES TO BIENNIALLY REPORT TO THE DEPARTMENT OF ADMINISTRATION AND TO THE PROGRAM EVALUATION DIVISION ON THEIR USE OF REAL PROPERTY; (2) REQUIRE STATE AGENCIES TO REPORT ANNUALLY THE AMOUNT OF REVENUE GENERATED DURING THE PREVIOUS CALENDAR YEAR FROM THE LEASING OF SPACE ON AGENCY PROPERTY; (3) IMPROVE THE OVERSIGHT AND MANAGEMENT OF STATE-OWNED SUBMERGED LANDS, INCLUDING INITIATING A PROCESS TO INVENTORY CLAIMS ON STATE-OWNED SUBMERGED LANDS; AND (4) CLARIFY THE INFORMATION THAT MUST BE PROVIDED TO THE STATE BUREAU OF INVESTIGATION CONCERNING MISUSE OF STATE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 80.

"Reporting on State Agency Use of Real Property.

"§ 143-750. Definitions.

The following definitions apply in this Article:

- (1) Real property. – A parcel of land, a building, or space within a building. This term does not include right-of-way property allocated to the Department of Transportation.
- (2) State agency. – A unit of the executive or judicial branch of State government, such as a department, an institution, a division, a commission, a board, a council, or The University of North Carolina. The term does not include a unit of local government or a public authority.
- (3) Underutilized property. – Real property that contains substantial space or facilities that are currently not used on a regular basis by the State agency that owns or leases the property or to which the property is allocated.
- (4) Unused property. – Real property that is vacant or that is not used for a current program or purpose of the State agency. This term includes real property that is designated for a particular current or future use but that is not actually currently used for that program or purpose.

"§ 143-751. Duty to analyze real property use every two years.



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1 Each State agency shall analyze each piece of real property owned by, allocated to, or
2 leased by it at least every two years in order to determine if the property is unused property or
3 underutilized property.

4 **"§ 143-752. State agencies shall biennially report on real property use.**

5 On or before September 1 of each even-numbered year, each State agency shall report to
6 the Department of Administration and to the Program Evaluation and Fiscal Research Divisions
7 of the General Assembly on its use of real property. The report shall include all of the
8 following, set forth in separate sections of the report:

- 9 (1) Summary information about the amount of real property allocated to, owned
10 by, and leased by the State agency.
- 11 (2) Detailed information about each piece of real property allocated to, owned
12 by, and leased by the State agency, including, as appropriate, all of the
13 following:
 - 14 a. The location of the property, including the latitude and longitude of
15 the center of the building or parcel of real property.
 - 16 b. The square footage or acreage of the property.
 - 17 c. The total amount paid by the State to acquire the property, including
18 any costs associated with the purchase.
 - 19 d. The nature of the State agency's interest in the property.
 - 20 e. The condition of the property.
 - 21 f. The current use of the property.
 - 22 g. An estimate of how much of the property is underutilized or a
23 statement that the property is unused, as applicable.
 - 24 h. The terms of any lease for property, including information about
25 lease renewal options.
 - 26 i. Floor plan and other spatial information about the property.
- 27 (3) Detailed information about any real property allocated to, owned by, or
28 leased by the State agency that is unused property or underutilized property,
29 without regard to whether the property has been deemed surplus as of the
30 date of the report. If property is unused property or underutilized property
31 but the State agency has not notified the Department of Administration that
32 it is surplus, this section of the report shall include an explanation of why the
33 State agency has not so notified the Department.
- 34 (4) Detailed information about any real property designated surplus pursuant to
35 G.S. 143-753.
- 36 (5) Highlights of any differences between the information contained in the
37 report and the information contained in the most recent report submitted
38 pursuant to this section.
- 39 (6) Any additional information about the State agency's real property use
40 requested by the Department of Administration or by the Program
41 Evaluation Division of the General Assembly.

42 **"§ 143-753. Automatic designation of certain unused and underutilized property as**
43 **surplus property.**

44 Any piece of real property owned by or allocated to a State agency that was designated as
45 unused property or underutilized property on the most recent report submitted pursuant to
46 G.S. 143-752 and that is unused property or underutilized property on the date that the
47 subsequent report is due under that section shall automatically be designated surplus property
48 and shall be reported in the section of the report required by G.S. 143-752(4). The designation
49 of a piece of real property as surplus pursuant to this section shall in no way affect the
50 applicability of Chapter 146 of the General Statutes to any disposition of that property.

51 **"§ 143-754. Department of Administration shall assist State agencies.**

1 When requested to do so, the Department of Administration shall assist a State agency in its
2 efforts to comply with this Article by providing property records in the possession of the
3 Department to the requesting State agency.

4 **"§ 143-755. State agencies shall report on revenues generated from leasing State**
5 **property.**

6 On or before February 1 of each year, each State agency shall report to the Chairs of the
7 House Appropriations Committee, the Chairs of the Senate Appropriations/Base Budget
8 Committee, and to the Fiscal Research Division of the General Assembly the amount of
9 revenue generated through leasing space on property owned by or allocated to the State agency
10 during the previous year."

11 **SECTION 2.** G.S. 143C-8-4(a) reads as rewritten:

12 **"§ 143C-8-4. Agency capital improvement needs estimates.**

13 (a) Needs Estimate Required. – On or before September 1 of each even-numbered year,
14 each State agency shall submit to the Office of State Budget and Management and to the
15 Division of Fiscal Research a six-year capital improvement needs estimate and the report
16 required by G.S. 143-752. This estimate shall describe the agency's anticipated capital needs for
17 each year of the six-year planning period. Capital improvement needs estimates shall be shown
18 in two parts."

19 **SECTION 3.(a)** The Department of Administration shall modify the existing State
20 property database to include a field to indicate whether or not an item within the database
21 includes submerged land. The Department of Administration shall modify the database no later
22 than April 15, 2014, and shall report to the Joint Legislative Commission on Governmental
23 Operations on the completion of the modification no later than that date.

24 **SECTION 3.(b)** No structures may be placed on State-owned submerged lands
25 after the effective date of this act without an easement granted by the Department of
26 Administration. The Department of Administration shall record such easements, if granted,
27 within the State property database using the database field required to be added by Section 3(a)
28 of this act. This section should not be construed to validate or authorize the presence of any
29 existing structures on State-owned submerged lands.

30 **SECTION 3.(c)** The Department of Administration shall adopt rules specifying the
31 process for how to obtain utility easements on submerged lands, including any fees. The
32 Department shall adopt rules no later than April 15, 2014, and shall report to the Joint
33 Legislative Commission on Governmental Operations on the new rules no later than that date.

34 **SECTION 3.(d)** The Department of Administration shall develop and implement
35 procedures with the Department of Environment and Natural Resources for implementing
36 G.S. 146-8, which relates to the disposition of mineral deposits in State lands under water. The
37 Department of Administration and the Department of Environment and Natural Resources shall
38 implement these procedures no later than April 15, 2014, and shall report to the Joint
39 Legislative Commission on Governmental Operations on the implementation status no later
40 than that date.

41 **SECTION 3.(e)** Article 4 of Subchapter I of Chapter 146 of the General Statutes is
42 amended by adding a new section to read:

43 **"§ 146-20.2. Noncoastal submerged lands inventory.**

44 (a) Inventory Process. – The Department of Environment and Natural Resources,
45 Division of Water Resources, in conjunction with the Department of Administration and the
46 Office of the Attorney General, shall inventory all State-owned submerged lands in noncoastal
47 counties and shall determine the validity of the claims submitted under this section. In
48 evaluating claims registered pursuant to this section, the Division shall favor public ownership
49 of submerged lands and public trust rights. The provisions of this section shall not apply to the
50 land lying under any private fish pond, irrigation pond, or other waterway not owned by the
51 State.

1 **(b) Claims Submission.** – Every person claiming any interest in any part of the bed
2 lying under navigable waters of any noncoastal county of North Carolina or any right of fishery
3 in navigable waters of any noncoastal county superior to that of the general public shall register
4 the grant, charter, or other authorization under which the person claims with the Department of
5 Environment and Natural Resources, Division of Water Resources. Such registration shall be
6 accompanied by a survey of the claimed area, meeting criteria established by the Division.
7 Registering any claim with the Division in no way implies recognition by the State of the
8 validity of the claim.

9 **(c) Notice by Publication.** – The Division shall give notice of the claims process under
10 this section at least once each calendar year for three years by publication in a newspaper or
11 newspapers of general circulation throughout all noncoastal counties of the State.

12 **(d) Unfiled Claims Void.** – All rights and titles not registered in accordance with this
13 subsection on or before December 31, 2015, are hereby declared null and void.

14 **(e) Annual Report.** – On or before September 1 of each year, the Department of
15 Environment and Natural Resources, Division of Water Resources, shall report to the Joint
16 Legislative Commission on Governmental Operations on the following:

17 **(1)** The total number of new claims registered.

18 **(2)** The number of claims registered that were resolved during the preceding
19 year.

20 **(3)** The cost of resolving the claims that were resolved during the preceding
21 year.

22 **(4)** The number of unresolved claims.

23 **(5)** The projected completion date of the inventory process.

24 **(f) Definition.** – For the purpose of this subsection, "noncoastal county" shall mean all
25 the counties not included in the definition of "coastal counties" in G.S. 113-205(a)."

26 **SECTION 4.** G.S. 114-15.1 reads as rewritten:

27 **"§ 114-15.1. Department heads to report possible violations of criminal statutes involving**
28 **misuse of State property to State Bureau of Investigation.**

29 **(a)** Any person employed by the State of North Carolina, its agencies or institutions,
30 who receives any information or evidence of an attempted arson, or arson, damage of, theft
31 from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned
32 personal property, buildings or other real property, shall as soon as possible, but not later than
33 three days from receipt of the information or evidence, report such information or evidence to
34 his immediate supervisor, who shall in turn report such information or evidence to the head of
35 the respective department, agency, or institution. The head of any department, agency, or
36 institution receiving such information or evidence shall, within a reasonable time but no later
37 than 10 days from receipt thereof, report such information in writing to the Director of the State
38 Bureau of Investigation. Information concerning damage or loss resulting from motor vehicle
39 accidents or unintentional loss of property is exempt from the reporting requirements of this
40 subsection.

41 **(b)** Upon receipt of notification and information as provided for in this section, the State
42 Bureau of Investigation shall, if appropriate, conduct an investigation.

43 **(c)** The employees of all State departments, agencies and institutions are hereby
44 required to cooperate with the State Bureau of Investigation, its officers and agents, as far as
45 may be possible, in aid of ~~such investigation.~~ an investigation conducted pursuant to this
46 section.

47 **(d)** If ~~such an~~ investigation conducted pursuant to this section reveals a possible
48 violation of the criminal laws, the results thereof shall be reported by the State Bureau of
49 Investigation to the district attorney of any district if the same concerns persons or offenses in
50 his district."

51 **SECTION 5.** This act is effective when it becomes law.