

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 362  
Committee Substitute Favorable 5/1/13

Short Title: Dept. of Public Safety Changes.-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND SUBSTANTIVE CHANGES  
RELATING TO THE DEPARTMENT OF PUBLIC SAFETY AND TO ELIMINATE  
THE BENCHMARK CEILING RELATING TO PURCHASES AND CONTRACTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-134 reads as rewritten:

"§ 143-134. **Applicable to Department of Transportation and ~~Division of Adult Correction of the Department of Public Safety~~; exceptions; all contracts subject to review by Attorney General and State Auditor.**

(a) This Article ~~shall apply~~ applies to the Department of Transportation and the ~~Division of Adult Correction of the Department of Public Safety~~ except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by the ~~Division of Adult Correction of the Department of Public Safety~~ can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting ~~such the~~ repair or building construction to contract, the provisions of this Article shall not apply to ~~such the~~ repair or construction.

(b) Notwithstanding the ~~provisions of~~ subsection (a) of this section, the Department of Transportation and the ~~Division of Adult Correction of the Department of Public Safety~~ shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or the ~~Division of Adult Correction of the Department of Public Safety~~ a standard clause ~~which provides~~ providing that the State Auditor and internal auditors of the Department of Transportation or the Department of Public Safety may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor the ~~Division of Adult Correction of the Department of Public Safety~~ shall award a cost plus percentage of cost agreement or contract for any purpose."

**SECTION 2.** G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. ~~The Department shall consist of six divisions and an Office of External Affairs as follows:~~

(1) ~~The Division of Adult Correction, which shall consist of the former Department of Correction. The head of the Division of Adult Correction shall be a chief deputy secretary, who shall be responsible for prisons,~~



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- 1 community corrections, correction enterprises, alcoholism and chemical  
 2 dependency treatment, offender records management, and extradition.  
 3 (2) ~~The Division of Juvenile Justice, which shall consist of the former  
 4 Department of Juvenile Justice and Delinquency Prevention. The head of the  
 5 Division of Juvenile Justice shall be a chief deputy secretary, who shall be  
 6 responsible for youth detention centers, court services, community  
 7 programs, and youth development centers.~~  
 8 (3) ~~The Division of Law Enforcement, which shall consist of the following  
 9 former divisions of the Department of Crime Control and Public Safety: the  
 10 State Highway Patrol, the Alcohol Law Enforcement Division, and the State  
 11 Capitol Police Division. The head of the Division of Law Enforcement shall  
 12 be a chief deputy secretary.~~  
 13 (4) ~~The Division of Emergency Management, which shall consist of the former  
 14 Division of Emergency Management of the Department of Crime Control  
 15 and Public Safety and the Civil Air Patrol.~~  
 16 (5) ~~The North Carolina National Guard.~~  
 17 (6) ~~The Division of Administration, the head of which shall be a chief deputy  
 18 secretary responsible for all administrative functions, including fiscal,  
 19 auditing, information technology, purchasing, human resources, training,  
 20 engineering, and facility management functions for the Department. Within  
 21 the Division, there is established a Grants Management Section, which shall  
 22 consist of the Governor's Crime Commission and the Juvenile Crime  
 23 Prevention Council Fund. There is also established within the Division a  
 24 Research and Planning Section responsible for statistics, research, and  
 25 planning to facilitate regular improvement in the structure, administration,  
 26 and programs of the Department of Public Safety. The Research and  
 27 Planning Section may cooperate with and seek the cooperation of public and  
 28 private agencies, institutions, officials, and individuals in the development  
 29 and conduct of programs to compile and analyze statistics and to conduct  
 30 research in criminology and correction. The Research and Planning Section  
 31 shall be the single State agency responsible for the coordination and  
 32 implementation of ex-offender reentry initiatives.~~  
 33 (7) ~~The Office of External Affairs, which shall be responsible for federal and  
 34 State liaison activities, victim services, the Victim Services Warehouse and  
 35 the storage and management of evidence and other contents housed in the  
 36 warehouse, and public affairs."~~

37 **SECTION 3.** G.S. 143B-602(8) is amended by adding a new sub-subdivision to

38 read:

39 "(8) Other powers and duties. – The Secretary ~~shall have~~ has the following  
 40 additional powers and duties:

41 ...

42 h. Being responsible for federal and State liaison activities, victim  
 43 services, the Victim Services Warehouse, and the storage and  
 44 management of evidence and other contents housed in the  
 45 warehouse, and public affairs."

46 **SECTION 4.** G.S. 143B-710 is repealed.

47 **SECTION 5.** G.S. 143B-806 reads as rewritten:

48 "**§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of**  
 49 **Public Safety.**

50 (a) ~~The head of the Division is a Chief Deputy Secretary appointed by the Secretary of~~  
 51 ~~Public Safety. The Chief Deputy Secretary shall have the powers and duties conferred by this~~

Chapter, delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.

(b) ~~The Chief Deputy Secretary shall have head of the Division is the Commissioner of Juvenile Justice with the following powers and duties:~~

...."

**SECTION 6.** G.S. 148-132 reads as rewritten:

**"§ 148-132. Distribution of products and services.**

The Section of Correction Enterprises of the Division of Adult Correction is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

- (1) Any public agency or institution owned, managed, or controlled by the State.
- (2) Any county, city, or town in this State.
- (3) Any federal, state, or local public agency or institution in any other state of the union.
- (4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code ~~and also receives local, state, or federal grant funding.~~ Code. Products purchased by an entity pursuant to this subdivision may not be resold.
- (5) Any current employee or retiree of the State of North Carolina or of a unit of local government of this State, verified through State-issued identification, or through proof of retirement status, but purchases by a State or local governmental employee or retiree may not exceed two thousand five hundred dollars (\$2,500) during any calendar year. Products purchased by State and local governmental employees and retirees under this section may not be resold.
- (6) Private contractors when the goods purchased will be used to perform work under a contract with a public agency."

**SECTION 7.** G.S. 143-53(a)(2) reads as rewritten:

- "(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not exceed the bid value benchmark established under the provisions of ~~G.S. 143-53.1—G.S. 143-53.1, 115D-58.14, or G.S. 116-31.10. 116-31.10.~~ The purchasing delegation bid value benchmark for securing offers (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, and community college and agency established under the provisions of G.S. 143-53.1 shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done Contract following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the ~~delegation benchmark,~~ or raise the ~~delegation benchmark~~ upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

1           **SECTION 8.** G.S. 143-53.1 reads as rewritten:

2           "(a) On and after ~~July 1, 1997,~~ July 1, 2014, the procedures prescribed by G.S. 143-52  
3 with respect to competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2)  
4 with respect to rule making by the Secretary of Administration for competitive bidding shall  
5 promote compliance with the principles of procurement efficiency, transparency, and fair  
6 competition to obtain the State's business, be no more than twenty five thousand dollars  
7 (\$25,000); provided, the Secretary of Administration may, in his or her discretion, increase the  
8 benchmarks effective as of the beginning of any fiscal biennium of the State commencing after  
9 June 30, 1999, in an amount whose increase, expressed as a percentage, does not exceed the  
10 rise in the Consumer Price Index during the fiscal biennium next preceding the effective date of  
11 the benchmark increase. For a special responsibility constituent institution of The University of  
12 North Carolina, the benchmark prescribed in this section ~~shall be~~ is as provided in  
13 G.S. 116-31.10. For community colleges, the benchmark prescribed in this section ~~shall be~~ is as  
14 provided in G.S. 115D-58.14.

15           (b) Expired."

16           **SECTION 9.** G.S. 166A-19.11 reads as rewritten:

17 **"§ 166A-19.11. Powers of the Secretary of Public Safety.**

18           The Secretary ~~shall be~~ is responsible to the Governor for State emergency management  
19 activities. The Secretary ~~shall have~~ has the following powers and duties as delegated by the  
20 Governor:

- 21           (1) To activate the State and local plans applicable to the areas in question and  
22 to authorize and direct the deployment and use of any personnel and forces  
23 to which the plan or plans apply, and the use or distribution of any supplies,  
24 equipment, materials, and facilities available pursuant to this Article or any  
25 other provision of law.
- 26           (2) To adopt the rules to implement those provisions of this Article that deal  
27 with matters other than those that are exclusively local.
- 28           (3) To develop a system to produce a preliminary damage assessment from  
29 which the Secretary will recommend the appropriate level of disaster  
30 declaration to the Governor. The system shall, at a minimum, consider  
31 whether the damage involved and its effects are of such a severity and  
32 magnitude as to be beyond the response capabilities of the local government  
33 or political subdivision.
- 34           (3a) To authorize expenditures of up to two million dollars (\$2,000,000) of funds  
35 available for response to an emergency prior to the declaration of a state of  
36 emergency. The Secretary shall report to the Joint Legislative Commission  
37 on Governmental Operations within 30 days of authorizing an expenditure  
38 pursuant to this subdivision.
- 39           (4) Additional authority, duties, and responsibilities as may be prescribed by the  
40 Governor. The Secretary may subdelegate his authority to the appropriate  
41 member of the Secretary's department."

42           **SECTION 10.** G.S. 20-185 is amended by adding a new subsection to read:

43           "(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and  
44 not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement  
45 personnel hired on or after July 1, 2013, shall retire not later than the end of the month in which  
46 their 62nd birthday falls."

47           **SECTION 11.** G.S. 20-196.3 reads as rewritten:

48 **"§ 20-196.3. Who may hold supervisory positions over sworn members of the Patrol.**

49           Notwithstanding any other provision of the General Statutes of North Carolina, ~~it shall be~~  
50 unlawful for any person other than the Governor and the Statutes, only the following  
51 individuals may hold a supervisory position over sworn members of the Patrol:

- 1           (1)    The Governor.
- 2           (2)    The Secretary of Public Safety or the Commissioner of the Law
- 3           Enforcement Division.
- 4           (3)    ~~and other than a~~ A uniformed member of the North Carolina State Highway
- 5           Patrol who has met all requirements for employment within the Patrol,
- 6           including ~~but not limited to~~ completion of the basic Patrol school, ~~to hold~~
- 7           ~~any supervisory position over sworn members of the Patrol school."~~

8           **SECTION 12.** This act is effective when it becomes law.