

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 754

Short Title: Lease Purchase of Real Property/Comm. Coll. (Public)

Sponsors: Representatives Johnson and Starnes (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Education.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING COMMUNITY COLLEGES TO ACQUIRE REAL PROPERTY
3 BY LEASE PURCHASE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115D-58.15 reads as rewritten:

6 "§ 115D-58.15. Lease purchase and installment purchase contracts for
7 ~~equipment.~~ **equipment and real property.**

8 (a) Authority. – ~~The~~ Notwithstanding any other provision of law to the contrary, the
9 board of trustees of a community college may use lease purchase or installment purchase
10 contracts to purchase or finance the purchase of equipment using State funds or non-State funds
11 and real property using non-State funds as provided in this section. A college shall not have
12 more than five State-funded contracts in effect at any one time.

13 (b) Contract Approval. – Contracts for more than one hundred thousand dollars
14 (\$100,000) or for a term of more than three years shall be subject to review and approval as
15 provided in this subsection. If the source of funds for payment of the obligation by the
16 community college is intended to be local funds, the contract must be approved by resolution of
17 the tax-levying authority, and the authority must acknowledge in writing its understanding that
18 the community college may require appropriations from the tax-levying authority in order to
19 meet the college's obligations under the contract. The tax-levying authority may in each fiscal
20 year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the
21 contract. If the source of funds for payment of the obligation by the community college is
22 intended to be State funds, the contract must be approved by resolution of the State Board of
23 Community Colleges. The State Board may in each fiscal year allocate sufficient funds to meet
24 the amounts to be paid during the fiscal year under the contract.

25 (c) Local Government Commission. – A contract that is subject to approval by the
26 tax-levying authority also shall be subject to approval by the Local Government Commission as
27 provided in Article 8 of Chapter 159 of the General Statutes if the contract:

- 28 (1) Extends for five or more years from the date of the contract;
29 (2) Obligates the board of trustees to pay sums of money to another, regardless
30 of whether the payee is a party to the contract; and
31 (3) Obligates the board of trustees to pay five hundred thousand dollars
32 (\$500,000) or more over the full term of the contract.

33 (d) Application of Section. – When determining whether a contract is subject to
34 approval under this section the total cost of exercising an option to upgrade property shall be



1 taken into consideration. The term of a contract shall include periods that may be added to the
2 original term through the exercise of an option to renew or extend.

3 (e) Nonsubstitution Clause. – No contract entered into under this section may contain a
4 nonsubstitution clause that restricts the right of a board of trustees to:

5 (1) Continue to provide a service or activity; or

6 (2) Replace or provide a substitute for any property financed or purchased by
7 the contract.

8 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against any
9 board of trustees, any tax-levying authority, the State Board of Community Colleges, or the
10 State of North Carolina in any action for breach of a contractual obligation authorized by this
11 section. The taxing power of a tax-levying authority and the State is not and may not be
12 pledged directly or indirectly to secure any moneys due under a contract authorized by this
13 section."

14 **SECTION 2.** G.S. 115D-20(11) reads as rewritten:

15 "(11) To enter into lease purchase and installment purchase contracts for
16 equipment and real property under G.S. 115D-58.15."

17 **SECTION 3.** This act becomes effective July 1, 2013.