

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 334
Appropriations/Base Budget Committee Substitute Adopted 3/21/13
Third Edition Engrossed 3/26/13

Short Title: Dorothea Dix Lease.

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

1 AN ACT TO CONDEMN THE LEASEHOLD INTEREST IN THE DOROTHEA DIX
2 CAMPUS PROPERTY CONVEYED TO THE CITY OF RALEIGH AND ALLOCATE IT
3 TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR MENTAL
4 HEALTH PURPOSES, AS PROVIDED IN THE STATUTE AUTHORIZING ITS
5 ACQUISITION AND IN THE DEEDS CONVEYING THE PROPERTY TO THE
6 STATE, TO PROVIDE FOR IMPLEMENTATION OF THE 2007 STATE
7 GOVERNMENT MASTER FACILITIES MASTER PLAN, INCLUDING LEASE OF A
8 PORTION OF THE PROPERTY AT FAIR MARKET VALUE TO THE CITY OF
9 RALEIGH FOR A PUBLIC PARK, AND TO PROVIDE FOR USE OF ANY LEASE
10 PROCEEDS FOR MENTAL HEALTH PURPOSES.

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12 Whereas, on December 28, 2012, Governor Beverly Perdue executed a 75- to
13 99-year below fair market value lease with the City of Raleigh for use of State property known
14 generally as the "Dorothea Dix Property" as a city destination park; and

15 Whereas, the Dorothea Dix Property is used for Department of Health and Human
16 Services operations and is the office site for 1,852 Department of Health and Human Services
17 employees; and

18 Whereas, relocation of Department of Health and Human Services operations and
19 employees off the Dorothea Dix Property will require significant planning and substantial
20 commitment of State tax dollars or debt capacity; and

21 Whereas, the Department of Health and Human Services continues to face
22 significant budget challenges as evidenced by the January 31, 2013, audit issued by the North
23 Carolina State Auditor; and

24 Whereas, the Dorothea Dix Property has been the subject of multiple commercial
25 appraisals and constitutes a significant State asset owned by and for the benefit of the people of
26 this State; and

27 Whereas, authority for acquisition of the Dorothea Dix Property was granted in
28 1848 particularly for the benefit of North Carolinians with mental illness, a purpose given no
29 attention in the December 28, 2012, lease; and

30 Whereas, G.S. 146-28 requires the Department of Administration to investigate
31 present and future State need for State land proposed for conveyance, lease, or rent; Now,
32 therefore,

33 The General Assembly of North Carolina enacts:

34 **SECTION 1.** Upon the effective date of this act, there is vested in the State of
35 North Carolina, including the right of immediate possession by the State, all of the right, title,



1 and interest, including without limitation leasehold interests, conveyed to the City of Raleigh
2 by the State of North Carolina by lease approved by the Governor and Council of State and
3 executed December 28, 2012. This includes those as described in Exhibit A of that lease and
4 those in any of the exhibits, schedules, or attachments to that lease or in the Memorandum of
5 Lease dated December 28, 2012. That lease covers approximately 325 acres as described in
6 Section 1.8 of the lease and is shown as Dix Park, 307 acres +/-, in Exhibit A of that lease.
7 Section 10 of the lease specifically notes the power of the State to take by condemnation all or
8 any part of the leasehold interest.

9 **SECTION 2.** The property described in Section 1 of this act is allocated to the
10 Department of Health and Human Services. Chapter 1 of the Laws of 1848-49 authorized
11 acquisition of that property in trust for the use and benefit of the North Carolina Hospital for
12 the Insane; some or all of the deeds provided that the conveyance to the State was in trust for
13 the use and benefit of the North Carolina Hospital for the Insane. While the property remains
14 subject to the power of sale or lease by the State, any proceeds from sale or lease shall be used
15 solely for mental health treatment purposes, which the General Assembly determines under the
16 doctrine of cy pres to be as near as may be to the purpose of its acquisition of the property for
17 charitable purposes.

18 **SECTION 3.(a)** If the City of Raleigh contends that it is owed just compensation,
19 it shall, within 60 days of the effective date of this act, file a special proceeding in the Superior
20 Court for a determination whether just compensation is required and if so the amount of just
21 compensation. The rules of procedure for such action shall be determined by the judge
22 presiding, unless the Supreme Court otherwise provides rules of procedure under Section 13 of
23 Article IV of the Constitution, but shall generally be the same as for determining just
24 compensation in actions under Article 9 of Chapter 136 of the General Statutes. This section
25 does not in and of itself confer standing.

26 **SECTION 3.(b)** Any special proceeding filed under subsection (a) of this section
27 shall be filed in the Superior Court of Wake County and shall be heard and determined by a
28 three-judge panel of the Superior Court of Wake County organized as provided by subsection
29 (c) of this section.

30 **SECTION 3.(c)** A copy of the complaint shall be served upon the senior resident
31 superior court judge of Wake County, who shall be the presiding judge of the three-judge panel
32 required by subsection (b) of this section. Upon receipt of that complaint, the senior resident
33 superior court judge of Wake County shall notify the Chief Justice, who shall appoint two
34 additional resident superior court judges to the three-judge panel of the Superior Court of Wake
35 County to hear and determine the action. Before making those appointments, the Chief Justice
36 shall consult with the North Carolina Conference of Superior Court Judges, which shall provide
37 the Chief Justice with a list of recommended appointments. To ensure that members of the
38 three-judge panel are drawn from different regions of the State, the Chief Justice shall appoint
39 to the three-judge panel one resident superior court judge from the First through Fourth Judicial
40 Divisions and one resident superior court judge from the Fifth through Eighth Judicial
41 Divisions. Should the senior resident superior court judge of Wake County be unable to serve
42 on the three-judge panel, the Chief Justice shall appoint another resident superior court judge of
43 Wake County as the presiding judge of the three-judge panel. Should any other member of the
44 three-judge panel be unable to serve on the three-judge panel, the Chief Justice shall appoint as
45 a replacement another resident superior court judge from the same group of judicial divisions as
46 the resident superior court judge being replaced.

47 **SECTION 3.(d)** No order or judgment shall be entered under this section except by
48 the three-judge panel of the Superior Court of Wake County organized as provided by
49 subsection (b) of this section. In the event of disagreement among the three resident superior
50 court judges comprising the three-judge panel, then the opinion of the majority shall prevail.

1 **SECTION 4.(a)** The Department of Administration shall lease at fair market value
2 a portion of the property identified in the 2007 State Government Facilities Master Plan as
3 suitable for a public park. The City of Raleigh shall have the right of first refusal as a lessee.

4 **SECTION 4.(b)** It is the intent of the General Assembly that all revenues from
5 leases of the Dorothea Dix Property under Section 4(a) be held in a special fund for
6 appropriation by the General Assembly for mental health purposes consistent with the purposes
7 in the underlying deeds transferring the Dix property to the State and in Chapter 1 of the Laws
8 of 1848-49 that authorized acquisition of the property.

9 **SECTION 4.(c)** The Department of Administration and Department of Health and
10 Human Services shall evaluate the recommended uses of the Dorothea Dix Property identified
11 in the 2007 State Government Facilities Master Plan and report their findings to the General
12 Assembly by March 15, 2014, along with any request for authority or appropriation to
13 implement all or any portion of Section 8 of the 2007 State Government Facilities Master Plan.

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