

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-50
SENATE BILL 466

AN ACT TO MODIFY CERTAIN PROVISIONS CONCERNING THE ECONOMIC
DEVELOPMENT PARTNERSHIP OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-431.01(b) reads as rewritten:

"(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The contract entered into pursuant to this section between the Department and the Economic Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143 of the General Statutes and G.S. 143C-6-23. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

- ...
- (4) The administration of funds or grants received from the federal government or its ~~agencies~~ agencies, except for the following:
- a. The State Trade and Export Promotion Program.
 - b. The Manufacturing Extension Program."

SECTION 1.1. G.S. 143B-431.01(b), as rewritten by subsection (a) of this section, reads as rewritten:

"(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The contract entered into pursuant to this section between the Department and the Economic Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143 of the General Statutes and G.S. 143C-6-23. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

- ...
- (5) The administration of a site certification program. Nothing in this subdivision prohibits the contracting of responsibility for creating or maintaining a Web site with data on unutilized or underutilized properties in the State with potential commercial or industrial reuses."



SECTION 2. G.S. 143B-431.01 reads as rewritten:

"§ 143B-431.01. Department of Commerce – contracting of functions.

...
(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

- (1) At least 45 days prior to entering into or amending in a nontechnical manner a contract authorized by this section, the Department shall submit the contract or amendment, along with a detailed explanation of the contract or amendment, to the chairs of both the Senate Committee on Appropriations/Base Budget and the House of Representatives Committee on Appropriations, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, ~~and~~ the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources-Resources, and the Fiscal Research Division.
- (2) The nonprofit corporation adheres to the following governance provisions related to its governing board:
 - a. The board shall be composed of 17-18 voting members as follows: the Secretary of Commerce, as an ex officio member, eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

...
 - b. The nonprofit corporation shall comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.
 - c. No State ~~employee-employee~~, other than the Secretary of Commerce, may serve on the board.
 - d. The board shall meet at least quarterly at the call of its chair. ~~Each quarter and upon request, the board shall report to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's economic development.~~
 - e. The board is required to perform the following duties if the Department contracts pursuant to this section for the performance of the Secretary's responsibilities under G.S. 143B-434.01:
 1. To provide advice concerning economic and community development planning for the State, including a strategic business facilities development analysis of existing, available buildings or shell or special-use buildings and sites.

2. To recommend economic development policy to ~~the Secretary of Commerce, the General Assembly, Assembly and the~~ Governor.

...

(i) Prohibition. – A State officer or ~~employee, other than the Secretary of Commerce,~~ employee shall not solicit funds for a North Carolina nonprofit corporation with which the Department contracts pursuant to this section. ~~The Secretary of Commerce may solicit funds for the nonprofit corporation pursuant to G.S. 163A-211(b)(5).~~

...."

SECTION 3.(a) G.S. 143B-431.01(e)(10) reads as rewritten:

"(10) A provision limiting the term of renewal of the contract to no more than five three years. ~~The term of the contract may be extended in one year increments up to four times after no less than four-fifths of the original contract term has passed.~~ In the event of renewal, the Department shall provide notice of intention to renew the contract for the initial renewal no less than five months prior to the expiration of the remaining term of the contract, and the Department shall provide notice of intention to renew the contract for a subsequent renewal no less than one year prior to the expiration of the remaining term of the contract, including the term of any extension. A contract extension may not extend the remaining term of the contract, including the term of the extension, to more than two years. ~~Nothing in this subdivision shall be construed as a prohibition against entering into a new contract with the nonprofit corporation.~~ four years."

SECTION 3.(b) Effective for any contract in effect on or after January 1, 2020, G.S. 143B-431.01(e)(10), as amended by subsection (a) of this section, reads as rewritten:

"(10) A provision limiting the term of renewal of the contract to no more than three years. In the event of renewal, the Department shall provide notice of intention to renew the contract for the initial renewal no less than five months prior to the expiration of the remaining term of the contract, and the Department shall provide notice of intention to renew the contract for a subsequent renewal no less than one year prior to the expiration of the remaining term of the contract, including the term of any extension. A contract extension may not extend the remaining term of the contract, including the term of the extension, to more than four years. A contract entered into under this section shall be on a calendar year basis."

SECTION 4. G.S. 143B-431.01(e)(14) reads as rewritten:

"(14) A provision ~~requiring~~ allowing the nonprofit corporation to receive funds from fund-raising efforts and sources other than State ~~funds an amount totaling at least five million seven hundred fifty thousand dollars (\$5,750,000) during the term of the contract to support operations and functions of the corporation. The corporation shall raise at least seven hundred fifty thousand dollars (\$750,000) during the first year of the term of the contract and shall raise at least one million two hundred fifty thousand dollars (\$1,250,000) during each subsequent year of the term of the contract. Amounts raised prior to entering the contract or during a year preceding the current year of the contract shall not apply to the amount required to be raised during the current year.~~ funds."

SECTION 5. Except as otherwise provided, Sections 1, 2, and 3 of this act are effective when this act becomes law and apply to contracts existing, entered into, and renewed on or after that date. Notwithstanding the limitation on the term of renewal, as provided in G.S. 143B-431.01(e)(10), as amended by this act, the initial term of renewal of an existing contract may be for no more than three years plus the remainder of the calendar year in which the contract is renewed. The remainder of this act is effective when it becomes law, and Sections 1.1 and 4 apply to contracts entered into or renewed on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2019.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:33 p.m. this 26th day of June, 2019