

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 446

Short Title: D.O.T. Contract Letting Changes/AB.

(Public)

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Sponsors: Representatives Miner; Buchanan and Sexton.

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Referred to: Transportation.

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March 9, 1995

A BILL TO BE ENTITLED

AN ACT MODIFYING CONTRACT LETTING PROCEDURES AND LIMITATIONS  
APPLICABLE TO THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.1 reads as rewritten:

**"§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

(a) All contracts over ~~three hundred thousand dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal-aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. The Department of Transportation shall use only the contract provisions provided in the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act.

1 (b) In those cases in which the amount of work to be let to contract for highway  
2 ~~construction—construction, maintenance, or repair is three hundred thousand dollars~~  
3 ~~(\$300,000) five hundred thousand dollars (\$500,000)~~ or less, at least three informal bids  
4 shall be solicited. The term 'informal bids' is defined as bids in writing, received pursuant  
5 to a written request, without public advertising. All such contracts shall be awarded to  
6 the lowest responsible bidder. The Secretary of Transportation shall keep a record of all  
7 bids submitted, which record shall be subject to public inspection at any time after the  
8 bids are opened.

9 (c) The ~~construction—construction, maintenance, and repair of ferryboats and all~~  
10 other marine floating equipment and the construction and repair of all types of docks by  
11 the Department of Transportation shall be deemed highway ~~construction—construction,~~  
12 maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Article 1 of  
13 Chapter 143, 'The Executive Budget Act.' In cases of a written determination by the  
14 Secretary of Transportation that the requirement for compatibility does not make public  
15 advertising feasible for the repair of ferryboats, the public advertising as well as the  
16 soliciting of informal bids may be waived.

17 (d) The ~~construction—construction, maintenance, and repair of the highway rest area~~  
18 buildings and facilities, weight stations and the Department of Transportation's  
19 participation in the construction of welcome center buildings shall be deemed highway  
20 ~~construction—construction, maintenance, or repair for the purpose of G.S. 136-28.1 and~~  
21 136-28.3 and Article 1 of Chapter 143 of the General Statutes, 'The Executive Budget  
22 Act.'

23 (e) The Department of Transportation may enter into contracts for ~~construction~~  
24 construction, maintenance, or repair without complying with the bidding requirements of  
25 this section upon a determination of the Secretary of Transportation or the State Highway  
26 Administrator that an emergency exists and that it is not feasible or not in the public  
27 interest for the Department of Transportation to comply with the bidding requirements.

28 (f) The Department of Transportation is required to solicit proposals under rules  
29 and regulations published by the Department of Transportation for all contracts for  
30 professional engineering services and other kinds of professional or specialized services  
31 necessary in connection with highway ~~construction—construction, maintenance, or repair~~  
32 that are over ten thousand dollars (\$10,000). The right to reject any and all proposals is  
33 reserved to the Board of Transportation, but the Board of Transportation may consult  
34 with the Advisory Budget Commission before awarding any such contract.

35 (g) The Department of Transportation may enter into contracts for research and  
36 development with educational institutions and nonprofit organizations without soliciting  
37 bids or proposals.

38 (h) The Department of Transportation may enter into contracts for applied research  
39 and experimental work without soliciting bids or proposals; provided, however, that if the  
40 research or work is for the purpose of testing equipment, materials, or supplies, the  
41 provisions of Article 3 of Chapter 143 of the General Statutes shall apply. The  
42 Department of Transportation is encouraged to solicit proposals when contracts are  
43 entered into with private firms when it is in the public interest to do so.

1       (i)     The Department of Transportation may negotiate and enter into contracts with  
2 public utility companies for the lease, purchase, installation, and maintenance of  
3 generators for electricity for its ferry repair facilities."

4             Sec. 2. This act is effective upon ratification.