

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 192
Appropriations/Base Budget Committee Substitute Adopted 7/7/06

Short Title: UNC Construction Projects.

(Public)

Sponsors:

Referred to:

February 23, 2005

A BILL TO BE ENTITLED

AN ACT TO MODIFY CERTAIN REVIEW PROCEDURES FOR UNIVERSITY OF
NORTH CAROLINA CONSTRUCTION CONTRACTS AND CAPITAL
IMPROVEMENT PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-31-40(b) reads as rewritten:

"(b) ~~No~~ Except as provided in subsection (b1) of this section and G.S. 116-31.12,
no agency or other person authorized or directed by law to select a plan and erect a
building for the use of the State or any State institution shall receive and approve of the
plan until it is submitted to and approved by the Commissioner as to the safety of the
proposed building from fire, including the property's occupants or contents. No agency
or person authorized or directed by law to select a plan or erect a building comprising
10,000 square feet or more for the use of any county, city, or school district shall
receive and approve of the plan until it is submitted to and approved by the
Commissioner as to the safety of the proposed building from fire, including the
property's occupants or contents."

SECTION 2. G.S. 58-31-40 is amended by adding a new subsection to read:

"(b1) Capital improvement projects of The University of North Carolina or any of
its constituent or affiliate institutions are not subject to subsection (b) of this section.
The Board of Governors of The University of North Carolina or a constituent or
affiliated institution may, however, submit the construction drawings and specifications
for a capital improvement project to the Commissioner to review and conduct the
required inspections for safety from fire, including the property's occupants or contents,
and for compliance with other life safety requirements in the State Building Code as
provided by G.S. 116-31.12."

SECTION 3. G.S. 116-31.11 reads as rewritten:

**"§ 116-31.11. Powers of Board regarding certain fee negotiations, contracts, and
capital improvements.**

1 (a) Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board shall, with
2 respect to the design, construction, or renovation of buildings, utilities, and other
3 property developments of The University of North Carolina ~~requiring the estimated~~
4 ~~expenditure of public money of two million dollars (\$2,000,000) or less:~~ do all of the
5 following:

6 (1) Conduct the fee negotiations for all design contracts and supervise the
7 letting of all construction and design contracts.

8 (2) Develop procedures governing the responsibilities of The University
9 of North Carolina and its affiliated and constituent institutions to
10 perform the duties of the Department of Administration and the
11 Director or Office of State Construction under G.S. 133-1.1(d) and
12 G.S. 143-341(3).

13 (3) Develop procedures and reasonable limitations governing the use of
14 open-end design agreements, subject to ~~G.S. 143-64.34~~ and the
15 ~~approval of the State Building Commission.~~ G.S. 143-64.34.

16 (a1) Notwithstanding G.S. 143-341(3), the Board shall develop procedures
17 governing the design review of buildings built by private entities that are initiated as
18 part of a purchase-back or lease-back agreement with the Board of Governors of The
19 University of North Carolina or with one of its constituent or affiliate institutions. A
20 design review conducted in accordance with this subsection for a project that is part of a
21 purchase-back or lease-back agreement with the Board of Governors or with one of its
22 constituent or affiliate institutions shall not be subject to any further design review.

23 (b) The Board may delegate its authority under ~~subsection (a)~~ subsections (a) and
24 (a1) of this section to a constituent or affiliated institution if the institution is qualified
25 under guidelines adopted by the Board and approved by the State Building Commission
26 and the Director of the Budget Board. In delegating its authority under subsection (a) of
27 this section, the Board may establish benchmarks for each constituent or affiliate
28 institution. The Board shall set the benchmark for each constituent or affiliate institution
29 from time to time. In setting a constituent or affiliate institution's benchmark in
30 accordance with this subsection, the Board shall consider the institution's overall
31 capabilities and whether the institution has the management staff and internal financial
32 controls that will enable it to administer competently and responsibly all additional
33 management authority and discretion to be delegated to it. A constituent or affiliate
34 institution is not exempt from G.S. 143-341(3) unless the institution has an express
35 delegation of authority from the Board of Governors. A constituent or affiliate
36 institution is not exempt from G.S. 143-341(3) for any project that exceeds the
37 benchmark set for the institution in accordance with this subsection.

38 (c) The University shall use the standard contracts for design and construction
39 currently in use for State capital improvement projects by the Office of State
40 Construction of the Department of Administration.

41 ~~(d) A contract may not be divided for the purpose of evading the monetary limit~~
42 ~~under this section.~~

43 (e) Notwithstanding any other provision of this Chapter, the Department of
44 Administration shall not be the awarding authority for contracts awarded pursuant to

1 ~~this section~~; except as provided by this subsection and subsection (b) of this
2 section. If a constituent or affiliate institution is not exempt from G.S. 143-341(3), or if
3 the project exceeds the benchmark set for the institution under subsection (b) of this
4 section, then the Department of Administration shall be the awarding authority for the
5 contract.

6 (f) The Board of Governors shall annually report to the ~~State Building~~
7 ~~Commission~~ Director of the Budget the following:

- 8 (1) A list of projects governed by this section.
- 9 (2) The estimated cost of each project along with the actual cost.
- 10 (3) The name of each person awarded a contract under this section.
- 11 (4) Whether the person or business awarded a contract under this section
12 meets the definition of "minority business" or "minority person" as
13 defined in G.S. 143-128.2(g)."

14 **SECTION 4.** Article 1 of Chapter 116 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 116-31.12. Safety review of certain capital improvement projects.**

17 (a) The Board of Governors of The University of North Carolina shall develop
18 procedures governing the review of construction drawings and specifications and the
19 required inspections for any capital improvement project initiated by the Board or any
20 constituent or affiliate institution regarding the safety of the proposed project from fire,
21 including the project's occupants or contents, and the project's compliance with other
22 life safety requirements in the State Building Code.

23 (b) In accordance with this section, the Board of Governors of The University of
24 North Carolina or any constituent or affiliated institution that initiates a capital
25 improvement project shall submit the construction drawings and specifications for the
26 project to the appropriate authority for review regarding the safety of the project from
27 fire, including the project's occupants or contents and the project's compliance with
28 other life safety requirements in the State Building Code. The construction drawings
29 and specifications may, in the discretion of the Board or constituent or affiliate
30 institution as appropriate, be submitted to any of the following for the safety review and
31 required inspections: (i) the Commissioner of Insurance pursuant to G.S. 58-31-40(b1);
32 (ii) the appropriate local government; or (iii) an independent, certified
33 code-enforcement official. When construction drawings and specifications are
34 submitted, reviewed, and approved under this section, no further safety review of the
35 project is required. Neither the Board or any constituent or affiliate institution shall
36 select a plan or erect a building for a capital improvement project until the construction
37 drawings and specifications for the project are reviewed and approved in accordance
38 with this section."

39 **SECTION 5.** G.S. 143-64.34(b) reads as rewritten:

40 "(b) A capital improvement project of The University of North Carolina under
41 G.S. 116-31.11 where the estimated expenditure of public money is less than three
42 hundred thousand dollars (\$300,000) is exempt from this Article if all of the following
43 apply:

- 1 (1) The architectural, engineering, or surveying services to be rendered are
- 2 under an open-end design agreement.
- 3 (2) The open-end design agreement has been publicly announced.
- 4 (3) The open-end design agreement complies with procedures adopted by
- 5 the University and approved by the State Building Commission under
- 6 G.S. 116-31.11(a)(3)."

7 SECTION 6. The catch line for G.S. 143-135.1 reads as rewritten:

8 **"§ 143-135.1. State buildings exempt from county and municipal building**
9 **requirements; consideration of recommendations by counties and**
10 **municipalities; county and municipalities authorized to**
11 **conduct certain university capital improvement project safety reviews**
12 **and inspections upon request."**

13 SECTION 7. G.S. 143-135.1 is amended by adding a new subsection to
14 read:

15 "(c1) A county or municipality that is an approved jurisdiction for local plan review
16 by the North Carolina Building Code Council may review the construction drawings
17 and specifications and conduct the required inspections for a capital improvement
18 project initiated by The University of North Carolina or one of its affiliate or constituent
19 institutions regarding the safety of the project from fire, including the project's
20 occupants or contents and the project's compliance with other life safety requirements in
21 the State Building Code as provided by G.S. 116-31.12."

22 SECTION 8. G.S. 143-341(3) reads as rewritten:

- 23 "(3) Architecture and Engineering:
- 24 a. To examine and approve all plans and specifications for the
- 25 construction or renovation of:
- 26 1. All State buildings or buildings located on State lands,
- 27 except those buildings over which a local building code
- 28 inspection department has and exercises jurisdiction; and
- 29 2. All community college buildings requiring the estimated
- 30 expenditure for construction or repair work for which
- 31 public bidding is required under G.S. 143-129 prior to
- 32 the awarding of a contract for such work; and to examine
- 33 and approve all changes in those plans and specifications
- 34 made after the contract for such work has been awarded.
- 35 b. To assist, as necessary, all agencies in the preparation of
- 36 requests for appropriations for the construction or renovation of
- 37 all State buildings.
- 38 b1. To certify that a statement of needs pursuant to G.S. 143-6 is
- 39 feasible. For purposes of this sub-subdivision, "feasible" means
- 40 that the proposed project is sufficiently defined in overall scope;
- 41 building program; site development; detailed design,
- 42 construction, and equipment budgets; and comprehensive
- 43 project scheduling so as to reasonably ensure that it may be
- 44 completed with the amount of funds requested. At the discretion

1 of the General Assembly, advanced planning funds may be
2 appropriated in support of this certification. This
3 sub-subdivision shall not apply to requests for appropriations of
4 less than one hundred thousand dollars (\$100,000).

5 c. To supervise the letting of all contracts for the design,
6 construction or renovation of all State buildings and all
7 community college buildings whose plans and specifications
8 must be examined and approved under a.2. of this subdivision.

9 d. To supervise and inspect all work done and materials used in
10 the construction or renovation of all State buildings and all
11 community college buildings whose plans and specifications
12 must be examined and approved under a.2. of this subdivision;
13 and no such work may be accepted by the State or by any State
14 agency until it has been approved by the Department.

15 ~~Except for sub-subdivisions b. and b1. of this subdivision, this~~
16 ~~subdivision does not apply to the design, construction, or renovation of~~
17 ~~projects by The University of North Carolina pursuant to~~
18 ~~G.S. 116-31.11."~~

19 **SECTION 9.** The Board of Governors of The University of North Carolina
20 shall report to the Director of the Budget, to the Joint Legislative Oversight Committee
21 on Capital Improvements, and to the Chairs of the Appropriations Committees of the
22 Senate and House of Representatives by February 1, 2007, regarding the procedures
23 developed by The University of North Carolina to implement this act.

24 **SECTION 10.** This act shall apply to contracts for the design, construction,
25 or renovation of buildings, utilities, and other property developments of The University
26 of North Carolina entered into by The University of North Carolina on or after January
27 1, 2007.