

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 362

Short Title: Dept. of Public Safety Changes.-AB (Public)

Sponsors: Representative Faircloth (Primary Sponsor).

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

Referred to: Finance, if favorable, Appropriations.

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND SUBSTANTIVE CHANGES
RELATING TO THE DEPARTMENT OF PUBLIC SAFETY; AND TO AUTHORIZE
THE SECRETARY OF ADMINISTRATION TO CHANGE CERTAIN BENCHMARKS
RELATING TO PURCHASES AND CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-196.3 is repealed.

SECTION 2. G.S. 143-134 reads as rewritten:

"§ 143-134. **Applicable to Department of Transportation and ~~Division of Adult Correction of the Department of Public Safety~~; exceptions; all contracts subject to review by Attorney General and State Auditor.**

(a) This Article shall apply to the Department of Transportation and ~~the Division of Adult Correction of the Department of Public Safety~~ except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by ~~the Division of Adult Correction of the Department of Public Safety~~ can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting such repair or building construction to contract, the provisions of this Article shall not apply to such repair or construction.

(b) Notwithstanding the provisions of subsection (a) of this section, the Department of Transportation and ~~the Division of Adult Correction of the Department of Public Safety~~ shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or ~~the Division of Adult Correction of the Department of Public Safety~~ a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation or the Department of Public Safety may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor ~~the Division of Adult Correction of the Department of Public Safety~~ shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 3. G.S. 143B-600 reads as rewritten:

"§ 143B-600. **Organization.**



1 (a) There is established the Department of Public Safety. The head of the Department of
2 Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. ~~The~~
3 ~~Department shall consist of six divisions and an Office of External Affairs as follows:~~

4 (1) ~~The Division of Adult Correction, which shall consist of the former~~
5 ~~Department of Correction. The head of the Division of Adult Correction~~
6 ~~shall be a chief deputy secretary, who shall be responsible for prisons,~~
7 ~~community corrections, correction enterprises, alcoholism and chemical~~
8 ~~dependency treatment, offender records management, and extradition.~~

9 (2) ~~The Division of Juvenile Justice, which shall consist of the former~~
10 ~~Department of Juvenile Justice and Delinquency Prevention. The head of the~~
11 ~~Division of Juvenile Justice shall be a chief deputy secretary, who shall be~~
12 ~~responsible for youth detention centers, court services, community~~
13 ~~programs, and youth development centers.~~

14 (3) ~~The Division of Law Enforcement, which shall consist of the following~~
15 ~~former divisions of the Department of Crime Control and Public Safety: the~~
16 ~~State Highway Patrol, the Alcohol Law Enforcement Division, and the State~~
17 ~~Capitol Police Division. The head of the Division of Law Enforcement shall~~
18 ~~be a chief deputy secretary.~~

19 (4) ~~The Division of Emergency Management, which shall consist of the former~~
20 ~~Division of Emergency Management of the Department of Crime Control~~
21 ~~and Public Safety and the Civil Air Patrol.~~

22 (5) ~~The North Carolina National Guard.~~

23 (6) ~~The Division of Administration, the head of which shall be a chief deputy~~
24 ~~secretary responsible for all administrative functions, including fiscal,~~
25 ~~auditing, information technology, purchasing, human resources, training,~~
26 ~~engineering, and facility management functions for the Department. Within~~
27 ~~the Division, there is established a Grants Management Section, which shall~~
28 ~~consist of the Governor's Crime Commission and the Juvenile Crime~~
29 ~~Prevention Council Fund. There is also established within the Division a~~
30 ~~Research and Planning Section responsible for statistics, research, and~~
31 ~~planning to facilitate regular improvement in the structure, administration,~~
32 ~~and programs of the Department of Public Safety. The Research and~~
33 ~~Planning Section may cooperate with and seek the cooperation of public and~~
34 ~~private agencies, institutions, officials, and individuals in the development~~
35 ~~and conduct of programs to compile and analyze statistics and to conduct~~
36 ~~research in criminology and correction. The Research and Planning Section~~
37 ~~shall be the single State agency responsible for the coordination and~~
38 ~~implementation of ex-offender reentry initiatives.~~

39 (7) ~~The Office of External Affairs, which shall be responsible for federal and~~
40 ~~State liaison activities, victim services, the Victim Services Warehouse and~~
41 ~~the storage and management of evidence and other contents housed in the~~
42 ~~warehouse, and public affairs.~~

43 (b) The powers and duties of the deputy secretaries, secretaries, directors, and the
44 respective divisions of the Department shall be subject to the direction and control of the
45 Secretary of Public Safety. The Secretary may assign a Commissioner to oversee the Divisions
46 of Prisons, Community Corrections, and Juvenile Justice, as well as the following auxiliary
47 services: alcoholism and chemical dependency treatment, offender records management, and
48 extradition."

49 **SECTION 4.** G.S. 143B-602(8) is amended by adding a new sub-subdivision to
50 read:

1 "(8) Other powers and duties. – The Secretary shall have the following additional
2 powers and duties:

3 ...

4 h. Being responsible for federal and State liaison activities, victim
5 services, the Victim Services Warehouse, and the storage and
6 management of evidence and other contents housed in the
7 warehouse, and public affairs."

8 **SECTION 5.** G.S. 143B-710 is repealed.

9 **SECTION 6.** G.S. 143B-806 reads as rewritten:

10 **"§ 143B-806. Duties and powers of the Division of Juvenile Justice of the Department of**
11 **Public Safety.**

12 ~~(a) The head of the Division is a Chief Deputy Secretary appointed by the Secretary of~~
13 ~~Public Safety. The Chief Deputy Secretary shall have the powers and duties conferred by this~~
14 ~~Chapter, delegated by the Secretary of Public Safety or the Governor, and conferred by the~~
15 ~~Constitution and laws of this State. The Secretary of Public Safety shall be responsible for~~
16 ~~effectively and efficiently organizing the Division to promote the policy of the State as set forth~~
17 ~~in this Part and to promote public safety and to prevent the commission of delinquent acts by~~
18 ~~juveniles.~~

19 (b) ~~The Chief Deputy Secretary~~Director of Juvenile Justice shall have the following
20 powers and duties:

21 "

22 **SECTION 7.** G.S. 148-132 reads as rewritten:

23 **"§ 148-132. Distribution of products and services.**

24 The Section of Correction Enterprises of the Division of Adult Correction is empowered
25 and authorized to market and sell products and services produced by Correction Enterprises to
26 any of the following entities:

- 27 (1) Any public agency or institution owned, managed, or controlled by the State.
- 28 (2) Any county, city, or town in this State.
- 29 (3) Any federal, state, or local public agency or institution in any other state of
30 the union.
- 31 (4) An entity or organization that has tax-exempt status pursuant to section
32 501(c)(3) of the Internal Revenue Code ~~and also receives local, state, or~~
33 ~~federal grant funding.~~Code.
- 34 (5) Any current employee or retiree of the State of North Carolina or of a unit of
35 local government of this State, verified through State-issued identification,
36 or through proof of retirement status, but purchases by a State or local
37 governmental employee or retiree may not exceed two thousand five
38 hundred dollars (\$2,500) during any calendar year. Products purchased by
39 State and local governmental employees and retirees under this section may
40 not be resold.
- 41 (6) Private contractors when the goods purchased will be used to perform work
42 under a contract with a public agency or a nonprofit organization."

43 **SECTION 8.** G.S. 143-53(a)(1) reads as rewritten:

44 **"§ 143-53. Rules.**

45 (a) The Secretary of Administration may adopt rules governing the following:

- 46 (1) Prescribing the routine and procedures to be followed in canvassing bids and
47 awarding contracts, and for reviewing decisions made pursuant thereto, and
48 the decision of the reviewing body shall be the final administrative review.
49 The Division of Purchase and Contract shall review and decide a protest on a
50 contract valued ~~at twenty five thousand dollars (\$25,000) or more above the~~
51 benchmark established pursuant to G.S. 143-53.1 for each agency. The

1 Secretary shall adopt rules or criteria governing the review of and decision
2 on a protest on a contract with a value of less than twenty-five thousand
3 dollars (\$25,000) by the agency that awarded the contract. the agency's
4 benchmark."

5 **SECTION 9.** G.S. 143-53.1 reads as rewritten:

6 **"§ 143-53.1. Setting of benchmarks; increase by Secretary.**

7 (a) On and after ~~July 1, 1997~~, July 1, 2014, the procedures prescribed by G.S. 143-52
8 with respect to competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2)
9 with respect to rule making by the Secretary of Administration for competitive bidding shall be
10 ~~no more than twenty five thousand dollars (\$25,000); provided, the Secretary of Administration~~
11 ~~may, in his or her discretion, increase the benchmarks effective as of the beginning of any fiscal~~
12 ~~biennium of the State commencing after June 30, 1999, in an amount whose increase,~~
13 ~~expressed as a percentage, does not exceed the rise in the Consumer Price Index during the~~
14 ~~fiscal biennium next preceding the effective date of the benchmark increase.~~ based on the
15 agency's capacity to evaluate contracts below a certain benchmark value, as determined by the
16 State Purchasing Officer and approved by the Secretary of Administration. When an agency's
17 benchmark is raised, the new benchmark shall become effective at the beginning of the fiscal
18 year after the Secretary approves it. For a special responsibility constituent institution of The
19 University of North Carolina, the benchmark prescribed in this section shall be as provided in
20 G.S. 116-31.10. For community colleges, the benchmark prescribed in this section shall be as
21 provided in G.S. 115D-58.14.

22 (b) Expired."

23 **SECTION 10.** G.S. 166A-19.11 reads as rewritten:

24 **"§ 166A-19.11. Powers of the Secretary of Public Safety.**

25 The Secretary shall be responsible to the Governor for State emergency management
26 activities. The Secretary shall have the following powers and duties as delegated by the
27 Governor:

- 28 (1) To activate the State and local plans applicable to the areas in question and
29 to authorize and direct the deployment and use of any personnel and forces
30 to which the plan or plans apply, and the use or distribution of any supplies,
31 equipment, materials, and facilities available pursuant to this Article or any
32 other provision of law.
- 33 (2) To adopt the rules to implement those provisions of this Article that deal
34 with matters other than those that are exclusively local.
- 35 (3) To develop a system to produce a preliminary damage assessment from
36 which the Secretary will recommend the appropriate level of disaster
37 declaration to the Governor. The system shall, at a minimum, consider
38 whether the damage involved and its effects are of such a severity and
39 magnitude as to be beyond the response capabilities of the local government
40 or political subdivision.
- 41 (3a) To authorize expenditures of up to two million dollars (\$2,000,000) of funds
42 available for response to an emergency prior to the declaration of a state of
43 emergency. The Secretary shall report to the Joint Legislative Commission
44 on Governmental Operations within 30 days of authorizing an expenditure
45 pursuant to this subdivision.
- 46 (4) Additional authority, duties, and responsibilities as may be prescribed by the
47 Governor. The Secretary may subdelegate his authority to the appropriate
48 member of the Secretary's department."

49 **SECTION 11.** G.S. 20-185 is amended by adding a new subsection to read:

1 "(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and
2 not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement
3 personnel shall retire not later than the end of the month in which their 62nd birthday falls."

4 **SECTION 12.** This act is effective when it becomes law.