

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 132

Government Performance Audit Select Committee Substitute Adopted 4/1/93

Short Title: Minority Business Coordinator.

(Public)

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Sponsors:

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Referred to: Appropriations.

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February 15, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GOVERNMENT  
PERFORMANCE AUDIT COMMITTEE REGARDING PURCHASING AND  
CONTRACTS.

The General Assembly of North Carolina enacts:

--MINORITY BUSINESS COORDINATOR.

Section 1.(a) G.S. 143-49 reads as rewritten:

**"§ 143-49. Powers and duties of Secretary.**

The Secretary of Administration shall have power and authority, and it shall be his duty, subject to the provisions of this Article:

- (1) To canvass sources of supply, and to purchase or to contract for the purchase, lease and lease-purchase of all supplies, materials, equipment and other tangible personal property required by the State government, or any of its departments, institutions or agencies under competitive bidding or otherwise as hereinafter provided.
- (2) To establish and enforce specifications which shall apply to all supplies, materials and equipment to be purchased or leased for the use of the State government or any of its departments, institutions or agencies.
- (3) To purchase or to contract for, by sealed, competitive bidding or other suitable means, all contractual services and needs of the State government, or any of its departments, institutions, or agencies; or to

1 authorize any department, institution or agency to purchase or contract  
2 for such services.

3 When the award of any contract for contractual services exceeding  
4 a cost of one hundred thousand dollars (\$100,000) requires negotiation  
5 with prospective contractors, the Secretary shall request and the  
6 Attorney General shall assign a representative of the office of the  
7 Attorney General to assist in negotiation for the award of the contract.  
8 It shall be the duty of such representative to assist and advise in  
9 obtaining the most favorable contract for the State, to evaluate all  
10 proposals available from prospective contractors for that purpose, to  
11 interpret proposed contract terms and to advise the Secretary or his  
12 representatives of the liabilities of the State and validity of the contract  
13 to be awarded. All contracts and drafts of such contracts shall be  
14 prepared by the office of the Attorney General and copies thereof shall  
15 be retained by such office for a period of three years following the  
16 termination of such contracts. The term 'contractual services' as used in  
17 this subsection shall mean work performed by an independent  
18 contractor requiring specialized knowledge, experience, expertise or  
19 similar capabilities wherein the service rendered does not consist  
20 primarily of acquisition by this State of equipment or materials and the  
21 rental of equipment, materials and supplies. The term 'negotiation' as  
22 used herein shall not be deemed to refer to contracts entered into or to  
23 be entered into as a result of a competitive bidding process.

24 (4) To have general supervision of all storerooms and stores operated by  
25 the State government, or any of its departments, institutions or  
26 agencies and to have supervision of inventories of all tangible personal  
27 property belonging to the State government, or any of its departments,  
28 institutions or agencies. The duties imposed by this subdivision shall  
29 not relieve any department, institution or agency of the State  
30 government from accountability for equipment, materials, supplies and  
31 tangible personal property under its control.

32 (5) To make provision for or to contract for all State printing, including all  
33 printing, binding, paper stock and supplies or materials in connection  
34 with the same.

35 (6) To make available to nonprofit corporations operating charitable  
36 hospitals, to local nonprofit community sheltered workshops or centers  
37 that meet standards established by the Division of Vocational  
38 Rehabilitation of the Department of Human Resources, to private  
39 nonprofit agencies licensed or approved by the Department of Human  
40 Resources as child placing agencies or residential child-care facilities,  
41 and to counties, cities, towns, governmental entities and other  
42 subdivisions of the State and public agencies thereof in the expenditure  
43 of public funds, the services of the Department of Administration in  
44 the purchase of materials, supplies and equipment under such rules,

1 regulations and procedures as the Secretary of Administration may  
 2 adopt. In adopting rules and regulations any or all provisions of this  
 3 Article may be made applicable to such purchases and contracts made  
 4 through the Department of Administration, and in addition the rules  
 5 and regulations shall contain a requirement that payment for all such  
 6 purchases be made in accordance with the terms of the contract. Prior  
 7 to adopting rules and regulations under this subdivision, the Secretary  
 8 of Administration may consult with the Advisory Budget Commission.

9 (7) To designate an employee of the Purchase and Contract Division to  
 10 serve as a coordinator for the conduct of outreach programs designed  
 11 to encourage participation by small, minority, physically handicapped,  
 12 and women contractors in State purchasing of goods and services. The  
 13 minority business coordinator shall:

- 14 a. Conduct vendor fairs and seminars and prepare information  
 15 packets that provide such businesses with instructions on doing  
 16 business with the State; and  
 17 b. Coordinate with the Small Business Administration and the  
 18 Minority Business Development Administration to facilitate  
 19 participation by such businesses."

20 (b) This section is effective upon ratification.

21 --ANNUAL FINANCIAL MODEL REQUIRED.

22 Sec. 2. (a) G.S. 143-15.1 reads as rewritten:

23 "**§ 143-15.1. Current Operations Appropriations Act.**

24 The General Assembly shall enact the Current Operations Appropriations Act by  
 25 June 15 of odd-numbered years and by June 30 of even-numbered years in which a  
 26 Current Operations Appropriations Act is enacted. The Current Operations  
 27 Appropriations Act shall state the amount of General Fund appropriations availability  
 28 upon which the General Fund budget is based. The statement of availability shall list  
 29 separately the beginning General Fund credit balance, General Fund revenues, and any  
 30 other components of the availability amount.

31 The Current Operations Appropriations Act shall incorporate by reference the  
 32 General Fund Financial Model. The General Assembly shall set out with the financial  
 33 model the assumptions of the model and the impact over five years on the budget that is  
 34 anticipated by the model.

35 The General Fund operating budget appropriations, including appropriations for  
 36 local tax reimbursements and local tax sharing, for the second year in a Current  
 37 Operations Appropriations Act that contains a biennial budget shall not be more than  
 38 two percent (2%) greater than the General Fund operating budget appropriations for the  
 39 first year of the biennial budget."

40 (b) This section is effective upon ratification.

41 --IMPROVE STATE TERM CONTRACTS.

42 Sec. 3. (a) G.S. 143-53 reads as rewritten:

43 "**§ 143-53. Rules.**

44 The Secretary of Administration may adopt rules governing the following:

- 1 (1) Prescribing the routine and procedures to be followed in canvassing  
2 bids and awarding contracts, and for reviewing decisions made  
3 pursuant thereto, and the decision of the reviewing body shall be the  
4 final administrative review.
- 5 (2) Prescribing routine for securing bids on items that do not exceed the  
6 bid value benchmark established under the provisions of G.S. 143-  
7 53.1.
- 8 (2a) Prescribing the terms and conditions under which agencies, with  
9 respect to commodities covered by term contracts, may
- 10 a. Purchase a commodity off of a term contract subject to the  
11 expenditure threshold established by the Secretary for the  
12 commodity; and
- 13 b. Make volume purchases, which exceed limits established by the  
14 Secretary, under separate contracts.
- 15 A commodity may be purchased off of the term contract pursuant  
16 to this subdivision only if its purchase price is less than that  
17 established for the item under the term contract. The maximum  
18 expenditure threshold under sub-subdivision a. of this subdivision for  
19 any commodity is five hundred dollars (\$500.00).
- 20 All purchases made pursuant to this subdivision shall be reported to  
21 the Department in the manner required by the Secretary.
- 22 (3) Defining contractual services for the purposes of G.S. 143-49 (3).
- 23 (4) Prescribing items and quantities, and conditions and procedures,  
24 governing the acquisition of goods and services which may be  
25 delegated to departments, institutions and agencies, notwithstanding  
26 any other provisions of this Article.
- 27 (5) Prescribing conditions under which purchases and contracts for the  
28 purchase, rental or lease of equipment, materials, supplies or services  
29 may be entered into by means other than competitive bidding.
- 30 (6) Prescribing conditions under which partial, progressive and multiple  
31 awards may be made.
- 32 (7) Prescribing conditions and procedures governing the purchase of used  
33 equipment, materials and supplies.
- 34 (8) Providing conditions under which bids may be rejected in whole or in  
35 part.
- 36 (9) Prescribing conditions under which information submitted by bidders  
37 or suppliers may be considered proprietary or confidential.
- 38 (10) Prescribing procedures for making purchases under programs  
39 involving participation by two or more levels or agencies of  
40 government, or otherwise with funds other than State-appropriated.
- 41 (11) Prescribing procedures to encourage the purchase of North Carolina  
42 farm products, and products of North Carolina manufacturing  
43 enterprises.
- 44 (12) Repealed by Session Laws 1987, c. 827, s. 216.

1 The purpose of rules promulgated hereunder shall be to promote sound purchasing  
2 management.

3 Prior to adopting rules under this section, the Secretary of Administration may  
4 consult with the Advisory Budget Commission."

5 (b) This section is effective upon ratification and shall expire June 30, 1995.

6 --SURPLUS PROPERTY SALE PROCEEDS.

7 Sec. 4.(a) G.S. 143-64.05 reads as rewritten:

8 "**§ 143-64.05. Warehousing, transfer, etc., charges.**

9 The State agency for surplus property may assess and collect service charges or fees  
10 for the acquisition, receipt, warehousing, distribution or transfer of any State surplus  
11 property. All receipts from the transfer or sale of surplus, obsolete, or unused  
12 equipment of State departments, institutions, and agencies, ~~that are supported by~~  
13 ~~appropriations from the General Fund, except where the receipts have been anticipated for, or~~  
14 ~~budgeted against the cost of replacements, shall be credited by the Secretary to the Office of~~  
15 ~~State Treasurer, Nontax Revenues.~~ agencies, shall be available to the State departments,  
16 institutions, and agencies that reported the surplus for the purchase of fixed assets and  
17 shall be in addition to all other funds appropriated for fixed assets."

18 (b) This section becomes effective July 1, 1993.

19 --COMBINE NC/US SURPLUS PROPERTY.

20 Sec. 5.(a) The Department of Administration shall study the feasibility of  
21 consolidating the property units of the State Surplus Property Section and the Federal  
22 Surplus Property Section at a suitable site. In the course of the study the Department  
23 shall consider enhanced service the consolidation would provide to customers, the funds  
24 that the State would realize from the sale of the State facility, annual savings that would  
25 result from decreased staffing required by a consolidated facility, and the feasibility and  
26 cost of constructing sufficient additional space at a suitable facility to house a  
27 consolidated facility.

28 The Department shall report to the General Assembly on the results of this  
29 study before March 15, 1994.

30 (b) This section is effective upon ratification.