

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 808\*  
Committee Substitute Favorable 5/13/09  
Senate Education/Higher Education Committee Substitute Adopted 6/3/09

Short Title: Com. Coll. Const. Proc./DOI Code Enf. Clarif.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE THE CONSTRUCTION PROCESS FOR COMMUNITY COLLEGE  
3 FACILITIES MORE EFFICIENT AND TO CLARIFY THAT ARCHITECTURE AND  
4 ENGINEERING PLANS AND SPECIFICATION REVIEW BY THE DEPARTMENT OF  
5 ADMINISTRATION SHALL NOT BE CONSTRUED AS PLANS REVIEW FOR CODE  
6 ENFORCEMENT BY THE DEPARTMENT OF INSURANCE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 115D-4 reads as rewritten:

9 "**§ 115D-4. Establishment of ~~institutions; capital improvements; institutions.~~**

10 The establishment of all community colleges shall be subject to the approval of the General  
11 Assembly upon recommendation of the State Board of Community Colleges. In no case,  
12 however, shall favorable recommendation be made by the State Board for the establishment of  
13 an institution until it has been demonstrated to the satisfaction of the State Board that a genuine  
14 educational need exists within a proposed administrative area, that existing public and private  
15 post-high school institutions in the area will not meet the need, that adequate local financial  
16 support for the institution will be provided, that public schools in the area will not be affected  
17 adversely by the local financial support required for the institution, and that funds sufficient to  
18 provide State financial support of the institution are available.

19 ~~The expenditures of any State funds for any capital improvements of existing institutions~~  
20 ~~shall be subject to the prior approval of the State Board of Community Colleges and the~~  
21 ~~Governor. The expenditure of State funds at any institution herein authorized to be approved by~~  
22 ~~the State Board shall be subject to the terms of the State Budget Act unless specifically~~  
23 ~~otherwise provided in this Chapter."~~

24 SECTION 2. Article 1 of Chapter 115D of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and**  
27 **capital improvements.**

28 (a) The expenditures of any State funds for any capital improvements of existing  
29 institutions shall be subject to the prior approval of the State Board of Community Colleges and  
30 the Governor. The expenditure of State funds at any institution herein authorized to be  
31 approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State  
32 Budget Act unless specifically otherwise provided in this Chapter.

33 (b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges shall,  
34 with respect to design, construction, repair, or renovation of buildings, utilities, and other State  
35 or non-State funded property developments of the North Carolina Community College System



1 requiring the estimated expenditure of public money of one million dollars (\$1,000,000) or  
2 less:

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

5 (2) Develop procedures governing the responsibilities of the North Carolina  
6 Community College System and its community colleges to perform the  
7 duties of the Department of Administration and the Director or Office of  
8 State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

9 (3) Use existing plans and specifications for construction projects, where  
10 feasible. Prior to designing a project, the State Board shall consult with the  
11 Department of Administration on the availability of existing plans and  
12 specifications and the feasibility of using them for a project.

13 (c) The State Board may delegate its authority under subsection (b) of this section to a  
14 community college if the community college is qualified under guidelines adopted by the State  
15 Board and approved by the State Building Commission and the Director of the Budget.

16 (d) The North Carolina Community College System shall use the standard contracts for  
17 design and construction currently in use for State capital improvement projects by the Office of  
18 State Construction of the Department of Administration.

19 (e) A contract may not be divided for the purpose of evading the monetary limit under  
20 this section.

21 (f) Notwithstanding any other provision of this Chapter, the Department of  
22 Administration shall not be the awarding authority for contracts awarded under this section.

23 (g) The State Board shall annually report to the State Building Commission the  
24 following:

25 (1) A list of projects governed by this section.

26 (2) The estimated cost of each project along with the actual cost.

27 (3) The name of each person awarded a contract under this section.

28 (4) Whether the person or business awarded a contract under this section meets  
29 the definition of "minority business" or "minority person" as defined in  
30 G.S. 143-128.2(g)."

31 **SECTION 3.** G.S. 143-341 reads as rewritten:

32 **"§ 143-341. Powers and duties of Department.**

33 The Department of Administration has the following powers and duties:

34 ...

35 (3) Architecture and Engineering:

36 a. To examine and approve all plans and specifications for the  
37 construction or renovation of:

38 1. All State buildings or buildings located on State lands, except  
39 those buildings over which a local building code inspection  
40 department has and exercises jurisdiction; and

41 2. All community college buildings requiring the estimated  
42 expenditure for construction or repair work for which public  
43 bidding is required under G.S. 143-129 prior to the awarding  
44 of a contract for such work; and to examine and approve all  
45 changes in those plans and specifications made after the  
46 contract for such work has been awarded.

47 Plans and specification review identified in this subdivision shall not be  
48 construed as plans review for code enforcement addressed in G.S. 58-31-40.

49 a1. To organize and schedule, within three weeks of designer selection  
50 and before the design contract is let, a meeting of the stakeholders for  
51 each State capital improvement project to discuss plan review

1 requirements and to define the terms of the memorandum of  
2 understanding developed by the State Building Commission pursuant  
3 to G.S. 143-135.26(2). The stakeholders shall include the funded  
4 agency, each State agency having plan review responsibilities for the  
5 project, and the selected designer. Notwithstanding the foregoing, the  
6 meeting need not be scheduled if the funded agency so requests.

7 b. To assist, as necessary, all agencies in the preparation of requests for  
8 appropriations for the construction or renovation of all State  
9 buildings.

10 b1. To certify that a statement of needs pursuant to G.S. 143C-3-3 is  
11 feasible. For purposes of this sub-subdivision, "feasible" means that  
12 the proposed project is sufficiently defined in overall scope; building  
13 program; site development; detailed design, construction, and  
14 equipment budgets; and comprehensive project scheduling so as to  
15 reasonably ensure that it may be completed with the amount of funds  
16 requested. At the discretion of the General Assembly, advanced  
17 planning funds may be appropriated in support of this certification.  
18 This sub-subdivision shall not apply to requests for appropriations of  
19 less than one hundred thousand dollars (\$100,000).

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

24 d. To supervise and inspect all work done and materials used in the  
25 construction or renovation of all State buildings and all community  
26 college buildings whose plans and specifications must be examined  
27 and approved under a.2. of this subdivision; and no such work may  
28 be accepted by the State or by any State agency until it has been  
29 approved by the Department.

30 e. To require all State agencies to use existing plans and specifications  
31 for construction projects, where feasible. Prior to designing a project,  
32 State agencies shall consult with the Department of Administration  
33 on the availability of appropriate existing plans and specifications  
34 and the feasibility of using them for a project.

35 Except for sub-subdivisions b., b1., and e. of this subdivision, this  
36 subdivision does not apply to the design, construction, or renovation of  
37 projects by The University of North Carolina pursuant to ~~G.S. 116-31.11.~~  
38 under G.S. 116-31.11, or by the North Carolina Community College System  
39 under G.S. 115D-9."

40 **SECTION 4.** This act is effective when it becomes law and applies to design,  
41 construction, repair, or renovation projects for which bids or proposals are solicited on or after  
42 April 30, 2010.