

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-119
SENATE BILL 747**

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACTIVELY MANAGE THE STATE'S PORTFOLIO OF REAL PROPERTY; TO REQUIRE MEASUREMENT OF THE CURRENT UTILIZATION OF STATE-OWNED FACILITIES; TO ENSURE THE ACCURACY OF THE REAL PROPERTY INVENTORIES MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION; AND TO ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED BEFORE LEASES ARE ENTERED INTO OR RENEWED, AS RECOMMENDED BY THE PROGRAM EVALUATION DIVISION OF THE GENERAL ASSEMBLY.

Whereas, State law designates the Department of Administration as the State agency responsible for managing North Carolina's portfolio of real property; and

Whereas, the Department of Administration's management duties include oversight of the acquisition, disposition, allocation, and reallocation of land, buildings, and space in buildings by and between State agencies and institutions; and

Whereas, in a report entitled "North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs (June 2015)," the Program Evaluation Division of the General Assembly concluded that the State should dispose of unneeded real property and that it could reduce costs through more active portfolio management; and

Whereas, this legislation establishes a multiyear process to improve the State's real property data collection, quality assurance, and reporting standards; and

Whereas, this legislation requires the Department of Administration to develop a consolidated database of real property assets to facilitate active oversight and control of the State's portfolio of real property based on strategic State priorities; and

Whereas, this legislation requires greater transparency in the control and management of State-owned real property by requiring more robust reporting; and

Whereas, the General Assembly will monitor the implementation of this legislation; and

Whereas, if the General Assembly deems implementation of this legislation to be insufficient, it may explore alternative options for organizing and implementing the management of State-owned real property; and

Whereas, the alternatives explored may include outsourcing and consolidation of State agencies that currently have a role in State-owned real property management into a single agency; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACTIVELY MANAGE THE STATE'S PORTFOLIO OF REAL PROPERTY

SECTION 1.(a) Article 36 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"§ 143-341.2. Proactive management of State-owned and State-leased real property portfolio.

(a) Duties of the Department of Administration. – The Department of Administration shall have the following powers and duties:

- (1) Development of comprehensive State facilities plan.** – No later than December 1, 2018, and every five years thereafter, the Department of Administration shall develop and implement a plan to comprehensively



- manage, acquire, and dispose of the facilities and spaces required to fully support State government operations. The plan shall do all of the following:
- a. Identify the type, quantity, and location of facilities and spaces required to fully support State government operations.
 - b. Include an in-depth analysis of existing State-owned facilities' locations, capability, utilization, and condition.
 - c. Establish strategic priorities and objectives that allow the Department of Administration to manage the performance of the State's portfolio of real property in a way that maximizes the utilization of State-owned facilities and minimizes operating and maintenance costs.
 - d. Take into consideration the information provided to the Department in five-year real property management plans submitted by State agencies pursuant to subdivision (b)(4) of this section.
 - e. Provide a mechanism for allocating available facilities or space to State agencies that need it in a manner that reduces the need to acquire new space through purchase, lease, or other means.
- (2) Development of performance management system. – The Department of Administration shall establish a performance management system to measure the State's achievement of the priorities and objectives set forth in plans developed pursuant to subdivision (1) of this section. The system shall set measurable goals and deadlines and shall be designed to focus on optimization and efficiency of the State's portfolio of real property. The system shall be used to report the information required by sub-sub-subdivision (7)c.1. of this section.
- (3) Development of utilization measures. – No later than December 1, 2016, the Department of Administration shall develop and distribute to State agencies procedures to be used to measure the utilization of State-owned and State-leased real property. The procedures developed pursuant to this subdivision shall be all of the following:
- a. Based on the percentage of usable square feet in a facility that is used for State agency functions or for storage, or on other trade industry standards of utilization measurement.
 - b. Adjusted as appropriate for each facility type.
 - c. Designed to yield an easily understandable index or ratio of facility utilization.
 - d. Developed in consultation with State agencies.
- (4) Development and enforcement of space planning standards. – No later than December 1, 2016, the Department of Administration shall develop and distribute to State agencies space planning standards to be used to determine workspace size and to govern the use of shared space. The standards developed pursuant to this subdivision shall be based on the Federal GSA's Office of Real Property Management Performance Measurement Division Workspace Utilization and Allocation Benchmark report unless the Department identifies another efficient industry standard upon which to base the space planning standards developed pursuant to this subdivision. The Department shall annually perform audits of a portion of State agencies to determine each agency's adherence to the space planning standards developed pursuant to this subdivision and shall send formal letters of admonishment to any agency that fails to justify, in the sole discretion of the Department, any deviation from those standards.
- (5) Updating of real property inventories. – The Department of Administration shall do all of the following to ensure that the information contained in the inventories maintained pursuant to G.S. 143-341(4) is kept current:
- a. Immediately incorporate information received from State agencies pursuant to subdivision (b)(1) of this section into the inventories.
 - b. Immediately notify State agencies when the incorporation of information into the inventories required by sub-subdivision a. of this subdivision is complete.

- (6) Development of surplus property identification and disposal system. – The Department of Administration shall establish a surplus real property disposal system that limits the duration that unneeded property is retained by the State. As part of the system, the Department shall adopt rules defining surplus State-owned real property and establishing a system for continuously identifying and disposing of that property, subject to the approvals required by Chapter 146 of the General Statutes, which shall take into consideration all of the following:
- a. The value each facility or parcel of land brings to the performance of the mission of the State or State agency and the fulfillment of its goals and objectives.
 - b. A general measure of the facility's condition calculated as a ratio of repair needs to replacement value.
 - c. The degree to which the property is utilized, measured in accordance with the procedures developed pursuant to subdivision (3) of this subsection.
 - d. The extent to which the property meets the purpose for which it was intended.
 - e. The extent to which the State or State agency is likely to need to continue to provide the service or function currently provided at the property.
 - f. Consideration of the best and most cost-effective manner in which these future needs can be met.
- (7) Reporting. – The Department of Administration shall make the following reports:
- a. No later than December 1, 2018, and every five years thereafter, the Department shall report the following to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly:
 1. The plan developed pursuant to subdivision (1) of this subsection.
 2. A summary of the performance measurement procedures developed pursuant to subdivision (2) of this subsection.
 - b. If any State agency fails to submit the information required by subdivision (b)(1) of this section, the Department shall report the failure to the chairs of the Joint Legislative Commission on Governmental Operations and to the chairs of the Joint Legislative Program Evaluation Oversight Committee within 30 days.
 - c. No later than December 1, 2019, and each year thereafter, the Department shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly on the State's portfolio of real property. This report shall include at least the following information:
 1. The status of achieving the goals and objectives set forth in the most recent plan developed pursuant to subdivision (1) of this section.
 2. Trends in the inventory of leased and owned buildings and real property, including changes in value, square footage, and operation and maintenance costs.
 3. Trends in the inventory of State-owned land, including changes in acreage and value.
 4. Allocation of leased and owned space by facility type, by agency, and by county.
 5. Benchmarks for comparable private sector leases across the regions of the State for both rural and urban locations, as appropriate.

6. An analysis of utilization targets and a list of owned and leased real property identified as unused or underutilized.
7. A list of the following information for the period beginning after submission of the most recent report pursuant to this sub-subdivision:
 - I. State-owned properties identified as unused or underutilized.
 - II. State-owned properties sold.
 - III. State-owned properties in the process of being disposed of.
 - IV. Properties reallocated between State agencies.

(b) Duties of Other State Agencies. – Each State agency shall have the following powers and duties:

- (1) Collection and reporting of information on property use. – No later than July 1, 2018, and each year thereafter, each State agency shall submit to the Department of Administration all of the information described in G.S. 143-341(4)b.1. through 15. for each building, facility, or space in any building or facility that the agency occupies. This shall be in addition to any reports required pursuant to G.S. 143-341(4)h.
- (2) Verification of information in real property inventories. – Within 60 days of receiving notice from the Department of Administration pursuant to sub-subdivision (a)(5)b. of this section, each State agency shall report to the Department one of the following, as applicable:
 - a. That the information submitted to the Department of Administration pursuant to subdivision (1) of this subsection is accurately reflected in the real property inventories.
 - b. A list of discrepancies between the information submitted to the Department of Administration pursuant to subdivision (1) of this subsection and the corresponding information in the real property inventories.
- (3) Auditor may audit submissions. – The State Auditor may audit submissions made to the Department of Administration pursuant to subdivision (1) of this subsection and may recover any costs incurred in performing such an audit from the State Land Fund, in accordance with G.S. 146-72.
- (4) Development of five-year property management plan. – No later than July 1, 2018, and every five years thereafter, each State agency shall develop a five-year real property management plan and shall submit the plan to the Department of Administration for review. Each plan shall do all of the following:
 - a. Identify the type, quantity, and location of facilities and spaces required to fully support agency operations.
 - b. Include an in-depth analysis of existing facilities' locations, capabilities, utilization, and condition.
 - c. Establish agency-specific strategic priorities and objectives for each asset under its control.

(c) Exception for Property Not Subject to Department of Administration Oversight. – None of the requirements of this section shall apply to facilities that are not subject to the real property oversight of the Department of Administration under G.S. 143-341. A State agency that is entirely exempt from the real property oversight of the Department of Administration shall not be required to submit any information pursuant to subsection (b) of this section. A State agency that is partially exempt from the real property oversight of the Department of Administration shall submit information pursuant to subsection (b) of this section for those properties that are subject to the real property oversight of the Department of Administration."

SECTION 1.(b) No later than June 1, 2017, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly a plan to analyze the utilization of all State-owned or State-leased facilities, other than those that are not subject to the real property oversight of the Department of Administration. The plan shall be consistent with G.S. 143-341.2, as enacted by subsection (a)

of this section. Prior to the submission of this report, the Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division on the status of the plan's development.

SECTION 1.(c) No later than June 1, 2017, the Department of Administration shall perform an unannounced visit to a random facility owned by or allocated to each State agency that is subject in whole or in part to the real property oversight authority of the Department of Administration. Facilities selected pursuant to this subsection shall not include any facility to which federal or State law would prohibit entry by Department personnel. Each State agency shall fully cooperate with the Department of Administration with respect to these visits. The Department of Administration shall use the visits required by this subdivision to do all of the following:

- (1) Obtain utilization information about the properties visited.
- (2) Provide guidance and training to State agencies on the proper methods for employing the utilization measures developed pursuant to G.S. 143-341.2(a)(3), as enacted by subsection (a) of this section. This guidance and training shall include instructions on tailoring the utilization measures for use with specific facility types.
- (3) Refine the utilization measures developed pursuant to G.S. 143-341.2(a)(3), as enacted by Section 1(a) of this act.

SECTION 1.(d) G.S. 146-72 reads as rewritten:

"§ 146-72. Purpose.

The State Land Fund may, in accordance with rules and regulations adopted by the Governor and approved by the Council of State, be used for the following purposes:

- (1) To pay any expenses incurred in carrying out the duties and responsibilities created by the provisions of this Chapter.
- (2) For the acquisition of land, when appropriation is made for that purpose by the General Assembly.
- (3) To pay any expenses incurred by the State Auditor in carrying out the duties and responsibilities created by G.S. 143-341.2(b)(3)."

PART II. ENSURE THE ACCURACY OF THE REAL PROPERTY INVENTORIES MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO G.S. 143-341(4)

SECTION 2.(a) G.S. 143-341(4) reads as rewritten:

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

The Department of Administration has the following powers and duties:

- ...
- (4) Real Property Control:
 - a. To prepare and keep current a complete and accurate inventory of all land owned or leased by the State or by any State agency. This inventory shall show the ~~location,~~ location, including the latitude and longitude of the center of the property, acreage, description, source of title and current use of all land (including swamplands or marshlands) owned by the State or by any State agency, and the agency to which each tract is currently allocated. Surveys may be made where necessary to obtain information for the purposes of this inventory. Accurate plats or maps of all such land may be prepared, or copies obtained where such maps or plats are available.
 - b. To prepare and keep current a complete and accurate ~~inventory database~~ of all buildings owned or leased (in whole or in part) by the State or by any State agency. This ~~inventory database shall show the location, amount of floor space and floor plans of every building owned or leased by the State or by any State agency, and the agency to which each building, or space therein, is currently allocated. Floor~~ serve as the State inventory and shall include all of the following information and floor plans of every such building shall be prepared or copies obtained where such floor plans are available, where needed for use in the allocation of space ~~therein,~~ therein:

1. The building's location, including the latitude and longitude of the center of the building.
 2. A description of the operations supported by the building.
 3. The agency or agencies that occupy the building.
 4. Ownership information for the building.
 5. The size of the building in terms of both gross and usable square feet.
 6. A description of the building.
 7. The building's condition assessment, including the estimated cost to make needed repairs and renovations as well as the date that the last condition assessment was completed.
 8. The building's annual operating costs.
 9. The building's annual maintenance costs.
 10. The number of usable workspaces contained in the building.
 11. The number of full-time equivalent positions assigned to the building by each agency occupant.
 12. The amount of the building that is utilized, measured in accordance with the procedures developed pursuant to G.S. 143-341.2(a)(3).
 13. Maintenance record, including replacement and maintenance schedules for all major mechanical systems.
 14. Parking and employee facilities.
 15. Any other information deemed relevant by the Department of Administration.
- b1. The Department of Administration shall develop procedures that ensure that the data included in the inventories required by sub-subdivisions a. and b. of this subdivision is collected and displayed in a consistent manner across State agencies and land and building types.
- b2. The Department of Administration shall use the North Carolina Identity Management service, or a similar successor program when updating the inventories required by sub-subdivisions a. and b. of this subdivision.
- b3. Nothing in this sub-subdivision shall be construed to require the release or display of floor plans except upon request by a unit of the executive, legislative, or judicial branch of State government, such as a department, an institution, a division, a commission, a board, a council, or The University of North Carolina."

SECTION 2.(b) G.S. 143C-8-2 is repealed.

SECTION 2.(c) G.S. 143C-8-1(b)(1) reads as rewritten:

"(1) ~~An inventory~~ A database of facilities owned by State agencies-agencies, maintained pursuant to G.S. 143-341(4)."

SECTION 2.(d) No later than December 1, 2016, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly on the changes to the real property databases operated pursuant to G.S. 143-341(4) in response to the amendments to that section made by subsection (a) of this section.

PART III. ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED BEFORE LEASES ARE ENTERED INTO OR RENEWED

SECTION 3.(a) G.S. 146-23 reads as rewritten:

"§ 146-23. Agency must file statement of needs; Department must investigate.

Any State agency desiring to acquire land, whether by purchase, condemnation, lease, or rental, shall file with the Department of Administration an application setting forth its needs, and shall furnish such additional information as the Department may request relating thereto. Upon receipt of such application, the Department of Administration shall promptly investigate all aspects of the requested acquisition, including the existence of actual need for the requested property on the part of the requesting agency; the availability of land already owned by the

State or by any State agency which might meet the requirements of the requesting agency; the availability, value, and status of title of other land, whether for purchase, condemnation, lease, or rental, which might meet the requirements of the requesting agency; and the availability of funds to pay for land if purchased, condemned, leased, or rented. In investigating the availability of land already owned by the State or by any State agency which might meet the requirements of the requesting agency, the Department of Administration shall review the utilization information maintained in the real property inventories pursuant to G.S. 143-341(4). The Department of Administration may make acquisitions at the request of the Governor and Council of State upon compliance with the investigation herein required."

SECTION 3.(b) G.S. 143-341(4)d1. reads as rewritten:

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

The Department of Administration has the following powers and duties:

...
(4) Real Property Control:

...
d1. To require all State departments, institutions, and agencies to use State-owned office space instead of negotiating or renegotiating leases for rental of office space. In investigating the availability of office space already owned by the State or by a State agency which might meet the requirements of the requesting agency, the Department of Administration shall review the utilization information maintained in the real property database pursuant to this subdivision. Any lease entered into contrary to the provisions of this paragraph is voidable in the discretion of the Governor and the Council of State.

The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division no later than May 1 of each year on leased office space."

SECTION 3.(c) Upon the expiration of the relevant leases, the Department of Administration shall reallocate the State functions, personnel, and other resources that currently reside at the following locations to suitable State-owned space:

- (1) Department of Commerce – Division of Employment Security.
- (2) Department of Commerce – Rural Electrification Authority.
- (3) Department of Environment and Natural Resources – Waste Management.
- (4) Department of Labor – OSHA.
- (5) Department of Public Safety – Office for Substance Abuse.
- (6) Department of Public Safety – Inmate Grievance Resolution Board.
- (7) Department of Transportation – Right-of-Way Appraisal Office.

SECTION 3.(d) If suitable State-owned space is not available to reallocate any of the functions required to be reallocated to State-owned space by subsection (c) of this section, the Department of Administration may renew the applicable lease, or enter into a new lease, but only after consulting with the Joint Legislative Commission on Governmental Operations at least 60 days prior to the renewal.

SECTION 3.(e) Prior to July 1, 2018, no State agency shall request to enter into or renew any lease unless at the time it makes the request it certifies to the Department of Administration that it has searched existing State-owned real property, contacted other State agencies to identify existing unused State-owned property, and found none that would be suitable for the agency's needs.

SECTION 3.(f) Subsections (a) and (b) of this section become effective July 1, 2018. The remainder of this section is effective when this act becomes law.

PART IV. EFFECTIVE DATE

SECTION 4. Except as otherwise provided, this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 8:05 a.m. this 28th day of July, 2016