

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1292
Committee Substitute Favorable 5/13/09
Senate Education/Higher Education Committee Substitute Adopted 8/5/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1292-PCS30542-SF-61

Short Title: Univ. Energy Savings/LEA Operational Leases.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT ANY ENERGY SAVINGS REALIZED BY CONSTITUENT
3 INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA SHALL REMAIN
4 AVAILABLE TO THE INSTITUTION AND A PORTION OF THOSE ENERGY
5 SAVINGS SHALL BE USED FOR OTHER ENERGY CONSERVATION MEASURES;
6 AND TO EXPAND THE USE OF OPERATIONAL LEASES BY LOCAL BOARDS OF
7 EDUCATION.

8 The General Assembly of North Carolina enacts:

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

11 **"§ 116-30.3B. Energy conservation savings.**

12 (a) In addition to the funds carried forward under G.S. 116-30.3, the General Fund
13 current operations appropriations credit balance remaining at the end of each fiscal year for
14 utilities of a constituent institution that is energy savings realized from implementing an energy
15 conservation measure shall be carried forward by the institution to the next fiscal year. Sixty
16 percent (60%) of the energy savings realized shall be utilized for energy conservation measures
17 by that institution. The use of funds under this section shall be limited to onetime capital and
18 operating expenditures that will not impose additional financial obligations on the State. The
19 Director of the Budget, under the authority set forth in G.S. 143C-6-2, shall establish the
20 General Fund current operations credit balance remaining in each budget code of each
21 institution.

22 (b) The Director of the Budget shall not decrease the recommended continuation budget
23 requirements for utilities for constituent institutions by the amount of energy savings realized
24 from implementing energy conservation measures, including savings achieved through a
25 guaranteed energy savings contract.

26 (c) Constituent institutions shall submit annual reports on the use of funds authorized
27 pursuant to this section as required under G.S. 143-64.12.

28 (d) As used in this section, 'energy savings,' 'guaranteed energy savings contract,' and
29 'energy conservation measure' have the same meaning as in G.S. 143-64.17."

30 **SECTION 2.** G.S. 143-64.12(a) reads as rewritten:

31 "(a) The Department of Commerce through the State Energy Office shall develop a
32 comprehensive program to manage energy, water, and other utility use for State agencies and



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1 State institutions of higher learning and shall update this program annually. Each State agency
2 and State institution of higher learning shall develop and implement a management plan that is
3 consistent with the State's comprehensive program under this subsection to manage energy,
4 water, and other utility use. The energy consumption per gross square foot for all State
5 buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%)
6 by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and
7 State institution of higher learning shall update its management plan annually and include
8 strategies for supporting the energy consumption reduction requirements under this subsection.
9 Each community college shall submit to the State Energy Office an annual written report of
10 utility consumption and costs. Management plans submitted annually by State institutions of
11 higher learning shall include all of the following:

- 12 (1) Estimates of all costs associated with implementing energy conservation
13 measures, including pre-installation and post-installation costs.
- 14 (2) The cost of analyzing the projected energy savings.
- 15 (3) Design costs, engineering costs, pre-installation costs, post-installation costs,
16 debt service, and any costs for converting to an alternative energy source.
- 17 (4) An analysis that identifies projected annual energy savings and estimated
18 payback periods."

19 **SECTION 3.** G.S. 115C-530 reads as rewritten:

20 **"§ 115C-530. Operational leases of school buildings and school facilities.**

21 (a) Local boards of education may enter into operational leases of real or personal
22 property for use as school buildings or school facilities. Operational leases for terms of less
23 than three years shall not be subject to the approval of the board of county commissioners.
24 Operational leases for terms of three years or longer, including periods that may be added to the
25 original term through the exercise of options to renew or extend, are permitted if all of the
26 following conditions are met:

- 27 (1) The budget resolution includes an appropriation authorizing the current
28 fiscal year's portion of the obligation.
- 29 (2) An unencumbered balance remains in the appropriation sufficient to pay in
30 the current fiscal year the sums obligated by the lease for the current fiscal
31 year.
- 32 (3) The leases are approved by a resolution adopted by the board of county
33 commissioners. If an operational lease is approved by the board of county
34 commissioners, in each year the county commissioners shall appropriate
35 sufficient funds to meet the amounts to be paid during the fiscal year under
36 the lease.
- 37 (4) Any construction, repair, or renovation of the property is in compliance with
38 the requirements of G.S. 115C-521(c) relating to energy guidelines.

39 For purposes of this section, an operational lease is defined according to generally accepted
40 accounting ~~principles~~ principles and may be for new or existing buildings.

41 (b) Local boards of education may enter into contracts for the ~~repair~~ construction,
42 repair, or renovation of leased property if (i) the budget resolution includes an appropriation
43 authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient
44 to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year,
45 and (iii) the ~~repair~~ construction, repair, or renovation is in compliance with the requirements of
46 G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work
47 undertaken or contracted by a private developer is subject to the requirements of Article 8 of
48 Chapter 143 of the General Statutes. Contracts for new construction and renovation that are
49 subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing
50 contracts for capital outlay must be approved by the board of county commissioners.

1 (c) Operational leases and contracts entered into under this section are subject to
2 approval by the Local Government Commission under Article 8 of Chapter 159 of the General
3 Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and
4 159-148(a)(3). For purposes of determining whether the standards set out in G.S. 159-148(a)(3)
5 have been met, only the five hundred thousand dollar (\$500,000) threshold shall apply."

6 **SECTION 4.** This act becomes effective July 1, 2010, and applies to contracts
7 entered into on or after that date.