

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 435
PROPOSED COMMITTEE SUBSTITUTE H435-PCS50337-RI-15**

Short Title: Mecklenburg Energy Efficiency/Renewable.

(Local)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW MECKLENBURG COUNTY TO USE THE PROCUREMENT
3 PROCESS PROVIDED IN THIS ACT WHEN LETTING CONTRACTS AUTHORIZED
4 BY ITS BOARD OF COMMISSIONERS TO INCREASE ENERGY EFFICIENCY, AND
5 TO AUTHORIZE THAT COUNTY TO ENTER INTO LEASES FOR THE SITING AND
6 OPERATION OF RENEWABLE ENERGY FACILITIES FOR TWENTY YEARS
7 WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY
8 PUBLICATION.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Mecklenburg County may contract for apparatus, supplies, materials,
11 or equipment that will be used as part of any program authorized by its Board of
12 Commissioners aimed at increasing energy efficiency without being subject to the requirements
13 of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the county may
14 award a contract under this section in its sole discretion.

15 **SECTION 2.(a)** In recognition of the complex and innovative nature of renewable
16 energy systems, goods, and services and of the desirability of a single point of responsibility for
17 contracts that include combinations of purchase of goods, design, installation, training,
18 operation, maintenance, and related services, a political subdivision of the State may contract
19 for renewable energy systems using the procedure set forth in this section in addition to or
20 instead of any other procedure available under North Carolina law.

21 **SECTION 2.(b)** Contracts for renewable energy systems may be entered into
22 under a request for proposals procedure that satisfies the following minimum requirements:

- 23 (1) Notice of the request for proposals shall be given in accordance with
24 G.S. 143-129(b).
25 (2) Contracts shall be awarded to the person or entity that submits the best
26 overall proposal as determined by the awarding authority. Factors to be
27 considered in awarding contracts shall be identified in the request for
28 proposals.

29 **SECTION 2.(c)** The awarding authority may use procurement methods set forth in
30 G.S. 143-135.9 in developing and evaluating requests for proposals under this section. In
31 addition, the experience and financial stability of the proposer may be taken into consideration.
32 The awarding authority may negotiate with any proposer in order to obtain a final contract that
33 best meets the needs of the awarding authority. Negotiations allowed under this section shall
34 not alter the contract beyond the scope of the original request for proposals in a manner that (i)



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1 deprives the proposers or potential proposers of a fair opportunity to compete for the contract
2 and (ii) would have resulted in the award of the contract to a different person or entity if the
3 alterations had been included in the request for proposals.

4 **SECTION 2.(d)** Proposals submitted under this section shall not be subject to
5 public inspection until a contract is awarded.

6 **SECTION 2.(e)** This act applies only to Mecklenburg County.

7 **SECTION 3.** Section 3 of S.L. 2009-149, as rewritten by S.L. 2010-57 and S.L.
8 2010-63, reads as rewritten:

9 **"SECTION 3.** Section 2 of this act applies to the Cities of Asheville, Raleigh and
10 Winston-Salem and the Towns of Chapel Hill and Carrboro only. This act also applies to
11 Catawba County and Mecklenburg Counties."

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