

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B 975
Apr 26, 2016
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH20404-MDz-106A* (07/08)

Short Title: State-Owned Real Property Management/PED. (Public)

Sponsors: Representatives Horn, Davis, and R. Turner (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

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:



* D R H 2 0 4 0 4 - M D Z - 1 0 6 A *

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

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

5 **"§ 143-341.2. Proactive management of State-owned and State-leased real property**
6 **portfolio.**

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

9 (1) Development of comprehensive State facilities plan. – No later than December
10 1, 2018, and every five years thereafter, the Department of Administration shall
11 develop and implement a plan to comprehensively manage, acquire, and
12 dispose of the facilities and spaces required to fully support State government
13 operations. The plan shall do all of the following:

14 a. Identify the type, quantity, and location of facilities and spaces required
15 to fully support State government operations.

16 b. Include an in-depth analysis of existing State-owned facilities' locations,
17 capability, utilization, and condition.

18 c. Establish strategic priorities and objectives that allow the Department of
19 Administration to manage the performance of the State's portfolio of
20 real property in a way that maximizes the utilization of State-owned
21 facilities and minimizes operating and maintenance costs.

22 d. Take into consideration the information provided to the Department in
23 five-year real property management plans submitted by State agencies
24 pursuant to subdivision (b)(4) of this section.

25 e. Provide a mechanism for allocating available facilities or space to State
26 agencies that need it in a manner that reduces the need to acquire new
27 space through purchase, lease, or other means.

28 (2) Development of performance management system. – The Department of
29 Administration shall establish a performance management system to measure
30 the State's achievement of the priorities and objectives set forth in plans
31 developed pursuant to subdivision (1) of this section. The system shall set
32 measurable goals and deadlines and shall be designed to focus on optimization
33 and efficiency of the State's portfolio of real property. The system shall be used
34 to report the information required by sub-sub-subdivision (7)c.1. of this section.

35 (3) Development of utilization measures. – No later than December 1, 2016, the
36 Department of Administration shall develop and distribute to State agencies
37 procedures to be used to measure the utilization of State-owned and
38 State-leased real property. The procedures developed pursuant to this
39 subdivision shall be all of the following:

40 a. Based on the percentage of usable square feet in a facility that is used
41 for State agency functions or for storage, or on other trade industry
42 standards of utilization measurement.

43 b. Adjusted as appropriate for each facility type.

44 c. Designed to yield an easily understandable index or ratio of facility
45 utilization.

46 d. Developed in consultation with State agencies.

47 (4) Development and enforcement of space planning standards. – No later than
48 December 1, 2016, the Department of Administration shall develop and
49 distribute to State agencies space planning standards to be used to determine
50 workspace size and to govern the use of shared space. The standards developed
51 pursuant to this subdivision shall be based on the Federal GSA's Office of Real

1 Property Management Performance Measurement Division Workspace
2 Utilization and Allocation Benchmark report. The Department shall annually
3 perform audits of a portion of State agencies to determine each agency's
4 adherence to the space planning standards developed pursuant to this
5 subdivision and shall send formal letters of admonishment to any agency that
6 fails to justify, in the sole discretion of the Department, any deviation from
7 those standards.

8 (5) Updating of real property inventories. – The Department of Administration
9 shall do all of the following to ensure that the information contained in the
10 inventories maintained pursuant to G.S. 143-341(4) is kept current:

11 a. Immediately incorporate information received from State agencies
12 pursuant to subdivision (b)(1) of this section into the inventories.

13 b. Immediately notify State agencies when the incorporation of
14 information into the inventories required by sub-subdivision a. of this
15 subdivision is complete.

16 (6) Development of surplus property identification and disposal system. – The
17 Department of Administration shall establish a surplus real property disposal
18 system that limits the duration that unneeded property is retained by the State.
19 As part of the system, the Department shall adopt rules defining surplus
20 State-owned real property and establishing a system for continuously
21 identifying and disposing of that property, subject to the approvals required by
22 Chapter 146 of the General Statutes, which shall take into consideration all of
23 the following:

24 a. The value each facility or parcel of land brings to the performance of the
25 mission of the State or State agency and the fulfillment of its goals and
26 objectives.

27 b. A general measure of the facility's condition calculated as a ratio of
28 repair needs to replacement value.

29 c. The degree to which the property is utilized, measured in accordance
30 with the procedures developed pursuant to subdivision (3) of this
31 subsection.

32 d. The extent to which the property meets the purpose for which it was
33 intended.

34 e. The extent to which the State or State agency is likely to need to
35 continue to provide the service or function currently provided at the
36 property.

37 f. Consideration of the best and most cost-effective manner in which these
38 future needs can be met.

39 (7) Reporting. – The Department of Administration shall make the following
40 reports:

41 a. No later than December 1, 2018, and every five years thereafter, the
42 Department shall report the following to the Joint Legislative
43 Commission on Governmental Operations, to the Fiscal Research
44 Division of the General Assembly, and to the Program Evaluation
45 Division of the General Assembly:

46 1. The plan developed pursuant to subdivision (1) of this
47 subsection.

48 2. A summary of the performance measurement procedures
49 developed pursuant to subdivision (2) of this subsection.

50 b. If any State agency fails to submit the information required by
51 subdivision (b)(1) of this section, the Department shall report the failure

1 to the chairs of the Joint Legislative Commission on Governmental
2 Operations and to the chairs of the Joint Legislative Program Evaluation
3 Oversight Committee within 30 days.

4 c. No later than December 1, 2019, and each year thereafter, the
5 Department shall report to the Joint Legislative Commission on
6 Governmental Operations, to the Fiscal Research Division of the
7 General Assembly, and to the Program Evaluation Division of the
8 General Assembly on the State's portfolio of real property. This report
9 shall include at least the following information:

10 1. The status of achieving the goals and objectives set forth in the
11 most recent plan developed pursuant to subdivision (1) of this
12 section.

13 2. Trends in the inventory of leased and owned buildings and real
14 property, including changes in value, square footage, and
15 operation and maintenance costs.

16 3. Trends in the inventory of State-owned land, including changes
17 in acreage and value.

18 4. Allocation of leased and owned space by facility type, by
19 agency, and by county.

20 5. Benchmarks for comparable private sector leases across the
21 regions of the State for both rural and urban locations, as
22 appropriate.

23 6. An analysis of utilization targets and a list of owned and leased
24 real property identified as unused or underutilized.

25 7. A list of the following information for the period beginning after
26 submission of the most recent report pursuant to this
27 sub-subdivision:

28 I. State-owned properties identified as unused or
29 underutilized.

30 II. State-owned properties sold.

31 III. State-owned properties in the process of being disposed
32 of.

33 IV. Properties reallocated between State agencies.

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

36 (1) Collection and reporting of information on property use. – No later than July 1,
37 2018, and each year thereafter, each State agency shall submit to the
38 Department of Administration all of the information described in
39 G.S. 143-341(4)b.1. through 15. for each building, facility, or space in any
40 building or facility that the agency occupies. This shall be in addition to any
41 reports required pursuant to G.S. 143-341(4)h.

42 (2) Verification of information in real property inventories. – Within 60 days of
43 receiving notice from the Department of Administration pursuant to
44 sub-subdivision (a)(5)b. of this section, each State agency shall report to the
45 Department one of the following, as applicable:

46 a. That the information submitted to the Department of Administration
47 pursuant to subdivision (1) of this subsection is accurately reflected in
48 the real property inventories.

49 b. A list of discrepancies between the information submitted to the
50 Department of Administration pursuant to subdivision (1) of this

1 subsection and the corresponding information in the real property
2 inventories.

3 (3) Auditor may audit submissions. – The State Auditor may audit submissions
4 made to the Department of Administration pursuant to subdivision (1) of this
5 subsection and may recover any costs incurred in performing such an audit
6 from the State Land Fund, in accordance with G.S. 146-72.

7 (4) Development of five-year property management plan. – No later than July 1,
8 2018, and every five years thereafter, each State agency shall develop a
9 five-year real property management plan and shall submit the plan to the
10 Department of Administration for review. Each plan shall do all of the
11 following:

12 a. Identify the type, quantity, and location of facilities and spaces required
13 to fully support agency operations.

14 b. Include an in-depth analysis of existing facilities' locations, capabilities,
15 utilization, and condition.

16 c. Establish agency-specific strategic priorities and objectives for each
17 asset under its control.

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

26 **SECTION 1.(b)** No later than June 1, 2017, the Department of Administration shall
27 report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research
28 Division of the General Assembly, and to the Program Evaluation Division of the General
29 Assembly a plan to analyze the utilization of all State-owned or State-leased facilities, other than
30 those that are not subject to the real property oversight of the Department of Administration. The
31 plan shall be consistent with G.S. 143-341.2, as enacted by subsection (a) of this section. Prior to
32 the submission of this report, the Department shall report quarterly to the Joint Legislative
33 Commission on Governmental Operations, to the Fiscal Research Division of the General
34 Assembly, and to the Program Evaluation Division on the status of the plan's development.

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

43 (1) Obtain utilization information about the properties visited.

44 (2) Provide guidance and training to State agencies on the proper methods for
45 employing the utilization measures developed pursuant to G.S. 143-341.2(a)(3),
46 as enacted by subsection (a) of this section. This guidance and training shall
47 include instructions on tailoring the utilization measures for use with specific
48 facility types.

49 (3) Refine the utilization measures developed pursuant to G.S. 143-341.2(a)(3), as
50 enacted by Section 1(a) of this act.

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

1 "§ 146-72. Purpose.

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

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

10
11 **PART II. ENSURE THE ACCURACY OF THE REAL PROPERTY INVENTORIES**
12 **MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO**
13 **G.S. 143-341(4)**

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

15 "§ 143-341. Powers and duties of Department.

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

17 ...

18 (4) Real Property Control:

- 19 a. To prepare and keep current a complete and accurate inventory of all
20 land owned or leased by the State or by any State agency. This
21 inventory shall show the ~~location,~~location, including the latitude and
22 longitude of the center of the property, acreage, description, source of
23 title and current use of all land (including swamplands or marshlands)
24 owned by the State or by any State agency, and the agency to which
25 each tract is currently allocated. Surveys may be made where necessary
26 to obtain information for the purposes of this inventory. Accurate plats
27 or maps of all such land may be prepared, or copies obtained where
28 such maps or plats are available.
29 b. To prepare and keep current a complete and accurate ~~inventory database~~
30 of all buildings owned or leased (in whole or in part) by the State or by
31 any State agency. This ~~inventory database shall show the location,~~
32 ~~amount of floor space and floor plans of every building owned or leased~~
33 ~~by the State or by any State agency, and the agency to which each~~
34 ~~building, or space therein, is currently allocated. Floor serve as the State~~
35 inventory and shall include all of the following information and floor
36 plans of every such building shall be prepared or copies obtained where
37 such floor plans are available, where needed for use in the allocation of
38 space ~~therein,~~therein:
39 1. The building's location, including the latitude and longitude of
40 the center of the building.
41 2. A description of the operations supported by the building.
42 3. The agency or agencies that occupy the building.
43 4. Ownership information for the building.
44 5. The size of the building in terms of both gross and usable square
45 feet.
46 6. A description of the building.
47 7. The building's condition assessment, including the estimated
48 cost to make needed repairs and renovations as well as the date
49 that the last condition assessment was completed.
50 8. The building's annual operating costs.
51 9. The building's annual maintenance costs.

- 1 10. The number of usable workspaces contained in the building.
- 2 11. The number of full-time equivalent positions assigned to the
- 3 building by each agency occupant.
- 4 12. The amount of the building that is utilized, measured in
- 5 accordance with the procedures developed pursuant to
- 6 G.S. 143-341.2(a)(3).
- 7 13. Maintenance record, including replacement and maintenance
- 8 schedules for all major mechanical systems.
- 9 14. Parking and employee facilities.
- 10 15. Any other information deemed relevant by the Department of
- 11 Administration.
- 12 b1. The Department of Administration shall develop procedures that ensure
- 13 that the data included in the inventories required by sub-subdivisions a.
- 14 and b. of this subdivision is collected and displayed in a consistent
- 15 manner across State agencies and land and building types.
- 16 b2. The Department of Administration shall use the North Carolina Identity
- 17 Management service, or a similar successor program when updating the
- 18 inventories required by sub-subdivisions a. and b. of this subdivision.
- 19 b3. Nothing in this sub-subdivision shall be construed to require the release
- 20 or display of floor plans except upon request by a unit of the executive,
- 21 legislative, or judicial branch of State government, such as a
- 22 department, an institution, a division, a commission, a board, a council,
- 23 or The University of North Carolina."

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

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

26 "(1) ~~An inventory~~ A database of facilities owned by State ~~agencies~~ agencies,

27 maintained pursuant to G.S. 143-341(4)."

28 **SECTION 2.(d)** No later than December 1, 2016, the Department of Administration

29 shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal

30 Research Division of the General Assembly, and to the Program Evaluation Division of the

31 General Assembly on the changes to the real property databases operated pursuant to

32 G.S. 143-341(4) in response to the amendments to that section made by subsection (a) of this

33 section.

34

35 **PART III. ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED**

36 **BEFORE LEASES ARE ENTERED INTO OR RENEWED**

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

38 **"§ 146-23. Agency must file statement of needs; Department must investigate.**

39 Any State agency desiring to acquire land, whether by purchase, condemnation, lease, or

40 rental, shall file with the Department of Administration an application setting forth its needs, and

41 shall furnish such additional information as the Department may request relating thereto. Upon

42 receipt of such application, the Department of Administration shall promptly investigate all

43 aspects of the requested acquisition, including the existence of actual need for the requested

44 property on the part of the requesting agency; the availability of land already owned by the State

45 or by any State agency which might meet the requirements of the requesting agency; the

46 availability, value, and status of title of other land, whether for purchase, condemnation, lease, or

47 rental, which might meet the requirements of the requesting agency; and the availability of funds

48 to pay for land if purchased, condemned, leased, or rented. In investigating the availability of land

49 already owned by the State or by any State agency which might meet the requirements of the

50 requesting agency, the Department of Administration shall review the utilization information

51 maintained in the real property inventories pursuant to G.S. 143-341(4). The Department of

1 Administration may make acquisitions at the request of the Governor and Council of State upon
2 compliance with the investigation herein required."

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

4 "**§ 143-341. Powers and duties of Department.**

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

6 ...
7 (4) Real Property Control:

8 ...
9 d1. To require all State departments, institutions, and agencies to use
10 State-owned office space instead of negotiating or renegotiating leases
11 for rental of office space. In investigating the availability of office space
12 already owned by the State or by a State agency which might meet the
13 requirements of the requesting agency, the Department of
14 Administration shall review the utilization information maintained in
15 the real property database pursuant to this subdivision. Any lease
16 entered into contrary to the provisions of this paragraph is voidable in
17 the discretion of the Governor and the Council of State.

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

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

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

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

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

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

44 **PART IV. EFFECTIVE DATE**

45 **SECTION 4.** Except as otherwise provided, this act becomes effective when it
46 becomes law.
47