

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40369-MC-139F*

Short Title: EDPNC Modifications.

(Public)

Sponsors: Representative Saine.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY CERTAIN PROVISIONS CONCERNING THE ECONOMIC
3 DEVELOPMENT PARTNERSHIP OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 143B-431.01(b) reads as rewritten:

6 "(b) Contract. – The Department of Commerce is authorized to contract with a North
7 Carolina nonprofit corporation to perform one or more of the Department's functions, powers,
8 duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The
9 contract entered into pursuant to this section between the Department and the Economic
10 Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143 of
11 the General Statutes and G.S. 143C-6-23. If the Department contracts with a North Carolina
12 nonprofit corporation to promote and grow the travel and tourism industries, then all funds
13 appropriated to the Department for tourism marketing purposes shall be used for a
14 research-based, comprehensive marketing program directed toward consumers in key markets
15 most likely to travel to North Carolina and not for ancillary activities, such as statewide branding
16 and business development marketing. The Department may not contract with a North Carolina
17 nonprofit corporation regarding any of the following:

- 18 (1) The obligation or commitment of funds under this Article, such as the One
19 North Carolina Fund, the Job Development Investment Grant Program, the
20 Industrial Development Fund, or the Job Maintenance and Capital
21 Development Fund.
22 (2) The Division of Employment Security, including the administration of
23 unemployment insurance.
24 (3) The functions set forth in G.S. 143B-431(a)(2).
25 (4) The administration of funds or grants received from the federal government
26 or its agencies.
27 (5) The administration of a site certification program. Nothing in this subdivision
28 prohibits the contracting of responsibility for creating or maintaining a Web
29 site with data on unutilized or underutilized properties in the State with
30 potential commercial or industrial reuses."

31 SECTION 2. G.S. 143-431.01(d) reads as rewritten:

32 "(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation
33 pursuant to this section and in order for the North Carolina nonprofit corporation to receive State
34 funds, the following conditions shall be met:

35 ...



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(2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

a. The board shall be composed of ~~17-18~~ voting members as follows: the Secretary of Commerce, as an ex officio member, eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

...

b. The nonprofit corporation shall comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

c. No State ~~employee-employee~~, other than the Secretary of Commerce, may serve on the board. The Secretary of Commerce may not engage in fund-raising activities by or on behalf of the nonprofit corporation.

d. The board shall meet at least quarterly at the call of its chair. ~~Each quarter and upon request, the board shall report to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's economic development.~~

e. The board is required to perform the following duties if the Department contracts pursuant to this section for the performance of the Secretary's responsibilities under G.S. 143B-434.01:

1. To provide advice concerning economic and community development planning for the State, including a strategic business facilities development analysis of existing, available buildings or shell or special-use buildings and sites.
2. To recommend economic development policy to ~~the Secretary of Commerce, the General Assembly, Assembly~~ and the Governor.

...."

SECTION 3.(a) G.S. 143B-431.01(e)(10) reads as rewritten:

"(10) A provision limiting the term of renewal of the contract to no more than five three years. ~~The term of the contract may be extended in one-year increments up to four times after no less than four-fifths of the original contract term has passed.~~ The notice of intention to renew the contract for the initial renewal shall be given no less than five months prior to the expiration of the remaining term of the contract, and a subsequent notice of intention to renew the contract shall be given no less than one year prior to the expiration of the remaining term of the contract, including the term of any extension. The Department shall renew a contract for which notice required by this subdivision has been

1 given within 30 days. A contract extension may not extend the remaining term
2 of the contract, including the term of the extension, to more than ~~two years.~~
3 ~~Nothing in this subdivision shall be construed as a prohibition against entering~~
4 ~~into a new contract with the nonprofit corporation four years."~~

5 **SECTION 3.(b)** Effective for any contract in effect on or after January 1, 2020,
6 G.S. 143B-431.01(e)(10), as amended by subsection (a) of this section, reads as rewritten:

7 "(10) A provision limiting the term of renewal of the contract to no more than three
8 years. The notice of intention to renew the contract for the initial renewal shall
9 be given no less than five months prior to the expiration of the remaining term
10 of the contract, and a subsequent notice of intention to renew the contract shall
11 be given no less than one year prior to the expiration of the remaining term of
12 the contract, including the term of any extension. The Department shall renew
13 a contract for which notice required by this subdivision has been given within
14 30 days. A contract extension may not extend the remaining term of the
15 contract, including the term of the extension, to more than four years. A
16 contract entered into under this section shall be on a calendar year basis."

17 **SECTION 3.(c)** No later than June 1, 2019, The Department of Commerce shall
18 report to the chairs of both the Senate Committee on Appropriations/Base Budget and the House
19 of Representative Committee on Appropriations on any changes or intended changes to the scope
20 to the contract for the performance of certain functions pursuant to G.S. 143B-431.01 from that
21 which is specified in the contract in effect as of January 1, 2019.

22 **SECTION 4.** G.S. 143B-431.01(e)(14) reads as rewritten:

23 "(14) A provision ~~requiring~~ allowing the nonprofit corporation to receive funds
24 from fund-raising efforts and sources other than State ~~funds an amount~~
25 ~~totaling at least five million seven hundred fifty thousand dollars (\$5,750,000)~~
26 ~~during the term of the contract to support operations and functions of the~~
27 ~~corporation. The corporation shall raise at least seven hundred fifty thousand~~
28 ~~dollars (\$750,000) during the first year of the term of the contract and shall~~
29 ~~raise at least one million two hundred fifty thousand dollars (\$1,250,000)~~
30 ~~during each subsequent year of the term of the contract. Amounts raised prior~~
31 ~~to entering the contract or during a year preceding the current year of the~~
32 ~~contract shall not apply to the amount required to be raised during the current~~
33 ~~year-funds."~~

34 **SECTION 5.** Except as otherwise provided, Section 3 of this act is effective when it
35 becomes law and applies to contracts existing, entered into, and renewed on or after that date.
36 Notwithstanding the limitation on the term of renewal, as provided in G.S. 143B-431.01(e)(10),
37 as amended by this act, the initial term of renewal of an existing contract may be for no more
38 than three years plus the remainder of the calendar year in which the contract is renewed. The
39 remainder of this act is effective when it becomes law, and Sections 1, 2, and 4 apply to contracts
40 entered into or renewed on or after that date.