

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 466
PROPOSED COMMITTEE SUBSTITUTE S466-PCS15333-MC-3

Short Title: EDPNC Modifications.

(Public)

Sponsors:

Referred to:

April 3, 2019

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 ...

19 (4) The administration of funds or grants received from the federal government
20 or its ~~agencies~~ agencies, except for the following:

21 a. The State Trade and Export Promotion Program.

22 b. The Manufacturing Extension Program."

23 **SECTION 1.1.** G.S. 143B-431.01(b), as rewritten by subsection (a) of this section,
24 reads as rewritten:

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



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1 ...

2 (5) The administration of a site certification program. Nothing in this subdivision
 3 prohibits the contracting of responsibility for creating or maintaining a Web
 4 site with data on unutilized or underutilized properties in the State with
 5 potential commercial or industrial reuses."

6 **SECTION 2.** G.S. 143B-431.01 reads as rewritten:

7 **"§ 143B-431.01. Department of Commerce – contracting of functions.**

8 ...

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

12 (1) At least 45 days prior to entering into or amending in a nontechnical manner
 13 a contract authorized by this section, the Department shall submit the contract
 14 or amendment, along with a detailed explanation of the contract or
 15 amendment, to the chairs of both the Senate Committee on
 16 Appropriations/Base Budget and the House of Representatives Committee on
 17 Appropriations, the chairs of the Senate Appropriations Committee on
 18 Agriculture, Natural, and Economic Resources, ~~and~~ the chairs of the House of
 19 Representatives Appropriations Committee on Agriculture and Natural and
 20 Economic ~~Resources-Resources,~~ and the Fiscal Research Division.

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

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

41 ...

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

44 c. No State ~~employee-employee,~~ other than the Secretary of Commerce,
 45 may serve on the board.

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

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

4 1. To provide advice concerning economic and community
5 development planning for the State, including a strategic
6 business facilities development analysis of existing, available
7 buildings or shell or special-use buildings and sites.

8 2. To recommend economic development policy to ~~the Secretary~~
9 ~~of Commerce, the General Assembly, Assembly~~ and the
10 Governor.

11 ...

12 (i) Prohibition. – A State officer or ~~employee, other than the Secretary of Commerce,~~
13 employee shall not solicit funds for a North Carolina nonprofit corporation with which the
14 Department contracts pursuant to this section. ~~The Secretary of Commerce may solicit funds for~~
15 ~~the nonprofit corporation pursuant to G.S. 163A-211(b)(5).~~

16"

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

18 "(10) A provision limiting the term of renewal of the contract to no more than five
19 three years. ~~The term of the contract may be extended in one-year increments~~
20 ~~up to four times after no less than four-fifths of the original contract term has~~
21 ~~passed. In the event of renewal, the Department shall provide notice of~~
22 ~~intention to renew the contract for the initial renewal no less than five months~~
23 ~~prior to the expiration of the remaining term of the contract, and the~~
24 ~~Department shall provide notice of intention to renew the contract for a~~
25 ~~subsequent renewal no less than one year prior to the expiration of the~~
26 ~~remaining term of the contract, including the term of any extension. A contract~~
27 ~~extension may not extend the remaining term of the contract, including the~~
28 ~~term of the extension, to more than two years. Nothing in this subdivision shall~~
29 ~~be construed as a prohibition against entering into a new contract with the~~
30 ~~nonprofit corporation four years."~~

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

33 "(10) A provision limiting the term of renewal of the contract to no more than three
34 years. In the event of renewal, the Department shall provide notice of intention
35 to renew the contract for the initial renewal no less than five months prior to
36 the expiration of the remaining term of the contract, and the Department shall
37 provide notice of intention to renew the contract for a subsequent renewal no
38 less than one year prior to the expiration of the remaining term of the contract,
39 including the term of any extension. A contract extension may not extend the
40 remaining term of the contract, including the term of the extension, to more
41 than four years. A contract entered into under this section shall be on a
42 calendar year basis."

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

44 "(14) A provision ~~requiring~~ allowing the nonprofit corporation to receive funds
45 from fund-raising efforts and sources other than State funds ~~an amount~~
46 ~~totaling at least five million seven hundred fifty thousand dollars (\$5,750,000)~~
47 ~~during the term of the contract to support operations and functions of the~~
48 ~~corporation. The corporation shall raise at least seven hundred fifty thousand~~
49 ~~dollars (\$750,000) during the first year of the term of the contract and shall~~
50 ~~raise at least one million two hundred fifty thousand dollars (\$1,250,000)~~
51 ~~during each subsequent year of the term of the contract. Amounts raised prior~~

1 ~~to entering the contract or during a year preceding the current year of the~~
2 ~~contract shall not apply to the amount required to be raised during the current~~
3 ~~year-funds."~~

4 **SECTION 5.** Except as otherwise provided, Sections 1, 2, and 3 of this act are
5 effective when this act becomes law and apply to contracts existing, entered into, and renewed
6 on or after that date. Notwithstanding the limitation on the term of renewal, as provided in
7 G.S. 143B-431.01(e)(10), as amended by this act, the initial term of renewal of an existing
8 contract may be for no more than three years plus the remainder of the calendar year in which
9 the contract is renewed. The remainder of this act is effective when it becomes law, and Sections
10 1.1 and 4 apply to contracts entered into or renewed on or after that date.