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SENATE BILL DRS45233-MC-145

Short Title:	Modify EDPNC Legal Obligations.	(Public)
Sponsors:	Senator Edwards (Primary Sponsor).	
Referred to:		

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE THE PUBLIC RECORDS LAWS AND OPEN MEETINGS LAWS
3   REQUIREMENTS APPLICABLE TO A NONPROFIT CORPORATION WITH WHICH
4   THE   DEPARTMENT   OF   COMMERCE   CONTRACTS   FOR   ECONOMIC
5   DEVELOPMENT PURPOSES.
6 The General Assembly of North Carolina enacts:
7   **SECTION 1.** G.S. 143B-431.01 reads as rewritten:
8 "**§ 143B-431.01. Department of Commerce – contracting of functions.**
9   …
10   (h)   Applicable Laws. – A North Carolina nonprofit corporation with which the
11 Department contracts pursuant to this section is subject to the requirements of (i) Chapter 132 of
12 the General Statutes and (ii) Article 33C of Chapter 143 of the General Statutes. Officers,
13 employees, and members of the governing board of the a North Carolina nonprofit corporation
14 with which the Department contracts pursuant to this section are public servants, as defined in
15 138A-3, and are subject to the requirements of Chapter 138A of the General Statutes. Employees
16 of the corporation whose annual compensation is less than eighty thousand dollars ($80,000) are
17 not subject to G.S. 138A-22.
18   …."
19   **SECTION 2.** G.S. 132-6(d) reads as rewritten:
20 "(d)   Notwithstanding the provisions of subsections (a) and (b) of this section, public
21 records relating to the proposed expansion or location of specific business or industrial projects
22 may be withheld so long as their inspection, examination or copying would frustrate the purpose
23 for which such public records were created; provided, however, that nothing herein shall be
24 construed to permit the withholding of public records relating to general economic development
25 policies or activities. Once the State, a local government, or the specific business has announced
26 a commitment by the business to expand or locate a specific project in this State or the business
27 has made a final decision not to do so, of which the State or local government agency involved
28 with the project knows or should know, the provisions of this subsection allowing public records
29 to be withheld by the agency no longer apply. Once the provisions of this subsection no longer
30 apply, the agency shall disclose as soon as practicable, and within 25 business days, public
31 records requested for the announced project that are not otherwise made confidential by law. An
32 announcement that a business or industrial project has committed to expand or locate in the State
33 shall not require disclosure of local government records relating to the project if the business has
34 not selected a specific location within the State for the project. Once a specific location for the
35 project has been determined, local government records must be disclosed, upon request, in
36 accordance with the provisions of this section. For purposes of this section, "local government

1 records" include records maintained by the State that relate to a local government's efforts to
2 attract the project.
3   Records relating to the proposed expansion or location of specific business or industrial
4 projects that are in the custody of the Department of Commerce ~~or an entity with which the~~
5 ~~Department contracts pursuant to G.S. 143B-431.01~~ shall be treated as follows:
6   (1)   Unless controlled by another subdivision of this subsection, the records may
7   be withheld if their inspection, examination, or copying would frustrate the
8   purpose for which the records were created.
9   (2)   If no discretionary incentives pursuant to Chapter 143B of the General
10   Statutes are requested for a ~~project and if the specific business decides to~~
11   ~~expand or locate the project in the State,~~ project, then the records relating to
12   the project shall not be disclosed.
13   …."
14   **SECTION 3.** This act is effective when it becomes law.