

University of North Carolina
Report on the Use of Delegated
Disposition Lease Authority

As required by SL 2012-142, Section 9.10(c)



September 1, 2014

Background

Section 9.10.(c) of SL 2012-142 requires the Board of Governors of The University of North Carolina to report to the Joint Legislative Commission on Governmental Operations by September 1, 2014, regarding the frequency of use of delegated disposition lease authority, the types of properties disposed of by lease, and an analysis of the efficiency gained from this delegation. Specifically:

SECTION 9.10.(c) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Commission on Governmental Operations by September 1, 2014, regarding the following:

- (1) How often the constituent institutions and General Administration used the authority to dispose of real property pursuant to G.S. 116 31.12 or G.S. 116 198.34(5).
- (2) The types of real properties that were disposed of by lease under that statutory authority.
- (3) An analysis and evaluation of what effect, if any, the authorization for the disposition of real property by lease has made with regard to the overall efficiency of real estate management by the constituent institutions and General Administration.

G.S. 116 31.12 generally gives the UNC campuses delegated lease authority, not requiring approval of the Department of Administration and Council of State, at the discretion of the UNC Board of Governors. G.S. 116 198.34(5) grants similar delegated authority where the leases take place on specially designated Millennial, Centennial, Horace Williams, or Kannapolis Research campuses. Section 9.10.(b) of SL 2012-142 added disposition authority for leases for 10 years or less as part of G.S. 116 31.12 while disposition lease authority had previously been granted for 10 years or less under G.S. 198.34(5). Since SL 2012-142 became effective in July 2012, SL 2013-360 further extended the disposition authority under G.S. 116-198.34(5) to 65 years. Additionally, section 36.7.(a) of SL 2014-100 extended this authority to 99 years.

The UNC Board of Governors granted the UNC President delegated disposition lease authority to be used at his discretion for campuses under G.S. 116 31.12 in October 2012. It further granted delegated disposition lease authority to UNC Chapel Hill, NC State University, and East Carolina University in April 2013 under the authority in G.S. 116 31.12.

Frequency of Use

Campuses report that they have executed 91 delegated disposition leases since SL 2012-142 became effective in July 2012 and an additional 11 leases have been approved but are not yet fully executed. 38 of these were done under the authority of G.S. 198.34(5) and 64 under G.S. 116 31.12. As noted above, the UNC Board of Governors did not grant authority under G.S. 116 31.12 to the President and the campuses until almost as much as a year after July 2012. This restricted the usage of this authority of delegation. The types of leases and properties leased break down primarily in the following categories:

- 7 Construction Leases: These are leases of vacant land or facilities to external parties who construct new facilities or refurbish the facilities and then turn the property back over to the campus after the lease term is expired.
- 57 External Partner Leases: These leases primarily to allow an external partner to be close to resources of the campus to facilitate the campus mission.
 - 36 of these are for office space.
 - 21 of these are for research and lab space.
- 17 Residential Properties: 15 of these leases are temporary, where the campus owns a residential space that is planned in the long term for another use, including demolition and new construction, but is currently rented to generate income in the short run. Two of the residential properties are rented to further the mission of the campus.
- 21 Infrastructure Leases: The space leased is primarily not used by people but is used to support infrastructure necessary for the campus or larger community. Examples include space for telecommunication equipment on a roof, or an ATM machine in a dining hall.

Efficiency Gained from Delegation

Time

Campuses report significant benefits from delegated disposition lease authority. Before the delegation, larger leases had to be approved by the Department of Administration (DOA) and the Council of State (COS). Campuses estimated that using delegated disposition lease authority for these larger leases saves them about six to eight months from the lease development process. Most of the savings was attributed to not having to spend time filling out paperwork and wait for approvals from DOA and COS. Even smaller leases had to just go to DOA for review and this process often took months. Campuses can now use in-house real estate legal counsel for the drafting, editing and review of the documents. As a result, these smaller leases can be executed in weeks.

Speed of Business

The most significant benefit of this reduced time frame is that campus now can execute leases at the speed of business. Campuses report that they can now execute most leases in a few weeks for small leases to a couple of months for larger leases. This speed is particularly important in meeting the expectations of the campus corporate partners who lease space from campuses. Often these partners have other options at peer universities or nearby locations. The speed and certainty resulting from the delegated authority increases the probability a deal can be finalized and at better terms for the campus.

Speed is particularly important to remain competitive with our peer institutions when vying for the same research tenant. As noted above, these External Partner Leases make up over half of the delegated disposition leases. The delegation now enables the campuses to meet the expectations of the speed of business when presenting a lease proposal that does not have a contingency for approval by the Council of State that adds multiple months to the uncertainty. Businesses expect to review competing proposals whether from University of Georgia or University of Texas with the expectations that the landlord can deliver the deal that is presented.

Prior to the delegation, campuses found it necessary to include the caveat that the terms were subject to the approval of Council of State at a meeting that could be more than a few months away. Although Council of State has historically been very accommodating, convincing a firm to commit to a NC relocation is only more difficult when there is any open-ended contingency in the proposal. The delegation now gives campuses a competitive advantage.

Public-Private Partnerships

Some of the larger disposition leases consist of leases of land, or existing facilities, to associated entities (i.e. foundation, endowment, etc.) that hire a developer or to an outside developer directly. Typically, the purpose is to create a public-private partnership to construct an improvement that will ultimately become an asset of the state of North Carolina and that will benefit the campus. These construction or ground leases are where the delegated authority has significant impact. Prior to being granted the authority to execute these locally, the turnaround time for obtaining an executed lease varied greatly but was consistently lengthy enough to cause scheduling problems for the construction of the associated projects.

NC State has utilized the ground leasing ability for a short-term lease to their Student Aid Association (aka Wolfpack Club) for the construction of an indoor athletic practice facility adjacent to our Carter – Finley Stadium. This facility is being funded entirely by donations to the Wolfpack Club and is being constructed by them. Upon the completion of the facility and inspection by State Construction, NC State will accept the gift-place and terminate the ground lease. Although this mechanism has been used before to achieve similar results, this is the first time that the campus could move so quickly through the process and allow for construction to take place immediately after football season so as to have minimal impacts in the area on the following football season. The ability to be in control of the timing has proven to be a significant element.

It is expected that the authority to execute leases for up to ninety-nine years (using G.S. 116 198.34(5)) will have significant positive future impacts since it will provide needed flexibility for capitalization when negotiating public-private partnership opportunities. This will position UNC campuses more competitively against peer campuses. The UNC system has not used this authority much yet. The lead time necessary for such a large undertaking is greater than one year which is how long we have had the delegation. The one exception is that Western Carolina University received UNC Board of Governors approval pursuant to NCGS 116.198.34(5) to lease its Millennial Campus to its Endowment Fund for 65 years in order to speed development of the property. The endowment fund is expected to further contract with outside developers and create multiple public-private partnerships.