

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 56

Short Title: NC Competition Initiative.

(Public)

Sponsors: Representatives Baker; Morris, Harrington, and Justus.

Referred to: Rules, Calendar, and Operations of the House.

February 7, 2001

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE NORTH CAROLINA GOVERNMENT
COMPETITION COMMISSION TO PROVIDE FOR BETTER GOVERNMENT
IN NORTH CAROLINA THROUGH A COMPREHENSIVE STATE
GOVERNMENT COMPETITION INITIATIVE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to
read:

"Chapter 143C.

"North Carolina Government Competition Act of 2001.

"§ 143C-1. Short title.

This Chapter shall be known and may be cited as the 'North Carolina Government
Competition Act of 2001.'

"§ 143C-2. Definitions.

As used in this Chapter, unless the context otherwise requires:

(1) 'Commission' means the North Carolina Government Competition
Commission.

(2) 'State agency' means any State department, agency, or institution.

"§ 143C-3. North Carolina Government Competition Commission created; duties.

(a) The North Carolina Government Competition Commission is created within
the Department of Commerce. The Commission shall exercise its power independently
of the Secretary of Commerce and shall be subject to the direction and supervision of
the Secretary of Commerce only with respect to the management functions of
coordination and reporting. The purpose of the Commission is to be the catalyst to cause
the use of competition to improve the delivery of State government services, to make
State government more effective and more efficient, and to reduce the costs of
government to taxpayers.

(b) The Commission shall:

- 1 (1) Develop an institutional framework for a statewide competition
2 initiative to encourage innovation and competition within State
3 government.
- 4 (2) Establish a system to encourage the use of feasibility studies and
5 innovation to determine where competition could reduce government
6 costs without adversely affecting essential services.
- 7 (3) Monitor the activities, products, and services of State agencies to bring
8 an element of competition and to ensure a spirit of innovation and
9 entrepreneurship to compete with the private sector to increase the
10 quality of services or reduce costs to taxpayers.
- 11 (4) Identify any barriers to competition in State government and
12 recommend actions to overcome those barriers.
- 13 (5) Promote acceptance of competition by State government officials and
14 State employees as a viable alternative to in-house operations for
15 delivering State government services where savings to the State may
16 be realized through competition, including the development and
17 implementation of State employee adjustment and incentive programs.
- 18 (6) Advocate, develop, and accelerate implementation of a competitive
19 program for State agencies to ensure competition for the provision or
20 production of government services from both public sector and private
21 sector entities.
- 22 (7) Establish approval, planning, and reporting processes required to carry
23 out the functions of the Commission.
- 24 (8) Determine the competition potential of a State program or activity,
25 perform cost and benefit analyses, and conduct public and private
26 competition analyses.
- 27 (9) Devise evaluation criteria to be used in conducting performance
28 reviews of any State program or activity which is subject to a
29 competition recommendation.
- 30 (10) Assess the short-term and long-term results of State government
31 competition efforts.
- 32 (11) Appoint, as needed, ad hoc committees relating to specific matters
33 within the Commission's purview.

34 "**§ 143C-4. Membership; appointment; terms; vacancies; chair; quorum;**
35 **compensation.**

36 (a) The Commission shall be composed of nine members to be appointed as
37 follows:

- 38 (1) Three members appointed by the Governor, one of whom shall be a
39 State employee and two of whom shall be members of the private
40 sector. One of the private sector members shall have large-scale
41 purchasing experience.
- 42 (2) Three members appointed by the Speaker of the House of
43 Representatives, two of whom shall be members of the private sector
44 and one of whom shall be a State employee.

1 (3) Three members appointed by the President Pro Tempore of the Senate,
2 two of whom shall be members of the private sector and one of whom
3 shall be a State employee.

4 Members of the Commission shall serve two-year terms. In making the initial
5 appointments to the Commission, the respective appointing authorities shall appoint at
6 least one member for a one-year term so that subsequent terms stagger.

7 (b) All initial appointments shall be effective July 1, 2001. The initial members'
8 terms shall end on June 30 of the applicable year in which a term expires, with the
9 subsequent term beginning on July 1 of that year. No member may serve more than two
10 consecutive terms. Vacancies shall be filled by the appointing authority for any
11 unexpired portion of a term. Members shall receive subsistence, per diem, and travel
12 allowances as provided by G.S. 138-5.

13 (c) A majority of the members shall constitute a quorum. The Commission shall
14 annually elect its chair and vice-chair from among its members.

15 **"§ 143C-5. Cooperation of other State agencies.**

16 All State agencies shall cooperate with the Commission and, upon request, assist the
17 Commission in the performance of its duties and responsibilities. The Commission shall
18 not impose unreasonable burdens or costs in connection with requests of State agencies.

19 **"§ 143C-6. Application for and acceptance of gifts and grants; authority to enter**
20 **into contract; applicability of State purchasing laws.**

21 (a) The Commission may apply for, accept, and expend gifts, grants, or
22 donations from governmental sources or from nonprofit foundations organized for
23 taxation purposes under section 501(c)(3) of the Internal Revenue Code to enable it to
24 better carry out its objectives. No entity which provides a gift, donation, or grant shall
25 be eligible for a contract award which results from action of a Commission
26 recommendation.

27 (b) The Commission may enter into contracts for professional or consultant
28 service. Any consultant awarded a contract shall be ineligible for a contract award
29 resulting from the consultant's recommendations.

30 (c) The Commission is subject to the provisions of Articles 3, 3C, and 3D of
31 Chapter 143 of the General Statutes.

32 **"§ 143C-7. Public-private competition analysis; proposals for competition.**

33 (a) The Governor, the General Assembly, or the Commission may direct any
34 State agency to perform a public-private competition analysis covering any service for
35 which the Commission has received a qualifying unsolicited proposal for competition
36 from a private entity which is consistent with the Commission's purposes and duties as
37 provided by this Chapter.

38 (b) The Commission may solicit competition proposals from private entities in
39 order to make cost-comparison decisions. Any State agency may submit proposals to
40 the Commission for cost-comparison analyses.

41 (c) If a service contract is awarded to a private vendor as a result of a
42 recommendation by the Commission, cancellation of the contract requires the prior
43 approval of both the Commission and the Division of Purchase and Contract. The

1 Commission's executive director may act on behalf of the Commission under this
2 subsection pursuant to rules adopted by the Commission.

3 **"§ 143C-8. Duties of the Office of State Budget, Planning, and Management.**

4 The Office of State Budget, Planning, and Management shall determine the amount
5 of an existing appropriation that would no longer be needed by a State agency as the
6 result of savings realized through competition and shall report annually, by February 1,
7 the nature and amount of the savings to the Governor and to the General Assembly.

8 **"§ 143C-9. Reports to the Governor and General Assembly.**

9 The Commission shall report annually, by February 1, its findings and
10 recommendations to the Governor and to the General Assembly and may make other
11 interim reports it deems advisable."

12 **SECTION 2.** This act is effective when it becomes law.