

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

S

1

SENATE BILL 334

Short Title: Dorothea Dix Lease. (Public)

Sponsors: Senators Hise, Pate, Tucker (Primary Sponsors); Brock, Cook, Daniel, Newton, and Randleman.

Referred to: Appropriations/Base Budget.

March 19, 2013

A BILL TO BE ENTITLED

1 AN ACT TO CONDEMN THE LEASEHOLD INTEREST IN THE DOROTHEA DIX
2 CAMPUS PROPERTY CONVEYED TO THE CITY OF RALEIGH AND ALLOCATE IT
3 TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR MENTAL
4 HEALTH PURPOSES, AS PROVIDED IN THE STATUTE AUTHORIZING ITS
5 ACQUISITION AND IN THE DEEDS CONVEYING THE PROPERTY TO THE
6 STATE, TO PROVIDE FOR IMPLEMENTATION OF THE 2007 STATE
7 GOVERNMENT MASTER FACILITIES MASTER PLAN, INCLUDING LEASE OF A
8 PORTION OF THE PROPERTY AT FAIR MARKET VALUE TO THE CITY OF
9 RALEIGH FOR A PUBLIC PARK, AND TO PROVIDE FOR USE OF ANY LEASE
10 PROCEEDS FOR MENTAL HEALTH PURPOSES.

11
12 Whereas, on December 28, 2012, Governor Beverly Perdue executed a 75- to
13 99-year below fair market value lease with the City of Raleigh for use of State property known
14 generally as the "Dorothea Dix Property" as a city destination park; and

15 Whereas, the Dorothea Dix Property is used for Department of Health and Human
16 Services operations and is the office site for 2,456 Department of Health and Human Services
17 employees; and

18 Whereas, relocation of Department of Health and Human Services operations and
19 employees off the Dorothea Dix Property will require significant planning and substantial
20 commitment of State tax dollars or debt capacity; and

21 Whereas, the Department of Health and Human Services continues to face
22 significant budget challenges as evidenced by the January 31, 2013, audit issued by the North
23 Carolina State Auditor; and

24 Whereas, the Dorothea Dix Property has been the subject of multiple commercial
25 appraisals and constitutes a significant State asset owned by and for the benefit of the people of
26 this State; and

27 Whereas, authority for acquisition of the Dorothea Dix Property was granted in
28 1848 particularly for the benefit of North Carolinians with mental illness, a purpose given no
29 attention in the December 28, 2012, lease; and

30 Whereas, G.S. 146-28 requires the Department of Administration to investigate
31 present and future State need for State land proposed for conveyance, lease, or rent; Now,
32 therefore,

33 The General Assembly of North Carolina enacts:



1 **SECTION 1.** Upon the effective date of this act, there is vested in the State of
2 North Carolina, including the right of immediate possession by the State, all of the right, title,
3 and interest, including without limitation leasehold interests, conveyed to the City of Raleigh
4 by the State of North Carolina by lease approved by the Governor and Council of State and
5 executed December 28, 2012. This includes those as described in Exhibit A of that lease and
6 those in any of the exhibits, schedules, or attachments to that lease or in the Memorandum of
7 Lease dated December 28, 2012. That lease covers approximately 325 acres as described in
8 Section 1.8 of the lease and is shown as Dix Park, 307 acres +/-, in Exhibit A of that lease.
9 Section 10 of the lease specifically notes the power of the State to take by condemnation all or
10 any part of the leasehold interest.

11 **SECTION 2.** The property described in Section 1 of this act is allocated to the
12 Department of Health and Human Services. Chapter 1 of the Laws of 1848-49 authorized
13 acquisition of that property in trust for the use and benefit of the North Carolina Hospital for
14 the Insane; some or all of the deeds provided that the conveyance to the State was in trust for
15 the use and benefit of the North Carolina Hospital for the Insane. While the property remains
16 subject to the power of sale or lease by the State, any proceeds from sale or lease shall be used
17 solely for mental health treatment purposes, which the General Assembly determines under the
18 doctrine of cy pres to be as near as may be to the purpose of its acquisition of the property for
19 charitable purposes.

20 **SECTION 3.(a)** In compensation to the City of Raleigh for the taking in Section 1
21 of this act, the City is released from any obligations under such lease, and any funds paid by the
22 City of Raleigh to the State of North Carolina under that lease shall be refunded to the City of
23 Raleigh.

24 **SECTION 3.(b)** If the City of Raleigh contests that just compensation has not been
25 provided by subsection (a) of this section, it shall, within 60 days of the effective date of this
26 act, file a special proceeding in the Superior Court of Wake County for a determination of just
27 compensation. The rules of procedure for such action shall be determined by the judge
28 presiding, unless the Supreme Court otherwise provides rules of procedure under Section 13 of
29 Article IV of the Constitution, but shall generally be the same as for determining just
30 compensation in actions under Article 9 of Chapter 136 of the General Statutes.

31 **SECTION 4.(a)** The Department of Administration shall lease at fair market value
32 a portion of the property identified in the 2007 State Government Facilities Master Plan as
33 suitable for a public park. The City of Raleigh shall have the right of first refusal as a lessee.

34 **SECTION 4.(b)** It is the intent of the General Assembly that all revenues from
35 leases of the Dorothea Dix Property under Section 4(a) be held in a special fund for
36 appropriation by the General Assembly for mental health purposes consistent with the purposes
37 in the underlying deeds transferring the Dix property to the State and in Chapter 1 of the Laws
38 of 1848-49 that authorized acquisition of the property.

39 **SECTION 4.(c)** The Department of Administration and Department of Health and
40 Human Services shall evaluate the recommended uses of the Dorothea Dix Property identified
41 in the 2007 State Government Facilities Master Plan and report their findings to the General
42 Assembly by March 15, 2014, along with any request for authority or appropriation to
43 implement all or any portion of Section 8 of the 2007 State Government Facilities Master Plan.

44 **SECTION 5.** This act is effective when it becomes law.