

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

4

SENATE BILL 1504

Appropriations Committee Substitute Adopted with Amendment 6/2/94

Third Edition Engrossed 6/2/94

House Committee Substitute Favorable 6/17/94

Short Title: Budget Modification 2.

(Public)

Sponsors:

Referred to:

May 25, 1994

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE DUTIES OF THE STATE CONTROLLER; TO REDUCE COSTS TO THE STATE BY AUTHORIZING PRIVATE PUBLICATION OF THE ADMINISTRATIVE CODE; CONCERNING THE LAW PERTAINING TO SCHOOL TEXTBOOKS; TO EXPAND THE MEMBERSHIP OF THE NORTH CAROLINA AIR CARGO AIRPORT AUTHORITY; AND TO INCREASE THE TORT CLAIMS AWARD.

The General Assembly of North Carolina enacts:

SWITCHED BROADBAND TELECOMMUNICATIONS

Section 1. (a) G.S. 143B-426.39 is amended by adding a new subdivision to read:

"(16) Establish switched broadband telecommunications services and permit in addition to State agencies, cities, counties, and other local government units, the following organizations and entities to share on a not-for-profit basis:

- a. Nonprofit educational institutions;
- b. The Microelectronics Center of North Carolina ('MCNC');
- c. Research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities related to health care or education in North Carolina;

- 1 d. Agencies of the United States government operating in North
2 Carolina for use only in connection with activities that relate to
3 health care or education in North Carolina; or
4 e. Hospitals, clinics, and other health care facilities for use only in
5 connection with activities that relate to health care or education
6 in North Carolina.

7 Provided, however, that sharing of the switched broadband
8 telecommunication services by State agencies with entities or
9 organizations in the categories set forth herein shall not cause the
10 State, the Office of State Controller, or the MCNC to be classified as a
11 public utility as that term is defined in G.S. 62-3(23)a.6. Nor shall the
12 State, the Office of State Controller, or the MCNC engage in any
13 activities that may cause those entities to be classified as a common
14 carrier as that term is defined in the federal Communications Act of
15 1934, 47 U.S.C. § 153(h). Provided further, authority to share the
16 switched broadband telecommunication services with the non-State
17 agencies set forth above shall terminate one year from the effective
18 date of a tariff that makes the broadband services available to any
19 customer."

20 (b) G.S. 62-3(23) is amended by adding a new subparagraph as follows:

- 21 "i. The term public utility shall not include the State, the Office of
22 the State Controller, or the Microelectronics Center of North
23 Carolina in the provision or sharing of switched broadband
24 telecommunication services with non-State entities or
25 organizations of the kind or type set forth in G.S. 143B-
26 426.39."

27
28 **REDUCE PUBLICATION COSTS TO THE STATE/AUTHORIZE**
29 **PUBLICATION OF THE NORTH CAROLINA ADMINISTRATIVE CODE BY**
30 **CONTRACT WITH PRIVATE BUSINESS**

31 Sec. 2. G.S. 150B-21.18 reads as rewritten:

32 **"§ 150B-21.18. North Carolina Administrative Code.**

33 The Codifier of Rules must compile all rules into a Code known as the North
34 Carolina Administrative Code. The format and indexing of the Code must conform as
35 nearly as practical to the format and indexing of the North Carolina General Statutes.
36 The Codifier must publish printed copies of the Code and may publish the Code in other
37 forms. The Codifier must keep the Code current by publishing the Code in a loose-leaf
38 format and periodically providing new pages to be substituted for outdated pages, by
39 publishing the Code in volumes and periodically publishing cumulative supplements, or
40 by another means. The Codifier may authorize and license the private indexing,
41 marketing, sales, reproduction, and distribution of the Code. The Codifier must keep
42 superseded rules."

43
44 **SCHOOL TEXTBOOK LAW CHANGES**

1 Sec. 3. (a) G.S. 115C-85 reads as rewritten:

2 "**§ 115C-85. Textbook needs are determined by course of study.**

3 When the State Board of Education has adopted, upon the recommendation of the
4 Superintendent of Public Instruction, a standard course of study at each instructional
5 level in the elementary school and the secondary school, setting forth what subjects
6 shall be taught at each level, it shall proceed to select and adopt textbooks.

7 As used in this part, 'textbook' means systematically organized material
8 comprehensive enough to cover the primary objectives outlined in the standard course
9 of study for a grade or course. Formats for textbooks may be print or nonprint,
10 including hardbound books, softbound books, activity-oriented programs, classroom
11 kits, and technology-based programs that require the use of electronic equipment in
12 order to be used in the learning process.

13 Textbooks adopted in accordance with the provisions of this Part shall be used by
14 the public schools of the State."

15 (b) G.S. 115C-88 reads as rewritten:

16 "**§ 115C-88. Commission to evaluate ~~books~~ textbooks offered for adoption.**

17 The members of the Commission who are teachers, principals or the parent of
18 students ~~in the elementary grades~~ shall evaluate all textbooks offered for adoption ~~in~~
19 ~~the elementary grades.~~ The members who are teachers, principals or the parent of
20 students ~~in the high schools~~ shall evaluate all ~~books~~ offered for adoption ~~in the high~~
21 ~~school grades.~~ adoption.

22 Each member shall examine carefully and file a written evaluation of each ~~book~~
23 textbook offered for ~~adoption in the category for which he is responsible.~~ adoption.

24 The evaluation report shall give special consideration to the suitability of the ~~book~~
25 textbook to the instructional level for which it is offered, the content or subject matter,
26 and other criteria prescribed by the Board.

27 Each evaluation report shall be signed by the member making the report and filed
28 with the Board not later than a day fixed by the Board when the call for adoption is
29 made."

30 (c) G.S. 115C-99 reads as rewritten:

31 "**§ 115C-99. Legal custodians of ~~books~~ textbooks furnished by State.**

32 Local boards of education are the custodians of all ~~books furnished by the State.~~
33 textbooks purchased by the local boards with State funds. They shall provide adequate
34 and safe storage facilities for the proper care of these ~~books~~ textbooks and emphasize to
35 all students the necessity for proper care of textbooks."

36 (d) G.S. 115C-100 reads as rewritten:

37 "**§ 115C-100. Rental fees for textbooks prohibited; damage fees authorized.**

38 No local board of education may charge any pupil a rental fee for the use of
39 textbooks. A pupil's parents or legal guardians may be charged damage fees for abuse or
40 loss of textbooks under rules adopted by the State Board of Education. All money
41 collected ~~on State-owned books as damage fees or from the sale of books~~ textbooks
42 purchased with State funds under the provisions of this Part shall be paid annually as
43 collected to the State Board of Education."
44

1 **ADD COMMISSIONER OF AGRICULTURE TO NORTH CAROLINA AIR**
2 **CARGO AIRPORT AUTHORITY BOARD OF DIRECTORS**

3 Sec. 4. G.S. 63A-3(b) reads as rewritten:

4 "(b) Board of Directors. The Authority shall be governed by a Board of Directors.
5 The Board shall consist of at least the following ~~19~~20 members:

- 6 (1) Seven members appointed by the Governor.
- 7 (2) Three members appointed by the General Assembly upon the
8 recommendation of the Speaker of the House of Representatives in
9 accordance with G.S. 120-121.
- 10 (3) Three members appointed by the General Assembly upon the
11 recommendation of the President Pro Tempore of the Senate in
12 accordance with G.S. 120-121.
- 13 (4) The State Treasurer, who shall serve as an ex officio nonvoting
14 member.
- 15 (5) The President of the North Carolina System of Community Colleges,
16 provided that the President of the North Carolina Community Colleges
17 may instead appoint to the Board of Directors one member of the
18 board of trustees of a community college or one president of a
19 community college. If such an appointment is made, the appointee
20 shall serve at the pleasure of the President.
- 21 (6) The President of The University of North Carolina, provided that the
22 President of the University of North Carolina may instead appoint to
23 the Board of Directors one member of the board of trustees of a
24 constituent institution of The University of North Carolina, or one
25 chancellor of a constituent institution of The University of North
26 Carolina. If such an appointment is made, the appointee shall serve at
27 the pleasure of the President.
- 28 (7) The Chairman of the State Ports Authority.
- 29 (8) One member appointed by the board of county commissioners of any
30 county in which the cargo airport complex site is located.
- 31 (9) One member appointed by the city council of the city which is a
32 county seat of any county in which the cargo airport complex site is
33 located.
- 34 (10) The Commissioner of Agriculture.

35 Within 90 days after the Authority acquires land, either by purchase or
36 condemnation, for development as part of a cargo airport complex site, the board of
37 county commissioners in any county in which a portion of the land is located and the
38 city council of the city which is the county seat of the county shall, by resolution, each
39 appoint a person to serve as a member of the Board. If the board of commissioners or
40 the city council appoints one of its own members to the Board, the county commissioner
41 or the member of the city council who is appointed is considered to be serving on the
42 Board as an ex officio voting member as part of the duties of the office of county
43 commissioner or the office of city council member, in accordance with G.S. 128-1.2,
44 and is not considered to be serving in a separate office. Notwithstanding G.S. 116-31(h),

1 a member of the board of trustees of a constituent institution of The University of North
2 Carolina appointed to the Board of Directors under subdivision (6) of this subsection
3 may concurrently serve on the board of trustees and the Board of Directors.
4 Notwithstanding any other provision of law, the Governor may serve on the Board of
5 Directors by his own appointment on or after July 16, 1991, under subdivision (1) of
6 this subsection.

7 As the holder of an office, each member of the Board shall take the oath required by
8 Article VI, § 7 of the North Carolina Constitution before assuming the duties of a Board
9 member."

11 **TORT CLAIMS AWARD INCREASE**

12 Sec. 5. (a) G.S. 143-291(a) reads as rewritten:

13 "(a) The North Carolina Industrial Commission is hereby constituted a court for
14 the purpose of hearing and passing upon tort claims against the State Board of
15 Education, the Board of Transportation, and all other departments, institutions and
16 agencies of the State. The Industrial Commission shall determine whether or not each
17 individual claim arose as a result of the negligence of any officer, employee,
18 involuntary servant or agent of the State while acting within the scope of his office,
19 employment, service, agency or authority, under circumstances where the State of North
20 Carolina, if a private person, would be liable to the claimant in accordance with the laws
21 of North Carolina. If the Commission finds that there was such negligence on the part
22 of an officer, employee, involuntary servant or agent of the State while acting within the
23 scope of his office, employment, service, agency or authority, which was the proximate
24 cause of the injury and that there was no contributory negligence on the part of the
25 claimant or the person in whose behalf the claim is asserted, the Commission shall
26 determine the amount of damages which the claimant is entitled to be paid, including
27 medical and other expenses, and by appropriate order direct the payment of such
28 damages by the department, institution or agency concerned, but in no event shall the
29 amount of damages awarded exceed the sum of ~~one hundred thousand dollars~~
30 ~~(\$100,000)~~ one hundred fifty thousand dollars (\$150,000) cumulatively to all claimants
31 on account of injury and damage to any one person. Community colleges and technical
32 colleges shall be deemed State agencies for purposes of this Article. The fact that a
33 claim may be brought under more than one Article under this Chapter shall not increase
34 the foregoing maximum liability of the State."

35 (b) This section becomes effective October 1, 1994, and applies to claims arising
36 on or after that date.

37 Sec. 6. Unless otherwise specified, this act is effective upon ratification.