

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 802

Short Title: Purchasing Flexibility for Schools. (Public)

Sponsors: Representatives Glazier, Miner, Saunders, Warner (Primary Sponsors);
Bell, Cole, Culp, Dickson, Fox, Gibson, Goforth, Goodwin, Jeffus, Lucas,
McAllister, Rapp, and Ross.

Referred to: Education.

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION ADDITIONAL
PURCHASING FLEXIBILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-522(a) reads as rewritten:

"(a) ~~Except as provided in G.S. 115C-522.1, it~~ shall be the duty of local boards of education to purchase or exchange all supplies, ~~equipment and materials in accordance with contracts made by or with the approval of the Department of Administration.~~ equipment, and materials, and such purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal year the sums obligated for the current fiscal year, ~~and in order to protect the State purchase contractor, it is made the duty of the governing authorities of the local units to pay for these purchases promptly and in accordance with the terms of the contract of purchase.~~ year."

SECTION 2. G.S. 115C-522.1 is repealed.

SECTION 3. G.S. 115C-264 reads as rewritten:

"§ 115C-264. **Operation.**

In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal

1 government. The program shall be under the jurisdiction of the Division of School Food
2 Services of the Department of Public Instruction and in accordance with federal
3 guidelines as established by the Child Nutrition Division of the United States
4 Department of Agriculture.

5 Each school may, with the approval of the local board of education, sell soft drinks
6 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at
7 elementary schools, or (iii) contrary to the requirements of the National School Lunch
8 Program.

9 All school food services shall be operated on a nonprofit basis, and any earnings
10 therefrom over and above the cost of operation as defined herein shall be used to reduce
11 the cost of food, to serve better food, or to provide free or reduced-price lunches to
12 indigent children and for no other purpose. The term "cost of operation" shall be defined
13 as actual cost incurred in the purchase and preparation of food, the salaries of all
14 personnel directly engaged in providing food services, and the cost of nonfood supplies
15 as outlined under standards adopted by the State Board of Education. "Personnel" shall
16 be defined as food service supervisors or directors, bookkeepers directly engaged in
17 food service record keeping and those persons directly involved in preparing and
18 serving food: Provided, that food service personnel shall be paid from the funds of food
19 services only for services rendered in behalf of lunchroom services. Any cost incurred
20 in the provisions and maintenance of school food services over and beyond the cost of
21 operation shall be included in the budget request filed annually by local boards of
22 education with boards of county commissioners. It shall not be mandatory that the
23 provisions of ~~G.S. 115C-522(a) and 143-129~~ G.S. 143-129 be complied with in the
24 purchase of supplies and food for such school food services."

25 **SECTION 4.** G.S. 143-48.3 reads as rewritten:

26 "**§ 143-48.3. Electronic procurement.**

27 . . .

28 (b) The Department of Administration, in conjunction with the Office of the State
29 Controller and the Office of Information Technology Services may, upon request,
30 provide to all State agencies, universities, ~~local school administrative units, and the~~ and
31 community colleges, training in the use of the electronic procurement system.

32 . . .

33 (d) This section does not otherwise modify existing law relating to procurement
34 between The University of North Carolina, UNC Health Care, ~~local school~~
35 ~~administrative units~~, community colleges, and the Department of Administration.

36 . . .

37 (f) Any State ~~entity, local school administrative unit,~~ entity or community
38 college operating a functional electronic procurement system established prior to
39 September 1, 2001, may until May 1, 2003, continue to operate that system
40 independently or may opt into the North Carolina E-Procurement Service. Each entity
41 subject to this section shall notify the Information Resources Management Commission
42 by January 1, 2002, and annually thereafter, of its intent to participate in the North
43 Carolina E-Procurement Service."

44 **SECTION 5.** G.S. 143-49 reads as rewritten:

1 **"§ 143-49. Powers and duties of Secretary.**

2 The Secretary of Administration shall have power and authority, and it shall be his
3 duty, subject to the provisions of this Article:

4 . . .

5 (6) To make available to nonprofit corporations operating charitable
6 hospitals, to local nonprofit community sheltered workshops or centers
7 that meet standards established by the Division of Vocational
8 Rehabilitation of the Department of Health and Human Services, to
9 private nonprofit agencies licensed or approved by the Department of
10 Health and Human Services as child placing agencies, residential
11 child-care facilities, private nonprofit rural, community, and migrant
12 health centers designated by the Office of Rural Health and Resource
13 Development, to private higher education institutions that are defined
14 as "institutions" in G.S. 116-22(1), and to counties, cities, towns, local
15 school administrative units, governmental entities and other
16 subdivisions of the State and public agencies thereof in the expenditure
17 of public funds, the services of the Department of Administration in
18 the purchase of materials, supplies and equipment under such rules,
19 regulations and procedures as the Secretary of Administration may
20 adopt. In adopting rules and regulations any or all provisions of this
21 Article may be made applicable to such purchases and contracts made
22 through the Department of Administration, and in addition the rules
23 and regulations shall contain a requirement that payment for all such
24 purchases be made in accordance with the terms of the contract. Prior
25 to adopting rules and regulations under this subdivision, the Secretary
26 of Administration may consult with the Advisory Budget Commission.

27 . . .

28 (8) To establish and maintain a procurement card program for use by State
29 agencies, community colleges, ~~nonexempted constituent institutions of~~
30 ~~The University of North Carolina, and local school administrative~~
31 ~~units and nonexempted constituent institutions of The University of~~
32 North Carolina. The Secretary of Administration may adopt temporary
33 rules for the implementation and operation of the program in
34 accordance with the payment policies of the State Controller, after
35 consultation with the Office of Information Technology Services.
36 These rules would include the establishment of appropriate order limits
37 that leverage the cost savings and efficiencies of the procurement card
38 program in conjunction with the fullest possible use of the North
39 Carolina E-Procurement Service. Prior to implementing the program,
40 the Secretary shall consult with the State Controller, the UNC General
41 Administration, the Community Colleges System Office, the State
42 Auditor, the Department of Public Instruction, a representative chosen
43 by the local school administrative units, and the Office of Information
44 Technology Services. The Secretary may periodically adjust the order

1 limit authorized in this section after consulting with the State
2 Controller, the UNC General Administration, the Community Colleges
3 System Office, the Department of Public Instruction, and the Office of
4 Information Technology Services."

5 **SECTION 6.** G.S. 143-53 reads as rewritten:

6 **"§ 143-53. Rules.**

7 (a) The Secretary of Administration may adopt rules governing the following:

8 . . .

9 (2) Prescribing the routine, including consistent contract language, for
10 securing bids on items that do not exceed the bid value benchmark
11 established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.
12 The purchasing delegation for securing offers (excluding the special
13 responsibility constituent institutions of The University of North
14 Carolina), for each State department, institution, agency, ~~community~~
15 ~~college, and public school administrative unit and community college~~
16 shall be determined by the Director of the Division of Purchase and
17 Contract. For the State agencies this shall be done following the
18 Director's consultation with the State Budget Officer and the State
19 Auditor. The Director for the Division of Purchase and Contract may
20 set or lower the delegation, or raise the delegation upon written request
21 by the agency, after consideration of their overall capabilities,
22 including staff resources, purchasing compliance reviews, and audit
23 reports of the individual agency. The routine prescribed by the
24 Secretary shall include contract award protest procedures and
25 consistent requirements for advertising of solicitations for securing
26 offers issued by State departments, institutions, universities (including
27 the special responsibility constituent institutions of The University of
28 North Carolina), agencies, community colleges, and the public school
29 administrative units."

30 **SECTION 7.** This act becomes effective May 1, 2003.