

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 620**

Short Title: Purchasing Flexibility for Schools. (Public)

Sponsors: Senators Dalton; Clodfelter, Garrou, Gulley, Hartsell, Lucas, Metcalf, Reeves, Shubert, and Weinstein.

Referred to: Commerce.

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~~ 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**SECTION 2.** G.S. 115C-522.1 is repealed.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 government. The program shall be under the jurisdiction of the Division of School Food

1 Services of the Department of Public Instruction and in accordance with federal  
2 guidelines as established by the Child Nutrition Division of the United States  
3 Department of Agriculture.

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

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

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

25 **"§ 143-48.3. Electronic procurement.**

26 . . .

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

31 . . .

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

35 . . .

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

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

44 **"§ 143-49. Powers and duties of Secretary.**

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

3 . . .

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

26 . . .

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

1                   Controller, the UNC General Administration, the Community Colleges  
2                   System Office, the Department of Public Instruction, and the Office of  
3                   Information Technology Services."

4                   **SECTION 6.** G.S. 143-53(a)(2) reads as rewritten:

5   "**§ 143-53. Rules.**

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

7                   ...

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

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