

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2014-18
HOUSE BILL 1031

AN ACT TO FACILITATE ECONOMIC DEVELOPMENT WITHIN THE STATE.

The General Assembly of North Carolina enacts:

PART I. AUTHORIZE CONTRACTING OF ECONOMIC DEVELOPMENT FUNCTIONS BY THE DEPARTMENT OF COMMERCE

SECTION 1.1.(a) Part 1 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-431A. Department of Commerce – contracting of functions.

(a) Purpose. – The purpose of this section is to establish a framework whereby the Department of Commerce may contract with a North Carolina nonprofit corporation to assist the Department in fostering and retaining jobs and business development, international trade, marketing, and travel and tourism. It is the intent of the General Assembly that the Department develop a plan to work cooperatively with a nonprofit corporation for these purposes while safeguarding programmatic transparency and accountability as well as the fiscal integrity of economic development programs of the State.

(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

- (1) The obligation or commitment of funds under this Article, such as the One North Carolina Fund, the Job Development Investment Grant Program, the Industrial Development Fund, or the Job Maintenance and Capital Development Fund.
- (2) The Division of Employment Security, including the administration of unemployment insurance.
- (3) The functions set forth in G.S. 143B-431(a)(2).
- (4) The administration of funds or grants received from the federal government or its agencies.

(c) Oversight. – There is established the Economic Development Accountability & Standards Committee, which is a Board as that term is defined in G.S. 138A-3 of the State Government Ethics Act. The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of Environment and Natural Resources, the Secretary of Revenue, one member appointed by the Speaker of the House of Representatives, one member appointed by the President Pro Tempore of the Senate, and one member jointly appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

The members of the Committee who are appointed by the Speaker of the House of Representatives or by the President Pro Tempore of the Senate may not be members of the General Assembly. The Committee shall meet at least quarterly upon the call of the Chair. The duties of the Committee shall include all of the following:



- (1) Monitoring and oversight of the performance of a contract entered into pursuant to this section by the Department with a North Carolina nonprofit corporation.
 - (2) Receiving, reviewing, and referring complaints regarding the contract or the performance of the North Carolina nonprofit corporation, as appropriate.
 - (3) Requesting enforcement of the contract by the Attorney General or the Department.
 - (4) Auditing, at least biennially, by the Office of State Budget and Management, State Auditor, or internal auditors of the Department, the records of the North Carolina nonprofit corporation with which the Department has contracted pursuant to this section during and after the term of the contract to review financial documents of the corporation, performance of the corporation, and compliance of the corporation with applicable laws.
 - (5) Coordination of economic development grant programs of the State between the Department of Commerce, the Department of Transportation, and the Department of Environment and Natural Resources.
 - (6) Any other duties deemed necessary by the Committee.
- (d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:
- (1) At least 45 days prior to entering into or amending in a nontechnical manner a contract authorized by this section, the Department shall submit the contract or amendment, along with a detailed explanation of the contract or amendment, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.
 - (2) The nonprofit corporation adheres to the following governance provisions related to its governing board:
 - a. The board shall be composed of 17 voting members as follows: eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:
 1. Agribusiness, as recommended by the Commissioner of Agriculture.
 2. Financial services.
 3. Information technology.
 4. Biotechnology or life sciences.
 5. Energy.
 6. Manufacturing.
 7. Military or defense.
 8. Tourism, as recommended by the North Carolina Travel and Tourism Coalition.
 9. Tourism, as recommended by the North Carolina Travel Industry Association.
 - b. The nonprofit corporation shall comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

- c. No State officer or employee may serve on the board.
 - d. The board shall meet at least quarterly at the call of its chair. Each quarter and upon request, the board shall report to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's economic development.
 - e. The board is required to perform the following duties if the Department contracts pursuant to G.S. 143B-431A for the performance of the Secretary's responsibilities under G.S. 143B-434.01:
 - 1. To provide advice concerning economic and community development planning for the State, including a strategic business facilities development analysis of existing, available buildings or shell or special-use buildings and sites.
 - 2. To recommend economic development policy to the Secretary of Commerce, the General Assembly, and the Governor.
 - 3. To recommend annually to the Governor biennial and annual appropriations for economic development programs.
 - 4. To recommend how best to coordinate economic development efforts among the various agencies and entities, including those created by executive order of the Governor, that receive economic development appropriations, including the assignment of key responsibilities for different aspects of economic development and resource allocation and planning designed to encourage each agency to focus on its area of primary responsibility and not diffuse its resources by conducting activities assigned to other agencies.
- (3) The amount of State funds that may be used for the annual salary of any one officer or employee of the nonprofit corporation with which the Department contracts pursuant to this section shall not exceed the greater of (i) one hundred twenty thousand dollars (\$120,000) or (ii) the amount most recently set by the General Assembly in a Current Operations Appropriations Act. Members of the governing board may receive only per diem and allowances pursuant to G.S. 138-5.
- (4) The nonprofit corporation shall have received from fundraising efforts and sources, other than State funds, an amount totaling at least two hundred fifty thousand dollars (\$250,000) to support operations and functions of the corporation.
- (e) Mandatory Contract Terms. – Any contract entered into under this section must include all of the following:
- (1) A provision requiring the North Carolina nonprofit corporation provide to the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Department of Commerce, and the Fiscal Research Division a copy of the corporation's annual audited financial statement within seven days of issuance of the statement.
 - (2) A provision requiring the nonprofit corporation to provide by September 1 of each year, and more frequently as requested, a report to the Department on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources. The report shall also include all of the following:
 - a. Jobs anticipated to result from efforts of the nonprofit corporation. This includes project leads that were not submitted to the Department for possible discretionary incentives pursuant to Chapter 143B of the General Statutes.
 - b. Developed performance metrics of economic development functions itemized by county, by development tier area designation, as defined by G.S. 143B-437.08, and by Collaboration for Prosperity Zones created pursuant to G.S. 143B-28.1.

- c. Any proposed amendments to the areas of expertise required to be represented on the governing board of the nonprofit corporation.
 - d. A detailed explanation of how annual salaries are determined, including base pay schedules and any additional salary amounts or bonuses that may be earned as a result of job performance. The explanation shall include the proportion of State and private funds for each position and shall include the means used by the nonprofit corporation to foster employee efforts for economic development in rural and low-income areas in the State. Any bonuses paid to employees shall be based upon overall job performance and not be based on a specific project lead.
 - e. Any other information requested by the Department.
- (3) A provision providing that, upon termination of the contract, or upon dissolution of, or repeal by the General Assembly of, the charter of the nonprofit corporation with which the Department has contracted under this section, all assets and funds of the nonprofit corporation, including interest on funds, financial and operational records, and the right to receive future funds pursuant to the contract, will be surrendered to the Department within 30 days of the termination, dissolution, or repeal. During the 30-day period, the corporation may not further encumber any assets or funds. For purposes of this subdivision, assets and funds of the nonprofit corporation include assets and funds of any subsidiary or affiliate of the nonprofit corporation. An affiliate of the nonprofit corporation exists when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations.
- (4) A provision providing that the nonprofit corporation shall adopt and publish a resolution or policy containing a conflict of interest policy and gift policy to guide actions by the governing board members, officers, and employees of the nonprofit corporation in the performance of their duties.
- (5) The conflict of interest policy required by subdivision (4) of this subsection shall contain at a minimum the information in this subdivision. No subject person of the nonprofit corporation may take any official action or use the subject person's official position to profit in any manner the subject person, the subject person's immediate family, a business with which the subject person or the subject person's immediate family has a business association, or a client of the subject person or the subject person's immediate family with whom the subject person, or the subject person's immediate family, has an existing business relationship. No subject person shall attempt to profit from a proposed project lead if the profit is greater than that which would be realized by other persons living in the area where the project lead is located. If the profit under this subdivision would be greater for the subject person than other persons living in the area where the project lead is located, not only shall the subject person abstain from voting on that issue, but once the conflict of interest is apparent, the subject person shall not discuss the project lead with any other subject person or representative of the Department except to state that a conflict of interest exists. Under this subdivision, a subject person is presumed to profit if the profit would be realized by the subject person, the subject person's immediate family, a business with which the subject person or the subject person's immediate family has a business association, or a client of the subject person or the subject person's immediate family with whom the subject person, or the subject person's immediate family, has an existing business relationship with a company that is the subject of a proposed project lead. No subject person, in contemplation of official action by the subject person, or in reliance on information that was made known to the subject person in the subject person's official capacity and that has not been made public, shall (i) acquire a pecuniary interest in any property, transaction, or enterprise or gain any

pecuniary benefit that may be affected by such information or official action or (ii) intentionally aid another to do any of the above acts. As used in this subdivision, the following terms mean:

- a. Board. – The governing board of the nonprofit corporation with which the Department contracts pursuant to this section.
- b. Board member. – A member of the board.
- c. Business association. – A director, employee, officer, or partner of a business entity, or owner of more than ten percent (10%) interest in any business entity.
- d. Subject person. – A board member, officer, or employee of the nonprofit corporation.
- e. Department. – The Department of Commerce.
- f. Immediate family. – Spouse, children, parents, brothers, and sisters.
- g. Official action. – Actions taken in connection with the subject person's duties, including, but not limited to, voting on matters before the board, proposing or objecting to proposals for economic development actions by the Department, discussing economic development matters with other subject persons or Department staff in an effort to further the matter after the conflict of interest has been discovered, or taking actions in the course and scope of the position as a subject person and actions leading to or resulting in profit.
- h. Profit. – Receive monetary or economic gain or benefit, including an increase in value whether or not recognized by sale or trade.

(6) The gift policy required by subdivision (4) of this subsection shall at a minimum prohibit an employee, officer, or member of the board of the corporation from knowingly accepting a gift from a person whom the employee, officer, or member of the board knows or has reason to know (i) is seeking to do business of any kind in the State or (ii) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of official duties of the employee, officer, or member of the board. This prohibition shall not apply to either of the following:

- a. Gifts given to the employee, officer, or member of the board where the gift is food or beverages, transportation, lodging, entertainment or related expenses associated with industry recruitment, promotion of international trade, or the promotion of travel and tourism, and the employee, officer, or member of the board is responsible for conducting the business on behalf of the State, provided (i) the employee, officer, or member of the board did not solicit the gift and did not accept the gift in exchange for the performance or nonperformance of corporate duties, and (ii) the employee, officer, or member of the board reports electronically to the corporation within 30 days of receipt of the gift, including a description and value of the gift and a description of how the gift contributed to industry recruitment, promotion of international trade, or the promotion of travel and tourism.
- b. Gifts of personal property valued at less than one hundred dollars (\$100.00) given to the employee, officer, or member of the board in the commission of corporate duties if the gift is given as a personal gift in another country as part of an overseas trade mission and the giving and receiving of such personal gifts is considered a customary protocol in the other country.

(7) A provision providing that the nonprofit corporation maintain a record containing the name of all persons who have contributed to the nonprofit corporation, the date of each contribution, and the aggregate total of all contributions to the nonprofit corporation. The nonprofit corporation shall include the record in the report required to be filed with the Department pursuant to subdivision (2) of subsection (e) of this section.

- (8) A provision requiring the nonprofit corporation to maintain separate accounting records for and separate accounts for State and private funds and prohibiting any commingling of State and private funds. Records and accounts must be maintained according to generally accepted accounting principles.
- (9) A provision stating that the nonprofit corporation will not engage in the awarding of grants of the public or private funds of the nonprofit corporation.
- (10) A provision limiting the term of the contract to no more than five years. The term of the contract may be extended in one-year increments up to four times after no less than four-fifths of the original contract term has passed. A contract extension may not extend the remaining term of the contract, including the term of the extension, to more than two years. Nothing in this subdivision shall be construed as a prohibition against entering into a new contract with the nonprofit corporation.
- (11) A provision prohibiting the use of State funds for the severance pay of the chief executive officer and other officers of the nonprofit corporation and otherwise limiting the severance pay from funds other than State funds to no more than the lesser of the following:
- a. The salary limitation contained in subdivision (3) of subsection (d) of this section.
 - b. The salary limitation contained in subdivision (3) of subsection (d) of this section multiplied by a fraction, the numerator of which is the number of whole years the chief officer has been chief officer of the corporation and the denominator of which is four.
- (12) A provision requiring annual certification by the nonprofit corporation that it is in compliance with the following:
- a. The requirements of Chapter 55A of the General Statutes.
 - b. The requirements of each of the provisions listed in subsection (e) of this section. For any provision in this subsection that the nonprofit corporation did not comply with, the corporation shall provide a detailed explanation of the circumstances and time of the noncompliance.
- (13) A provision requiring the nonprofit corporation to comply with and perform the duties set out in G.S. 143B-434.2 in the event the Department contracts with the nonprofit corporation to promote and market tourism.
- (14) A provision requiring the nonprofit corporation to receive from fund-raising efforts and sources other than State funds an amount totaling at least five million seven hundred fifty thousand dollars (\$5,750,000) during the term of the contract to support operations and functions of the corporation. The corporation shall raise at least seven hundred fifty thousand dollars (\$750,000) during the first year of the term of the contract and shall raise at least one million two hundred fifty thousand dollars (\$1,250,000) during each subsequent year of the term of the contract. Amounts raised prior to entering the contract or during a year preceding the current year of the contract shall not apply to the amount required to be raised during the current year.
- (15) A provision that the limitation of G.S. 143C-6-8 applies.
- (16) For any entity reported pursuant to subdivision (6) of subsection (f) of this section for a gift, contribution, or item or service of value for which fair market value exceeds one thousand dollars (\$1,000) and was not paid, a provision requiring the nonprofit corporation to publish within seven days of the award: (i) the entity, (ii) the fair market value and description of that which was received from the entity by the nonprofit corporation or the affiliate entity of the corporation, and (iii) the date and amount of the award to the entity. This publication requirement is satisfied if the Department publishes the information required in this subdivision within seven days of the award either separately or as part of a press release concerning the award.

(f) Report. – By September 30 of each year, and more frequently as requested, the Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Economic Development and Global Engagement Oversight Committee, and the Fiscal Research Division on any performance for which the Department has contracted pursuant to this section. The report shall contain, at a minimum, each of the following:

- (1) A copy of the most recent report required by the Department pursuant to subdivision (2) of subsection (e) of this section.
- (2) An executive summary of the report required by subdivision (1) of this subsection.
- (3) A listing of each entity referred to the Department by a North Carolina nonprofit corporation with which the Department contracts pursuant to this section and any other information the Secretary determines is necessary or that is specifically requested in writing.
- (4) An explanation of the response by the Department to any notifications of noncompliance submitted to the Department by the nonprofit corporation, as required by G.S. 143B-431A(e), including actions taken by the Department to prevent repeat or similar instances of noncompliance.
- (5) For each activity in which the Secretary of Commerce solicits funds for the corporation, as permitted by subsection (i) of this section, a listing of each activity, including the date and the name of each person or entity from whom funds were solicited.
- (6) If the nonprofit corporation or any affiliated entity of the corporation has received, directly or indirectly, any gift, contribution, or item or service of value for which fair market value was not paid and if an entity making the gift or contribution receives an award, a list of the entity and the amount of the award.

(g) Public Funds. – A North Carolina nonprofit corporation with which the Department contracts pursuant to this section shall comply with the requirements provided in this subsection regarding the use of State funds.

- (1) Interest earned on State funds after receipt of the funds by the nonprofit corporation shall be used for the same purposes for which the principal was to be used.
- (2) The travel and personnel policies and regulations of the State of North Carolina Budget Manual limiting reimbursement for expenses of State employees apply to reimbursements for expenses of officers, employees, or members of a governing board of the nonprofit corporation. Deviations from the policies and regulations shall be approved by the Secretary.
- (3) State funds shall not be used to hire a lobbyist.

(h) Applicable Laws. – A North Carolina nonprofit corporation with which the Department contracts pursuant to this section is subject to the requirements of (i) Chapter 132 of the General Statutes and (ii) Article 33C of Chapter 143 of the General Statutes. Officers, employees, and members of the governing board of the corporation are public servants, as defined in G.S. 138A-3, and are subject to the requirements of Chapter 138A of the General Statutes. Officers, members of the governing board, and employees of the corporation whose annual compensation is equal to or greater than sixty thousand dollars (\$60,000) are subject to G.S. 138A-22.

(i) Prohibition. – A State officer or employee, other than the Secretary of Commerce, shall not solicit funds for a North Carolina nonprofit corporation with which the Department contracts pursuant to this section. The Secretary of Commerce may solicit funds for the nonprofit corporation pursuant to G.S. 138A-31(b)(5).

(j) Benefits. – An officer, employee, or member of a governing board of a North Carolina nonprofit corporation with which the Department contracts pursuant to this section is not a State employee, is not covered by Chapter 126 of the General Statutes, and is not entitled to State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees."

(k) Raised Funds. – For funds raised from sources other than State funds by the nonprofit corporation, at least twenty-five percent (25%) of the funds shall be used for the

benefit of or for salaried positions located in or working solely on development in development tier one or two areas, as defined in G.S. 143B-437.08."

SECTION 1.1.(b) G.S. 143B-431A(i), as enacted by this act, does not apply to employees of the Department of Commerce, other than employees involved in the recommendation and administration of State economic development incentive programs, prior to the time the Department contracts with a North Carolina nonprofit corporation pursuant to this act.

SECTION 1.1.(c) G.S. 132-6(d) reads as rewritten:

"(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State ~~or a final decision not to do so and the business has communicated that commitment or decision to the State or local government agency involved with the project,~~ and that the business will receive a discretionary incentive for the project pursuant to Chapter 143B of the General Statutes, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. If the specific business has requested discretionary incentives for the project pursuant to Chapter 143B of the General Statutes, but decides to not expand or locate the project in this State or does not receive such discretionary incentives, then the only records that are subject to disclosure pursuant to this Chapter are the records submitted to the Department of Commerce by the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A. If a business decides to expand or locate a specific project in this State, but the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A does not submit any documentation to the Department regarding a request for any discretionary incentives by the State pursuant to Chapter 143B of the General Statutes, and the business does not receive any such discretionary incentives, then any records regarding such project are not subject to disclosure pursuant to this Chapter. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project."

SECTION 1.2.(a) G.S. 143B-434 is repealed.

SECTION 1.2.(b) G.S. 143B-434.01 reads as rewritten:

"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.

(a) Definitions. – The following definitions apply in this section:

~~(1) Board. – The Economic Development Board.~~

...

(6) Secretary. – The Secretary of Commerce or the governing board of a North Carolina nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A for the performance of the Secretary's responsibilities under this section.

~~(b) Board to Prepare Plan. – The Board Secretary shall prepare review and update the existing Plan by April 1, 1994, on or before April 1 of each year. The Board shall review and update this Plan by April 1 of each year. The original Plan shall cover a period of four years and each annual update shall extend the time frame by one year so that a four-year plan is always in effect. The Board Secretary shall provide copies of the Plan and each annual update to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan shall encompass all of the components set out in this section.~~

(c) Purpose. – The purpose of this section is to require the ~~Board Secretary~~ to apply strategic planning principles to its economic development efforts. This requirement is expected to result in:

- (1) The selection of a set of priority development objectives that recognizes the increasingly competitive economic environment and addresses the changing needs of the State in a more comprehensive manner.
- (2) The effective utilization of available and limited resources.
- (3) A commitment to achieve priority objectives and to sustain the process.
- (d) (1) Public and Private Input. – At each stage as it develops and updates the Plan, the ~~Board Secretary~~ shall solicit input from all parties involved in economic development in North Carolina, including:
 - a. Each of the programs and organizations that, for State budget purposes, identifies economic development as one of its global goals.
 - b. Local economic development departments and regional economic development organizations.
 - c. The Board of Governors of The University of North Carolina.
- (2) The ~~Board Secretary~~ shall also hold hearings in each of the Regions to solicit public input on economic development before the initial Plan is completed. The purposes of the public hearings are to:
 - a. Assess the strengths and weaknesses of recent regional economic performance.
 - b. Examine the status and competitive position of the regional resource base.
 - c. Identify and seek input on issues that are key to improving the economic well-being of the Region.

The ~~Board Secretary~~ shall hold additional hearings from time to time to solicit public input regarding economic development activities.
- (3) Each component of the Plan shall be based on this broad input and, to the extent possible, upon a consensus among all affected parties. The ~~Board Secretary~~ shall coordinate its planning process with any State capital development planning efforts affecting State infrastructure such as roads and water and sewer facilities.
- (e) Environmental Scan. – The first step in developing the Plan shall be to develop an environmental scan based on the input from economic development parties and the public and on information about the economic environment in North Carolina. To prepare the scan, the ~~Board Secretary~~ shall gather the ~~following information required in this subsection~~ and ensure that the information is updated periodically. The updated information may be provided in whatever format and through whatever means is most efficient. The information required to prepare the scan includes all of the following:
 - (f) ~~...~~ Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.
 - (g) Vision and Mission Statements. – The ~~Board Secretary~~ shall develop a vision statement for economic development that would describe the preferred future for North Carolina and what North Carolina would be like if all economic development efforts were successful. The ~~Board Secretary~~ shall then develop a mission statement that outlines the basic purpose of each of North Carolina's economic development programs. Because special purpose nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk activity of investing in and supporting new business creation in the State, they should be assigned a dominant role in this key component of economic development activity.
 - (h) Goals and Objectives. – The ~~Board Secretary~~, using data from the public input and the environmental scan, shall formulate a list of goals and objectives. Goals shall be long-range, four years or more, and shall address both needs of economically distressed Regions and counties as well as opportunities for Regions and counties not distressed. The goals shall be developed with realism but should also be selected so as to encourage every Region and county within the State to develop to its maximum potential. Objectives shall be one year or less in scope and shall, if achieved, lead to the realization of the goals formulated by the ~~Board Secretary~~ as provided in this section.

Both goals and objectives should be stated largely in economic terms, that is, they should be related to specific population, employment, demographic targets, or economic sector targets. Both efficiency and equity considerations are to be addressed and balanced with special emphasis placed on the needs of disadvantaged or economically distressed populations and communities. The goals and objectives should not state how the economic targets are to be

reached, but rather what the economic conditions will be if they are obtained. So that the progress of North Carolina's economic development efforts can be monitored, the ~~Board Secretary~~ shall set objectives for each goal that allow measurement of progress toward the goal. Objectives should be quantifiable and time-specific in order to serve as performance indicators.

...
(j) **Implementation Plan.** – Based upon all of the foregoing steps, the ~~Board Secretary~~ shall establish an implementation plan assigning to the appropriate parties specific responsibilities for meeting measurable objectives. The implementation plan shall contain all necessary elements so that it may be used as a means to monitor performance, guide appropriations, and evaluate the outcomes of the parties involved in economic development in the State.

(k) **Annual Evaluation.** – The ~~Board Secretary~~ shall annually evaluate the State's economic performance based upon the statistics listed in this subsection and upon the ~~Board's Secretary's~~ stated goals and objectives in its Plan. The statistics upon which the evaluation is made should be available to policymakers. The information may be provided in whatever format and through whatever means is most efficient.

...
(l) **Accountability.** – The ~~Board Secretary~~ shall make all data, plans, and reports available to the General Assembly, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources at appropriate times and upon request. The ~~Board Secretary~~ shall prepare and make available on an annual basis public reports on each of the major sections of the Plan and the Annual Report indicating the degree of success in attaining each development objective."

SECTION 1.2.(c) G.S. 143B-437.03 is repealed.

SECTION 1.3. The Department of Commerce shall study and develop a plan for contracting with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as enacted by this act, for the performance of economic development activities and duties of the Department. The study shall include each of the following:

(1) The Department shall develop a plan for private fund-raising efforts for the nonprofit corporation for the performance of economic development functions. The study shall include the creation of a budget for the nonprofit corporation that provides for the performance of core functions of the corporation, including economic development functions, in the absence of private funds. The study shall compare the budget of the Department and the budget developed for the nonprofit corporation according to Department division and budget category, including personal services; purchased services; supplies; property, plant, and equipment; other expenses and adjustments; aid and public assistance; and other budget categories used by the Department. The study shall include a measurement and estimation of expected private fund-raising potential, and the Department shall examine the efforts of other states that have permitted public-private partnerships for economic development activities and report on the source or sources of funds for those partnerships, separately accounting for funds provided by the State and private funds.

(2) The Department shall report on each performance metric listed in this subdivision. The report shall analyze the Department's performance for each metric for (i) the last full year prior to contracting for performance of the metric and (ii) the annual average for the five-year period preceding contracting for performance of the metric. The performance metrics to be reported upon are as follows:

a. For business recruitment:

1. Number of jobs announced by the Department in total.
2. Number of jobs announced resulting from recruitment of new businesses.
3. Number of jobs announced resulting from existing business expansions.

4. Total U.S. dollar amount of investment resulting from new projects.
5. Total U.S. dollar amount of investment resulting from recruitment of new businesses.
6. Total U.S. dollar amount of investment resulting from existing business expansions.
7. Total U.S. dollar amount of foreign direct investment.
- b. For business services:
 1. Number of existing businesses receiving support.
 2. Number of Business Services Team leads that lead to an expansion of existing businesses.
 3. Number of businesses receiving export assistance.
 4. Total U.S. dollar amount of exports by assisted companies.
- c. For tourism and marketing:
 1. Number of consumer inquiries about travel to North Carolina.
 2. Total U.S. dollar amount of spending by visitors while in North Carolina.
 3. Total U.S. dollar amount of State and local tax revenues resulting from visitors' spending while in North Carolina.
 4. Number of business inquiries for business relocation, investment, and expansion.
- d. Any other information or performance metrics allowing comparison between departmental and corporate performance for any other economic development division in the Department for which the Department contracts for performance with a North Carolina nonprofit corporation pursuant to this act.
- e. Any other information or performance metrics deemed useful or necessary by the Department in the listed areas or other areas.

The Department shall make a report to the Office of State Budget Management, to the Joint Legislative Commission on Governmental Operations, to the Joint Legislative Economic Development and Global Engagement Oversight Committee, and to the Fiscal Research Division no later than December 1, 2014.

The Department shall require the nonprofit corporation to include in each report mandated by G.S. 143B-431A(e)(2) an analysis of the corporation's performance and a comparison to departmental performance using the same performance metrics studied and reported by the Department, as required by subdivision (2) of this section.

SECTION 1.4. G.S. 126-5 reads as rewritten:

"§ 126-5. **Employees subject to Chapter; exemptions.**

...
 (c2) The provisions of this Chapter shall not apply to:

...
 (5) Officers, employees, and members of the governing board of a North Carolina nonprofit corporation with which the Department of Commerce has contracted pursuant to the authority granted in G.S. 143B-431A.

...
 (d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of 1,000 exempt positions throughout the following departments:

...
 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 for the Departments of Commerce, Environment and Natural Resources, and Transportation are designated as exempt.

...
 " ..."
SECTION 1.5. Section 15.7A of S.L. 2013-360 is repealed.

SECTION 1.6. Section 1.5 of this act is effective when it becomes law. The remainder of this Part becomes effective July 1, 2014.

PART II. MODIFY NORTH CAROLINA BOARD OF SCIENCE AND TECHNOLOGY

SECTION 2.1. Part 18 of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 18. North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation.

"§ 143B-472.80. North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation; creation; powers and duties.

The North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation of the Department of Commerce is created. The Board has the following powers and duties:

- ...
- (4) To advise and make recommendations to the Governor, the General Assembly, the Secretary of Commerce, and ~~the Economic Development Board~~any North Carolina nonprofit corporation with which the Department of Commerce contracts pursuant to G.S. 143B-431A on the role of ~~science and technology~~science, technology, and innovation in the economic growth and development of North Carolina.

...

"§ 143B-472.81. North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation; membership; organization; compensation; staff services.

(a) The North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation consists of the Governor, the Secretary of Commerce, and ~~17-23~~ members appointed as follows: the Governor shall appoint one member from the University of North Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two members from other components of the University of North Carolina, one of which shall be from a historically black college or university, all nominated by the President of the University of North Carolina; one member from Duke University, nominated by the President of Duke University; one member from a private college or university, other than Duke University, in North Carolina, nominated by the President of the Association of Private Colleges and Universities; one member of the North Carolina Community College System; one member representing K-12 public education; one member from the Research Triangle Institute, nominated by the executive committee of the board of that institute; one member from the Microelectronics Center of North Carolina, nominated by the executive committee of the board of that center; one member from the North Carolina Biotechnology Center, nominated by the executive committee of the board of that center; four six members from private industry in North Carolina, at least one of whom shall be a professional engineer registered pursuant to Chapter 89C of the General Statutes or a person who holds at least a bachelors degree in engineering from an accredited college or university; and two members from public agencies in ~~North Carolina~~Carolina; and seven at-large members. Two members shall be appointed by the General Assembly, one shall be appointed upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The nominating authority for any vacancy on the Board among members appointed by the Governor shall submit to the Governor two nominations for each position to be filled, and the persons so nominated shall represent different disciplines.

...."

SECTION 2.2. G.S. 143B-437.80 reads as rewritten:

"§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.

(a) Program. – There is established the North Carolina SBIR/STTR Incentive Program to be administered by the North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation. In order to foster job creation and economic development in the State, the Board may provide grants to eligible businesses to offset costs associated with applying to the United States Small Business Administration for Small Business Innovative Research (SBIR) grants or Small Business Technology Transfer (STTR) grants. The grants shall be paid from the One North Carolina Small Business Account established in G.S. 143B-437.71.

...

(c) Grant. – The North Carolina Board of ~~Science and Technology~~Science, Technology, and Innovation may award grants to reimburse an eligible business for up to fifty percent (50%)

of the costs of preparing and submitting a SBIR/STTR Phase I proposal, up to a maximum of three thousand dollars (\$3,000). A business may receive only one grant under this section per year. A business may receive only one grant under this section with respect to each federal proposal submission. Costs that may be reimbursed include costs incurred directly related to preparation and submission of the grant such as word processing services, proposal consulting fees, project-related supplies, literature searches, rental of space or equipment related to the proposal preparation, and salaries of individuals involved with the preparation of the proposals. Costs that shall not be reimbursed include travel expenses, large equipment purchases, facility or leasehold improvements, and legal fees.

(d) Application. – A business shall apply, under oath, to the North Carolina Board of ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on a form prescribed by the Board that includes at least all of the following:

....
SECTION 2.3. G.S. 143B-437.81 reads as rewritten:

"§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.

(a) Program. – There is established the North Carolina SBIR/STTR Matching Funds Program to be administered by the North Carolina Board of ~~Science and Technology~~ Science, Technology, and Innovation. In order to foster job creation and economic development in the State, the Board may provide grants to eligible businesses to match funds received by a business as a SBIR or STTR Phase I award and to encourage businesses to apply for Phase II awards.

...
(c) Grant. – The North Carolina Board of ~~Science and Technology~~ Science, Technology, and Innovation may award grants to match the funds received by a business through a SBIR/STTR Phase I proposal up to a maximum of one hundred thousand dollars (\$100,000). Seventy-five percent (75%) of the total grant shall be remitted to the business upon receipt of the SBIR/STTR Phase I award and application for funds under this section. Twenty-five percent (25%) of the total grant shall be remitted to the business upon submission by the business of the Phase II application to the funding agency and acceptance of the Phase I report by the funding agency. A business may receive only one grant under this section per year. A business may receive only one grant under this section with respect to each federal proposal submission. Over its lifetime, a business may receive a maximum of five awards under this section.

(d) Application. – A business shall apply, under oath, to the North Carolina Board of ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on a form prescribed by the Board that includes at least all of the following:

....
SECTION 2.4. This Part becomes effective July 1, 2014.

PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES

SECTION 3.1. Intent to create Collaboration for Prosperity Zones. – It is the intent of the General Assembly to establish geographically uniform zones in this State to facilitate collaborative and coordinated planning and use of resources, to improve cooperation with other governmental and nonprofit entities at the local and regional level, to facilitate administrative efficiencies within State government, to receive advice on economic development issues by local boards established by a North Carolina nonprofit corporation with which the Department of Commerce contracts, and, to the extent feasible, to establish one-stop sources in each region for citizens and businesses seeking State services at a regional level.

SECTION 3.2. Article 1 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-28.1. Create Collaboration for Prosperity Zones.

For purposes of enhanced collaboration and cooperation between governmental agencies, planning, use of resources, and improved efficiency at a regional level, the State is hereby divided into eight permanent zones as follows:

- (1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain, and Transylvania Counties.

- (2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke, Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey Counties.
- (3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.
- (4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties.
- (5) North Central Region, consisting of Chatham, Durham, Edgecombe, Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance, Wake, Warren, and Wilson Counties.
- (6) Sandhills (South Central) Region, consisting of Bladen, Columbus, Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson, and Scotland Counties.
- (7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.
- (8) Southeast Region, consisting of Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, and Wayne Counties."

SECTION 3.3. The Departments of Commerce, Environment and Natural Resources, and Transportation, the Community Colleges System Office, and the State Board of Education shall, by January 1, 2015, report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee on how they plan to establish Collaboration for Prosperity Zones as defined by this act.

SECTION 3.4. G.S. 115C-65 reads as rewritten:

"§ 115C-65. **State divided into districts.**

The State of North Carolina shall be divided into eight educational ~~districts~~-districts, which shall match the composition of the zones set forth in G.S. 143B-28.1.~~embracing the counties herein set forth:~~

FIRST DISTRICT

~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

SECOND DISTRICT

~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, Wayne.~~

THIRD DISTRICT

~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton, Vance, Wake, Warren, Wilson.~~

FOURTH DISTRICT

~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Scotland.~~

FIFTH DISTRICT

~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.~~

SIXTH DISTRICT

~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~

SEVENTH DISTRICT

~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.~~

EIGHTH DISTRICT

~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey."~~

SECTION 3.5. Section 3.4 of this act becomes effective April 1, 2015. Members of the State Board of Education appointed by the Governor and confirmed by the General Assembly prior to 2015 with terms ending in 2017, 2019, and 2021 shall be designated as the appointees of the following districts for the remainder of the member's current term:

- a. Western Region: Wayne McDevitt
- b. Southwest Region: Gregory Alcorn
- c. Piedmont Triad (Central) Region: A.L. Collins
- d. Sandhills (South Central) Region: Olivia Oxendine
- e. Northeast Region: Rebecca Taylor
- f. Southeast Region: Reginald Kenan

The remainder of this Part becomes effective July 1, 2014.

PART IV. REQUIRE AT LEAST ONE LIAISON IN EACH COLLABORATION FOR PROSPERITY ZONE

SECTION 4.1. No later than January 1, 2015, the Departments of Commerce, Environment and Natural Resources, and Transportation shall have at least one employee physically located in the same office in each of the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with local governments, schools and colleges, planning and development bodies, and businesses in that zone. The departments shall jointly select the office. For purposes of this Part, the Department of Commerce may contract with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for each office in each of the Collaboration for Prosperity Zones.

No later than January 1, 2015, the Community Colleges System Office shall designate at least one representative from a community college or from the Community Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the community college system, the community colleges in the zone, and other educational agencies and schools within the zone. A liaison may be from a business center located in a community college. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation.

No later than January 1, 2015, the State Board of Education shall designate at least one representative from a local school administrative unit or from the Department of Public Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school administrative units and other public schools within the zone. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation.

SECTION 4.2. In addition to other related tasks assigned by their respective agencies, liaisons in each Collaboration for Prosperity Zone shall work to enhance collaboration and cooperation between their departments and other State agencies, local governmental agencies, and other regional public and nonprofit entities. The liaisons from the Departments of Environment and Natural Resources and Transportation shall work to consolidate and simplify the process for citizens and businesses seeking permits from their respective agencies. The liaisons from the Department of Commerce shall be used to support local economic development efforts, to coordinate such efforts, and to coordinate the Department of Commerce's activities within each Collaboration for Prosperity Zone. The liaisons from the community college system and local school administrative units shall work closely with the Department of Commerce and other State and local governmental agencies and local businesses in the zone to promote job development through career technical education.

SECTION 4.3.(a) The Departments of Transportation and Environment and Natural Resources shall jointly report to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, the Environmental Review Commission, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee, as follows:

- (1) No later than January 1, 2015, on the establishment of collocated liaisons within each Collaboration for Prosperity Zone and a description of the activities the liaisons have been assigned to perform.
- (2) No later than April 1, 2015, on the activities of the liaisons, specifically any activities undertaken that resulted in enhanced collaboration and coordination with the other Department and with other governmental agencies, improved administrative efficiencies, and any steps taken to make services to citizens and businesses within each zone more efficient, economical, and user-friendly.

SECTION 4.3.(b) The Community Colleges System Office and the State Board of Education shall each report to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee, as follows:

- (1) No later than January 1, 2015, on the establishment of liaisons within each Collaboration for Prosperity Zone and a description of the activities the liaisons have been assigned to perform.
- (2) No later than April 1, 2015, on the activities of the liaisons, specifically any activities undertaken that resulted in enhanced collaboration and coordination with other governmental agencies, improved planning on use of educational resources, and improved administrative efficiencies.

SECTION 4.3.(c) The Department of Commerce shall include in its first report under G.S. 143B-431A(f), as enacted by this act, a report on the establishment and activities of its liaisons in each Collaboration for Prosperity Zone. The Department of Commerce shall send a copy of this report to the Office of State Budget and Management, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee.

SECTION 4.4. The Departments of Commerce, Environment and Natural Resources, and Transportation, the Community Colleges System Office, and the State Board of Education shall use funds available to carry out the requirements of this section. Nothing in this act shall be construed as an authorization for payment of additional compensation for persons serving as liaisons.

SECTION 4.5. This Part becomes effective July 1, 2014, and expires July 1, 2018.

PART V. GENERAL ASSEMBLY REVIEW OF REPORTS

SECTION 5. It is the intent of the General Assembly to receive and review the reports required by Section 4.3 of this act concerning the creation of the Collaboration for Prosperity Zones and to use those reports to further address the following topics:

- (1) Enhancing collaboration and cooperation between State and other governmental agencies in order to streamline and improve services to citizens and businesses, to make such services more user-friendly, and to implement collaborative and cooperative interagency measures to enhance access to services.
- (2) Reducing barriers faced by citizens and businesses in accessing services that are unnecessarily caused by agency specialization, which may produce a "silo mentality."
- (3) Additional recommendations regarding liaison personnel, including expanding the requirement to other State departments.
- (4) Ways to integrate collaboration between educational institutions in each Collaboration for Prosperity Zone on the one hand and other governmental agencies and local businesses on the other.
- (5) Requiring the establishment of interagency one-stop shops in each Collaboration for Prosperity Zone.
- (6) Consolidating programs or services.
- (7) Cross-training employees.

- (8) Identifying offices, equipment, and support services that may be efficiently and economically shared between agencies in each Collaboration for Prosperity Zone.
- (9) The grouping of counties within each Collaboration for Prosperity Zone to determine whether there is a better configuration while keeping the same overall number of zones.

PART VI. EFFECTIVE DATE AND CONSTRUCTION

SECTION 6.1. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement this act.

SECTION 6.2. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2014.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 1:08 p.m. this 24th day of June, 2014