

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 955  
HOUSE BILL 1753

AN ACT TO FURTHER PROVIDE FOR THE SEPARATION OF POWERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Separation of Powers Act of 1986.

Sec. 2. G.S. 20-189 is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 3. G.S. 20-189 is amended by adding at the end "Prior to taking any action under the previous sentence, the Governor may consult with the Advisory Budget Commission."

Sec. 4. G.S. 58-191.4 is amended by deleting "after receiving the advice of the Advisory Budget Commission."

Sec. 5. G.S. 58-191.4 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 6. G.S. 95-135(c) is amended by deleting "with the approval of the Advisory Budget Commission".

Sec. 7. G.S. 95-135(c) is amended by adding at the end "Prior to taking any action under this subsection to set compensation, the Governor may consult with the Advisory Budget Commission."

Sec. 8. G.S. 105-455 is amended by deleting "repairing", and substituting "preparing".

Sec. 9. G.S. 106-26.20 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 10. G.S. 106-26.20 is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 11. G.S. 108A-33(d) is amended by deleting "and consultation with the Advisory Budget Commission".

Sec. 12. G.S. 108A-33(d) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 13. G.S. 113-315.31(a) is amended by deleting "after receiving the advice of the Advisory Budget Commission".

Sec. 14. G.S. 113-315.31(a) is amended by adding at the end "Prior to taking any action under this subsection, the Governor may consult with the Advisory Budget Commission."

Sec. 15. G.S. 115C-144 is amended by deleting "to the Advisory Budget Commission", and substituting "to the Governor and Advisory Budget Commission".

Sec. 16. G.S. 115C-144 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 17. G.S. 115C-243(f) is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 18. G.S. 115C-243(f) is amended by adding at the end "Prior to taking any action under this subsection, the State Board of Education may consult with the Advisory Budget Commission."

Sec. 19. G.S. 115D-3 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 20. G.S. 115D-3 is amended by adding at the end "Prior to taking any action under this section where joint approval is required, the Governor and State Board of Community Colleges may consult with the Advisory Budget Commission."

Sec. 21. The last paragraph of G.S. 115D-4 is amended by deleting "shall consult", and substituting "may consult".

Sec. 22. The last paragraph of G.S. 115D-5(e) is amended by deleting "shall consult", and substituting "may consult".

Sec. 23. G.S. 116-11(9)a. is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 24. G.S. 116-11(9)b. is amended by deleting "(after the Director of the Budget consults with the Advisory Budget Commission)".

Sec. 25. G.S. 116-11(9)b. is amended by adding at the end "Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 26. G.S. 116-11(9)c. is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 27. G.S. 116-11(9)c. is amended by adding at the end "Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 28. G.S. 116-36(g) is amended by deleting "after the Director of the Budget consults with the Advisory Budget Commission".

Sec. 29. G.S. 116-36(g) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 30. G.S. 116-37(e) is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 31. G.S. 116-37(e) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 32. G.S. 116-41.4 is amended by deleting the words "after the Director of the Budget consults with the Advisory Budget Commission" each time those words appear.

Sec. 33. G.S. 116-41.4 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 34. G.S. 116-41.9 is amended by deleting "after consultation with the Advisory Budget Commission" each time those words appear.

Sec. 35. G.S. 116-41.9 is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 36. G.S. 116-175.1 is amended by deleting "shall consult", and substituting "may consult".

Sec. 37. G.S. 116-187.1 is amended by deleting "shall consult", and substituting "may consult".

Sec. 38. G.S. 116-209.19 is amended by deleting "Advisory Budget Commission,".

Sec. 39. G.S. 116-209.19 is amended by adding at the end "Prior to taking any action under this subsection, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 40. G.S. 121-12.1 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 41. G.S. 122A-8.1 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 42. The fifth paragraph of G.S. 122A-8.1 is amended by adding at the end: "Prior to taking any action under this paragraph, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 43. G.S. 126-5(c1)(5) is amended by deleting "or consultation with the Advisory Budget Commission."

Sec. 44. G.S. 126-8.1(c) is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 45. G.S. 126-8.1(c) is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 46. The last sentence of G.S. 136-28.1(f) is amended by deleting "shall", and substituting "may".

Sec. 47. G.S. 136-44.37 is amended by deleting "after the Director of the Budget consults with the Advisory Budget Commission is authorized to", and substituting "may".

Sec. 48. G.S. 136-44.37 is amended by adding the following at the end: "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 49. G.S. 136-44.38(a) is amended by deleting "after the Director of the Budget consults with the Advisory Budget Commission."

Sec. 50. G.S. 136-44.38(a) is amended by adding the following at the end: "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 51. G.S. 138-4 is amended by deleting "subject to consultation with the Advisory Budget Commission".

Sec. 52. G.S. 138-4 is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 53. G.S. 138-4 is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 54. G.S. 140-12 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 55. G.S. 140-12 is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 56. The third paragraph of G.S. 143-4 is amended by deleting "The Governor shall call", and substituting "The Governor may call".

Sec. 57. The fifth paragraph of G.S. 143-4 is amended by deleting "shall serve as staff", and substituting "may serve as staff".

Sec. 58. The last paragraph of G.S. 143-4 is amended by deleting "is required by law", and substituting "is required or permitted by law or by action of any officer of the Executive".

Sec. 59. G.S. 143-4.1 is amended by adding at the end "The Governor may make a biennial inspection of those facilities of the State he deems necessary."

Sec. 60. The second paragraph of G.S. 143-10 is amended by deleting ", together with the Commission,".

Sec. 61. The second paragraph of G.S. 143-10 is amended by adding at the end "Prior to taking any action under this subsection to provide for public hearings, the Governor may consult with the Advisory Budget Commission."

Sec. 62. G.S. 143-11 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 63. G.S. 143-12 is amended by deleting ", by and with the advice of the Commission,".

Sec. 64. G.S. 143-12 is amended by adding the following at the beginning of the last paragraph "The Director of the Budget may, in preparation of the Appropriations and Revenue Bills, seek the advice of the Advisory Budget Commission."

Sec. 65. G.S. 143-16.1 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 66. G.S. 143-18.1(a) is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 67. G.S. 143-18.1(a) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 68. G.S. 143-18.1(b) is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 69. G.S. 143-18.1(b) is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 70. G.S. 143-18.1(c) is amended by deleting "after consultation with the Advisory Budget Commission and the Capital Building Authority".

Sec. 71. G.S. 143-18.1(c) is amended by adding at the end "Prior to taking any action under this section to authorize a project, the Governor or the Director of the Budget may consult with the Advisory Budget Commission and the Capital Planning Commission."

Sec. 72. G.S. 143-23(a) is amended by inserting at the end the words "The function of the Advisory Budget Commission under this subsection applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 73. G.S. 143-25 is amended by deleting ", after consultation with the Advisory Budget Commission,".

Sec. 74. G.S. 143-25 is amended by adding at the end "Prior to taking any action under this section to reduce appropriations pro rata, the Governor may consult with the Advisory Budget Commission."

Sec. 75. G.S. 143-30 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 76. G.S. 143-31.3 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 77. G.S. 143-33 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 78. G.S. 143-34.2 is amended by inserting at the end the words "The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 79. G.S. 143-49(4) is amended by deleting "and after consultation with the Advisory Budget Commission."

Sec. 80. G.S. 143-49(4) is amended by adding at the end: "Prior to taking any action under this subdivision concerning expenditures from the equipment reserve fund, the Secretary may consult with the Advisory Budget Commission."

Sec. 81. G.S. 143-49(6) is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 82. G.S. 143-49(6) is amended by adding at the end "Prior to adopting rules and regulations under this subdivision, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 83. G.S. 143-52 is amended by deleting ", after consultation with the Advisory Budget Commission,".

Sec. 84. G.S. 143-52 is amended by adding at the end "Prior to adopting other methods of advertisement under this section, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 85. G.S. 143-52 is amended by deleting "after consultation with the Advisory Budget Commission".

Sec. 86. G.S. 143-52 is amended by adding at the end "Prior to adopting rules and regulations under this section, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 87. G.S. 143-53 is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 88. G.S. 143-53 is amended by adding at the end "Prior to adopting rules and regulations under this section, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 89. G.S. 143-60 is amended by deleting "after consultation with the Advisory Budget Commission" both places those words appear.

Sec. 90. G.S. 143-60 is amended by adding at the end "Prior to taking any action under this section, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 91. G.S. 143-215.40(a) is amended by deleting "after the Governor consults with the Advisory Budget Commission".

Sec. 92. G.S. 143-215.40(a) is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 93. G.S. 143-215.73 is rewritten to read:

**"§ 143-215.73. Recommendation and disbursement of grants.** – After review of grant applications, project funds shall be disbursed and monitored by the Department of Natural Resources and Community Development. After review, but before transfer of funds from the Department's reserve fund into accounts for specific projects, the Secretary may forward the applications to the Advisory Budget Commission for its review of the recommendations."

Sec. 94. G.S. 143-341(8)i.7a is amended by deleting "and the advice of the Advisory Budget Commission".

Sec. 94.1. G.S. 143-341(8)i.7a is amended by adding at the end "Prior to adopting rules under this paragraph, the Secretary of Administration may consult with the Advisory Budget Commission."

Sec. 95. Section 16 of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 96. G.S. 143A-17 is amended by inserting at the end the words "The function of the Advisory Budget Commission under the preceding sentence applies only

if the Director of the Budget consults with the Commission in preparation of the budget."

Sec. 97. G.S. 143B-10(d) is amended by deleting "when approved in advance by the Advisory Budget Commission", and substituting "when approved in advance by the Director of the Budget."

Sec. 98. G.S. 143B-10(d) is amended by adding "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 99. G.S. 143B-426.11(5) is amended by deleting "Advisory Budget Commission", and substituting "Director of the Budget".

Sec. 100. G.S. 143B-426.11(7) is amended by deleting "Subject to consultation with the Advisory Budget Commission and under", and substituting "Under".

Sec. 101. G.S. 143B-426.11 is amended by adding at the end: "Prior to taking any action under subdivisions (5) or (7) of this section, the Board may consult with the Advisory Budget Commission."

Sec. 102. G.S. 143B-454(9) is amended by deleting ", after receiving the advice of the Advisory Budget Commission".

Sec. 103. G.S. 143B-454 is amended by adding at the end "Prior to taking any action under this subsection, the Authority may consult with the Advisory Budget Commission."

Sec. 104. G.S. 143B-456(b) is amended by deleting ", after receiving the advice of the Advisory Budget Commission."

Sec. 105. G.S. 143B-456(b) is amended by adding at the end "Prior to taking any action under this subsection, the Governor may consult with the Advisory Budget Commission."

Sec. 106. G.S. 147-12(3) is amended by deleting "after consultation with the Advisory Budget Commission."

Sec. 107. G.S. 147-12(3) is amended by adding at the end of the last paragraph "Prior to taking any action under this paragraph, the Governor may consult with the Advisory Budget Commission."

Sec. 108. Section 6(a) of Chapter 479, Session Laws of 1985, is amended by rewriting the last sentence to read: "Prior to varying any overexpenditure or underexpenditure in any title by more than ten percent (10%), the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 109. Section 16 of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 110. Section 16 of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 111. Section 86(a) of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 112. Section 86(a) of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 113. Section 86(d) of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 114. Section 86(d) of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this subsection, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 115. Section 87 of Chapter 479, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission,".

Sec. 116. Section 87 of Chapter 479, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 117. Section 3 of Chapter 480, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 118. Section 3 of Chapter 480, Session Laws of 1985, is amended by rewriting the last sentence to read: "Prior to approving the elements of financing of these projects, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 119. Section 6 of Chapter 480, Session Laws of 1985, is amended by deleting "with the advice of the Advisory Budget Commission".

Sec. 120. Section 6 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission."

Sec. 121. Section 8 of Chapter 480, Session Laws of 1985, is amended by deleting "After consultation with the Advisory Budget Commission and upon", and substituting "Upon".

Sec. 122. Section 8 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 123. Section 9 of Chapter 480, Session Laws of 1985, is amended by deleting ", after consultation with the Advisory Budget Commission,".

Sec. 124. Section 9 of Chapter 480, Session Laws of 1985, is amended by adding at the end "Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission."

Sec. 125. Section 19 of Chapter 578, Session Laws of 1983, validating certain actions, is reenacted.

Sec. 126. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-16.2. Reports.** – Whenever the Governor or any other executive officer, agency, board, or commission is authorized by law to consult with the Advisory Budget Commission prior to taking some action, if there has been no consultation such action should be reported in writing to the Speaker of the House of Representatives, the President of the Senate, and the Director of the Fiscal Research Division as soon as



practicable after the action is taken. This section does not apply to preparation of the budget."

Sec. 127. If any part of this act shall be declared invalid by any court, this shall not affect any other part of this act.

Sec. 128. This act shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 9th day of July, 1986.