

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 952
SENATE BILL 810

AN ACT TO AMEND THE NORTH CAROLINA TECHNOLOGICAL
DEVELOPMENT AUTHORITY'S ENABLING LEGISLATION REGARDING
THE INCUBATOR FACILITIES PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-471.4 reads as rewritten:

"§ 143B-471.4. Incubator facilities program.

(a) The Authority shall establish one or more incubator facilities within the State. An incubator facility is a building or buildings that provides space and support services for small businesses concerns which are beginning. 'Small business concern' has the same meaning as that contained in Chapter 14A of Title 15, United States Code, and regulations promulgated under it.

(b) The Authority shall select sites for incubator facilities. The Authority in selecting sites shall evaluate areas for potential sites using the following criteria but is not limited to them:

- (1) The unemployment rate,
- (2) The need for industrial and economic diversification and development,
- (3) The interest by the locality in the establishment of an incubator facility in the area as manifested by grants from public and private sources and cooperation agreements between local government, business, labor and educational institutions demonstrating the probability of the success of the incubator facility.

(c) The Authority may make ~~one-time~~ grants to establish incubator ~~facilities~~ facilities, provided that the grant amount received by any single incubator facility may not exceed two hundred thousand dollars (\$200,000). ~~A grant may not exceed two hundred thousand dollars (\$200,000).~~ Local government and interests must at least equal in cash or real estate value any grant made by the Authority; Provided, however, that contributions by State agencies may not be included in the matching grant.

(d) Only nonprofit corporations which are affiliated with local universities, colleges, community colleges or combinations thereof to advance the educational and research programs of these institutions shall be eligible to receive a grant from the Authority. Pursuant to rules adopted by the Authority, the corporation shall:

- (1) Manage and maintain the incubator facility,
- (2) Develop a mechanism to provide technical, management and entrepreneurial expertise to resident small business concerns and to small business concerns throughout the area, and

(3) Abide by rules adopted by the Authority.

(e) The incubator facility and any improvements shall be owned by a county, city, political subdivision, nonprofit corporation, or charitable or educational trust, but may be leased to the grant recipient. However, in the event the grant recipient has a lease for a term of five years or longer, then this incubator facility may be owned by any firm or entity if (i) the person or entity that owns the incubator facility does not control the grant recipient, and (ii) the Authority determines that the lease arrangement will further the purpose of the State's incubator facilities program. Incubator facilities may be located in a part of a larger building, then the ownership and lease provisions of this section shall be satisfied if the funds granted to the grant recipient are used only for that portion of the building owned or leased as provided in this section. In the event the physical facility is not used as an incubator facility for a minimum of five years, a pro rata portion of the incubator grant shall be returned for each month the facility is not used as an incubator facility. Small business concern residents of the facility may be provided secretarial and other support facilities and utilities for which the corporation may charge them a part or all of the cost. No small business concern may remain in the facility for more than two years, provided that if the owner of the property determines that it is in the best interest of the economic vitality of the owner, lessor and lessee, or it is economically and physically beneficial to the owner, lessor and lessee, the lease may be extended for a period not to exceed one additional year. Notwithstanding any other provision of law, the State shall not be liable for any act or failure to act of any organization granted funds under this Part, or any small business concern benefiting from the incubator facilities program."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of July, 1990.