

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1389\*

Short Title: Safety Provisions/Contracts.

(Public)

Sponsors: Representatives Fitch, Barnes, Cunningham, Howard, Sam Hunt, McLaughlin, Payne, H. Hunter; Blue, Albertson, Barnhill, Beard, Black, Bowen, Bowman, Brown, Brubaker, Chapin, Colton, N.J. Crawford, Dawkins, DeVane, Dial, Diamont, Easterling, Ethridge, Fletcher, Fussell, Gamble, Gist, Gottovi, Greenwood, Hardaway, Hensley, R. Hunter, Jeffus, Justus, Kennedy, Lilley, Lineberry, Luebke, McAllister, McLawhorn, Mercer, Michaux, Miller, Nesbitt, Oldham, Redwine, Stamey, Stewart, Wainwright, Warner, and Wicker.

Referred to: Appropriations.

May 28, 1992

A BILL TO BE ENTITLED

AN ACT TO REQUIRE STATE CONSTRUCTION SITE SAFETY STUDY AND THE DESIGNATION OF SAFETY OFFICERS ON STATE CONSTRUCTION SITES AND TO REQUIRE MINORITY AND WOMEN REPRESENTATION ON THE STATE BUILDING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135.26 reads as rewritten:

"§ 143-135.26. Powers and duties of the Commission.

The State Building Commission shall have the following powers and duties with regard to the State's capital facilities development and management program:

- (1) To adopt rules establishing standard procedures and criteria to assure that the designer selected for each State capital improvement project and the consultant selected for planning and studies of an architectural and engineering nature associated with a capital improvement project or a future capital improvement project has the qualifications and experience necessary for that capital improvement project or the proposed planning or study project. The rules shall provide that the State Building Commission, after consulting with the funded agency,

1 is responsible and accountable for the final selection of the designer  
2 and the final selection of the consultant except when the General  
3 Assembly or The University of North Carolina is the funded agency.  
4 When the General Assembly is the funded agency, the Legislative  
5 Services Commission is responsible and accountable for the final  
6 selection of the designer and the final selection of the consultant, and  
7 when the University is the funded agency, it shall be subject to the  
8 rules adopted hereunder, except it is responsible and accountable for  
9 the final selection of the designer and the final selection of the  
10 consultant. All designers and consultants shall be selected within 60  
11 days of the date funds are appropriated for a project by the General  
12 Assembly or the date of project authorization by the Director of the  
13 Budget; provided, however, the State Building Commission may grant  
14 an exception to this requirement upon written request of the funded  
15 agency if (i) no site was selected for the project before the funds were  
16 appropriated or (ii) funds were appropriated for advance planning  
17 only.

18 The State Building Commission shall submit a written report to the  
19 Joint Legislative Commission on Governmental Operations on the  
20 Commission's selection of a designer for a project within 30 days of  
21 selecting the designer.

- 22 (2) To adopt rules for coordinating the plan review, approval, and permit  
23 process for State capital improvement projects.
- 24 (3) To adopt rules for establishing a post-occupancy evaluation, annual  
25 inspection and preventive maintenance program for all State buildings.
- 26 (4) To develop procedures for evaluating the work performed by designers  
27 and contractors on State capital improvement projects and for use of  
28 the evaluations as a factor affecting designer selections and  
29 determining qualification of contractors to bid on State capital  
30 improvement projects.
- 31 (5) To continuously study and recommend ways to improve the  
32 effectiveness and efficiency of the State's capital facilities  
33 development and management program.
- 34 (6) To request designers selected prior to April 14, 1987, whose plans for  
35 the projects have not been approved to report to the Commission on  
36 their progress on the projects. The Department of Administration shall  
37 provide the Commission with a list of all such projects.
- 38 (7) To appoint an advisory board, if the Commission deems it necessary,  
39 to assist the Commission in its work. No one other than the  
40 Commission may appoint an advisory board to assist or advise it in its  
41 ~~work-work; and~~

42 ~~The Commission shall submit an annual report of its activities to~~  
43 ~~the Governor and the Joint Legislative Commission on Governmental~~  
44 ~~Operations.~~

1           (8)    To review the State's provisions for ensuring the safety and health of  
2           employees involved with State capital improvement projects, and to  
3           recommend to the appropriate agencies and to the General Assembly,  
4           after consultation with the Commissioner of Labor, changes in the  
5           terms and conditions of construction contracts, State regulations, or  
6           State laws that will enhance employee safety and health on these  
7           projects.

8            The Commission shall submit an annual report of its activities to  
9            the Governor and the Joint Legislative Commission on Governmental  
10           Operations."

11        Sec. 2. G.S. 143-135.25(c) reads as rewritten:

12        "(c)    The Commission shall consist of nine members qualified and appointed as  
13 follows:

14           (1)    A licensed architect whose primary practice is or was in the design of  
15           buildings, chosen from among not more than three persons nominated  
16           by the North Carolina Chapter of the American Institute of Architects,  
17           appointed by the Governor.

18           (2)    A registered engineer whose primary practice is or was in the design of  
19           engineering systems for buildings, chosen from among not more than  
20           three persons nominated by the Consulting Engineers Council and the  
21           Professional Engineers of North Carolina, appointed by the General  
22           Assembly upon the recommendation of the President of the Senate in  
23           accordance with G.S. 120-121.

24           (3)    A licensed building contractor whose primary business is or was in the  
25           construction of buildings, or an employee of a company holding a  
26           general contractor's license, chosen from among not more than three  
27           persons nominated by the Carolinas AGC (Associated General  
28           Contractors), appointed by the General Assembly upon the  
29           recommendation of the Speaker of the House of Representatives in  
30           accordance with G.S. 120-121.

31           (4)    A licensed electrical contractor whose primary business is or was in  
32           the installation of electrical systems for buildings, chosen from among  
33           not more than three persons nominated by the North Carolina  
34           Association of Electrical Contractors, and the Carolinas Electrical  
35           Contractors' Association, appointed by the Governor.

36           (5)    A public member appointed by the General Assembly upon the  
37           recommendation of the President of the Senate in accordance with  
38           G.S. 120-121.

39           (6)    A licensed mechanical contractor whose primary business is or was in  
40           the installation of mechanical systems for buildings, chosen from  
41           among not more than three persons nominated by the North Carolina  
42           Association of Plumbing, Heating, Cooling Contractors, appointed by  
43           the General Assembly upon the recommendation of the Speaker of the  
44           House of Representatives in accordance with G.S. 120-121.

- 1 (7) An employee of the university system currently involved in the capital  
2 facilities development process, chosen from among not more than  
3 three persons nominated by the Board of Governors of The University  
4 of North Carolina, appointed by the Governor.
- 5 (8) A public member who is knowledgeable in the building construction  
6 or building maintenance area, appointed by the General Assembly  
7 upon the recommendation of the President of the Senate in accordance  
8 with G.S. 120-121.
- 9 (9) A manager of physical plant operations whose responsibilities are or  
10 were in the operations and maintenance of physical facilities, chosen  
11 from among not more than three persons nominated by the North  
12 Carolina Association of Physical Plant Administrators, appointed by  
13 the General Assembly upon recommendation of the Speaker of the  
14 House of Representatives in accordance with G.S. 120-121.

15 The members shall be appointed for staggered three-year terms: The initial  
16 appointments to the Commission shall be made within 15 days of the effective date of  
17 this act. The initial terms of members appointed pursuant to subdivisions (1), (2), and  
18 (3) shall expire June 30, 1990; the initial terms of members appointed pursuant to (4),  
19 (5), and (6) shall expire June 30, 1989; and the initial terms of members appointed  
20 pursuant to (7), (8), and (9) shall expire June 30, 1988. Members may serve no more  
21 than six consecutive years. In making new appointments or filling vacancies, the  
22 Governor shall ensure that minorities and women are represented on the Commission.

23 Vacancies in appointments made by the Governor shall be filled by the Governor for  
24 the remainder of the unexpired terms. Vacancies in appointments made by the General  
25 Assembly shall be filled in accordance with G.S. 120-122. Persons appointed to fill  
26 vacancies shall qualify in the same manner as persons appointed for full terms.

27 The chairman of the Commission shall be elected by the Commission. The  
28 Secretary of State shall serve as chairman until a chairman is elected."

29 Sec. 3. Chapter 143 of the General Statutes is amended by adding a new  
30 section to read:

31 "**§ 143-135.7. Safety officers.**

32 Each contract for a State capital improvement project, as defined in Article 8B of  
33 this Chapter, shall require the contractor to designate a responsible person as safety  
34 officer to inspect the project site for unsafe health and safety hazards, to report these  
35 hazards to the contractor for correction, and to provide other safety and health measures  
36 on the project site as required by the terms and conditions of the contract."

37 Sec. 4. This act is effective upon ratification. Section 3 applies to contracts  
38 entered into on or after the effective date of this act.