

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1140

Short Title: Competitive Bidding on Leased Office Space. (Public)

Sponsors: Senator Brock.

Referred to: Commerce.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE COMPETITIVE BIDDING ON STATE LEASES OF OFFICE
3 SPACE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 146-25 reads as rewritten:

6 "§ 146-25. Leases and rentals.

7 If, after investigation, the Department of Administration determines that it is in the
8 best interest of the State that ~~land-land, except for office space,~~ be leased or rented for
9 the use of the State or of any State agency, the Department shall proceed to negotiate
10 with the owners for the lease or rental of such ~~property. All property.~~

11 If, after investigation, the Department of Administration determines that it is in the
12 best interest of the State that office space be leased or rented for the use of the State or
13 of any State agency, the Department shall proceed to invite proposals by advertisement
14 in a newspaper having general circulation in the county in which the office space is
15 needed.

16 All lease and rental agreements entered into by the Department shall be promptly
17 submitted to the Governor and Council of State for approval or disapproval."

18 SECTION 2. G.S. 146-25.1 reads as rewritten:

19 "§ 146-25.1. Proposals to be secured for leases, leases, other than leases for office
20 space.

21 (a) If pursuant to G.S. 146-25, the Department of Administration determines that
22 it is in the best interest of the State to lease or rent ~~land-land other than office space,~~ and
23 the rental is estimated to exceed twenty-five thousand dollars (\$25,000) per year or the
24 term will exceed three years, the Department shall require the State agency desiring to
25 rent land to prepare and submit for its approval a set of specifications for its needs.
26 Upon approval of specifications, the Department shall prepare a public advertisement.
27 The State agency shall place such advertisement in a newspaper of general circulation in
28 the county for proposals from prospective lessors of said land and shall make such other
29 distribution thereof as the Department directs. The advertisement shall be run for at least

1 five consecutive days, and shall provide that proposals shall be received for at least
2 seven days from the date of the last advertisement in the State Property Office of the
3 Department. The provisions of this section do not apply to property owned by
4 governmental agencies and leased to other governmental agencies.

5 (b) The Department may negotiate with the prospective lessors for leasing of the
6 needed land, taking into account not only the rental offered, but the type of land, the
7 location, its suitability for the purposes, services offered by the lessor, and all other
8 relevant factors. In the event either no proposal or no acceptable proposal is received
9 after advertising in accordance with subsection (a) of this section, the Department may
10 negotiate in the open market for leasing of the needed land.

11 (c) The Department of Administration shall present the proposed transaction to
12 the Council of State for its consideration as provided by this Article. In the event the
13 lowest rental proposed is not presented to the Council of State, that body may require a
14 statement of justification, and may examine all proposals."

15 **SECTION 3.** Chapter 146 of the General Statutes is amended by adding a
16 new section to read:

17 **"§ 146-25.2. Competitive bids to be secured for leases of office space.**

18 (a) If pursuant to G.S. 146-25, the Department of Administration determines that
19 it is in the best interest of the State to lease or rent office space, and the rental is
20 estimated to exceed twenty-five thousand dollars (\$25,000) per year or the term will
21 exceed three years, the Department shall require the State agency desiring to rent office
22 space to prepare and submit for its approval a set of specifications for its needs. Upon
23 approval of specifications, the Department of Administration shall prepare a public
24 advertisement.

25 The State agency shall place the advertisement in a newspaper of general circulation
26 in the county in which the office space is needed for proposals from prospective lessors
27 of the office space and shall make any other distribution of the advertisement as the
28 Department of Administration directs. The advertisement shall be run for at least five
29 consecutive days, and the date of opening of bids shall be at least seven full days after
30 the last day the advertisement is run. The advertisement shall: (i) state the time and
31 place where specifications for the office space may be had; (ii) state the time and place
32 for opening of the proposals; and (iii) reserve to the board or governing body the right to
33 reject any or all proposals.

34 Proposals may be rejected for any reason determined by the State agency to be in the
35 best interest of the agency. However, the proposal shall not be rejected for the purpose
36 of evading the provisions of this section.

37 The provisions of this section do not apply to property owned by governmental
38 agencies and leased to other governmental agencies.

39 (b) All proposals shall be opened in public, and the State agency shall award the
40 contract to the lowest responsible bidder or bidders, taking into consideration the rental
41 offered, the type of office space, the location, the suitability of the space for the
42 purposes, services offered by the lessor, and all other relevant factors.

43 In the event (i) no bid or acceptable bid is received after advertising in accordance
44 with subsection (a) of this section or (ii) the lowest responsible bids are in excess of the

1 funds available for the lease, the State agency may enter into negotiations with the
2 lowest responsible bidder, making reasonable changes in the specifications as may be
3 necessary to bring the lease price within the funds available, and may award the lease to
4 that bidder upon recommendation of the Department of Administration if the bidder
5 agrees to a negotiated cost within the funds available for the lease. If a lease cannot be
6 entered into under the above conditions, the State agency may make changes in the
7 specifications to bring the cost of the lease within the funds available and readvertise for
8 bids. The procedure may be repeated if necessary in order to secure an acceptable lease
9 within the funds available.

10 (c) Bids shall be sealed, and the opening of an envelope or package with
11 knowledge that it contains a bid or the disclosure or exhibition of the contents of any bid
12 by anyone without the permission of the bidder prior to the time set for opening the
13 invitation to bid shall constitute a Class 1 misdemeanor.

14 (d) The Department of Administration shall present a proposed transaction to the
15 Council of State for its consideration as provided by this Article. In the event the lowest
16 rental proposed is not presented to the Council of State, that body may require a
17 statement of justification, and may examine all proposals."

18 **SECTION 4.** This act becomes effective October 1, 2005.