

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 943

Short Title: The NC Small Business Tech. & Innovation Act. (Public)

Sponsors: Representative Torbett (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development, if favorable, Finance, if favorable, Appropriations.

April 16, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AID TO SMALL BUSINESSES FOR RESEARCH AND DEVELOPMENT BY THE CREATION OF THE SMALL BUSINESS TECHNOLOGY AND INNOVATION PROGRAM.

Whereas, research and development are major factors in the growth and progress of industry and the State economy; and

Whereas, the expense of carrying on research and development programs is beyond the means of many small businesses; and

Whereas, such concerns are handicapped in obtaining the benefits of research and development programs conducted at government expense and these small businesses are thereby placed at a competitive disadvantage; and

Whereas, this disadvantage weakens the competitive free enterprise system and inhibits the orderly development of the State economy; and

Whereas, it is the policy of the General Assembly that assistance be given to small businesses to enable them to undertake and obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the State economy; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.71 reads as rewritten:

"§ 143B-437.71. One North Carolina Fund established as a special revenue fund.

(a) Establishment. – The One North Carolina Fund is established as a special revenue fund in the Department of Commerce.

(b) Purposes. – Moneys in the One North Carolina Fund may only be allocated pursuant to this subsection. Moneys may be allocated (i) to local governments for use in connection with securing commitments for the recruitment, expansion, or retention of new and existing ~~businesses and business~~, (ii) to the One North Carolina Small Business Account created pursuant to subsection (c) of this section in an amount not to exceed three million dollars (\$3,000,000).(\$3,000,000), and (iii) to the One North Carolina Small Business Technology and Innovation Account created pursuant to subsection (d) of this section in an amount not to exceed ten million dollars (\$10,000,000). Moneys in the One North Carolina Fund allocated to local governments shall be used for the following purposes only:

(1) Installation or purchase of equipment.

(2) Structural repairs, improvements, or renovations to existing buildings to be used for expansion.



1 (3) Construction of or improvements to new or existing water, sewer, gas, or
2 electric utility distribution lines or equipment for existing buildings.
3 (4) Construction of or improvements to new or existing water, sewer, gas, or
4 electric utility distribution lines or equipment for new or proposed buildings
5 to be used for manufacturing and industrial operations.

6 (5) Any other purposes specifically provided by an act of the General Assembly.
7 (b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal
8 year may not exceed fourteen million dollars (\$14,000,000).

9 (c) There is created in the One North Carolina Fund a special account, the One North
10 Carolina Small Business Account, to be used for the North Carolina SBIR/STTR Incentive
11 Program and the North Carolina SBIR/STTR Matching Funds Program, as specified in Subpart
12 A of Part 2I of Article 10 of Chapter 143B of the General Statutes.

13 (d) There is created in the One North Carolina Fund a special account, the One North
14 Carolina Small Business Technology and Innovation Account, to be used for the North
15 Carolina SBTI Program, as specified in Subpart B of Part 2I of Article 10 of Chapter 143B of
16 the General Statutes."

17 **SECTION 2.** Part 2I of Article 10 of Chapter 143B of the General Statutes reads as
18 rewritten:

19 "Part 2I. One North Carolina Small Business Program.

20 "Subpart A. Matching SBIR/STTR Incentive.

21 ...
22 "**§ 143B-437.83. Reports.**

23 ...
24 "Subpart B. Small Business Technology and Innovation Program.
25 "**§ 143B-437.84. North Carolina SBTI Program.**

26 (a) Creation and Purpose of Program. – There is established the North Carolina Small
27 Business Technology and Innovation Program ("SBTI Program") to be administered by the
28 North Carolina Board of Science and Technology (the "Board"). The program is to provide
29 funds to assist eligible small businesses to obtain government contracts for research and
30 development, to assist eligible small businesses to obtain the benefits of research and
31 development performed under government contracts or at government expense, and to
32 coordinate with other State agencies a schedule for release of SBTI solicitations to maximize
33 eligible small businesses' opportunities to respond to solicitations. The Board is authorized to
34 consult and cooperate with all State agencies and all State agencies are authorized and directed
35 to work with the Board in order to carry out and accomplish the purposes of this Subpart. The
36 grants shall be paid from the One North Carolina Small Business Technology and Innovation
37 Account established in G.S. 143B-437.71.

38 (b) Eligibility. – In order to be eligible for a grant under this section, a business must
39 satisfy all of the following conditions:

40 (1) The business must be a for-profit, North Carolina-based business. For the
41 purposes of this section, a North Carolina-based business is one that has its
42 principal place of business in this State.

43 (2) The business must have submitted a qualified SBTI application to a
44 participating State agency in response to a specific State solicitation.

45 (3) The business' employees, combined with the employees of all affiliates, do
46 not exceed 500. For purposes of this Subpart, affiliate is defined in
47 G.S. 105-163.010.

48 (4) The business shall not receive concurrent funding support from other sources
49 that duplicates the purpose of this Subpart.

50 (5) The business must certify that at least fifty-one percent (51%) of the research
51 described in an SBTI application will be conducted in this State and that the

1 business will remain a North Carolina-based business for the duration of the
2 SBTI project.

3 (6) The business must demonstrate its ability to conduct research in its SBTI
4 application.

5 (c) Solicitation. – The Board shall solicit from State agencies research and development
6 topics that address current, unresolved issues faced by the agency and that have the potential
7 for successful commercialization. The Board shall accept research and development topics
8 from State agencies from January 1 to March 31 of each calendar year. The Board shall
9 determine which topics should be published for a solicitation of proposals from eligible
10 businesses. The Board shall publish a solicitation for submissions of proposals from eligible
11 businesses from June 1 to August 30 of each calendar year for each topic selected by the Board.
12 The solicitation shall contain the information of the research and development topic provided
13 by the State agency, the address of the State agency to which an eligible business should submit
14 a research proposal, and any additional information the Board determines is necessary.

15 (d) Application. – A business shall apply, under oath, to the State agency at the
16 appropriate address contained in the solicitation of proposals for a grant under this Subpart on a
17 form prescribed by the Board.

18 (e) Selection. – Each State agency that receives one or more submitted proposals shall
19 evaluate the proposals and shall recommend any proposals suitable for grants to the Board by
20 October 30 of each calendar year. The recommendations of a State agency shall be made by
21 entering the appropriate information on a form made available by the Board. The Board shall
22 evaluate recommended proposals, taking into consideration the technical merit of the proposal,
23 the qualifications of the applicant, the ability of the applicant to successfully implement the
24 proposal, the commercial potential and societal benefit of the proposal, and the
25 recommendation of the State agency. The Board shall award grants to those proposals that most
26 closely fulfill the purposes of this Subchapter and notify each applicant to whom a grant is
27 made.

28 (f) Grants. – The Board may provide the following under this Subpart:

29 (1) Phase I. – A grant of up to one hundred fifty thousand dollars (\$150,000) to
30 an eligible business to enable the business to determine the scientific and
31 technical merit and feasibility of a proposal with commercial potential. A
32 recipient shall provide a feasibility report or proof of concept to the Board
33 within six months of receiving funds from the Board, unless the Board
34 determines the recipient has shown good cause to extend the time period.
35 The Board may not extend a recipient's time under this subdivision by more
36 than six months.

37 (2) Phase II. – For an eligible business that provided a feasibility study or proof
38 of concept showing, to the Board's satisfaction, the economic feasibility and
39 sustainability of mass production and commercialization, a grant of up to
40 one million dollars (\$1,000,000) to enable the business to further develop the
41 proposal, as evidenced by Phase I, considering the proposal's commercial
42 potential, as evidenced by (i) the eligible business' record of successfully
43 commercializing previous SBTI or other research, (ii) the existence of Phase
44 II funding commitments from the private sector or other non-SBTI funding
45 sources, and (iii) the presence of other indicators of the commercial potential
46 of the idea.

47 (3) Phase III. – For an eligible business that completed Phases I and II to the
48 Board's satisfaction, a certification endorsing the commercial viability of the
49 proposal and a grant to match funds received by the business from private
50 sources. A Phase III grant may not exceed one-third of the amount of private
51 source funding.

1 (4) Research grant. – A grant for a proposal of up to the amount allowed for the
2 proposal, depending on the phase of the proposal, in subdivisions (1) or (2)
3 of this subsection to a college, university, nonprofit research organization, or
4 research and development center to offset costs incurred as a result of jointly
5 cooperating with a recipient of a grant under subdivisions (1) or (2) of this
6 subsection. In order to be eligible for a grant under this subdivision, the
7 partnering entity and the recipient must enter into a formal cooperative
8 research and development agreement. The agreement must provide for each
9 of the following:

- 10 a. The partnering entity's contribution to the proposal during the phase
11 will be at least thirty percent (30%).
12 b. The recipient's contribution to the proposal during the phase will be
13 at least forty percent (40%).
14 c. The allocation of rights in any intellectual property that may result
15 from the joint cooperation.
16 d. Any other information required by the Board.

17 **§ 143B-437.84. Program guidelines.**

18 The Board shall develop guidelines related to the administration of the One North Carolina
19 Small Business Technology and Innovation Program. At least 20 days before the effective date
20 of any guidelines or nontechnical amendments to the guidelines, the Board must publish the
21 proposed guidelines on the Web site of the Department of Commerce and provide notice to
22 persons who have requested notice of proposed guidelines. In addition, the Board must accept
23 oral and written comments on the proposed guidelines during the 15 business days beginning
24 on the first day that the Board has completed these notifications. For the purpose of this section,
25 a technical amendment is defined in G.S. 143B-437.82.

26 **§ 143B-437.85. Reports.**

27 The Board shall report and the Department of Commerce shall publish a report on the use
28 of funds in the One North Carolina Small Business Technology and Innovation Program on
29 September 1 of each year until all funds have been expended. The report shall contain
30 information on the disbursement and use of funds allocated under the One North Carolina
31 Small Business Technology and Innovation Program. The report must be submitted to each of
32 the following:

- 33 (1) The Joint Legislative Commission on Governmental Operations.
34 (2) The chairs of the House of Representatives and Senate Finance Committees.
35 (3) The chairs of the House of Representatives and Senate Appropriations
36 Committees.
37 (4) The Fiscal Research Division of the General Assembly."

38 **SECTION 3.** There is appropriated from the General Fund to the Department of
39 Commerce the sum of four million dollars (\$4,000,000) for the 2013-2014 fiscal year and the
40 sum of eight million dollars (\$8,000,000) for the 2014-2015 fiscal year. These funds shall be
41 allocated to the North Carolina Board of Science and Technology for the One North Carolina
42 Small Business Technology and Innovation Account for the Small Business Technology and
43 Innovation Program in the 2013-2015 fiscal biennium. The Board may use up to five percent
44 (5%) of funds allocated to the Account for the cost of administering the program. Funds
45 appropriated for the program that are unexpended and unencumbered at the end of each fiscal
46 year shall not revert but shall remain available for expenditure for the program.

47 **SECTION 4.** This act is effective when it becomes law.