

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

2

HOUSE BILL 1269
Committee Substitute Favorable 6/15/98

Short Title: Competitive Government Initiative.

(Public)

Sponsors:

Referred to:

May 13, 1998

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE NORTH CAROLINA GOVERNMENT
3 COMPETITION COMMISSION TO PROVIDE FOR BETTER GOVERNMENT IN
4 NORTH CAROLINA THROUGH A COMPREHENSIVE STATE GOVERNMENT
5 COMPETITION INITIATIVE.

6 The General Assembly of North Carolina enacts:

7 Section 1. The General Statutes are amended by adding a new Chapter to read:

8 **"Chapter 143C.**

9 **"North Carolina Government Competition Act of 1997.**

10 **"§ 143C-1. Short title.**

11 This Chapter shall be known and may be cited as the 'North Carolina Government
12 Competition Act'.

13 **"§ 143C-2. Definitions.**

14 As used in this Chapter, unless the context requires otherwise:

15 (1) 'Commission' means the North Carolina Government Competition
16 Commission.

17 (2) 'State agency' means any State department, agency, or institution.

18 **"§ 143C-3. North Carolina Government Competition Commission created; duties.**

1 (a) The North Carolina Government Competition Commission is created within
2 the Department of Commerce. The Commission shall exercise its powers independently
3 of the Secretary of Commerce and shall be subject to the direction and supervision of the
4 Secretary of Commerce only with respect to the management functions of coordination
5 and reporting. The purpose of the Commission is to be the catalyst for the use of
6 competition to improve the delivery of State government services, to make State
7 government more effective and more efficient, and to reduce the costs of government to
8 taxpayers.

9 (b) The Commission shall:

- 10 (1) Develop an institutional framework for a statewide competition
11 initiative to encourage innovation and competition within State
12 government.
- 13 (2) Establish a system to encourage the use of feasibility studies and
14 innovation to determine where competition could reduce government
15 costs without adversely affecting essential services.
- 16 (3) Monitor the activities, products, and services of State agencies to bring
17 an element of competition and to ensure a spirit of innovation and
18 entrepreneurship to compete with the private sector to increase the
19 quality of services or reduce costs to taxpayers.
- 20 (4) Identify any barriers to competition in State government and
21 recommend actions to overcome those barriers.
- 22 (5) Promote acceptance of competition by State government officials and
23 State employees as a viable alternative to in-house operations for
24 delivering State government services where savings to the State may be
25 realized through competition, including the development and
26 implementation of State employee adjustment and incentive programs.
- 27 (6) Advocate, develop, and accelerate implementation of a competitive
28 program for State agencies to ensure competition for the provision or
29 production of government services from both public sector and private
30 sector entities.
- 31 (7) Establish approval, planning, and reporting processes required to carry
32 out the functions of the Commission.
- 33 (8) Determine the competition potential of a State program or activity,
34 perform cost and benefit analyses, and conduct public and private
35 competition analyses.
- 36 (9) Devise evaluation criteria to be used in conducting performance reviews
37 of any State program or activity that is subject to a competition
38 recommendation.
- 39 (10) Assess the short-term and long-term results of State government
40 competition efforts.
- 41 (11) Appoint, as needed, ad hoc committees relating to specific matters
42 within the Commission's purview.

1 **"§ 143C-4. Membership; appointment; terms; vacancies; chair; quorum;**
2 **compensation.**

3 (a) The Commission shall be composed of nine members to be appointed as
4 follows:

5 (1) Three members appointed by the Governor, one of whom shall be a
6 State employee and two of whom shall be members of the private
7 sector. One of these private sector members shall have large-scale
8 purchasing experience.

9 (2) Three members appointed by the Speaker of the House of
10 Representatives, two of whom shall be members of the private sector
11 and one of whom shall be a State employee.

12 (3) Three members appointed by the President Pro Tempore of the Senate,
13 two of whom shall be members of the private sector and one of whom
14 shall be a State employee.

15 Members of the Commission shall serve two-year terms. In making the initial
16 appointments to the Commission, the respective appointing authorities shall appoint at
17 least one member for a one-year term so that subsequent terms stagger.

18 (b) All initial appointments shall become effective July 1, 1998. The initial
19 members' terms shall end on June 30 of the applicable year in which a term expires, with
20 the subsequent term beginning on July 1 of that year. No member may serve more than
21 two consecutive terms. Vacancies shall be filled by the appointing authority for any
22 unexpired portion of a term. Members shall receive subsistence, per diem, and travel
23 allowances as provided by G.S. 138-5.

24 (c) A majority of the members shall constitute a quorum. The Commission shall
25 annually elect its chair and vice-chair from among its members.

26 (d) The Commission shall appoint an executive director and other necessary staff
27 within funds available to it.

28 **"§ 143C-5. Cooperation of other State agencies.**

29 All State agencies shall cooperate with the Commission and, upon request, assist the
30 Commission in the performance of its duties and responsibilities. The Commission shall
31 not impose unreasonable burdens or costs in connection with requests of State agencies.

32 **"§ 143C-6. Application for and acceptance of certain gifts and grants; authority to**
33 **enter into contract; applicability of State purchasing laws.**

34 (a) The Commission may apply for, accept, and expend gifts, grants, or donations
35 from governmental sources or from private nonprofit foundations organized for taxation
36 purposes under section 501(c)(3) of the Internal Revenue Code to enable it to better carry
37 out its objectives. No entity that provides a gift, donation, or grant shall be eligible for a
38 contract award that results from action of a Commission recommendation.

39 (b) The Commission may contract for professional or consultant service. Any
40 consultant awarded a contract shall be ineligible for a contract award resulting from the
41 consultant's recommendations.

42 (c) The Commission is subject to the provisions of Articles 3, 3C, and 3D of
43 Chapter 143 of the General Statutes.

1 **"§ 143C-7. Public-private competition analysis; proposals for competition.**

2 (a) The Governor, the General Assembly, or the Commission may direct a State
3 agency to perform a public-private competition analysis covering any service for which
4 the Commission has received from a private entity a qualifying unsolicited proposal for
5 competition that is consistent with the Commission's purposes and duties as provided in
6 this Chapter.

7 (b) The Commission may solicit competition proposals from private entities for
8 the purposes of making cost-comparison analyses. Any State agency may submit
9 proposals to the Commission for cost-comparison analyses.

10 (c) If a service contract is awarded to a private vendor as a result of a
11 recommendation by the Commission, cancellation of the contract requires the prior
12 approval of both the Commission and the Division of Purchase and Contract. The
13 Commission's executive director may act on behalf of the Commission under this
14 subsection pursuant to rules adopted by the Commission.

15 **"§ 143C-8. Duties of the Office of State Budget and Management.**

16 The Office of State Budget and Management shall determine the amount of an
17 existing appropriation that would no longer be needed by a State agency as the result of
18 savings realized through competition and shall report annually, by February 1, the nature
19 and amount of the savings to the Governor and to the Joint Legislative Commission on
20 Governmental Operations.

21 **"§ 143C-9. Reports to the Governor and General Assembly.**

22 The Commission shall report annually, by February 1, its findings and
23 recommendations to the Governor and the Joint Legislative Commission on
24 Governmental Operations and may make other interim reports it deems advisable."

25 Section 2. There is appropriated from the General Fund to the Department of
26 Commerce for fiscal year 1998-99 the sum of two hundred thirty-two thousand seven
27 hundred dollars (\$232,700) for the operation of the North Carolina Government
28 Competition Commission.

29 Section 3. This act becomes effective July 1, 1998.