

NORTH CAROLINA GENERAL ASSEMBLY  
1967 SESSION

CHAPTER 860  
HOUSE BILL 796

1 AN ACT TO REWRITE CHAPTER 143, ARTICLE 8, GENERAL STATUTES OF NORTH  
2 CAROLINA.

3  
4 The General Assembly of North Carolina do enact:

5  
6 **Section 1.** G.S. 143, Article 8, is hereby rewritten as follows:

7 ARTICLE 8

8 PUBLIC BUILDING CONTRACTS

9 **§ 143-128. Separate Specifications for Building Contracts; Responsible Contractors.**

10 Every officer, board, department, commission or commissions charged with the duty of  
11 preparing specifications or awarding or entering into contracts for the erection, construction or  
12 altering of buildings for the State, or for any county or municipality, when the entire cost of  
13 such work shall exceed twenty thousand dollars (\$20,000.00), must have prepared separate  
14 specifications for each of the following branches of work to be performed:

- 15 (1) Heating, ventilating and/or air conditioning and accessories separately or  
16 combined into one conductive system.  
17 (2) Plumbing and gas fittings and accessories.  
18 (3) Electrical installations.  
19 (4) Refrigeration for cold storage where the cooling load is 15 tons or more of  
20 refrigeration.

21 All such specifications must be so drawn as to permit separate and independent bidding  
22 upon each of the classes of work enumerated in the above subdivisions. All contracts hereafter  
23 awarded by the State or by a county or municipality, or a department, board, commissioner, or  
24 officer thereof, for the erection, construction or alterations of buildings, or any parts thereof,  
25 shall award the respective work specified in the above subdivisions separately to responsible  
26 and reliable persons, firms or corporations regularly engaged in their respective lines of work.  
27 When the estimated cost of work to be performed in any single subdivision is less than two  
28 thousand five hundred (\$2,500.00), the same may be included in one of the several other  
29 contracts, irrespective of total project cost.

30 Each separate contractor shall be directly liable to the State of North Carolina, or to the  
31 county or municipality, and to the other separate contractors for the full performance of all  
32 duties and obligations due respectively under the terms of the separate contracts and in  
33 accordance with the plans and specifications, which shall specifically set forth the duties and  
34 obligations of each separate contractor. For the purpose of this Section, the wording, "separate  
35 contractor" is hereby deemed and held to mean any person, firm or corporation who shall enter  
36 into a contract with the State, or with any county or municipality, for the erection, construction  
37 or alteration of any building or buildings, or parts thereof.

38 **§ 143-129. Procedure for Letting of Public Contracts; Purchases from Federal**

39 **Government by State, Counties, etc.** No construction or repair work requiring the estimated  
40 expenditure of public money in an amount equal to or more than seven thousand five hundred  
41 dollars (\$7,500.00) or purchase of apparatus, supplies, materials, or equipment requiring an  
42 estimated expenditure of public money in an amount equal to or more than two thousand  
43 dollars (\$2,000.00), except in cases of special emergency involving the health and safety of the

1 people or their property, shall be performed, nor shall any contract be awarded therefor, by any  
2 board or governing body of the State, or of any institution of the State government, or of any  
3 county, city, town, or other subdivision of the State, unless the provisions of this Section are  
4 complied with.

5 Advertisement of the letting of such contracts shall be as follows:

6 Where the contract is to be let by a board or governing body of the State government, or of  
7 a State institution, as distinguished from a board or governing body of a subdivision of the  
8 State, proposals shall be invited by advertisement at least one week before the time specified  
9 for the opening of said proposals in a newspaper having general circulation in the State of  
10 North Carolina. Provided that the advertisements for bidders required by this Section shall be  
11 published at a time at least seven full days shall elapse between the date of publication of notice  
12 and the date of the opening of bids.

13 Where the contract is to be let by a county, city, town or other subdivision of the State,  
14 proposals shall be invited by advertisement at least one week before the time specified for the  
15 opening of said proposals in a newspaper having general circulation in such county, city, town  
16 or other subdivision; provided, if there is no newspaper published in the county and the  
17 estimated cost of the contract is less than seven thousand five hundred dollars (\$7,500.00), such  
18 advertisement may be either published in some newspaper as required herein or posted at the  
19 courthouse door, not later than one week before the opening of the proposals in answer thereto,  
20 and in the case of a city, town or other subdivisions wherein there is no newspaper published  
21 and the estimated cost of the contract is less than seven thousand five hundred dollars  
22 (\$7,500.00), such advertisement may be either published in some newspaper as required herein  
23 or posted at the courthouse door of the county in which such city, town or other subdivision is  
24 situated, and at least one public place in such city, town or other subdivision.

25 Such advertisement shall state the time and place where plans and specifications of  
26 proposed work or a complete description of the apparatus, supplies, materials or equipment  
27 may be had, and the time and place for opening of the proposals, and shall reserve to said board  
28 or governing body the right to reject any or all such proposals.

29 Proposals shall not be rejected for the purpose of evading the provisions of this Article. No  
30 board or governing body of the State or subdivision thereof shall assume responsibility for  
31 construction or purchase contracts, or guarantee the payments of labor or materials therefor  
32 except under provisions of this Article.

33 All proposals shall be opened in public and shall be recorded on the minutes of the board or  
34 governing body and the award shall be made to the lowest responsible bidder or bidders, taking  
35 into consideration quality, performance and the time specified in the proposals for the  
36 performance of the contract. In the event the lowest responsible bids are in excess of the funds  
37 available for the project, the responsible board or governing body is authorized to enter into  
38 negotiations with the lowest responsible bidder above mentioned, making reasonable changes  
39 in the plans and specification as may be necessary to bring the contract price within the funds  
40 available, and may award a contract to such bidder upon recommendation of the Department of  
41 Administration in the case of the State government or of a State institution or agency, or upon  
42 recommendation of the responsible commission, council or board in the case of a subdivision  
43 of the State, if such bidder will agree to perform the work at the negotiated price within the  
44 funds available therefor. If a contract cannot be let under the above conditions, the board or  
45 governing body is authorized to readvertise, as herein provided, after having made such  
46 changes in plans and specifications as may be necessary to bring the cost of the project within  
47 the funds available therefor. The procedure above specified may be repeated if necessary in  
48 order to secure an acceptable contract within the funds available therefor.

49 No proposal shall be considered or accepted by said board or governing body unless at the  
50 time of its filing the same shall be accompanied by a deposit with said board or governing body  
51 of cash, or a cashier's check, or a certified check on some bank or trust company insured by the

1 Federal Deposit Insurance Corporation in an amount equal to not less than five per cent (5%) of  
2 the proposal. In lieu of making the cash deposit as above provided, such bidder may file a bid  
3 bond executed by a corporate surety licensed under the laws of North Carolina to execute such  
4 bonds, conditioned that the surety will upon demand forthwith make payment to the obligee  
5 upon said bond if the bidder fails to execute the contract in accordance with the bid bond, and  
6 upon failure to forthwith make payment the surety shall pay to the obligee an amount equal to  
7 double the amount of said bond. This deposit shall be retained if the successful bidder fails to  
8 execute the contract within 10 days after the award or fails to give satisfactory surety as  
9 required herein.

10 Bids shall be sealed if the invitation to bid so specifies and, in any event, the opening of a  
11 bid or the disclosure or exhibition of the contents of any bid by anyone without the permission  
12 of the bidder prior to the time set for opening in the invitation to bid shall constitute a general  
13 misdemeanor.

14 All contracts to which this Section applies shall be executed in writing, and the board or  
15 governing body shall require the person to whom the award of contract is made to furnish bond  
16 in some surety company authorized to do business in the State or require a deposit of money,  
17 certified check or government securities for the full amount of said contract for the faithful  
18 performance of the terms of said contract; and no such contract shall be altered except by  
19 written agreement of the contractor, the sureties on his bond, and the board or governing body.  
20 Such surety bond or securities required herein shall be deposited with the treasurer of the  
21 branch of government for which the work is to be performed until the contract has been carried  
22 out in all respects: Provided, that in the case of contracts for the purchase of apparatus,  
23 supplies, materials, or equipment, the board or governing body may waive the requirement for  
24 the deposit of a surety bond or securities as required herein.

25 The owning agency or the Department of Administration, in contracts involving a State  
26 agency, and the owning agency or the governing board, in contracts involving a political  
27 subdivision of the State, may reject the bonds of any surety company against which there is  
28 pending any unsettled claim or complaint made by a State agency or the owning agency or  
29 governing board of any political subdivision of the State arising out of any contract under  
30 which State funds, in contracts with the State, or funds of political subdivision of the State, in  
31 contracts with such political subdivision, were expended, provided such claim or complaint has  
32 been pending more than 180 days.

33 Nothing in this Section shall operate so as to require any public agency to enter into a  
34 contract which will prevent the use of unemployment relief labor paid for in whole or in part by  
35 appropriations or funds furnished by the State or Federal government.

36 Any board or governing body of the State or of any institution of the State government or of  
37 any county, city, town, or other subdivision of the State may enter into any contract with (i) the  
38 United States of America or any agency thereof, or (ii) any other government unit or agency  
39 thereof within the United States, for the purchase, lease, or other acquisition of any apparatus,  
40 supplies, materials, or equipment without regard to the foregoing provisions of this Section or  
41 to the provisions of any other Section of this Article.

42 The Director of the Department of Administration or the governing board of any county,  
43 city, town, or other subdivision of the State may designate any officer or employee of the State,  
44 county, city, town or subdivision to enter a bid or bids in its behalf at any sale of apparatus,  
45 supplies, materials, equipment or other property owned by (i) the United States of America or  
46 any agency thereof, or (ii) any other governmental unit or agency thereof within the United  
47 States, and may authorize such officer or employee to make any partial or down payment or  
48 payment in full that may be required by regulations of the government or agency disposing of  
49 such property.

50 **§ 143-130. Allowance for Convict Labor Must Be Specified.** In cases where the board or  
51 governing body of a State agency or of any political subdivision of the State may furnish

1 convict or other labor to the contractor, manufacturer, or others entering into contracts for the  
2 performance of construction work, installation of apparatus, supplies, materials or equipment,  
3 the specifications covering such projects shall carry full information as to what wages shall be  
4 paid for such labor or the amount of allowance for same.

5 **§ 143-131. When Counties, Cities, Towns and Other Subdivisions May Let Contracts on**  
6 **Informal Bids.** All contracts for construction or repair work or for the purchase of apparatus,  
7 supplies, materials, or equipment, involving the expenditure of public money in the amount of  
8 five hundred dollars (\$500.00) or more, but less than the limits prescribed in G.S. 143-129,  
9 made by any officer, department, board, or commission of any county, city, town, or other  
10 subdivision of this State shall be made after informal bids have been secured. All such contracts  
11 shall be awarded to the lowest responsible bidder, taking into consideration quality,  
12 performance, and the time specified in the bids for the performance of the contract. It shall be  
13 the duty of any officer, department, board, or commission entering into such contract to keep  
14 record of all bids submitted, and such record shall be subject to public inspection at any time.

15 **§ 143-132. Minimum Number of Bids for Public Contracts.** No contracts to which  
16 G.S. 143-129 applies for construction or repairs shall be awarded by any board or governing  
17 body of the State, or any subdivision thereof, unless at least three competitive bids have been  
18 received from reputable and qualified contractors regularly engaged in their respective lines of  
19 endeavor; however, this Section shall not apply to contracts which are negotiated as provided  
20 for in G.S. 143-129. Provided that if after advertisement for bids as required by G.S. 143-129,  
21 not as many as three competitive bids have been received from reputable and qualified  
22 contractors regularly engaged in their respective lines of endeavor, said board or governing  
23 body of the State agency or of a county, city, town or other subdivision of the State shall again  
24 advertise for bids; and if as a result of such second advertisement, not as many as three  
25 competitive bids from reputable and qualified contractors are received, such board or governing  
26 body may then let the contract to the lowest responsible bidder submitting a bid for such  
27 project, even though only one bid is received.

28 **§ 143-133. No Evasion Permitted.** No bill or contract shall be divided for the purpose of  
29 evading the provisions of this Article.

30 **§ 143-134. Applicable to State Highway Commission and Prison Department; Exceptions.**  
31 This Article shall apply to the State Highway Commission and the Prison Department except in  
32 the construction of roads, bridges and their approaches; provided however, that whenever the  
33 Director of the Budget determines that the repair or construction of a building by the State  
34 Highway Commission or by the Prison Department can be done more economically through  
35 use of employees of the State Highway Commission, and/or prison inmates than by letting such  
36 repair or building construction to contract, the provisions of this Article shall not apply to such  
37 repair or construction.

38 **§ 143-134.1. Interest on Final Payments Due to Prime Contractors.** On all public  
39 construction contracts which are let by a board or governing body of the State government or  
40 any political subdivision thereof, except the construction of roads, highways, bridges and their  
41 approaches, the balance due prime contractors shall be paid in full within 45 days after  
42 respective prime contracts of the project have been accepted by the owner, certified by the  
43 architect, engineer or designer to be completed in accordance with terms of the plans and  
44 specifications, or occupied by the owner and used for the purpose for which the project was  
45 constructed, whichever occurs first. Provided, however, that whenever the architect or  
46 consulting engineer in charge of the project determines that delay in completion of the project  
47 in accordance with terms of the plans and specifications is the fault of the contractor, the  
48 project may be occupied and used for the purposes for which it was constructed without  
49 payment of any interest on amounts withheld past the 45 day limit. No payment shall be  
50 delayed because of the failure of another prime contractor on such project to complete his  
51 contract. Should final payment to any prime contractor beyond the date such contracts have

1 been certified to be completed by the designer or architect, accepted by the owner, or occupied  
2 by the owner and used for the purposes for which the project was constructed, be delayed by  
3 more than 45 days, said prime contractor shall be paid interest, beginning on the 46th day, at  
4 the rate of six per cent (6%) per annum on such unpaid balance as may be due. Funds for  
5 payment of such interest on State-owned projects shall be obtained from the current budget of  
6 the owning department, institution, or agency. Where a conditional acceptance of a contract  
7 exists, and where the owner is retaining a reasonable sum pending correction of such  
8 conditions, interest on such reasonable sum shall not apply.

9 **§ 143-135. Limitation of Application of Article.** This Article shall not apply to the State or to  
10 subdivisions of the State of North Carolina in the expenditure of public funds when the total  
11 cost of any repairs, completed project, building, or structure shall not exceed the sum of  
12 twenty-five thousand dollars (\$25,000.00), if the repairs, completed project, building, or  
13 structure are performed or accomplished by or through duly elected officers or agents using  
14 force account qualified labor on the permanent payroll of the agency concerned; provided, that  
15 such force account work shall be subject to the approval of the Director of the Department of  
16 Administration in the case of State agencies, or approval of the responsible commission,  
17 council or board in the case of subdivisions of the State.

18 **§ 143-135.1. State Buildings Exempt From Municipal Building Requirements;  
19 Consideration of Recommendations by Municipalities.** Buildings constructed by the State of  
20 North Carolina or any agency or institution of the State under plans and specifications approved  
21 by the Department of Administration shall not be subject to inspection by any municipal  
22 authorities and shall not be subject to municipal building codes and requirements. Inspection  
23 fees fixed by municipalities shall not be applicable to such construction, except where  
24 inspection by municipal authorities is requested by the owning agency. Municipal authorities  
25 may, however, inspect any plans or specifications for any such construction and all  
26 recommendations made by them with respect thereto shall be given careful consideration by the  
27 Department of Administration.

28 **§ 143-135.2. Contracts for Restoration of Historic Buildings With Private Donations.** This  
29 Article shall not apply to building contracts let by a State agency for restoration of a historic  
30 building or structure where the funds for the restoration of such building or structure are  
31 provided entirely by funds donated from private sources.

32 **§ 143-135.3. Procedure for Settling Controversies Arising From Contracts; Civil Actions  
33 on Disallowed Claims.** Upon completion of any contract for construction or repair work  
34 awarded by any State board to any contractor, under the provisions of this Article, should the  
35 contractor fail to receive such settlement as he claims to be entitled to under terms of his  
36 contract, he may, within 60 days from the time of receiving written notice as to the disposition  
37 to be made of his claim, submit to the Director of the Department of Administration a written  
38 and verified claim for such amount as he deems himself entitled to under the terms of said  
39 contract, setting forth the facts upon which said claim is based. In addition, the claimant, either  
40 in person or through counsel, may appear before the Director of the Department of  
41 Administration and present any additional facts and arguments in support of his claim. Within  
42 90 days from the receipt of the said written claim, the Director of the Department of  
43 Administration shall make an investigation of the claim and may allow all or any part or may  
44 deny said claim and shall have the authority to reach a compromise agreement with the  
45 contractor and shall notify the contractor in writing of his decision.

46 As to such portion of the claim which may be denied by the Director of the Department of  
47 Administration, the contractor may, within six months from receipt of the decision, institute a  
48 civil action for such sum as he claims to be entitled to under said contract by the filing of a  
49 verified complaint and issuance of summons in the Superior Court of Wake County or in the  
50 Superior Court of any county wherein the work under said contract was performed. The  
51 procedure shall be the same as in all civil actions except as herein and as hereinafter set out.

1 All issues of law and fact and every other issue shall be tried by the judge, without jury;  
2 provided that the matter may be referred in the instances and in the manner provided for in  
3 Article 20 of Chapter 1 of the General Statutes.

4 The submission of the claim to the Director of the Department of Administration within the  
5 time set out in this section and the filing of an action in the superior court within the time set  
6 out in this section shall be a condition precedent to bringing an action under this section and  
7 shall not be a statute of limitations.

8 The provisions of this Section shall be deemed to enter into and form a part of every  
9 contract entered into between any board of the State and any contractor, and no provision in  
10 said contracts shall be valid that is in conflict herewith.

11 The word "board" as used in this Section shall mean the State of North Carolina or any  
12 board, bureau, commission, institution, or other agency of the State, as distinguished from a  
13 board or governing body of a subdivision of the State.

14 "A contract for construction or repair work", as used in this Section, is defined as any  
15 contract for the construction of buildings and appurtenances thereto, including, but not by way  
16 of limitation, utilities, plumbing, heating, electrical, air conditioning, elevator, excavation,  
17 grading, paving, roofing, masonry work, tile work and painting, and repair work.

18 **§ 143-135.4.** Nothing contained in this Article shall be construed as contravening or repealing  
19 any authorities given by statute to the Purchase and Contract Division of the Department of  
20 Administration.

21 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

22 **Sec. 3.** This Act shall be in full force and effect from and after its ratification.

23 In the General Assembly read three times and ratified, this the 21st day of June,  
24 1967.