

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 927

Short Title: Minority Business Enterprises.

(Public)

Sponsors: Senators Hunt of Durham, Ballance, Richardson, and Martin of Guilford.

Referred to: Small Business.

April 18, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE OPPORTUNITIES TO PARTICIPATE IN STATE  
3 PROCUREMENT CONTRACTS TO MINORITY BUSINESS ENTERPRISES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 143 of the General Statutes is amended by adding a new  
6 Article to read:

7 **“ARTICLE 3E.**

8 **“MINORITY BUSINESS ENTERPRISES.**

9 **“§ 143-64.40. Purpose.**

10 The purpose of this Article is to provide maximum contracting opportunities to  
11 minority business enterprises. To further this purpose:

- 12 (1) Each Department, except the Department of Transportation as to  
13 construction contracts, shall structure its procedures for procuring  
14 supplies, services, maintenance, and construction to attempt to achieve  
15 a minimum goal of ten percent (10%) of the total dollar value of these  
16 procurements that are made directly or indirectly from certified  
17 minority business enterprises;  
18 (2) The Department of Transportation shall structure its procurements for  
19 procuring construction to attempt to achieve participation by certified  
20 minority business enterprises, in the amount of a minimum goal of ten  
21 percent (10%) of the dollar value of contracts in excess of one hundred  
22 thousand dollars (\$100,000) on the prime or subcontract level; and  
23 (3) Each procurement agency shall structure its procedures for procuring  
24 supplies, services, maintenance, and construction to encourage a fair

1 participation in the State procurement process by certified minority  
2 business enterprises.

3 **"§ 143-64.41. Definitions.**

4 As used in this Article, unless the context indicates otherwise:

- 5 (1) 'Certification' means a determination by the Minority Business  
6 Development agency in the Department of Commerce that a legal  
7 entity is a minority business enterprise for purposes of this Article.
- 8 (2) 'Control' means the exercise of the power to manage and operate a  
9 business enterprise.
- 10 (3) 'Department' means the Department of Administration, The University  
11 of North Carolina, and the Department of Transportation.
- 12 (4) 'Goal' means a voluntary percentage or quantitative objective.
- 13 (5) 'Minority Business Enterprise' (MBE), means any legal entity, other  
14 than a joint venture, organized to engage in commercial transactions,  
15 that is at least fifty-one percent (51%) owned and controlled by one or  
16 more minority persons, or a non-profit entity organized to promote the  
17 interests of the physically or mentally disabled.
- 18 (6) 'Minority person' means a member of a socially or economically  
19 disadvantaged minority group, and includes Blacks, Hispanics,  
20 American Indians, Alaska natives, Asians, Pacific Islanders, women,  
21 and the physically or mentally disabled.
- 22 (7) 'North Carolina Minority Business Development agency' means an  
23 agency in the Small Business Development Division of the  
24 Department of Commerce.
- 25 (8) 'Ownership' means:
- 26 a. For a sole proprietorship, that the sole proprietor is a minority  
27 person. If the ownership interest held by a minority person is  
28 subject to formal or informal restrictions such as options,  
29 security interests, or agreements held by a nonminority person  
30 or business entity, the options, security interests, or agreements  
31 held by the nonminority person or business entity may not  
32 significantly impair the minority person's ownership interest.
- 33 b. For a partnership, that at least fifty-one percent (51%) of the  
34 partnership's assets or interests are owned by a minority person  
35 or minority persons. If the ownership interest held by a  
36 minority person is subject to formal or informal restrictions  
37 such as options, security interests, or agreements, held by a  
38 nonminority person or business entity, the options, security  
39 interests, or agreements held by the nonminority person or  
40 business entity may not significantly impair the minority  
41 person's ownership interest.
- 42 c. For a corporation, that legal and equitable ownership of at least  
43 fifty-one percent (51%) of all classes of stock, bonds, or other  
44 securities issued by the corporation is owned by a minority

1 person or minority persons. If an ownership interest held by a  
2 minority person is subject to formal or informal restrictions  
3 such as options, security interests, or agreements held by a  
4 nonminority person or business entity, the options, security  
5 interests, or agreements held by the nonminority person or  
6 business entity may not significantly impair the minority  
7 person's ownership interest.

8 (9) 'Procurement agency' means any State agency that is authorized by  
9 law or regulations to procure or contract.

10 (10) 'Solicitation notice' means public notice of a solicitation for bids,  
11 offers, or expressions of interest which contains the nature of the  
12 procurement, relevant dates, the availability of solicitation documents,  
13 if any, and other pertinent information. The notice shall consist of, but  
14 is not limited to:

15 a. Legal advertisement;

16 b. Newspaper notice;

17 c. Bid board notice; or

18 d. Bid or proposal documents including the invitation for bids or  
19 request for proposals.

20 **"§ 143-64.42. Scope of Article.**

21 This Article applies to every procurement of supplies, services, maintenance, and  
22 construction by a Department or procurement agency. Nothing in this Article is to be  
23 construed to relieve a Department from attempting to achieve its statutory cumulative  
24 contract goal for MBE participation.

25 **"§ 143-64.43. Department and procurement agency responsibility.**

26 (a) Each Department and procurement agency shall make its procurements in  
27 accordance with this Article. Each local board of education shall adopt procedures  
28 consistent with this Article before obtaining State funds for public school construction  
29 projects. When delegating procurement authority to procurement agencies and other  
30 departments, the Department of Administration shall condition the delegation on  
31 compliance with this Article.

32 (b) Departments and procurement agencies shall, to the extent practicable,  
33 develop uniform affidavits and reporting forms required by this Article.

34 **"§ 143-64.44. MBE Liaison Officer.**

35 The head of each Department and procurement agency shall designate an employee  
36 to be an MBE Liaison Officer in the administration of that agency's minority business  
37 enterprise program. The MBE Liaison Officer shall be a high-level employee reporting  
38 directly to a Secretary, Deputy Secretary, or head of a Department or procurement  
39 agency. The MBE Liaison Officer shall be responsible for coordinating agency  
40 outreach efforts to the minority business community, reviewing agency contracting  
41 procedures to assure compliance with this Article, assisting in the resolution of  
42 contracting issues, and for the submission of all required MBE program reports or  
43 information.

44 **"§ 143-64.45. Central directory.**

1       The North Carolina Minority Business Development agency and the Department of  
2 Administration shall publish a central directory of MBEs certified by the North Carolina  
3 Minority Business Development agency under G.S. 143-64.53. The central directory  
4 shall specify the type of supplies, services, maintenance, or construction primarily  
5 provided by the MBE, and the date of certification. The central directory shall include:

- 6           (1) The address;
- 7           (2) Phone number; and
- 8           (3) Contact person

9 of all certified MBEs; and the name of every business entity that has been denied  
10 certification or decertified within the last two years. The directory shall be updated at  
11 least quarterly, and if feasible, monthly.

12 **"§ 143-64.46. Outreach.**

13 Outreach efforts to minority business enterprises shall advise of contracting  
14 opportunities within the State as follows:

- 15           (1) Departments and procurement agencies shall periodically conduct  
16 meetings with minority business enterprises, as appropriate, to advise  
17 of procurement opportunities within that Department or agency. These  
18 meetings shall be coordinated with the North Carolina Minority  
19 Business Development agency and other State agencies which make  
20 similar procurements.

- 21           (2) The Minority Business Development agency shall:

- 22           a. Periodically convene seminars that include the minority  
23 business community and appropriate personnel of the various  
24 Departments and procurement agencies. These seminars shall  
25 address topics of interest to prospective or current MBEs such  
26 as State procurement procedures, certification, and anticipated  
27 State procurements. The Minority Business Development  
28 agency may provide technical assistance to MBEs relating to  
29 the procurement process.

- 30           b. Provide notice of all seminars and meetings undertaken under  
31 this regulation to each minority business listed in the central  
32 directory that may be reasonably expected to be interested in  
33 the effort, as well as to those entities described in G.S. 143-  
34 64.47(3).

35 **"§ 143-64.47. MBE notification.**

36 A Department or procurement agency shall notify MBEs of procurement contract  
37 opportunities as follows:

- 38           (1) Minority business enterprises listed in the central directory or  
39 otherwise known to the Department or procurement agency as  
40 providing the supplies, services, maintenance, or construction activity  
41 being procured, and that may be reasonably expected to be interested  
42 in an upcoming procurement as decided by the Department or  
43 procurement agency, shall be sent a copy of the solicitation notice as  
44 part of the solicitation process being employed for the business

1 community in general. The Department or procurement agency shall  
2 solicit a sufficient number of MBEs as to reasonably assure one or  
3 more MBE responses to the solicitation. A Department or  
4 procurement agency shall have fulfilled the solicitation requirements  
5 of this Article if it has used the central directory in the solicitation  
6 process. Each solicitation notice shall include the following statement:  
7 'Minority business enterprises are encouraged to respond to this  
8 solicitation notice.'

9 (2) Within 30 days following the first day of the fiscal year, every  
10 Department and procurement agency shall forward to the Minority  
11 Business Development agency a complete listing of all known  
12 regularly recurring procurement solicitations reasonably expected to be  
13 of one hundred thousand dollars (\$100,000) or more. The list shall  
14 include the subject of the contract, where the work is to be performed  
15 or delivery made, the approximate solicitation date and the name and  
16 telephone number of the procurement officer. The Minority Business  
17 Development agency shall compile a master list containing the above  
18 information, and distribute it to the Division of Small Business  
19 Development of the Department of Commerce, appropriate minority  
20 business associations, minority business assistance agencies, trade  
21 organizations, and to each Department and procurement agency which  
22 shall post the list on all bid boards for the remainder of the fiscal year.

23 (3) Except for sole source, small, and emergency procurements, a copy of  
24 the solicitation notice for each procurement shall be sent to the  
25 Minority Business Development agency for distribution to the  
26 appropriate minority business associations, minority business  
27 assistance agencies, and trade organizations identified by the Minority  
28 Business Development agency. One copy of solicitation documents  
29 for these procurements shall be made available, by the Department or  
30 agency, free of charge, to these entities on request. The copy shall be  
31 marked 'For Informational Purposes Only.'

32 **"§ 143-64.48. Procurement solicitations.**

33 (a) A Department or procurement agency shall assess the potential for MBE  
34 participation expected under each of the methods described in subsection (b) of this  
35 section before initiating the procurement. The Department or procurement agency shall  
36 utilize the MBE procurement method, or combination of methods decided most  
37 appropriate for the particular contract.

38 (b) The following factors shall be used to anticipate the degree of MBE  
39 participation, to decide the MBE subcontract participation goal, when used, and the  
40 MBE procurement method to be used:

41 (1) The extent to which the direct solicitation, subcontracting opportunity  
42 method, or combination of both methods, is determined most likely to  
43 result in maximum MBE participation in the contract;

- 1           (2)   The number of MBEs listed in the central directory or otherwise  
2           identified for a particular supply, service, maintenance, or  
3           construction;
- 4           (3)   The geographical proximity, when relevant, of MBEs identified under  
5           subdivision (2) of this section to the location of the work to be  
6           performed;
- 7           (4)   The feasibility of subcontracting opportunities given the nature and  
8           extent of the proposed contract; and
- 9           (5)   Specific statutory participation goals applicable to a Department's  
10          procurement.
- 11       (c)   The Department of Administration may employ the following procurement  
12       methods:
- 13           (1)   Direct solicitation. If known MBEs can provide the entire contract,  
14           then the MBEs may be solicited directly as part of the solicitation  
15           process being employed for the business community in general.
- 16           (2)   MBE subcontract method. Notwithstanding whether a direct  
17           solicitation is made under subdivision (1) of this subsection, all  
18           Department of Transportation construction contracts in excess of one  
19           hundred thousand dollars (\$100,000) and all other construction  
20           contracts in excess of fifty thousand dollars (\$50,000) shall contain an  
21           MBE subcontract participation goal, expressed as a percentage of the  
22           dollar value of the contract that should be attempted to be  
23           subcontracted to MBEs. A Department or procurement agency may  
24           establish an MBE subcontract goal for a particular construction  
25           contract of fifty thousand dollars (\$50,000) or less, or any supply,  
26           maintenance, or service contract. A bidder or offeror shall submit with  
27           its bid or proposal a completed MBE utilization affidavit on a form  
28           provided by the appropriate Department or procurement agency. The  
29           names of prime contractors requesting or purchasing solicitation  
30           documents for construction contracts shall be made available on  
31           request to any certified MBEs whose specialty suggests an interest in  
32           subcontracting. Each prime contractor given solicitation documents as  
33           part of a procurement under the MBE subcontract method, and who  
34           does not have an updated central directory shall be given, upon  
35           request, one copy of the directory or the pertinent portions for  
36           purposes of soliciting subcontract quotations, bids, or offers from  
37           certified MBEs.
- 38           (3)   Combination procurement method. A combination of direct  
39           solicitation and the MBE subcontract methods, pursuant to  
40           subdivisions (2) and (3) of this subsection, which may be used when  
41           the Department or procurement agency decides this method will be  
42           most likely to achieve the greatest degree of MBE participation.
- 43           (4)   Pre-bid and pre-proposal conferences. When pre-bid or pre-proposal  
44           conferences are held, the Department or procurement agency shall

1 explain the MBE subcontracting goal, if applicable, the MBE  
2 provisions of the solicitation, the documentation required and its  
3 relationship to the bidder responsiveness and responsibility or offeror  
4 acceptability determinations which will be made in connection with  
5 the evaluation process.

6 (5) Federal requirements. To the extent required by federal assistance  
7 instruments applicable to contracts let by the State under a federal  
8 assistance program, those MBEs meeting requirements and criteria of  
9 the federal government shall be utilized.

10 **"§ 143-64.49. Contract award.**

11 (a) The Department of Administration may require all determinations under this  
12 section and G.S. 143-64.50 to be made before execution of a contract, or approval by  
13 the Department, or both.

14 (b) A contract involving subcontracts shall be subject to the Department or  
15 procurement agency concluding that the apparent low bidder or successful offeror meets  
16 the applicable MBE participation provisions contained in the solicitation. The apparent  
17 low bidder or successful offeror shall, within 10 working days from the date of award of  
18 the contract or notification that it is the apparent low bidder or successful offeror,  
19 whichever is earlier, submit any required documentation. Nothing in this regulation is  
20 intended to preclude the award of a contract conditionally upon receipt of any required  
21 documentation.

22 (c) Whenever an uncertified minority business is identified for contract award,  
23 the Department or procurement agency shall forward the affidavit of the minority  
24 business to the Department of Administration and the Minority Business Development  
25 agency for certification consistent with G.S. 143-64.53. A contract may be awarded  
26 notwithstanding the pendency of certification. The certification entity shall notify the  
27 Department or procurement agency promptly of its disposition. In the event of an  
28 unfavorable disposition, the Department or procurement agency shall include that fact  
29 as part of its annual report and may not, in the future, treat that business entity as an  
30 MBE until it is certified.

31 (d) If a Department or procurement agency determines that the apparent low  
32 bidder or successful offeror has not complied with the MBE subcontract participation  
33 contract goal and has not obtained a waiver in accordance with G.S. 143-64.50, or if the  
34 bidder or offeror fails to submit the documentation required by the solicitation, the  
35 procurement officer, upon review by an assistant attorney general and approval of the  
36 Department or agency head having jurisdiction over the contract, may reject the bid or  
37 offer or cancel the award of the contract. The reasons for this action shall be specified  
38 in writing and mailed or delivered to the bidder or offeror.

39 **"§ 143-64.50. Waiver.**

40 (a) If, for any reason, the apparent low bidder or successful offeror is unable to  
41 achieve the contract goal for MBE participation, the bidder or offeror may request, in  
42 writing, an exception to the goal with justification, including the following:

- 1           (1) A detailed statement of the efforts made to select portions of the work  
2 proposed to be performed by MBEs in order to increase the likelihood  
3 of achieving the stated goal;  
4           (2) A detailed statement of the efforts made to contact and negotiate with  
5 MBEs including:  
6           a. The names, addresses, dates, and telephone numbers of MBEs  
7 contacted, and  
8           b. A description of the information provided to MBEs regarding  
9 the plans, specifications, and anticipated time schedule for  
10 portions of the work to be performed;  
11           (3) As to each MBE that placed a subcontract quotation or offer which the  
12 apparent low bidder or successful offeror considers not to be  
13 acceptable, a detailed statement of the reasons for this conclusion; and  
14           (4) A list of minority subcontractors found to be unavailable. This list  
15 should be accompanied by an MBE unavailability certification signed  
16 by the MBE, or a statement from the apparent low bidder or successful  
17 offeror that the MBE refused to give the written certification.

18           (b) A waiver of an MBE contract goal may be granted only upon a reasonable  
19 demonstration by the bidder or offeror that MBE participation was unable to be  
20 obtained or was unable to be obtained at a reasonable price, and a determination by the  
21 agency head or the agency head's designee that the public interest is served by a waiver.  
22 In making a determination under this section, the agency head or agency head's designee  
23 may consider engineering estimates, catalogue prices, general market availability, and  
24 availability of MBEs in the area work is to be performed, other bids or offers and  
25 subcontract bids or offers substantiating significant variances between MBE and non-  
26 MBE cost of participation, and their impact on the overall cost of the contract to the  
27 State, and any other relevant factor.

28           (c) A Department or agency head may waive any of the provisions of G.S. 143-  
29 64.48 and G.S. 143-64.49 for a sole source or emergency procurement in which the  
30 public interest cannot reasonably accommodate use of those procedures.

31           (d) When a waiver is granted, except waivers under subsection (c) of this section,  
32 one copy of the waiver determination and the reasons for the determination shall be kept  
33 by the MBE Liaison Officer with another copy forwarded to the Minority Business  
34 Development agency.

35 **"§ 143-64.51. Amendment for unforeseen circumstances.**

36           If at any time before execution of a contract, the apparent low bidder or successful  
37 offeror determines that an MBE has become or will become unavailable, then the  
38 apparent low bidder or successful offeror shall immediately notify the procurement  
39 officer. Any desired change in the schedule for participation shall be approved in  
40 advance by the procurement officer and shall indicate the contractor's efforts to  
41 substitute another MBE subcontractor to perform the work. Desired changes occurring  
42 after the date of contract execution may occur only upon written approval by the  
43 Department or agency head and subsequently by contract amendment.

44 **"§ 143-64.52. Compliance.**



1 (a) To assure compliance with MBE subcontract requirements, a Department or  
2 procurement agency may require a contractor to furnish:

3 (1) Copies of purchase orders, subcontracts, cancelled checks, and other  
4 records that may indicate the number, names, dollar value of MBE  
5 subcontracts, dates, and schedule time for performance of work by an  
6 MBE subcontractor; and

7 (2) Entry for an on-site verification inspection.

8 (b) Upon determining a contractor's noncompliance, the Department or  
9 procurement agency shall notify the contractor in writing of its findings and shall  
10 specify what corrective actions are required. The contractor shall be required to initiate  
11 the corrective actions within 10 days and complete them within the time specified by the  
12 Department or procurement agency.

13 (c) If a Department or procurement agency determines that substantial non-  
14 compliance with MBE contract provisions exists and that the prime contractor refuses or  
15 fails to take the corrective action required by the Department or procurement agency,  
16 then the following sanctions may be invoked:

17 (1) Termination of the contract;

18 (2) Referral to the office of the Attorney General for appropriate action; or

19 (3) Initiation of any other specific remedy identified by contract.

20 **"§ 143-64.53. Certification.**

21 (a) Contractors seeking to be certified by and do business with the Department of  
22 Transportation shall use certification procedures developed by that Department. The  
23 Department of Transportation shall also develop recertification and decertification  
24 procedures.

25 (b) Contractors seeking to be certified for procurements solicited by other  
26 Departments or procurement agencies shall file an application with the Minority  
27 Business Development agency of North Carolina.

28 (c) The Minority Business Development agency may request the following  
29 information to assist in any certification, recertification, and decertification  
30 determination.

31 (1) Copies of articles of incorporation, bylaws, minutes, shareholder  
32 agreements, stock certificates, stock transfer ledgers, any additional  
33 profit-sharing agreements or buyout rights, or in the case of a  
34 partnership, the partnership agreement;

35 (2) Current financial statements, business licenses, the prior two years'  
36 federal tax returns, cancelled checks, resumes of principal parties, and  
37 any relevant personal and third-party agreements, such as rental and  
38 management agreements;

39 (3) Any other information that the certifying entity determines is  
40 necessary.

41 Failure to furnish the requested information within a reasonable time as specified in  
42 writing may result in a denial of certification or recertification, or a determination to  
43 decertify.

1       (d) Certification as an MBE by the Minority Business Development agency shall  
2 be made by disclosure affidavit and any other supporting documentation that may be  
3 required.

4       (e) All certifications by the Minority Business Development agency shall be  
5 valid until terminated by the agency after which MBEs previously certified are required  
6 to re-submit disclosure affidavits and other required supporting documentation. All  
7 MBEs certified before the effective date of this Article may be recertified as required by  
8 the Minority Business Development agency.

9       (f) The Minority Business Development agency may decertify a business, which  
10 it finds no longer is a minority business enterprise. A decertified business entity may  
11 reapply for certification 12 months from the date of the decertification. A new affidavit  
12 and any supporting documentation required shall be submitted as if the business entity  
13 were requesting initial certification.

14 **"§ 143-64.54. Reporting requirements.**

15       (a) Each Department and procurement agency shall make a report annually  
16 within 90 days following the close of the fiscal year to the Minority Business  
17 Development agency:

- 18           (1) The total number and value of its procurements from State certified  
19 MBEs as prime contractors, and separately as subcontractors;
- 20           (2) The percentage which purchases and contracts from MBEs represent  
21 of its total number and value of its procurements from business  
22 enterprises for the fiscal year just ended;
- 23           (3) The number of waivers granted pursuant to G.S. 143-64.50; and
- 24           (4) An evaluation by the Department of the success of its MBE program.

25       The Minority Business Development agency shall prepare an annual report  
26 summarizing MBE participation throughout the State for submission by the end of each  
27 calendar year to the General Assembly and to each Department and procurement  
28 agency."

29       Sec. 2. G.S. 143-48 reads as rewritten:

30 **"§ 143-48. State policy; cooperation in promoting the use of small, minority,**  
31 **physically handicapped and women contractors; purpose.**

32       It is the policy of this State to encourage and promote the use of small, minority,  
33 physically handicapped and women contractors in State purchasing of goods and  
34 services. All State agencies, institutions and political subdivisions shall cooperate with  
35 the Department of Administration and all other State agencies, institutions and political  
36 subdivisions in efforts to encourage the use of small, minority, physically handicapped  
37 and women contractors in achieving the purpose of this Article, which is to provide for  
38 the effective and economical acquisition, management and disposition of goods and  
39 services by and through the Department of Administration. Accordingly, all contracts  
40 entered into for the purchase of goods and services pursuant to this Article shall be  
41 subject to the provision of Article 3E of this Chapter."

42       Sec. 3. G.S. 143-135.5 reads as rewritten:

43 **"§ 143-135.5. State policy; cooperation in promoting the use of small, minority,**  
44 **physically handicapped and women contractors; purpose.**

1 It is the policy of this State to encourage and promote the use of small, minority,  
2 physically handicapped and women contractors in State construction projects. All State  
3 agencies, institutions and political subdivisions shall cooperate with the Department of  
4 Administration and all other State agencies, institutions and political subdivisions in  
5 efforts to encourage and promote the use of small, minority, physically handicapped  
6 and women contractors in achieving the purpose of this Article, which is the effective  
7 and economical construction of public buildings. Accordingly, all contracts entered into  
8 for the purchase of goods and services pursuant to this Article shall be subject to the  
9 provision of Article 3E of this Chapter."

10 Sec. 4. G.S. 136-28.4 reads as rewritten:

11 "**§ 136-28.4. State policy; cooperation in promoting the use of small, minority,**  
12 **physically handicapped and women contractors.**

13 It is the policy of this State to encourage and promote the use of small, minority,  
14 physically handicapped and women contractors in the construction, alteration and  
15 maintenance of State roads, streets, highways, and bridges and in the procurement of  
16 materials for such projects. All State agencies, institutions and political subdivisions  
17 shall cooperate with the Department of Transportation and all other State agencies,  
18 institutions and political subdivisions in efforts to encourage and promote the use of  
19 small, minority, physically handicapped and women contractors in such State  
20 construction, alteration, maintenance and procurement. Accordingly, all contracts  
21 entered into for construction, alteration, maintenance, and procurement in excess of one  
22 hundred thousand dollars (\$100,000) pursuant to this Article shall be subject to the  
23 provisions of Article 3E of Chapter 143 of the General Statutes."

24 Sec. 5. This act shall become effective January 1, 1990.