

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 620
Commerce Committee Substitute Adopted 4/21/03

Short Title: Purchasing Flexibility for Schools.

(Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION ADDITIONAL
PURCHASING FLEXIBILITY AND TO ENCOURAGE THEM TO USE THE NC
E-PROCUREMENT SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-522(a) reads as rewritten:

"(a) ~~Except as provided in G.S. 115C-522.1, it~~ It shall be the duty of local boards of education to purchase or exchange all supplies, ~~equipment and materials in accordance with contracts made by or with the approval of the Department of Administration.~~ equipment, and materials, and such purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal year the sums obligated for the current fiscal year, ~~and in order to protect the State purchase contractor, it is made the duty of the governing authorities of the local units to pay for these purchases promptly and in accordance with the terms of the contract of purchase year.~~"

SECTION 2. G.S. 115C-522.1 is repealed.

SECTION 3. G.S. 115C-47(23) reads as rewritten:

"(23) To Purchase Equipment and Supplies. – Local boards shall contract for equipment and supplies under G.S. ~~115C-522(a), 115C-522.1,~~ 115C-522(a) and 115C-528."

SECTION 4. G.S. 115C-264 reads as rewritten:

1 **"§ 115C-264. Operation.**

2 In the operation of their public school food programs, the public schools shall
3 participate in the National School Lunch Program established by the federal
4 government. The program shall be under the jurisdiction of the Division of School Food
5 Services of the Department of Public Instruction and in accordance with federal
6 guidelines as established by the Child Nutrition Division of the United States
7 Department of Agriculture.

8 Each school may, with the approval of the local board of education, sell soft drinks
9 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at
10 elementary schools, or (iii) contrary to the requirements of the National School Lunch
11 Program.

12 All school food services shall be operated on a nonprofit basis, and any earnings
13 therefrom over and above the cost of operation as defined herein shall be used to reduce
14 the cost of food, to serve better food, or to provide free or reduced-price lunches to
15 indigent children and for no other purpose. The term "cost of operation" shall be defined
16 as actual cost incurred in the purchase and preparation of food, the salaries of all
17 personnel directly engaged in providing food services, and the cost of nonfood supplies
18 as outlined under standards adopted by the State Board of Education. "Personnel" shall
19 be defined as food service supervisors or directors, bookkeepers directly engaged in
20 food service record keeping and those persons directly involved in preparing and
21 serving food: Provided, that food service personnel shall be paid from the funds of food
22 services only for services rendered in behalf of lunchroom services. Any cost incurred
23 in the provisions and maintenance of school food services over and beyond the cost of
24 operation shall be included in the budget request filed annually by local boards of
25 education with boards of county commissioners. It shall not be mandatory that the
26 provisions of ~~G.S. 115C-522(a) and 143-129~~ G.S. 143-129 be complied with in the
27 purchase of supplies and food for such school food services."

28 **SECTION 5.** G.S. 143-48.3 reads as rewritten:

29 **"§ 143-48.3. Electronic procurement.**

30 . . .

31 (b) The Department of Administration, in conjunction with the Office of the State
32 Controller and the Office of Information Technology Services may, upon request,
33 provide to all State agencies, universities, ~~local school administrative units, and the~~ and
34 community colleges, training in the use of the electronic procurement system.

35 . . .

36 (d) This section does not otherwise modify existing law relating to procurement
37 between The University of North Carolina, UNC Health Care, ~~local school~~
38 ~~administrative units~~, community colleges, and the Department of Administration.

39 . . .

40 (f) Any State ~~entity, local school administrative unit, entity~~ entity or community
41 college operating a functional electronic procurement system established prior to
42 September 1, 2001, may until May 1, 2003, continue to operate that system
43 independently or may opt into the North Carolina E-Procurement Service. Each entity
44 subject to this section shall notify the Information Resources Management Commission

1 by January 1, 2002, and annually thereafter, of its intent to participate in the North
2 Carolina E-Procurement Service."

3 **SECTION 6.** G.S. 143-49 reads as rewritten:

4 **"§ 143-49. Powers and duties of Secretary.**

5 The Secretary of Administration shall have power and authority, and it shall be his
6 duty, subject to the provisions of this Article:

7 . . .

8 (6) To make available to nonprofit corporations operating charitable
9 hospitals, to local nonprofit community sheltered workshops or centers
10 that meet standards established by the Division of Vocational
11 Rehabilitation of the Department of Health and Human Services, to
12 private nonprofit agencies licensed or approved by the Department of
13 Health and Human Services as child placing agencies, residential
14 child-care facilities, private nonprofit rural, community, and migrant
15 health centers designated by the Office of Rural Health and Resource
16 Development, to private higher education institutions that are defined
17 as "institutions" in G.S. 116-22(1), and to counties, cities, towns, local
18 school administrative units, governmental entities and other
19 subdivisions of the State and public agencies thereof in the expenditure
20 of public funds, the services of the Department of Administration in
21 the purchase of materials, supplies and equipment under such rules,
22 regulations and procedures as the Secretary of Administration may
23 adopt. In adopting rules and regulations any or all provisions of this
24 Article may be made applicable to such purchases and contracts made
25 through the Department of Administration, and in addition the rules
26 and regulations shall contain a requirement that payment for all such
27 purchases be made in accordance with the terms of the contract. Prior
28 to adopting rules and regulations under this subdivision, the Secretary
29 of Administration may consult with the Advisory Budget Commission.

30 . . .

31 (8) To establish and maintain a procurement card program for use by State
32 agencies, community colleges, ~~nonexempted constituent institutions of~~
33 ~~The University of North Carolina, and local school administrative~~
34 ~~units and nonexempted constituent institutions of The University of~~
35 North Carolina. The Secretary of Administration may adopt temporary
36 rules for the implementation and operation of the program in
37 accordance with the payment policies of the State Controller, after
38 consultation with the Office of Information Technology Services.
39 These rules would include the establishment of appropriate order limits
40 that leverage the cost savings and efficiencies of the procurement card
41 program in conjunction with the fullest possible use of the North
42 Carolina E-Procurement Service. Prior to implementing the program,
43 the Secretary shall consult with the State Controller, the UNC General
44 Administration, the Community Colleges System Office, the State

1 Auditor, the Department of Public Instruction, a representative chosen
2 by the local school administrative units, and the Office of Information
3 Technology Services. The Secretary may periodically adjust the order
4 limit authorized in this section after consulting with the State
5 Controller, the UNC General Administration, the Community Colleges
6 System Office, the Department of Public Instruction, and the Office of
7 Information Technology Services."

8 **SECTION 7.** G.S. 143-53(a)(2) reads as rewritten:

9 **"§ 143-53. Rules.**

10 (a) The Secretary of Administration may adopt rules governing the following:

11 . . .

12 (2) Prescribing the routine, including consistent contract language, for
13 securing bids on items that do not exceed the bid value benchmark
14 established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.
15 The purchasing delegation for securing offers (excluding the special
16 responsibility constituent institutions of The University of North
17 Carolina), for each State department, institution, agency, ~~community~~
18 ~~college, and public school administrative unit and community college~~
19 shall be determined by the Director of the Division of Purchase and
20 Contract. For the State agencies this shall be done following the
21 Director's consultation with the State Budget Officer and the State
22 Auditor. The Director for the Division of Purchase and Contract may
23 set or lower the delegation, or raise the delegation upon written request
24 by the agency, after consideration of their overall capabilities,
25 including staff resources, purchasing compliance reviews, and audit
26 reports of the individual agency. The routine prescribed by the
27 Secretary shall include contract award protest procedures and
28 consistent requirements for advertising of solicitations for securing
29 offers issued by State departments, institutions, universities (including
30 the special responsibility constituent institutions of The University of
31 North Carolina), agencies, community colleges, and the public school
32 administrative units."

33 **SECTION 8.(a)** Encourage Use of NC E-Procurement Service by LEAs. -
34 The State encourages local school administrative units to use the NC E-Procurement
35 Service.

36 **SECTION 8.(b)** Certification of E-Procurement Compliance. - The Office
37 of Information Technology Services must certify that a local school administrative unit
38 is E-procurement compliant when the unit's current software purchasing system is
39 adequately interfaced with the NC E-Procurement Service system and the unit's
40 employees involved in the purchasing process have been properly trained in the use of
41 the Service. The Office of Information Technology Services, in consultation with the
42 Department of Public Instruction and the NC E-Procurement Service, may establish the
43 standards that must be met for certification. The Office of Information Technology

1 Services must notify the Department of Administration of the units certified within three
2 days of the certification.

3 **SECTION 8.(c)** Pilot Projects. – To use the NC E-Procurement Service, a
4 local school administrative unit's current software purchasing system must be interfaced
5 with the NC E-Procurement Service system. All but two of the 117 local school
6 administrative units utilize one of two systems: ISIS by EMS or SunPac by Sartox. To
7 encourage local school administrative units to use the NC E-Procurement Service, the
8 Service will begin the interface process with four local school administrative units – two
9 of which use ISIS and two of which use SunPac. The four pilot units will be the local
10 school administrative units of Cabarrus County, Edgecombe County, Guilford County,
11 and Sampson County. The four pilot units must be certified as being E-procurement
12 compliant on or before October 1, 2003.

13 **SECTION 8.(d)** Charlotte/Mecklenburg LEA and Wake County LEA. – The
14 local school administrative units of Charlotte/Mecklenburg and Wake County each
15 utilize a unique software purchasing system. NC E-Procurement Service must begin the
16 process of interfacing the Service's software system with these units' software system.
17 Charlotte/Mecklenburg and Wake County must be certified as E-procurement compliant
18 on or before July 1, 2004.

19 **SECTION 8.(e)** Remainder of LEAs. – The remaining 111 local school
20 administrative units must be certified as being E-procurement compliant by January 1,
21 2005. The NC E-Procurement Service will assist the units in interfacing their systems
22 and training their employees on a regional basis by the type of software the unit
23 currently uses.

24 **SECTION 8.(f)** Obligation of LEAs. – As of the date a local school
25 administrative unit is certified by the Office of Information Technology Services as
26 being E-procurement compliant, it must expend at least thirty percent (30%) of its
27 remaining unencumbered funds used to purchase supplies, equipment, materials,
28 computer software, and other tangible personal property during the fiscal year in which
29 it is certified through the NC E-Procurement Service. The unit must expend at least
30 thirty-five percent (35%) of its funds used to purchase supplies, equipment, materials,
31 computer software, and other tangible personal property during the fiscal year following
32 certification through the NC E-Procurement Service and forty percent (40%) during the
33 second fiscal year following certification. The State encourages the units to utilize the
34 NC E-Procurement Service to purchase at least fifty percent (50%) of their supplies,
35 equipment, materials, computer software, and other tangible personal property during
36 the fiscal year following certification and at least seventy percent (70%) of their
37 supplies, equipment, materials, computer software, and other tangible personal property
38 during the second fiscal year following certification.

39 **SECTION 9.** Sections 1 through 7 of this act become effective for a local
40 school administrative unit when the unit is certified by the Office of Information
41 Technology Services as being E-procurement compliant, as provided in Section 8 of this
42 act, or April 1, 2004, whichever occurs first. The remainder of this act is effective when
43 it becomes law.