

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 995
Commerce Committee Substitute Adopted 4/17/03
Third Edition Engrossed 4/23/03

Short Title: School Construction/Repair Flexibility. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR
CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-129 is amended by adding a new subsection to read:

"(b1) Prequalified Bidders; Solicited Bid List. – Notwithstanding the other subsections of this section, a county on behalf of a local board of education ("county") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The county must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The county may prequalify only single prime contractors pursuant to this section.

The county shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, compliance with the provisions of G.S. 143-128.2, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this subsection, if the county does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the county may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, commitment to the State or local goals program for minority business participation, payment history regarding subcontractors and material suppliers, and the contractor's failure to perform satisfactorily on past projects or a current project. The county's consideration of these factors shall be based upon

1 objective information provided in the public record of the prequalification process. The
2 county must notify a disqualified bidder at least seven days prior to the opening of bids.

3 G.S. 143-128.2 applies to the construction of projects described in this subsection."

4 **SECTION 2.** G.S. 143-128(a1) is amended by adding a new subdivision to
5 read:

6 "(6) Design-build contracting. – Notwithstanding G.S. 143-129, G.S.
7 143-132, and any other provision of this section, a county on behalf of
8 a local board of education may use the design-build method of
9 construction as follows:

10 a. The county must seek to prequalify and solicit at least five
11 design-build teams to bid on the project and must receive sealed
12 proposals from at least three of those teams. The request for
13 proposals must contain a design criteria package that defines the
14 project scope, including preliminary design and performance
15 specifications, in a manner sufficient to allow the bidders to
16 respond. This package should be developed by an architect.

17 b. The county shall interview at least three of the design-build
18 teams that submit proposals. The county shall award the
19 contract to the best qualified team, taking into account the time
20 of completion of the project, compliance with the provisions of
21 G.S. 143-128.2, and the cost of the project as the major factors.

22 c. Facilities constructed may be turnkey projects, including all
23 materials, equipment, and supplies normally associated with
24 school programs.

25 d. G.S. 143-128.2 applies to the construction of projects described
26 in this subdivision."

27 **SECTION 3.** Other Methods. – Nothing in this act limits the use of any
28 method of contracting already authorized by law under Articles 3D and 8 of Chapter
29 143 of the General Statutes.

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