

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1269

Short Title: Competitive Government Initiative.

(Public)

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Sponsors: Representatives Baker; Davis, Sherrill, and Shubert.

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Referred to: State Government, if favorable, Appropriations.

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May 13, 1998

A BILL TO BE ENTITLED

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

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.**

19 (a) The North Carolina Government Competition Commission is created within  
20 the Office of State Budget and Management. The Commission shall exercise its powers

1 independently of the State Budget Officer and shall be subject to the direction and  
2 supervision of the State Budget Officer only with respect to the management functions of  
3 coordination and reporting. The purpose of the Commission is to be the catalyst for the  
4 use of competition to improve the delivery of State government services, to make State  
5 government more effective and more efficient, and to reduce the costs of government to  
6 taxpayers.

7 (b) The Commission shall:

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

41 **"§ 143C-4. Membership; appointment; terms; vacancies; chair; quorum;**  
42 **compensation.**

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

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

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

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

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

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

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

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

26 **"§ 143C-5. Cooperation of other State agencies.**

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

30 **"§ 143C-6. Application for and acceptance of certain gifts and grants; authority to**  
31 **enter into contract; applicability of State purchasing laws.**

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

37 (b) The Commission may enter into contracts for professional or consultant  
38 service. Any consultant awarded a contract under this subsection shall be ineligible for a  
39 contract award resulting from the consultant's recommendations.

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

42 **"§ 143C-7. Public-private competition analysis; proposals for competition.**

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

6       (b) The Commission may solicit competition proposals from private entities in  
7 order to make cost-comparison decisions. Any State agency may submit proposals to the  
8 Commission for cost comparison decisions.

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

14 **"§ 143C-8. Duties of the Office of State Budget and Management.**

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

20 **"§ 143C-9. Reports to the Governor and General Assembly.**

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

24       Section 2. There is appropriated from the General Fund to the Office of State  
25 Budget and Management for fiscal year 1998-99 the sum of two hundred ten thousand  
26 dollars (\$210,000) for the operation of the North Carolina Government Competition  
27 Commission.

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