

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 840

Senate State and Local Government Committee Substitute Adopted 6/10/99

Third Edition Engrossed 6/15/99

Short Title: Bid Law Exemption/Onslow Courthouse.

(Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

1 AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY
2 REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR
3 COURTHOUSE AND TO PROVIDE FOR FLEXIBILITY IN SCHOOL
4 CONSTRUCTION AND REPAIR CONTRACTS FOR
5 CHARLOTTE/MECKLENBURG SCHOOLS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate-
9 and Single-Prime Systems. – Notwithstanding G.S. 143-128 or any other provisions of
10 law, Onslow County may seek bids for the renovation of the Onslow County Superior
11 Courthouse (i) under the separate-prime contract system or (ii) under both the separate-
12 prime and the single-prime systems.

13 Section 1.(b) Standard for Award of Bids. – If the county seeks bids under only
14 the separate-prime contract system, the county shall award the contract to the lowest
15 responsible bidder, taking into consideration quality, performance, and time specified in
16 the bids for performance of the contract.

17 If the county seeks bids under both the separate-prime and the single-prime
18 systems, the county shall award the contract to either the lowest responsible bidder under

1 the single-prime system or to the lowest responsible bidder under the separate-prime
2 system, taking into consideration quality, performance, and time specified in the bids for
3 performance of the contract. In determining the system under which the contract will be
4 awarded to the lowest responsible bidder, the county may consider cost of construction
5 oversight, time for completion, ability to control and coordinate the project, safety
6 concerns regarding the removal of asbestos and lead paint, and other factors it deems
7 appropriate.

8 Section 1.(c) Minimum Number of Bids Required. – The county shall not open
9 any bid solicited under this act unless it receives at least three competitive bids from
10 reputable and qualified contractors regularly engaged in their respective lines of
11 endeavor. In calculating the number of bids required, either a full set of separate-prime
12 bids or a single single-prime bid shall constitute a bid.

13 If the county seeks bids under both the separate-prime and the single-prime
14 systems, the county is not required to receive either at least one full set of separate-prime
15 bids or at least one bid from a general contractor under the separate-prime system. The
16 bids received as separate-prime bids shall be submitted three hours prior to the deadline
17 for the submission of single-prime bids. The amount of a bid submitted by a
18 subcontractor to the general contractor under the single-prime system shall not exceed the
19 amount bid, if any, for the same work by that subcontractor to the county under the
20 separate-prime system. Each single-prime bid shall identify the contractors selected to
21 perform the three major subdivisions or branches of work and shall list the contractors'
22 respective bid prices for those branches of work.

23 If after advertisement, the county has not received the minimum number of
24 competitive bids as required by this subsection, the county shall again advertise for bids.
25 If the required minimum number of bids is not received as a result of the second
26 advertisement, the county may let the contract to the lowest responsible bidder that
27 submitted a bid for the project, even though the county received only one bid.

28 Section 1.(d) Applicability of General Statutes. – All provisions of Article 8 of
29 Chapter 143 of the General Statutes that are not inconsistent with this subsection shall
30 apply to the county.

31 Section 2. Prequalified bidders; solicited bid list. – Notwithstanding G.S. 143-
32 129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited
33 number of contractors for a school facility construction, rebuilding, or renovation
34 contract ("contract" and "project") and solicit bids from some or all of those prequalified
35 contractors. The Board must attempt to prequalify and solicit sealed bids from at least
36 five contractors and may not award a contract pursuant to this section unless it receives at
37 least three bids from the group of prequalified contractors. The Board may prequalify
38 only single prime contractors pursuant to this section.

39 The Board shall award the contract or contracts to the lowest responsible
40 bidder or bidders, taking into consideration quality, performance, and the time specified
41 in the bids for the performance of the project. Notwithstanding the first paragraph of this
42 section, if the Board does not receive three or more proposals, it may again seek

1 proposals for the project pursuant to this section and may award the contract to the lowest
2 responsible bidder, even if only one proposal is received.

3 In prequalifying a contractor for purposes of this section, the Board may
4 consider the contractor's relevant experience on the type of project to be bid, ability to
5 meet the project schedule, financial strength, and the contractor's failure to perform
6 satisfactorily on past projects or a current project. The Board's consideration of these
7 factors shall be based upon objective information provided in the public record of the
8 prequalification process. The Board must notify a disqualified bidder at least seven days
9 prior to the opening of bids.

10 This section applies only to renovation, repair, and rebuilding projects.

11 Section 3. Construction management. – Notwithstanding G.S. 143-128, 143-
12 129, and 143-132, the Board may contract with a construction manager to manage and
13 assume liability for the completion of a project. The construction manager shall be
14 selected in the same manner that architects and engineers are selected pursuant to Article
15 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-
16 prime system and contracts with a construction manager who will be liable for the
17 completion of the project, the Board may combine the lowest responsible bids in each
18 subdivision of work into a single contract to be administered by the construction
19 manager.

20 Section 4. Design-build. – Notwithstanding G.S. 143-128, 143-129, and 143-
21 132, the Board may use the design-build method of construction as follows:

- 22 (1) The Board must seek to prequalify and solicit at least five design-build
23 teams to bid on the project and must receive sealed proposals from at
24 least three of those teams. The request for proposals must contain a
25 design criteria package that defines the project scope, including
26 preliminary design and performance specifications, in a manner
27 sufficient to allow the bidders to respond. This package should be
28 developed by an architect.
- 29 (2) The Board shall interview at least three of the design-build teams that
30 submit proposals. The Board shall award the contract to the best
31 qualified team, taking into account the time of completion of the project
32 and the cost of the project as the major factors.

33 Section 5. Other methods. – Nothing in this act limits the Board's use of any
34 method of contracting already authorized by law under Articles 3D and 8 of Chapter 143
35 of the General Statutes.

36 Section 6. Project bundling. – The Board may award a single contract pursuant
37 to this act covering multiple facilities and sites, except that all facilities for which such
38 contract is awarded under this act for new construction must be in the same grade level
39 (elementary school, middle school, or high school) unless the facilities are part of a single
40 campus.

41 Section 7. Sections 2 through 6 apply to the Charlotte/Mecklenburg Board of
42 Education only.

43 Section 8. This act is effective when it becomes law and expires July 1, 2002.