

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 19

Short Title: Bldg. Contracts/Local Business Participation. (Public)

Sponsors: Senators Bingham (Primary Sponsor); Clark and Jenkins.

Referred to: Commerce.

January 31, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING COUNTIES AND CITIES TO REQUIRE BIDDERS ON PUBLIC  
3 BUILDING CONTRACTS TO DEMONSTRATE THAT THEY HAVE MADE GOOD  
4 FAITH EFFORTS TO RECRUIT PARTICIPATION BY LOCAL BUSINESSES IN THE  
5 CONTRACTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 8 of Chapter 143 of the General Statutes is amended by  
8 adding a new section to read as follows:

9 **"§ 143-128.5. Increase local business participation in public building projects.**

10 (a) Each county and city in the State shall require bidders on a project bid under any of  
11 the methods authorized under G.S. 143-128(a1), including building projects done by a private  
12 entity on a facility to be leased or purchased by the county or city, to undertake the following  
13 good faith efforts to ensure that local businesses have a full and fair opportunity to participate  
14 in public building contracts:

- 15 (1) Contact local businesses that reasonably could have been expected to submit  
16 a quote, and that were known to the contractor or available on local  
17 government maintained lists at least 30 days before the bid or proposal date,  
18 and notify them of the nature and scope of the work to be performed.  
19 (2) Make the construction plans, specifications, and requirements available for  
20 review by prospective local businesses or provide those documents to them  
21 at least 30 days before the bid or proposals are due.  
22 (3) Negotiate in good faith with interested local businesses and do not reject  
23 them as unqualified without sound reasons based on their capabilities.

24 (b) Each bidder shall identify on its bid the local businesses that it will use on the  
25 project and shall attach to the bid an affidavit listing the good faith efforts it made pursuant to  
26 subsection (a) of this section and the total dollar value of the bid that will be performed by the  
27 local businesses, if any. The failure to attach an affidavit that demonstrates the bidder made the  
28 required good faith efforts is grounds for rejection of the bid. The provisions of this section  
29 apply to formal and informal bids.

30 (c) For purposes of this section, the following definitions apply:

- 31 (1) Bidder. – In addition to the traditional meaning, the term means first-tier  
32 subcontractor for construction manager at risk projects.  
33 (2) Local business. – A business whose principal place of business is located in  
34 the affected county or city.  
35 (3) Principal place of business. – The principal place from which the trade or  
36 business of the bidder is directed or managed.



1       (d) Counties and cities under this section shall award public building contracts without  
2 regard to race, religion, color, creed, national origin, sex, age, or handicapping condition.  
3 Nothing in this section shall be construed to require contractors or an awarding county or city  
4 to award contracts or subcontracts to local business contractors or local business subcontractors  
5 who do not submit the lowest responsible, responsive bid or bids.

6       (e) Notwithstanding G.S. 132-3 and G.S. 121-5, all public records created pursuant to  
7 this section shall be maintained by the county or city for a period of not less than three years  
8 from the date of the completion of the building project."

9       **SECTION 2.** This act becomes effective July 1, 2013, and applies to the  
10 solicitation of bids for public building contracts by a county or city on or after that date.