



# SENATE BILL 747: State-Owned Real Property Management/PED.

2016-2017 General Assembly

<b>Committee:</b>	Senate Finance	<b>Date:</b>	June 14, 2016
<b>Introduced by:</b>	Sens. Gunn, Hartsell, Krawiec	<b>Prepared by:</b>	Cindy Avrette
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

**SUMMARY:** *Senate Bill 747<sup>1</sup> implements various recommendations of the Program Evaluation Division regarding the way in which State-owned real property is managed and disposed of, as set forth in its report entitled "North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs, Report Number 2015-04 (June 2015)." Broadly speaking, these changes would require more active management of State-owned real property, ongoing identification and disposal of surplus State-owned real property, ongoing measurement and reporting of utilization of State-owned real property, ongoing updating of State-owned real property inventories, and ensuring that State-owned property is not available before leases are approved or renewed.*

**CURRENT LAW:** G.S. 146-27 provides that the sale or lease of most State-owned real property is to be conducted by the Department of Administration and approved by the Governor and Council of State. The process of selling a particular piece of State-owned real property can be commenced as a result of the Department of Administration's own initiative, a State agency request, or in response to a legal requirement that the property be sold. There is, however, currently no statutory mechanism in place for regular identification and disposal of State-owned real property that is no longer needed for State purposes. Nor is there any statutory mechanism in place for an agency to continuously monitor and report on its utilization of State-owned real property.

The State Budget Act (Chapter 143C of the General Statutes) requires agencies to biennially submit estimates of their capital needs for the following six years to the Office of State Budget and Management and to the Fiscal Research Division of the General Assembly. It also requires the Director of the Budget, who is the Governor, to biennially submit a six-year State capital improvements plan to the General Assembly.

Chapters 143 and 143C of the General Statutes require the Department of Administration to maintain inventories of State-owned or State-leased real property.

Chapters 143 and 146 of the General Statutes authorize the Department of Administration to compel State agencies to use available State-owned or State-leased space instead of acquiring or leasing new space.

**BILL ANALYSIS:** The statute enacted by **Section 1(a)** of the bill sets forth new duties of the Department of Administration and other State agencies with respect to how those agencies manage State-owned real property. Specifically, this section requires that the Department of Administration do the following:

<sup>1</sup> House Bill 975 is the companion bill; it's in the House Regulatory Reform Committee.

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- No later than December 1, 2018, and every five years thereafter, develop and implement a State facilities plan to comprehensively manage, acquire, and dispose of the facilities and spaces required to fully support State government operations.
- Develop a performance management system to measure the State's achievement of the priorities and objectives set forth in comprehensive State facilities plans.
- No later than December 1, 2016, develop procedures to be used by State agencies to measure the utilization of State-owned and State-leased buildings and structures.
- No later than December 1, 2016, develop space planning standards to be used by State agencies to determine workspace size and to govern the use of shared space. The Department is required to annually perform audits of State agencies to determine their adherence to these standards and to send formal letters of admonishment to any agency that fails to justify any deviation from those standards.
- Incorporate information received from other State agencies about real property use into the State-owned real property inventories maintained by the Department and notify each agency when that agency's information has been updated in the inventories.
- Establish a definition of surplus State-owned real property and a system that continuously identifies and disposes of surplus real property.
- Make reports to the Joint Legislative commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly.

This section also requires that each State agency do the following:

- No later than July 1, 2018, and annually thereafter, submit to the Department of Administration statutorily required information regarding the agency's use of real property. These submissions may be audited by the State Auditor.
- Verify the accuracy of the information about the agency maintained in the real property inventories maintained by the Department of Administration.
- No later than July 1, 2018, and every five years thereafter, develop a five-year real property management plan and submit the plan to the Department of Administration for review.

**Section 1(b)** of the bill requires the Department of Administration to develop a plan to analyze the utilization of all State-owned or State-leased facilities. No later than June 1, 2017, the plan must be reported to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research and Program Evaluation Divisions of the General Assembly.

**Section 1(c)** of the bill requires the Department of Administration to make one unannounced visit to a facility owned by or allocated to each State agency no later than June 1, 2017. The purpose of the visit is to obtain utilization information about the property visited, to provide guidance to the agency about employing the real property utilization measures developed by the Department of Administration, and to obtain information to be used to refine those measures.

**Section 1(d)** of the bill is a conforming statutory change.

**Section 2(a)** of the bill amends the statutes that govern what information is required to be included in the databases of State-owned real property maintained by the Department of Administration. This section requires greater specificity in the information maintained than do current statutes.

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**Section 2(b)** of the bill repeals a section in the State Budget Act that would be duplicative in light of the statutory changes made in Section 2(a). **Sections 2(c)** is a conforming statutory change.

**Section 2(d)** of the bill requires that no later than December 1, 2016, the Department of Administration report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Program Evaluation Division of the General Assembly on the changes made to the real property inventories maintained by the Department in response to the statutory changes enacted in Section 2(a) of the bill.

**Section 3(a)** of the bill amends the statute that governs the actions of the Department of Administration when an agency requests to acquire additional land. Specifically, it requires that in investigating the availability of land already owned by the State that might meet the requirements of the requesting agency, the Department review the real property utilization information contained in the real property databases maintained by the Department. **Section 3(b)** of the bill makes a similar change.

**Section 3(c)** of the bill requires that upon the expiration of certain enumerated leases, the Department of Administration shall reallocate the State functions, personnel, and other resources that current reside at the affected locations to suitable State-owned space. If suitable State-owned space is not available, **Section 3(d)** of the bill authorizes renewals of affected leases but only if the Department consults with the Joint Legislative Commission on Governmental Operations at least 60 days prior to the renewal.

**Section 3(e)** of the bill provides that prior to July 1, 2018, no State agency may request to enter into or renew a lease unless at the time it makes the request, it certifies to the Department of Administration that it has searched existing State-owned real property, contacted other State agencies to identify existing unused State-owned property, and found none that would be suitable for the agency's needs.

**EFFECTIVE DATE:** **Section 3(a)** and **(b)** of the bill are effective July 1, 2018. **Section 6** of the bill provides that the remainder of the bill is effective when it becomes law.

**BACKGROUND:** The bill is based on the Program Evaluation Division report entitled *North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs*, Report Number 2015-04 (June 2015).

*Ben Stanley, counsel to the Joint Legislative PED Oversight Committee, substantially contributed to this summary.*