



SENATE BILL 466: EDPNC Modifications.

2019-2020 General Assembly

Committee:		Date:	January 2, 2020
Introduced by:		Prepared by:	Jeremy Ray*
Analysis of:	S.L. 2019-50		Staff Attorney

OVERVIEW: *S.L. 2019-50 modifies the duties that may be performed by the North Carolina Department of Commerce (Department) and the Economic Development Partnership of North Carolina (EDPNC); broadens the notice requirements for new or changed EDPNC contracts; makes changes to the EDPNC governing board requirements; modifies EDPNC contract terms relating to the renewal of contracts, fundraising requirements, and other conforming changes.*

This act has various effective dates. Please see the full summary for more detail.

BACKGROUND: G.S. 143B-431.01 was created to establish a framework whereby the Department of Commerce could contract with a North Carolina nonprofit corporation to assist the Department in fostering and retaining jobs and business development, international investment recruiting, international trade, marketing, and travel and tourism.

The EDPNC is a nonprofit public-private partnership and operates under contract with the North Carolina Department of Commerce pursuant to the provisions set forth in G.S. 143B-431.01.

BILL ANALYSIS: S.L. 2019-50 modifies certain provisions of G.S. 143B-431.01 directly applicable to the EDPNC, which includes the following:

SECTION 1. Expressly allows the Department to contract with the EDPNC to administrator certain funds or grants received from the federal government, for the following programs, to follow current practice. The funds permitted are:

- The State Trade and Export Promotion Program.
- The Manufacturing Extension Program.

SECTION 1.1. Expressly prohibits the Department from contracting with the EDPNC for a site certification. The prohibition does not include contracting for creating or maintaining a website with data on unutilized or underutilized properties in the State with potential commercial or industrial reuses.

SECTION 2. Adds the chairs of the Senate Committee on Appropriations/Base Budget and the House of Representatives Committee on Appropriations to the list of committees the Department is required to provide notice to prior to contracting, by submitting the contract or amendment and a detailed explanation 45 days prior to entering into, or amending the contract.

Amends certain requirements the EDPNC's governing board must adhere to in order to receive funds in the following manner:

- Increasing board membership from 17 to 18 voting members with the Secretary of Commerce (Secretary) being added as an *ex officio* member. With the Secretary added to the EDPNC board, the bill eliminates (i) the requirements for the Board make recommendations to the Secretary on

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economic development policy and (ii) the authority of the Secretary to solicit funds for the EDPNC.

- The board is no longer required to submit a report to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's Economic Development.

SECTIONS 3.(a) & (b). Modifies required contract terms relating to the renewal of contracts between the Department and the EDPNC in the following manner:

- Required contract terms limiting renewal from a current term of no more than *five years*, are changed to no more than *three years*. Terms are no longer extended in one year increments up to four times after no less than four fifths of the original contract term has passed. Instead, an extension cannot extend the remaining term of the contract, including the term of the extension, for a term more than four years.
- For contract renewals, the Department is required to provide notice of intention to renew the contract for the initial renewal, no less than five months prior to the expiration of the remaining term, and for subsequent renewals, must provide notice no less than one year prior to the expiration of the remaining term.
- Contracts in effect on or after January 1, 2020, are on a calendar year basis.

SECTION 4. Eliminates the EDPNC fund-raising requirements and instead allows the EDPNC to receive funds from fund-raising efforts and sources other than State funds. Under prior law, the EDPNC was required to raise amounts totaling at least five million seven hundred fifty thousand dollars (\$5,750,000) during the term of the contract to support operations and functions of the corporation broken down as seven hundred fifty thousand dollars (\$750,000) during the first year of the contract term and one million two hundred fifty thousand dollars (\$1,250,000) during each subsequent year of the term of the contract.

EFFECTIVE DATE: Except as otherwise provided, Sections 1, 2, and 3 became effective June 26, 2019, and apply to contracts existing, entered into, and renewed on or after that date. Notwithstanding the limitation of the term of renewal, as provided in Sections 3.(a) & (b), the initial term of renewal of an existing contract may be for no more than three years plus the remainder of the calendar year in which the contract is renewed. The remainder of S.L. 2019-50 became effective June 26, 2019, and Sections 1.1 and 4 apply to contracts entered into or renewed on or after that date.

**Dan Ettefagh and Susan Sitze, Staff Attorneys, substantially contributed to this summary.*