



SENATE BILL 466: EDPNC Modifications.

2019-2020 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 17, 2019
Introduced by:	Sens. B. Jackson, Gunn, Edwards	Prepared by:	Jeremy Ray* Staff Attorney
Analysis of:	PCS to First Edition S466-CSMC-2		

OVERVIEW: *The PCS to S466 would allow the contract between the North Carolina Department of Commerce (Department) and the Economic Development Partnership of North Carolina (EDPNC) to include administration of certain funds or grants received from the federal government; create new notice requirements when contracting or amending a contract; make changes to governing board requirements for nonprofit corporations; modify contract terms relating to the renewal of contracts and fundraising requirements, and other conforming changes.*

[The PCS would add the two contract exceptions for federal funds in SECTION 1. and new notice requirements to certain Senate and House committees in SECTION 2, and would clarify certain notice requirements for renewals in SECTION 3.(a), and, make other conforming changes.]

[As introduced, this bill was identical to H803, as introduced by Rep. Saine, which is currently in an unknown committee.]

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 (the Economic Development Partnership of North Carolina, or EDPNC) to assist the Department in fostering and retaining jobs and business development, international investment recruiting, international trade, marketing, and travel and tourism.

The Economic Development Partnership of North Carolina 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: The PCS to S466 would modify certain provisions of G.S. 143B-431.01 directly applicable to the EDPNC, which includes the following:

SECTION 1. Would expressly allow 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. Would prohibit the Department from contracting with the EDPNC for a site certification. The prohibition would 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.

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SECTION 2. Would add 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.

Would amend certain requirements the EDPNC must adhere to in order to receive funds in the following manner:

- The nonprofit corporation's governing board would increase from 17 to 18 voting members with the Secretary of Commerce (Secretary) being added as an *ex officio* member. No other state employee may serve on the board except the Secretary, and the Secretary may not engage in fundraising activities by or on behalf of the nonprofit corporation.
- The board would no longer be required to submit a report each quarter and upon request to the Chair of the Economic Development Accountability and Standards Committee on the progress of the State's Economic Development.

SECTIONS 3.(a) & (b) Would modify 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, would be changed to no more than three years. Terms would no longer be 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 could not 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 would be 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, provide notice no less than one year prior to the expiration of the remaining term.
- Contracts in effect on or after January 1, 2020, would be on a calendar year basis.

SECTION 4. Would amend current contract provisions requiring the EDPNC to receive from fund-raising efforts and sources other than State funds. Currently the EDPNC must 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. The change would eliminate the fundraising requirements and instead allow the EDPNC to receive funds from fund-raising efforts and sources other than State funds.

EFFECTIVE DATE: Except as otherwise provided, Sections 1, 2, and 3 of the PCS would become effective when it becomes law 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 the PCS would become effective when it becomes law, and Sections 1.1 and 4 apply to contracts entered into or renewed on or after that date.

**Dan Etefagh, Staff Attorney for the Legislative Drafting Division, substantially contributed to this summary.*