

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1558

Short Title: Sch. Bldg. Flexibility/3 Counties.

(Local)

Sponsors: Representatives Daughtry; Creech, Hackney, Insko, and Owens.

Referred to: Education.

May 28, 1998

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE BOARDS OF EDUCATION IN THE COUNTIES OF
2 JOHNSTON, ORANGE, AND PITT TO USE ALTERNATIVE DELIVERY
3 SYSTEMS FOR THE CONSTRUCTION OF PUBLIC SCHOOL FACILITIES.
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5 Whereas, education is the energy that drives economic growth and
6 development; and

7 Whereas, facilities are an integral part of the educational equation and are vital
8 to the educational learning process; and

9 Whereas, North Carolina is faced with a crisis in providing adequate public
10 school facilities, estimated to exceed \$6,000,000,000 over five years; and

11 Whereas, local government is faced with serious budget challenges due to
12 increased demands for public service, shrinking financial resources, and shifting budget
13 priorities; and

14 Whereas, bold and creative leadership is required by public officials to meet
15 the challenge of "adequate school facilities for every learner in North Carolina"; and

16 Whereas, the counties of Johnston, Orange, and Pitt are committed to creativity
17 in the development and delivery of public school facilities and believe that the public
18 investment in capital assets should be properly managed; and

1 Whereas, the boards of education in the counties of Johnston, Orange, and Pitt
2 have agreed to join together in a unique creative and collaborative venture of sharing
3 educational programming and facilities technology to their mutual benefit; and

4 Whereas, the boards of education and the boards of commissioners in these
5 counties have joined together in a cooperative effort to deliver schools that are
6 educationally effective and economically efficient; and

7 Whereas, the General Assembly reaffirms its commitment to enhance public
8 education, to encourage innovative development of school facilities, and to explore
9 alternative delivery systems; Now, therefore,
10 The General Assembly of North Carolina enacts:

11 Section 1. Notwithstanding the provisions of any law or administrative rule to
12 the contrary, the boards of education in the counties of Johnston, Orange, and Pitt may
13 jointly develop and implement a five-year pilot program for the construction of public
14 school facilities. These counties may use the following facility delivery systems:

- 15 (1) Qualifications-based Contractor Selection Process. – The contractor
16 selection criteria may be based on organizational information, financial
17 status and bonding capacity, experience of office and field personnel,
18 experience on school projects, experience with the separate prime
19 contract delivery system, cooperation and coordination with other
20 contractors, quality, cost, and timely performance on completed school
21 projects, references of public owners, and other factors deemed
22 appropriate. Based on the qualifications criteria, each board of
23 education may select, in its sole discretion, a minimum of three of the
24 best-qualified contractors in each of the categories of work to be bid.
- 25 (2) Separate-Prime Contract Delivery System. – After selection of
26 contractors as provided in subdivision (1) of this section, each board of
27 education may choose to award contracts based on the separate-prime
28 contract delivery system. If the board chooses to use the separate-prime
29 contract delivery system, the provisions of G.S. 143-128(a) and G.S.
30 143-129 shall apply.
- 31 (3) Single-Prime Contract Delivery System. – After selection of contractors
32 as provided in subdivision (1) of this section, each board of education
33 may choose to award contracts based on the single-prime contract
34 delivery system. If the board chooses to use the single-prime contract
35 delivery system, the provisions of G.S. 143-129 shall apply. However,
36 the mechanical, electrical, and plumbing construction, as specified, shall
37 be publicly bid at least one day prior to the general construction, and
38 each single-prime bidder shall incorporate the bids of and agree to
39 contract with the successful mechanical, electrical, and plumbing
40 contractors.
- 41 (4) Professional Construction Management Delivery System. – Each board
42 of education shall select the best qualified designer in accordance with
43 G.S. 143-64.31. The designer shall, for a negotiated fee based on scope

1 of work, be liable for and responsible to the board of education for the
2 delivery and management of all project design services. The board of
3 education shall select the best qualified contractor (hereafter called
4 construction manager) in accordance with subdivision (1) of this section
5 who shall, for a negotiated fee based on scope of work, be liable and
6 responsible to the board for the delivery and management of all project
7 construction services. The designer and the construction manager,
8 working together as a professional team, shall use their unique skills and
9 experiences to design, publicly bid, and deliver a school facility that
10 serves the best interest of the board of education and the public.

11 The designer and construction manager shall jointly select a
12 minimum of three mechanical, electrical, plumbing, general, or other
13 specialty contractors, in accordance with subdivision (1) of this section
14 and shall publicly bid the specified work packages in accordance with
15 the provisions of G.S. 143-129. The lowest bids of the successful
16 subcontractors shall be combined into a lump-sum contract with the
17 selected construction manager who shall deliver and manage all
18 construction services for the negotiated fee.

19 (5) Design-Build Delivery System. – Each board of education may accept
20 proposals and award a contract to deliver school facilities based on
21 single liability for the design and construction services for a guaranteed
22 maximum price. If the board chooses the design-build delivery system,
23 the design-build teams selected to submit proposals shall be selected
24 based on criteria similar to and consistent with the intent of G.S. 143-
25 64.31 and subdivision (1) of this section.

26 (6) Design/Build/Finance Delivery System. – The boards of commissioners
27 in the counties of Johnston, Orange, or Pitt may accept proposals and
28 award a contract to deliver school facilities on a design/build/finance
29 basis if (i) the respective boards of education finds that the facility
30 meets the educational program needs of the local school administrative
31 unit and (ii) the financing of the school project is approved by the North
32 Carolina Local Government Commission.

33 If the boards of commissioners, in agreement with the board of
34 education, choose the design/build/finance delivery system, the design-
35 build teams selected to submit proposals shall be selected based on
36 criteria similar and consistent with the intent of G.S. 143-64.31 and
37 subdivision (1) of this section.

38 Section 2. Consistent with the authority to develop and implement a five-year
39 pilot program for the delivery of public school facilities, the boards of education in
40 Johnston, Orange, and Pitt Counties shall jointly develop a common set of guidelines and
41 procedures to administer and evaluate the program. During the development and
42 implementation of this program, the boards of education shall seek input from and share
43 information with appropriate education, industry, and government groups.

1 Section 3. The boards of education in the counties of Johnston, Orange, and
2 Pitt shall present a joint report annually to the Joint Legislative Committee on
3 Governmental Operations on the implementation of this act.

4 Section 4. This act is effective when it becomes law and expires July 1, 2003.