

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 596

Short Title: Transfer Surplus Prop. to Retirement System. (Public)

Sponsors: Representatives Hastings, Stam, and Crawford (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Finance.

April 5, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO FACILITATE THE IDENTIFICATION OF SURPLUS STATE-OWNED REAL
3 PROPERTY; TO REQUIRE THAT THE OWNERSHIP OF THAT PROPERTY BE
4 TRANSFERRED TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
5 SYSTEM; TO REQUIRE THE STATE TREASURER TO MANAGE THAT PROPERTY
6 FOR THE BENEFIT OF THE STATE RETIREMENT SYSTEM; AND TO MAKE
7 CONFORMING CHANGES TO THE GENERAL STATUTES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 143-341(4) is amended by adding a new sub-subdivision to
10 read:

11 **"§ 143-341. Powers and duties of Department.**

12 The Department of Administration has the following powers and duties:

13 ...

14 (4) Real Property Control:

15 ...

16 e1. To identify and dispose of surplus State-owned real property in
17 accordance with Article 19 of Chapter 146 of the General Statutes."

18 **SECTION 2.** Chapter 146 of the General Statutes is amended by adding a new
19 Article to read:

20 "Article 19.

21 "Surplus State-Owned Real Property.

22 **"§ 146-90. Definitions.**

23 The following definitions apply in this Article:

24 (1) Department. – The Department of Administration.

25 (2) Retirement System. – The Teachers' and State Employees' Retirement
26 System of North Carolina.

27 (3) Surplus State-owned real property. – Real property, title to which is vested
28 in the State, that is unused or underused and no longer needed for State
29 purposes.

30 (4) Transfer date. – The date on which transfer of surplus State-owned real
31 property occurs under G.S. 146-94.

32 (5) Transferred property. – Property transferred to the Retirement System
33 pursuant to G.S. 146-94.

34 **"§ 146-91. Identification of surplus State-owned real property.**



1 (a) Review of Real Property Use. – The Department shall continuously review the
2 current uses of State-owned real property and determine whether any of that property is
3 surplus State-owned real property. For every piece of State-owned real property with an
4 appraised value of at least twenty-five thousand dollars (\$25,000), the Department shall
5 conduct the review required by this subsection at least every two years.

6 (b) Factors to Be Considered. – In determining whether or not property is surplus
7 State-owned real property, the Department shall consider at least the following factors:

8 (1) Whether the property is being used to full capacity.

9 (2) Whether the property is required for the programs of the entities that use it or
10 to which it is allocated.

11 (3) Current and reasonably anticipated future needs of State agencies that may
12 be able to use the property.

13 (4) The availability of suitable alternative property for State use.

14 (5) Environmental factors, including conservation concerns. However, the
15 significance attached to environmental factors shall take into account the
16 availability and suitability of conservation agreements, as that term is
17 defined in G.S. 121-35.

18 (6) The need to preserve any historic structures on the property. However, the
19 significance attached to this concern shall take into account the availability
20 and suitability of preservation agreements, as that term is defined in
21 G.S. 121-35.

22 (7) The terms of the provisions of any trust or other instrument of title under
23 which title to the property was acquired.

24 (8) Land uses adjoining the property.

25 (9) Fair market value of the property.

26 (c) Use of Quantitative Data Required. – A review required by this section shall not be
27 based solely on qualitative or categorical information about property use but shall also include
28 quantitative data about property use.

29 **"§ 146-92. Report of finding that property is surplus required.**

30 If the Department determines that a particular piece of real property is surplus State-owned
31 real property pursuant to this Article, it shall report that determination in writing to the Joint
32 Legislative Commission on Governmental Operations, the chairs of the House of
33 Representatives and Senate Appropriations Committees, the Fiscal Research Division of the
34 General Assembly, and the State Treasurer. The report shall include a statement that the
35 property will be disposed of in accordance with the provisions of this Article.

36 **"§ 146-93. Transfer date.**

37 (a) Transfer Date. – The transfer date for a particular piece of surplus State-owned real
38 property shall be the earlier of the thirty-first legislative day or the day of adjournment of the
39 next regular session of the General Assembly that begins at least 25 days after the date the
40 Department determined real property to be surplus State-owned real property, unless a different
41 date applies under this section. If a bill that specifically disapproves the transfer pursuant to
42 G.S. 146-94 is introduced in either house of the General Assembly before the thirty-first
43 legislative day of that session, the transfer date shall be the earlier of either the day an
44 unfavorable final action is taken on the bill or the day that session of the General Assembly
45 adjourns without ratifying a bill that specifically disapproves of the transfer.

46 (b) Effect of Bill Disapproving Transfer. – If the transfer of surplus State-owned real
47 property pursuant to G.S. 146-94 is disapproved by a bill enacted into law, then no transfer
48 under this Article shall proceed.

49 **"§ 146-94. Transfer of surplus property to Teachers' and State Employees' Retirement**
50 **System.**

1 (a) Transfer of Ownership. – Notwithstanding any other provision of law, title to
2 surplus State-owned real property is transferred to the Retirement System effective on the
3 property's transfer date. The conveyance shall be made in accordance with Article 16 of this
4 Chapter except that approval of the conveyance by the Governor and Council of State shall not
5 be required. The Attorney General shall provide the same assistance with respect to transfers
6 under this subsection that the Attorney General does for other property dispositions under this
7 Subchapter.

8 (b) Intent of General Assembly. – Except to the extent required by the provisions of any
9 trust or other instrument of title under which title to the property was acquired, it is the intent of
10 the General Assembly that transferred property become an asset of the Retirement System
11 within the meaning of Section 6 of Article V of the North Carolina Constitution and that any
12 net proceeds derived from the sale, lease, or other disposition of that property remain funds of
13 the retirement system.

14 **"§ 146-95. Management of surplus property by State Treasurer.**

15 Transferred property shall be managed by the State Treasurer in accordance with
16 G.S. 147-86.3. Notwithstanding any other provision of law, transferred property shall not be
17 disposed of except in response to a request of the State Treasurer made pursuant to that section.

18 **"§ 146-96. Disposition of transferred property.**

19 (a) Department to Proceed With Disposition. – When the Department receives a request
20 from the State Treasurer to sell, lease, or rent transferred property in accordance with
21 G.S. 147-86.3, the Department shall proceed with its sale, lease, or rental in the same manner in
22 which it would proceed with any other sale, lease, or rental of State-owned real property,
23 except that:

- 24 (1) It shall not make an independent determination of whether the disposition is
25 in the best interest of the State.
- 26 (2) No disposition shall proceed unless the final terms of the disposition are first
27 approved by the State Treasurer.
- 28 (3) Each conveyance may be signed by the State Treasurer or other appropriate
29 Retirement System official in the name of the Retirement System.

30 (b) Applicability of Other Restrictions. – Except as provided in this section, a
31 disposition of transferred property shall be subject to the same restrictions and requirements as
32 the sale of any other State-owned real property.

33 **"§ 146-97. Application of net proceeds.**

34 (a) Use of Proceeds. – Notwithstanding G.S. 146-30, the net proceeds of any
35 disposition made in accordance with G.S. 146-96 are hereby appropriated and shall be handled
36 in the following priority order:

- 37 (1) In accordance with the provisions of any trust or other instrument of title
38 under which title to the property was acquired.
- 39 (2) The remainder of the net proceeds shall be remitted to the State Treasurer to
40 be deposited in the Retirement System.

41 (b) Definition of Net Proceeds. – For purposes of this section, the term 'net proceeds'
42 means the gross amount received from a disposition of transferred property less any expenses
43 incurred incident to the disposition, subject to regulations adopted by the Governor and
44 approved by the Council of State.

45 **"§ 146-98. State agencies must cooperate with Department.**

46 State agencies shall furnish the Department with any information requested by the
47 Department while carrying out its duties under this Article. This information shall be accurate,
48 complete, and timely.

49 **"§ 146-99. Quarterly reporting required.**

50 The Department shall report in writing on a quarterly basis to the Joint Legislative
51 Commission on Governmental Operations and to the Fiscal Research Division of the General

1 Assembly on its activities pursuant to this Article. This report shall include at least the
2 following information:

- 3 (1) The number of reviews conducted pursuant to G.S. 146-91 during the
4 previous three months as well as supporting data that provide meaningful
5 context to that figure.
6 (2) Information about property identified as surplus and reported pursuant to
7 G.S. 146-92, property transferred pursuant to G.S. 146-94, property disposed
8 of pursuant to G.S. 146-96, and proceeds deposited with the State Treasurer
9 pursuant to G.S. 146-97.

10 **"§ 146-100. Article not applicable to property subject to constitutional limitations.**

11 Property may not be disposed of under this Article if either of the following is true:

- 12 (1) The State or federal constitutions prohibit the property from being disposed
13 of in the manner provided for by this Article.
14 (2) The State or federal constitutions prohibit the net proceeds of a disposition
15 of property under this Article from being used in the manner required by this
16 Article."

17 **SECTION 3.** Article 6 of Chapter 147 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 147-86.3. Determination of best use of surplus property on behalf of the Teachers' and**
20 **State Employees' Retirement System.**

21 (a) State Treasurer to Determine Best Use of Transferred Property. – Whenever
22 property is transferred pursuant to G.S. 146-94, the State Treasurer shall consider the
23 possibility of selling, leasing, or renting the transferred property and shall determine which if
24 any disposition is in the best interest of the Teachers' and State Employees' Retirement System.
25 The State Treasurer may also determine that it is not in the best interest of the Retirement
26 System to dispose of the property at that time but in that case shall periodically reconsider the
27 matter. For purposes of this subsection, a disposition is in the best interest of the Teachers' and
28 State Employees' Retirement System if it is reasonably anticipated that it will provide more net
29 proceeds than other options being contemporaneously considered.

30 (b) Initiation of Disposition of Transferred Property. – Whenever the State Treasurer
31 determines that it is desirable to dispose of transferred property, the State Treasurer shall
32 request that the Department of Administration dispose of the property in accordance with the
33 terms of the State Treasurer's request. A request under this subsection shall include the manner
34 of disposition requested and any related requests as to the form of the disposition. A request for
35 a disposition or terms of a disposition that if followed would violate any law is void.

36 (c) Definition of Transferred Property. – The term 'transferred property' means property
37 transferred to the Retirement System pursuant to G.S. 146-94.

38 (d) Cooperation by Other Agencies. – State agencies shall furnish the State Treasurer
39 with any information requested by the State Treasurer while implementing this section."

40 **SECTION 4.** This act becomes effective on October 1, 2011.