

ADDITIONAL INFORMATION

ON

COLLECTION OF CIVIL PENALTIES

2013 rouš zvešou rešivajne izdaje

AN ACT AMENDING G.S. 115C-437 TO ENHANCE THE
COLLECTION OF CIVIL PENALTIES

Whereas, many local jurisdictions have a backlog of outstanding delinquent civil penalties that derive from city code or local ordinance violations that can be enforced criminally, and;

Whereas, pursuant to Article IX, Sec. 7 of the Constitution, the clear proceeds from civil penalties that derive from city code or local ordinance violations described above must be distributed to the local school administrative unit and, pursuant to G.S. 115C-437(c), can only be reduced by the actual costs of collection, not to exceed 10%, and;

Whereas, the effective collection of these civil penalties can be labor intensive or require other aggressive collection efforts for which the costs may, in many cases, exceed 10%, and;

Whereas, the total amounts collected and distributed to the local school administrative units may actually be increased over current levels if aggressive collection efforts are used and the flexibility to negotiate an agreement related to these collection costs would facilitate the increased collections;

Therefore, the General Assembly of North Carolina enacts:

Section 1. G.S. 115C-437(c) reads as rewritten:

“§115C-437. Allocation of revenues to the local school administrative unit by the county

Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. The clear proceeds of all penalties and forfeitures and of all fines collected for any breach of the penal laws of the State, as referred to in Article IX, Sec. 7 of the Constitution, shall include the full amount of all penalties, forfeitures or fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected. **However, the local school administrative unit may enter into an agreement with a municipality or county to allow such municipality or county to retain the actual costs of collection in excess of ten percent of the amount collected.** Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by such procedures as may be mutually agreeable to the board of education and the board of county commissioners, but if no such agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar

month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds which carry specific restrictions binding upon the county as recipient, the board of commissioners must inform the local school administrative unit in writing of those restrictions.

Section 2: This act is effective when it becomes law.

DRAFT

BEER AND WINE LICENSE FEES

ON

ADDITIONAL INFORMATION

Section	Additional Information
1. Beer License Fees	Beer license fees are determined by the volume of beer produced and sold in the state. The fee structure is as follows: [Detailed fee schedule]
2. Wine License Fees	Wine license fees are determined by the volume of wine produced and sold in the state. The fee structure is as follows: [Detailed fee schedule]
3. Application Fees	Application fees for beer and wine licenses are as follows: [Detailed fee schedule]
4. Renewal Fees	Renewal fees for beer and wine licenses are as follows: [Detailed fee schedule]
5. Other Fees	Other fees associated with beer and wine licenses include: [Detailed fee schedule]

CITY OF DURHAM, NORTH CAROLINA

MEMORANDUM

December 4, 2012

TO: David Boyd, Finance Director

FROM: Paul Mason, Billing and Collections Manager

Subject: Beer & Wine Rate Information

Upon researching beer and wine license fees charged in other states we have found that the license fee varies based upon business activity (e.g. hotel, bar, retail store, private club, wholesaler, etc.), population of jurisdiction, length of time business has been in operation, and several other factors. North Carolina, however, provides for only a flat fee for all businesses. This creates challenges in providing an accurate comparison however we have compiled representative rates for "typical" license holders in each of the jurisdictions below.

Below is retail beer and wine fee information for some selected peer cities and states.

City, State (Population)	Beer License		Wine License	
	Off Premises	On Premises	Off Premises	On Premises
City of Durham (233,252)	\$5	\$15	\$10	\$15
Augusta, GA (196,494)	\$550	\$550	\$550	\$550
Baton Rouge, LA (230,139)	\$60	\$75	\$505	\$505
Little Rock, AR (195,314) *initial license fee for 1st year of operation *charges \$5 per 1,000 of income after initial year of business for off premises	\$40*	\$750	N/A included in Beer Permit	\$750
Montgomery, AL (208,182)	\$145	\$655	\$145	\$655
Norfolk, VA (242,628) No city license is issued.	N/A	N/A	N/A	N/A
Richmond, VA (205,533)	\$75	\$75	\$75	\$75
Shreveport, LA (200,975)	\$60	\$75	\$500	\$500

Additionally, the administration has calculated the annual cost of license issuance by the City to be \$12,599, including both staff time and hard costs, compared with total revenue collection of \$12,129 for net loss of \$470 for fiscal year 2012.

SAMPLE LEGISLATION

FOR

DESIGN-BUILD PROJECTS

SECTION	REVISIONS	DATE
1.0	1.0	1.0
2.0	2.0	2.0
3.0	3.0	3.0
4.0	4.0	4.0
5.0	5.0	5.0
6.0	6.0	6.0
7.0	7.0	7.0
8.0	8.0	8.0
9.0	9.0	9.0
10.0	10.0	10.0
11.0	11.0	11.0
12.0	12.0	12.0
13.0	13.0	13.0
14.0	14.0	14.0
15.0	15.0	15.0
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2012-63
HOUSE BILL 1138

AN ACT TO PERMIT THE COUNTY OF DAVIDSON TO UTILIZE THE DESIGN-BUILD
METHOD OF CONSTRUCTION AND RENOVATION OF COUNTY BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Davidson County may use the design-build method of construction for up to five projects involving the construction or renovation of buildings owned by the County. The County shall seek to prequalify and solicit at least five design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. This act is effective when it becomes law and expires on June 30, 2014.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2011-180
HOUSE BILL 442

AN ACT TO ALLOW THE TOWN OF CORNELIUS AND THE CITY OF CHARLOTTE TO USE DESIGN-BUILD DELIVERY METHODS AND TO SPECIFY THE INVESTMENT AUTHORITY OF THE TOWN OF CORNELIUS.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the Charter of the Town of Cornelius, being Chapter 288 of the 1971 Session Laws, is amended by adding a new section to read:

"Sec. 1.4. **Town may utilize design-build delivery methods.** (a) The Town may contract for the design and construction of public projects without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32. The authorization includes the use of the following methods: design-build; design-build-operate; design-build-operate-maintain; or any combination of design-build, operate, or maintain.

(b) The Town shall request proposals from at least three design-build teams. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, then the Town may proceed with the proposals received. The Board shall award the contract to the best qualified contractor, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal, and any other factors and information set forth in the request for proposals that the Town determines to have a material bearing on the ability to evaluate any proposal. The proposals shall not require the design-build team to submit project design solutions.

(c) The Town shall not be required to pay within 45 days after the project has been accepted by the owner, certified by the architect, engineer, or designer as being completed in accordance with terms of the plans and specifications, or occupied by the owner and used for the purpose for which the project was constructed, that portion of the project costs that are subject to delayed payments scheduled by the prime contract to occur after the project has been accepted by the owner, certified by the architect, engineer, or designer as being completed in accordance with terms of the plans and specifications, or occupied by the owner and used for the purpose for which the project was constructed."

SECTION 2. Article VII of the Charter of the Town of Cornelius, being Chapter 288 of the 1971 Session Laws, is amended by adding a new section to read:

"Sec. 7.3. **Investment Authority.** In addition to the authority granted in G.S. 159-30, the Town may invest and reinvest any of the Town's restricted or unrestricted capital reserves, as designated from time to time by the Town Board of Commissioners, in one or more of the types of securities or other investments authorized by State law for the State Treasurer in G.S. 147-69.2(b)(1)-(6) and (8), consistent with any conditions stated therein."

SECTION 3. Article III of Chapter 8 of the Charter of the City of Charlotte, being S.L. 2000-26 as amended, is amended by adding a new section to read as follows:

"§ 8.87. City may utilize design-build delivery methods.

(a) The City may award contracts for the design and construction of up to three public projects without being subject to the requirements of G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32. This authorization includes the use of the following



methods: design-build; design-build-operate; design-build-maintain, and design-build-operate-maintain.

(b) The City may award contracts for design and construction of public projects, including water and sewer lines and mains, pump stations, storage tanks and buildings ancillary to water and wastewater treatment plants, stormwater management facilities, road, bridges, and parking garages, stream mitigation projects, heavy rail transportation facilities, airport facilities, public safety facilities, and local government buildings. The City may award design and construction contracts for no more than one local government building per fiscal year.

(c) The city shall request proposals from at least three design-build teams. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, then the City may proceed with the proposals received. The Council shall award the contract to the best qualified contractor, taking into account the time of completion of the project, the capital and operation and maintenance cost of the project, the technical merits of the proposal, and any other factors and information set forth in the request for proposal that the City determines to have a material bearing on the ability to evaluate any proposal."

SECTION 4. This act is effective when it becomes law. Section 1 of this act shall expire July 1, 2013. Section 3 of this act shall expire June 30, 2016.

In the General Assembly read three times and ratified this the 18th day of June, 2011.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2012-59
SENATE BILL 932

AN ACT AUTHORIZING UNION COUNTY TO CONSTRUCT LAW ENFORCEMENT
AND HUMAN SERVICES FACILITIES USING DESIGN-BUILD DELIVERY
METHODS.

The General Assembly of North Carolina enacts:

SECTION 1. Union County may contract for the design and construction or design, construction, and operation of law enforcement facilities including, without limitation, a jail and emergency dispatch center and facilities ancillary to law enforcement, and human services facilities and facilities ancillary to human services, without being subject to the requirements of Article 3D (Procurement of Architectural, Engineering, and Surveying Services) or Article 8 (Public Contracts) of Chapter 143 of the General Statutes. The authorization includes, if deemed appropriate by the Union County Board of Commissioners, the use of the single-prime contractor method of design and construction, the design-build or design-build-operate method of construction, or a request for proposals and negotiation as an alternative design and construction method.

SECTION 2. Pursuant to the authority to conduct a request for proposals and negotiation as an alternative design and construction method, Union County may enter into build-to-suit capital leases of real or personal property for use as law enforcement facilities or human services facilities. For purposes of this act, (i) the term "build-to-suit capital lease" means a capital lease, as defined by generally accepted accounting principles, regardless of how the parties describe the agreement, which provides for the construction of new facilities or the renovation of existing facilities by a private developer at a cost estimated to be greater than three hundred thousand dollars (\$300,000); and (ii) the term "private developer" means the entity with which the Board of Commissioners enters into a build-to-suit capital lease under the provisions of this act. A build-to-suit capital lease may provide that the private developer is responsible for providing or contracting for construction, repair, or renovation work. The lease may include contractual provisions by the private developer regarding the provision of products, services, and guaranties related to a facility that is the subject of a build-to-suit capital lease. The Board of Commissioners may also enter into a separate agreement or a series of related agreements regarding the provision of products, services, and guaranties related to a facility that is the subject of a build-to-suit capital lease. Construction, repair, or renovation work undertaken or contracted by a private developer is not subject to the requirements of Article 3D or Article 8 of Chapter 143 of the General Statutes.

SECTION 3. In recognition of the potential economic and technical utility of build-to-suit capital leases, which may include in their scope combinations of design, construction, operation, management, and maintenance responsibilities over prolonged periods of time, and the potential desirability of a single point of responsibility for these matters in connection with build-to-suit capital leases, any build-to-suit capital lease may include provisions imposing responsibility on the private developer or any identified affiliated entity for any of the following matters:

- (1) Site selection, land acquisition, and site preparation, including wetlands delineation, archaeological review, and State and local government land-use permitting.
- (2) Facility programming, planning, and design, including both architectural and engineering services.
- (3) Qualification and prequalification of contractors and subcontractors.
- (4) Construction and construction management.



- (5) Financing.
- (6) Facility maintenance and repairs.
- (7) Energy usage guaranties.
- (8) Transfer of ownership of the leased property to Union County at the end of the lease term.
- (9) Any other guaranties, products, and services the Board of Commissioners deem appropriate.

SECTION 4. The Board of Commissioners may enter into predevelopment agreements with a private developer in advance of entering into a build-to-suit capital lease. Predevelopment agreements may include, without limitation, provisions for each of the following: (i) site selection, land acquisition, and site preparation, including services such as wetlands delineation, archaeological review, and State and local government land-use permitting; and (ii) building programming and design, including both architectural and engineering services.

SECTION 5. Notwithstanding any provisions of law to the contrary, the Board of Commissioners may, pursuant to the provisions of G.S. 160A-267, and without limitation as to value of the interest conveyed or the consideration received, sell, lease, or otherwise transfer real or personal property to any private developer for construction, repair, or renovation of the facilities subject to a build-to-suit capital lease. The Board of Commissioners may subject the property to any covenants, conditions, or restrictions it deems necessary to carry out the purposes of this act. The facilities subject to a build-to-suit capital lease may be constructed on real property owned by Union County or real property owned by the private developer.

SECTION 6. A build-to-suit capital lease shall also be subject to the following requirements:

- (1) The lease shall not contain a nonsubstitution clause that restricts the right of the Board of Commissioners to continue to provide a service or activity or to replace or provide a substitute for any property financed or purchased by the capital lease.
- (2) No deficiency judgment may be rendered against Union County or the Board of Commissioners in any action for breach of a contractual obligation in a lease authorized by this act, and the taxing power of Union County is not and may not be pledged directly or indirectly to secure any moneys due under a lease authorized by this act. A build-to-suit capital lease shall state that it does not constitute a pledge of the taxing power or full faith and credit of the Board of Commissioners.
- (3) A build-to-suit capital lease entered into pursuant to this act is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it meets the standards provided in G.S. 159-148(a)(2) and G.S. 159-148(a)(3). For purposes of determining whether the standards provided in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar (\$500,000) threshold shall apply.
- (4) The Board of Commissioners, in its discretion, may require the private developer to provide a performance and payment bond for construction work in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes and may require the private developer to provide a bond or other appropriate guaranty to cover any other guaranties, products, or services to be provided by the private developer. In addition, the Board of Commissioners may require that the private developer (i) provide an irrevocable letter of credit for the benefit of laborers and materialmen in an amount not less than five percent (5%) of the total cost of the improvements that are the subject of the build-to-suit capital lease; and (ii) maintain the letter of credit throughout the construction of the project and for the succeeding six-month period.

SECTION 7. Union County shall request proposals from and interview at least five design-build teams, design-build-operate teams, or private developers, as appropriate, that have submitted proposals for a project authorized under the provisions of this act. If five proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposal or proposals received. If it determines to proceed, the Board of Commissioners shall award the contract to the best qualified contractor or private

developer for the project as deemed by the Board of Commissioners, in its sole discretion, to be in the county's best interests under all the circumstances, taking into account (i) the knowledge, skill, and reputation of the contractor or private developer and its associated persons; (ii) the time, cost, and quality of design, engineering, and construction, including the time required to begin and the time required to complete a particular activity; (iii) occupancy costs, including lease payments, life-cycle maintenance, repair, and energy costs; (iv) any other factors and information set forth in the request for proposals that the county determines to have a material bearing on the ability to evaluate any proposal; and (v) any other factors the Board of Commissioners deems relevant.

SECTION 8. This act is effective when it becomes law and expires five years after the effective date.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2011-98
HOUSE BILL 284

AN ACT TO PERMIT THE COUNTIES OF WAYNE AND CURRITUCK TO UTILIZE THE DESIGN-BUILD METHOD OF CONSTRUCTION AND RENOVATION OF COUNTY BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Wayne County may use the design-build method of construction for the construction or renovation of buildings owned by the County. The County shall seek to prequalify and solicit at least three design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. Notwithstanding Article 8 of Chapter 143 of the General Statutes, Currituck County may contract for the construction or renovation of buildings owned by the County. The County shall award the contract to the best qualified contractor, taking into consideration in its selection the time of completion of the project and the cost of the project.

SECTION 3. This act is effective when it becomes law and expires December 31, 2014.

In the General Assembly read three times and ratified this the 26th day of May, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives



DRAFT LEGISLATION

FOR

BAIL BONDING CHANGES

§ 15A-533. Right to pretrial release in capital and noncapital cases.

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;
- (2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

(e) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in G.S. 14-50.16;
- (2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and
- (3) The person has been previously convicted of an offense described in G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

(f) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

- (1) There is reasonable cause to believe that the person committed an offense involving the illegal use, possession or discharge of a firearm; and
- (2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another gun-related offense; or

(3) The person has been previously convicted of an offense involving the illegal use, possession or discharge of a firearm and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

Persons who are considered for bond under the provisions of subsections (d), (e) and (f) of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community. (1973, c. 1286, s. 1; 1981, c. 936, s. 2; 1997-443, s. 11A.118(a); 1998-208, s. 1; 2008-214, s. 4.)