

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 192
Commerce Committee Substitute Adopted 4/7/99

Short Title: Filing of Foreign Agreements.

(Public)

Sponsors:

Referred to:

March 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE FILING WITH THE SECRETARY OF STATE OF ALL MEMORANDA OF UNDERSTANDING AND AGREEMENTS OF A NONCOMMERCIAL NATURE BETWEEN THE STATE OF NORTH CAROLINA AND FOREIGN GOVERNMENTS, TO AUTHORIZE THE SECRETARY OF STATE TO PROVIDE INTERNATIONAL RELATIONS ASSISTANCE AND TO PUBLISH PUBLICATIONS ELECTRONICALLY, AND TO PROVIDE FOR GUBERNATORIAL OVERSIGHT OF AGREEMENTS INVOLVING THE STATE AND FOREIGN GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 35.

"AGREEMENTS BETWEEN NORTH CAROLINA AND FOREIGN GOVERNMENTS.

"§ 66-275. Agreements between North Carolina and foreign governments to be filed.

(a) A copy of all executed memoranda of understanding and agreements of a noncommercial nature otherwise subject to disclosure under the public record laws of this

1 State, entered into by the State of North Carolina, or any agency of the State, and a
2 foreign government shall be filed by the State agency with the Secretary of State.

3 (b) Notwithstanding subsection (a) of this section, the validity or enforceability of
4 any memoranda or agreement subject to this section shall not be affected by the failure to
5 comply with subsection (a) of this section. Documents required to be filed with the
6 Secretary of State under this section shall be indexed and made available to the public in
7 accordance with Chapter 132 of the General Statutes.

8 (c) For purposes of this section, 'foreign government' means a foreign country's
9 government that is recognized and accredited by the United States Department of State,
10 and includes governmental subdivisions of that country. For purposes of this section,
11 'agency of the State' does not include public educational institutions with respect to their
12 educational, research, or extension activities."

13 Section 2. G.S. 147-54.1 reads as rewritten:

14 **"§ 147-54.1. Division of Publications; duties.**

15 The Secretary of State is authorized to set up a division to be designated as the
16 Division of Publications and to appoint a director thereof who shall be known as the
17 Director of Publications. This Division shall publish the North Carolina Manual,
18 Directory, Index of Local Legislation and such other publications as may be useful to the
19 members and committees of the General Assembly and other officials of the State and of
20 the various counties and cities. Unless otherwise required by law, the Secretary may
21 publish electronically information permitted or required by this section. The Secretary
22 may sell these publications at such prices as ~~he~~the Secretary deems reasonable; the
23 proceeds of sale shall be paid into the State treasury.

24 The Division shall also perform all such other duties as may be assigned by the
25 Secretary of State."

26 Section 3. Article 4 of Chapter 147 is amended by adding a new section to
27 read:

28 **"§ 147-54.5. International relations assistance.**

29 (a) The Secretary of State may offer direct and indirect assistance in matters
30 relating to international relations and protocol to other governmental agencies and units
31 of the State of North Carolina. The assistance may be provided upon request of the
32 intended recipient when resources are available for these purposes.

33 (b) The Secretary of State, on behalf of the State, may accept gifts, donations,
34 bequests, or other forms of voluntary contributions, apply for grants from public and
35 private sources, and may expend funds received under this subsection for the purpose of
36 promoting international relations and hosting foreign dignitaries and leaders in North
37 Carolina. All funds and gifts received pursuant to this subsection shall be subject to audit
38 by the Office of the State Auditor and all funds shall be expended in conformity with the
39 Executive Budget Act."

40 Section 4. G.S. 147-12 reads as rewritten:

41 **"§ 147-12. Powers and duties of Governor.**

42 In addition to the powers and duties prescribed by the Constitution, the Governor has
43 the powers and duties prescribed in this and the following sections:

- 1 (1) ~~He is to~~To supervise the official conduct of all executive and ministerial
2 officers; and when ~~he shall deem~~the Governor deems it advisable ~~he shall~~
3 to visit all State institutions for the purpose of inquiring into the
4 management and needs of the same.
- 5 (2) ~~He is to~~To see that all offices are filled, and the duties thereof
6 performed, or in default thereof apply such remedy as the law allows,
7 and if the remedy is imperfect, acquaint the General Assembly
8 therewith.
- 9 (3) ~~He is to~~To make the appointments and fill the vacancies not otherwise
10 provided for in all departments.

11 In every case where the Governor is authorized by statute to make an
12 appointment to fill a State office, ~~he~~the Governor may also appoint to
13 fill any vacancy occurring in that office, and the person ~~he~~the Governor
14 appoints shall serve for the unexpired term of the office and until ~~his~~the
15 person's successor is appointed and qualified.

16 In every case where the Governor is authorized by statute to appoint
17 to fill a vacancy in an office in the executive branch of State
18 government, the Governor may appoint an acting officer to serve

- 19 a. During the physical or mental incapacity of the regular holder of
20 the office to discharge the duties of ~~his~~the office,
21 b. During the continued absence of the regular holder of the office,
22 or
23 c. During a vacancy in an office and pending the selection and
24 qualification, in the manner prescribed by statute, of a person to
25 serve for the unexpired term.

26 An acting officer appointed in accordance with this subsection may
27 perform any act and exercise any power which a regularly appointed
28 holder of such office could lawfully perform and exercise. All powers
29 granted to an acting officer under this subsection shall expire
30 immediately

- 31 a. Upon the termination of the incapacity of the officer in whose
32 stead ~~he~~the person acts,
33 b. Upon the return of the officer in whose stead ~~he~~the person acts,
34 or
35 c. Upon the selection and qualification, in the manner prescribed by
36 statute, of a person to serve for the unexpired term.

37 The Governor may determine (after such inquiry as ~~he~~the Governor
38 deems appropriate) that any of the officers referred to in this paragraph
39 is physically or mentally incapable of performing the duties of ~~his~~the
40 office. The Governor may also determine that such incapacity has
41 terminated.

42 The compensation of an acting officer appointed pursuant to the
43 provisions of this subdivision shall be fixed by the Governor. Prior to

- 1 taking any action under this paragraph, the Governor may consult with
2 the Advisory Budget Commission.
- 3 (3a) ~~The Governor may~~ To make appointments to fill vacancies in offices
4 subject to appointment by the General Assembly as provided in G.S.
5 120-122.
- 6 (3b) Whenever a statute calls for the Governor to appoint one person from
7 each congressional district to a board or commission, and at the time of
8 enactment of that statute, the gubernatorial appointments do not cover
9 all of the congressional districts, then the Governor, in filling vacancies
10 on that board or commission as they occur, shall make appointments to
11 satisfy that requirement, but shall not be required to remove any person
12 from office to satisfy the requirement.
- 13 (3c) Notwithstanding any other provision of law, whenever a statute calls for
14 the Governor to appoint a person to an office subject to confirmation by
15 the General Assembly, the Governor shall notify the President of the
16 Senate and the Speaker of the House of Representatives by May 15 of
17 the year in which the appointment is to be made of the name of the
18 person ~~he~~ the Governor is submitting to the General Assembly for
19 confirmation.
- 20 (3d) Notwithstanding any other provision of law, whenever a statute calls for
21 the Governor to appoint a person to an office subject to confirmation by
22 the Senate, the Governor shall notify the President of the Senate by May
23 15 of the year in which the appointment is to be made of the name of the
24 person ~~he~~ the Governor is submitting to the General Assembly for
25 confirmation.
- 26 (4) ~~He is~~ To be the sole official organ between the government of this State
27 and other states, or the government of the United States.
- 28 (5) ~~He has~~ To have the custody of the great seal of the State.
- 29 (6) If ~~he~~ the Governor be apprised by the affidavits of two responsible
30 citizens of the State that there is imminent danger that the statute of this
31 State forbidding prizefighting is about to be violated, ~~he~~ the Governor
32 shall use, as far as necessary, the civil and military power of the State to
33 prevent it, and to have the offenders arrested and bound to keep the
34 peace.
- 35 (7) **(Repealed effective July 1, 1999)** He shall annually appoint eight
36 members to the board of directors of the North Carolina Railroad, who
37 shall serve for one year until the next annual meeting of stockholders
38 held for the purpose of electing or naming directors.
- 39 (8) In carrying out ~~his~~ ex officio duties, ~~he is authorized to designate his~~ the
40 Governor's personal representative to attend meetings and to act in ~~his~~
41 the Governor's behalf as ~~he~~ the Governor directs.

- 1 (9) ~~He is authorized to~~ To appoint such personal staff as ~~he~~ the Governor
2 deems necessary to carry out effectively the responsibilities of ~~his~~ the
3 Governor's office.
- 4 (10) ~~He is hereby empowered to~~ To contract in behalf of the State with the
5 government of the United States to the extent allowed by the laws of
6 North Carolina for the purpose of securing the benefits available to this
7 State under the Federal Highway Safety Act of 1966. To that end, ~~he~~ the
8 Governor shall coordinate the activities of any and all departments and
9 agencies of this State and its subdivisions relating thereto.
- 10 (11) Upon being furnished information from law-enforcement officers that
11 public roads or highways or other public vehicular areas, as defined in
12 G.S. 20-4.01, are being blocked by privately owned and operated
13 vehicles or by any other means, thereby impeding the free flow of goods
14 and merchandise in North Carolina, ~~he~~, if such information warrants, is
15 ~~authorized~~ to declare that a state of emergency exists in the affected area,
16 and ~~is further authorized~~ to order that the Highway Patrol and/or national
17 guard remove the offending vehicles or other causes of the blockade
18 from the emergency area.
- 19 (12) To name and locate State government buildings, monuments,
20 memorials, and improvements, as provided by G.S. 143B-373(1).
- 21 (13) To oversee and approve all memoranda of understanding and
22 agreements between the State and foreign governments, as defined in
23 G.S. 66-275(c), and international organizations. Any memoranda of
24 understanding or agreements under this subsection to be signed on
25 behalf of the State must first be approved by the Governor after review
26 by the Attorney General, and after execution filed with the Secretary of
27 State in accordance with G.S. 66-275."

28 Section 5. Within available appropriated funds, the Secretary of State shall
29 provide information related to the existence of memoranda of understanding and
30 agreements between state agencies and foreign governments obtained pursuant to this act
31 to the Joint Committee on Governmental Operations by March 31, 2000.

32 Section 6. This act becomes effective July 1, 1999, and applies to memoranda
33 and agreements executed on or after that date.