

May 28, 2008

S 2064. OPEN GOVERNMENT ACT. Filed 5/27/08. *TO CREATE THE OPEN GOVERNMENT UNIT OF THE DEPARTMENT OF JUSTICE, TO APPROPRIATE FUNDS FOR THAT PURPOSE, AND TO PROVIDE THAT THE SUCCESSFUL PLAINTIFF IN A PUBLIC RECORDS DISPUTE IS ENTITLED TO REASONABLE ATTORNEY'S FEES.*

Appropriates \$412,521 for 2008-09 from the General Fund to the Department of Justice (DOJ) to as the title indicates.

Enacts new GS 114-51 establishing the Open Government Unit (Unit) within the DOJ. Directs the Unit to (1) develop and implement education and awareness programs on rights and responsibilities under the public records and open meetings laws for the public and government agencies, (2) serve as a moderator/mediator in resolving public record and open meeting disputes between parties, (3) adopt procedures and guidelines for assisting in the informal resolution of disputes and issuing advisory opinions, (4) assemble and maintain an electronic collection of relevant legal materials related to public records and open meetings law, (5) make annual reports to the general Assembly as appropriate, and (6) adopt and develop policies for implementation as necessary.

Requires the Unit to receive and attempt to informally resolve disputes between the public and state and local government agencies along with educating and raising public awareness about rights and responsibilities under the public records and open meetings laws.

Amends GS 132-9(c) to delete the exception that allowed the denial of attorneys' fees to a prevailing party upon a finding that an agency acted with substantial justification in denying access to the public records. Applies only to actions brought on or after the effective date of July 1, 2008.

Intro. by Hoyle.

GS 114, 132, APPROP

July 8, 2008

S 2064. OPEN GOVERNMENT ACT. Filed 5/27/08. Senate committee substitute makes the following changes to 1st edition.

Clarifies that GS 132-1 provides the applicable definition for *public records* as used in proposed new GS 114-51. Additionally clarifies that the newly created Open Government Unit is responsible for engaging in *all* the tasks and responsibilities listed in the statute. Authorizes charging a fee for moderation and mediation services by the Open Government Unit. Provides that the provisions establishing the Open Government Unit do not apply to the General Assembly or the Judicial Department. Deletes the appropriation of \$412,521 for fiscal year 2008-09. Changes the effective date of Section 3 (regarding the recovery of attorneys' fees by a party who successfully compels disclosure of public records) to October 1, 2008, and makes the remainder of the act effective when it becomes law (was, act is effective July 1, 2008). Makes additional technical corrections. Makes a conforming title change.

July 14, 2008

S 2064. OPEN GOVERNMENT ACT. Filed 5/27/08. Senate amendment makes the following changes to 2nd edition. Amends proposed GS 114-51(b) to require that the Open Government Unit research and study open meetings and open records procedures in other states and state legislatures, with annual reports to the General Assembly on improving access to meetings and records, in addition to its other listed duties. Renumbers accordingly. Deletes proposed language stating that the statute does not apply to the General Assembly.

LEGISLATION ENACTED

SL 2008-80 (H 2364). AIR SPACE ENCROACHMENT FOR CITY OF WILMINGTON. AN ACT TO AUTHORIZE THE ENCROACHMENT OF AIR SPACE ABOVE STATE ROAD 1100, RIVER ROAD, IN THE CITY OF WILMINGTON FOR THE CONSTRUCTION OF A MATERIAL CONVEYANCE SYSTEM. Summarized in *Daily Bulletin* 5/21/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-81 (H 2529). EXTEND CLIMATE CHANGE COMMISSION 2008. AN ACT TO EXTEND THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Summarized in *Daily Bulletin* 5/22/08, 6/11/08, and 6/24/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-82 (H 2748). DISAPPROVE STATE PERSONNEL COMMISSION RULES. AN ACT TO DISAPPROVE RULES ADOPTED BY THE STATE PERSONNEL COMMISSION RELATING TO TEMPORARY EMPLOYMENT SERVICES AND APPOINTMENT OF TEMPORARY EMPLOYEES AND TO DIRECT THE OFFICE OF STATE PERSONNEL TO STUDY THE ISSUE OF NONPERMANENT EMPLOYMENT. Summarized in *Daily Bulletin* 5/28/08 and 6/19/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-83 (H 2523). AUTISM COMMITTEE RECOMMENDATIONS. AN ACT TO AUTHORIZE A SILVER ALERT TO BE ISSUED FOR A PERSON OF ANY AGE, TO AUTHORIZE THE PRODUCTION OF AN EDUCATIONAL VIDEO, AND TO STUDY THE TRAINING NEEDS OF THE JUDICIAL SYSTEM IN RESPONDING TO PERSONS WITH AUTISM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON AUTISM SPECTRUM DISORDER AND PUBLIC SAFETY. Summarized in *Daily Bulletin* 5/22/08 and 6/11/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-84 (S 1825). HEOC REPORTING AND MEETING REQUIREMENTS. AN ACT TO REQUIRE THE HIGHER EDUCATION BOND OVERSIGHT COMMITTEE TO REPORT ANNUALLY AND TO MEET BIANNUALLY. Summarized in *Daily Bulletin* 5/20/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-85 (H 2127). RICCS REPEALED. AN ACT TO REPEAL THE LAW ESTABLISHING REGIONAL INTERAGENCY COORDINATING COUNCILS UNDER THE LAWS RELATING TO EARLY INTERVENTION SERVICES FOR CHILDREN FROM BIRTH TO FIVE YEARS OF AGE WITH DISABILITIES, SO AS TO SAVE FUNDS AND AVOID DUPLICATION. Summarized in *Daily Bulletin* 5/14/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-86 (H 2360). BOARD CERTIFIED TEACHERS SERVE AS FULL-TIME MENTORS. AN ACT TO PERMIT NATIONAL BOARD CERTIFIED TEACHERS TO SERVE AS FULL-TIME MENTORS, AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE. Summarized in *Daily Bulletin* 5/21/08, 6/18/08, and 6/24/08. Enacted July 11, 2008. Effective July 1, 2008.

SL 2008-87 (H 2390). RAISE CEILING ON PERSONAL PROPERTY SALE/GUARDIAN. AN ACT TO RAISE THE CEILING ON THE TOTAL AMOUNT OF PERSONAL PROPERTY A GUARDIAN IS ALLOWED TO SELL WITHOUT A COURT ORDER UNDER THE LAWS PERTAINING TO GUARDIANSHIP, AS RECOMMENDED BY THE HOUSE STUDY COMMITTEE ON STATE GUARDIANSHIP LAWS AND THE STUDY COMMISSION ON AGING. Summarized in *Daily Bulletin* 5/21/08 and 6/18/08. Enacted July 11, 2008. Effective October 1, 2008.

SL 2008-88 (H 2524). DISAPPROVE DYED MILK RULE. AN ACT TO DISAPPROVE A RULE ADOPTED BY THE NORTH CAROLINA BOARD OF AGRICULTURE AND APPROVED BY THE RULES REVIEW COMMISSION, TO REQUIRE THAT ANY RAW MILK DISPENSED AS ANIMAL FEED BE PROPERLY LABELED, AND TO AUTHORIZE THE BOARD OF AGRICULTURE TO EXEMPT UNPASTEURIZED MILK FROM THE PROVISIONS OF THE COMMERCIAL FEED ACT. Summarized in *Daily Bulletin* 5/22/08 and 6/25/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-89 (S 236). REGULATION OF PROFESSIONAL HOUSEMOVING. AN ACT TO AMEND THE PROFESSIONAL HOUSEMOVING STATUTES CONTAINED IN ARTICLE 16 OF CHAPTER 20 OF THE GENERAL STATUTES. Summarized in *Daily Bulletin* 2/20/07, 3/28/07, 4/25/07, and 6/24/08. Enacted July 11, 2008. Effective December 1, 2008.

SL 2008-90 (H 12). STUDENTS WITH DISABILITIES AND SPECIAL ED CHANGES. AN ACT TO AMEND THE DEFINITION OF "EDUCATIONAL SERVICES" FOR STUDENTS WITH

DISABILITIES; TO AMEND THE LAW TO ALLOW A DESIGNEE OR DESIGNEES OF A STUDENT'S IEP TEAM TO EVALUATE THE CONTINUED APPROPRIATENESS OF HOMEBOUND INSTRUCTION FOR DISCIPLINE PURPOSES FOR STUDENTS WITH DISABILITIES AS RECOMMENDED BY THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE; TO ADD A PROTECTION FOR CHILDREN NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON EDUCATION OF STUDENTS WITH DISABILITIES; AND TO DIRECT THE DEPARTMENT OF PUBLIC INSTRUCTION AND THE STATE BOARD OF EDUCATION TO REPORT ON CONTESTED CASES BASED ON THE ADDITIONAL PROTECTION. Summarized in *Daily Bulletin* 1/25/07, 3/6/07, and 6/25/08. Enacted July 11, 2008. Section 3 is effective January 1, 2009. The remainder is effective July 11, 2008.

SL 2008-91 (H 133). ATV FOR BEACH DRIVING. AN ACT TO EXEMPT THE USE OF ALL-TERRAIN VEHICLES FOR BEACH DRIVING FROM THE REQUIREMENTS OF ALL-TERRAIN VEHICLE REGULATION. Summarized in *Daily Bulletin* 2/7/07 and 4/4/07. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-92 (S 1687). PUBLIC HEALTH INCUBATOR PROGRAM ANNUAL REPORT. AN ACT TO DIRECT THE NORTH CAROLINA PUBLIC HEALTH INCUBATOR PROGRAM TO REPORT ANNUALLY TO THE PUBLIC HEALTH STUDY COMMISSION, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY COMMISSION. Summarized in *Daily Bulletin* 5/19/08 and 6/11/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-93 (H 44). DOMESTIC VIOLENCE ORDERS/REPEAT VIOLATORS. AN ACT TO STRENGTHEN THE LAW RELATED TO VIOLATIONS OF DOMESTIC VIOLENCE PROTECTIVE ORDERS BY INCREASING THE PENALTY FOR REPEAT OFFENDERS AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE. Summarized in *Daily Bulletin* 1/30/07, 6/23/08, and 6/25/08. Enacted July 11, 2008. Effective December 1, 2008.

SL 2008-94 (H 1304). STUDENT LOAN REPAYMENT FOR NC GUARD MEMBERS. AN ACT TO AUTHORIZE USE OF REMAINING END-OF-YEAR TUITION ASSISTANCE PROGRAM FUNDS FOR REPAYMENT OF OUTSTANDING ELIGIBLE STUDENT LOANS FOR MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD. Summarized in *Daily Bulletin* 4/4/07, 4/12/07, 8/1/07, and 6/24/08. Enacted July 11, 2008. Effective July 1, 2008.

SL 2008-95 (S 1669). COMMUNITY COLLEGES/TOBACCO FREE. AN ACT TO CLARIFY THE AUTHORITY OF AND PROVIDE GUIDANCE TO LOCAL COMMUNITY COLLEGE BOARDS OF TRUSTEES IN ADOPTING WRITTEN POLICIES PROHIBITING THE USE OF TOBACCO PRODUCTS IN BUILDINGS, ON COMMUNITY COLLEGE CAMPUSES, AT COMMUNITY COLLEGE-SPONSORED EVENTS, AND IN OR ON OTHER COMMUNITY COLLEGE PROPERTY, AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE. Summarized in *Daily Bulletin* 5/19/08 and 6/12/08. Enacted July 11, 2008. Effective July 11, 2008.

SL 2008-96 (H 2634). CASWELL/HUNTING ON PRIVATE PROPERTY. AN ACT TO AMEND THE LAW PROHIBITING HUNTING AND FISHING ON PRIVATE PROPERTY IN CASWELL COUNTY WITHOUT WRITTEN PERMISSION FROM THE LANDOWNER OR LESSEE. Summarized in *Daily Bulletin* 5/27/08 and 7/8/08. Enacted July 14, 2008. Effective October 1, 2008.