1999

SENATE
STATE & LOCAL
GOVERNMENT
COMMITTEE

MINUTES

Members State and Local Government Committee

Wed--1124 LB--11:00 AM

	SENATOR	OFFICE	PHONE
Chairman	Senator Kinnaird	2115 LB	3-5804
Vice Chairman	Senator Dalton	409 LOB	5-3038
Vice Chairman	Senator Jordan	407 LOB	5-3034
Vice Chairman	Senator Miller	621 LOB	3-9349
Ranking Minority Member	Senator Webster	1101 LB	3-5665
Members	Senator Albertson	525 LOB	3-5705
	Senator Ballance	523 LOB	5-3032
	Senator Clodfelter	622 LOB	3-6275
	Senator Garwood	1118 LB	3-5742
	Senator Horton	1117 LB	3-7850
	Senator Robinson	2113 LB	3-5880
	Senator Soles	2022 LB	3-5963
Staff	Barbara Riley	545 LOB	3-2578
	Ed Rossi	545 LOB	3-2578
Committee Assistant	Kathie Young	2115 LB	3-5804

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 12-AUG-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 31	DEDMON	SHELBY PRIVATE SALE	R -CH. SL 99-0005	03-02-99	03-17-99
H 37	BADDOUR	LENOIR/WAYNE CONDEMNATION CONSENT	R -CH. SL 99-0006	03-08-99	03-17-99
H 68=	MCCOMBS	TOWN OF CHINA GROVE	*R -CH. SL 99-0007	03-08-99	03-17-99
H 129=	WALEND	BREVARD PROPERTY CONVEYANCE	R -CH. SL 99-0008	03-10-99	03-17-99
H 145=	TOLSON	EDGECOMBE SCHOOL VACANCIES	R -CH. SL 99-0012	03-08-99	03-22-99
H 149=	WARREN EDITH	REDUCE PITT CO. PISTOL PERMIT FEE	R -CH. SL 99-0285	03-30-99	07-12-99
H 153	YONGUE	HOKE SCHOOL ELECTION FILING	R -CH. SL 99-0018	03-23-99	04-05-99
H 228	MOSLEY	STATE EMPLOYEES COMBINED CAMPAIGN	*R -CH. SL 99-0250	05-03-99	06-21-99
H 253	OWENS	SIPS NAME CHANGE/IRMC	*R -CH. SL 99-0347	04-01-99	05-05-99
H 319	GOODWIN	ADD'L DUTY OF SEC. OF STATE	R -CH. SL 99-0316	03-25-99	05-05-99
H 326	CULPEPPER	AQUARIUM EXHIBIT DISPOSAL	*R -CH. SL 99-0049	04-01-99	05-05-99
H 327	CULPEPPER	FOOD/VENDING AT NC AQUARIUMS	S -RE-REF COM ON APPROPR	04-05-99	05-05-99
H 332	GILLESPIE	YANCEY SCHOOL ELECTIONS	S -REF TO COM ON STLOCGVT	03-23-99	
H 371	CARPENTER J	REMOVAL OF ELECTRONIC COLLARS	*R -CH. SL 99-0051	03-30-99	05-12-99
H 378	CRAWFORD	ROANOKE RAPIDS REDEVELOPMENT	R -CH. SL 99-0067	03-23-99	05-12-99
H 426	JARRELL	LOCAL RED LIGHT CAMERAS	*R -CH. SL 99-0181	04-13-99	06-03-99
H 429=	HAIRE	MADISON COMMISSIONERS ELECTION	R -CH. SL 99-0037	03-30-99	05-05-99
H 437	TUCKER	JONES SUBDIVISION DEFINITION	R -CH. SL 99-0125	03-30-99	05-26-99
H 440	EDWARDS	EXTEND BEAUFORT/HYDE HUNTING	*R -CH. SL 99-0086	04-27-99	05-19-99
H 447=	NESBITT	ASHEVILLE ANTIDISCRIMINATION ACT	R -CH. SL 99-0206	04-01-99	06-21-99
H 471	DECKER	AG USES/ZONING	*R -CH. SL 99-0057	04-28-99	05-12-99
H 474	ROGERS	BERTIE ABC BOARD CHANGE	*R -CH. SL 99-0153	04-19-99	05-26-99
H 501	THOMAS	HOSPITAL AUTHORITY/CRAVEN	R -CH. SL 99-0015	03-25-99	03-31-99
H 514=	SAUNDERS	LOCAL PHOTO ENFORCEMENT	*R -CH. SL 99-0182	04-13-99	06-03-99
H 520	JUSTUS	FLAT ROCK/HENDERSONVILLE PROP.	*R -CH. SL 99-0173	04-29-99	05-27-99
H 529	CAPPS	DISPLAY OF AMERICAN FLAG	*S -REF TO COM ON STLOCGVT	04-29-99	
H 531=	COX	LEE COUNTY CONVEYANCE	*R -CH. SL 99-0282	04-14-99	07-07-99
H 570	REDWINE	CAROLINA SHORES 201	R -CH. SL 99-0240	04-12-99	06-21-99
H 587	BOWIE	INCREASE BID LIMIT/GREENSBORO	R -CH. SL 99-0052	04-14-99	05-12-99
H 615	OWENS	ELIZABETH CITY WATERCRAFT REG.	*R -CH. SL 99-0174	04-14-99	05-27-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 12-AUG-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 637	OWENS	COINJOCK CANAL NO-WAKE ZONE	R -CH. SL 99-0038	04-14-99	05-05-99
H 649	REDWINE	HOLDEN BEACH NO-WAKE ZONE	R -CH. SL 99-0092	04-12-99	05-19-99
H 650	REDWINE	BRUNSWICK PERSONAL WATERCRAFT	*R -CH. SL 99-0087	04-27-99	05-19-99
H 652	CULPEPPER	ROANOKE ISLAND HISTORICAL ASSOC.	*R -CH. SL 99-0032	04-07-99	04-15-99
H 684	MOSLEY	MUNIC. TREE ORD/HUNTERSVILLE TDR	*S -CONF COM APPOINTED	04-21-99	06-21-99
H 694	MCLAWHORN	AYDEN LOCAL ACT - 1	*S -REF TO COM ON STLOCGVT	04-29-99	
H 707	COX	BROADWAY FORM OF GOVT.	R -CH. SL 99-0230	04-21-99	06-23-99
H 728	TOLSON	GREENVILLE FRATERNITY HOUSES	R -CH. SL 99-0156	04-12-99	06-03-99
H 749	RAYFIELD	BELMONT ABC PROFITS	S -REF TO COM ON STLOCGVT	04-21-99	
H 772	WRIGHT	LEE'S CUT NO-WAKE ZONE	*R -CH. SL 99-0095	04-29-99	05-19-99
H 800	MICHAUX	DURHAM COUNTY TRUST FUND INVESTMENTS	S -REF TO COM ON STLOCGVT	04-28-99	
H 802=	MICHAUX	DURHAM CITY DEVELOPMENT PLANS	S -REF TO COM ON STLOCGVT	04-21-99	
H 803	MICHAUX	DURHAM COUNTY ZONING NOTICES	S -REF TO COM ON STLOCGVT	04-21-99	
H 811	THOMAS	HAVELOCK CHARTER REVISION	R -CH. SL 99-0126	04-19-99	05-26-99
H 820=	HENSLEY	VOLUNTARY SHARED LEAVE	*R -CH. SL 99-0170	04-26-99	05-26-99
H 821=	HENSLEY	RELOCATE NC GOVT. COMPETITION COMM.	S -REF TO COM ON STLOCGVT	04-21-99	
H 829	WALEND	TRANSYLVANIA SCH. CONSTRUCTION FLEX.	R -CH. SL 99-0053	04-26-99	05-12-99
H 840	GRADY	ONSLOW BID EXEMP/CHAR-MECK SCH CONST	*R -CH. SL 99-0207	04-26-99	06-10-99
H 841	INSKO	CARRBORO/CHAPEL HILL LOCAL ACT	*R -CH. SL 99-0255	04-29-99	06-09-99
H 842	INSKO	RANDOLPH COMMISSIONERS DISTRICTS	*S -RE-REF COM ON STLOCGVT	04-22-99	06-30-99
H 842	INSKO	RANDOLPH COMMISSIONERS DISTRICTS	*S -RE-REF COM ON STLOCGVT	07-06-99	
H 843=	INSKO	MOORE COMMISSIONERS DISTRICTS	*H -RE-REF COM ON RULES	04-28-99	06-30-99
H 868=	INSKO	CHAPEL HILL OMNIBUS ACT	*S -REF TO COM ON STLOCGVT	04-29-99	
H 872	CULPEPPER	DARE COURTHOUSE CONSTRUCTION FLEX	R -CH. SL 99-0040	04-28-99	05-05-99
H 880	ALLRED	BID PROCESS/CAPITAL PROJ.	R -CH. SL 99-0093	04-28-99	05-12-99
H 951	EDWARDS	TENANTS ON HOUSING AUTHORITY	*R -CH. SL 99-0146	04-28-99	05-19-99
H 972=	INSKO	TRANSP. COSTS/INVOL. COMMITMENT	*R -CH. SL 99-0201	04-26-99	05-26-99
H1104	GIBSON	EXEMPT POSITION CLARIFICATION	R -CH. SL 99-0253	04-26-99	06-21-99
S 18	LEE	CARTHAGE CHARTER CONSOL/ANNEX	R -CH. SL 99-0239	02-02-99	03-29-99
S 43=	DALTON	FOREST CITY/ALEXANDER MILLS	R -CH. SL 99-0009	02-08-99	02-17-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 12-AUG-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 47	JORDAN	MAPLE HILL INCORPORATION	S -RE-REF COM ON RULES &	02-08-99	02-15-99
S 69=	COCHRANE	TOWN OF CHINA GROVE	S -REF TO COM ON STLOCGVT	02-11-99	
S 108	MILLER B	SPECIAL OLYMPIC SCHOOL BUS USE	*R -CH. SL 99-0001	02-16-99	02-17-99
S 184=	MARTIN R	REDUCE PITT CO. PISTOL PERMIT FEE	S -RE-REF COM ON FINANCE	03-01-99	03-17-99
S 190=	MILLER B	RELOCATE NC GOVT. COMPETITION COMM.	S -REF TO COM ON STLOCGVT	03-01-99	
S 205=	ROBINSON	BREVARD PROPERTY CONVEYANCE	S -REF TO COM ON STLOCGVT	03-02-99	
S 299	HARTSELL	CABARRUS/CONCORD FORCE ACCT. INCR.	R -CH. SL 99-0034	03-09-99	03-17-99
S 300=	SOLES	TOWN OF CALABASH	R -CH. SL 99-0016	03-09-99	03-17-99
S 302=	KINNAIRD	LOCAL HUNTING	*R -CH. SL 99-0301	03-09-99	04-05-99
S 333=	PERDUE	EQUITY IN APPOINTMENTS	*S -PRES. TO GOV. 07-21	03-11-99	03-29-99
S 333=	PERDUE	EQUITY IN APPOINTMENTS	*S -PRES. TO GOV. 07-21	03-30-99	04-07-99
S 350	ODOM	CHARLOTTE PRIVATE PROP. DISPOSITION	*R -CH. SL 99-0088	03-15-99	04-15-99
S 369=	METCALF	ASHEVILLE ANTIDISCRIMINATION ACT	S -REF TO COM ON STLOCGVT	03-15-99	
S 385=	LEE	USE OF SCHOOL BUSES/US OPEN	*R -CH. SL 99-0176	03-16-99	04-19-99
S 388=	MARTIN R	EDGECOMBE SCHOOL VACANCIES	S -REF TO COM ON STLOCGVT	03-16-99	
S 391=	KINNAIRD	MOORE DEER HUNTING	H -RE-REF COM ON FINANCE	03-16-99	04-07-99
S 395	HARTSELL	CABARRUS COUNTY TOURISM	R -CH. SL 99-0097	04-26-99	04-29-99
S 474	ROBINSON	HENDERSONVILLE ABC PROFITS	*R -CH. SL 99-0177	03-23-99	04-05-99
S 531	CLODFELTER	CHARLOTTE/MECK BUILDINGS	S -REF TO COM ON STLOCGVT	03-25-99	
S 532	CARTER	ASHEVILLE CIVIL SERV. BD./ZONING REF	*R -CH. SL 99-0303	04-21-99	04-29-99
S 543	HORTON	FORSYTH AREA ZONING CHANGES	R -CH. SL 99-0098	04-21-99	04-29-99
S 573	CLODFELTER	CHARLOTTE DEVELOPMENT	R -CH. SL 99-0099	03-29-99	04-14-99
S 578	JORDAN	CONFERENCE OF CLERKS OF SUPERIOR CT.	*S -RE-REF COM ON APPROPR	03-29-99	04-12-99
S 582	HORTON	ELECTRONIC PAWN RECORDS	SF-POSTPONED INDEFINITELY	04-27-99	04-29-99
S 595	MARTIN R	MODIFY NE REGIONAL COMMISSION	*H -REF TO COM ON RULES	03-29-99	04-12-99
S 597=	ROBINSON	TRIBAL BUILDING INSPECTION	S -REF TO COM ON STLOCGVT	03-29-99	
S 605=	METCALF	MADISON COMMISSIONERS ELECTION	S -REF TO COM ON STLOCGVT	03-29-99	
S 617=	PERDUE	SPA COLA CHANGES	S -REF TO COM ON STLOCGVT	03-29-99	
S 625	LUCAS	DURHAM PRIVILEGE LICENSE TECHNICAL	R -CH. SL 99-0256	03-30-99	04-14-99
S 626	LUCAS	DURHAM FIREWORKS	*R -CH. SL 99-0045	03-30-99	04-14-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 12-AUG-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 627	LUCAS	DURHAM CITY CONTRACT EXECUTION	R -CH. SL 99-0036	03-30-99	04-14-99
S 652	GULLEY W	AMBULANCE SERVICE FRAUD/DURHAM	R -CH. SL 99-0064	04-07-99	04-14-99
S 659	CLODFELTER	MECK SCHOOL CONST. FLEXIBILITY	S -REF TO COM ON STLOCGVT	03-31-99	
S 676	WELLONS	WILSON HOUSING CODE ENFORCEMENT	S -REF TO COM ON STLOCGVT	04-01-99	
S 700	LUCAS	DURHAM CITY ZONING NOTICES	S -REF TO COM ON STLOCGVT	04-01-99	
S 701=	LUCAS	DURHAM CITY ANTIDISCRIMINATION	H -REF TO COM ON LOCGOVI	04-01-99	04-21-99
S 702	RUCHO	MATTHEWS ETJ	R -CH. SL 99-0069	04-01-99	04-21-99
S 703	BALLANTINE	HAMPSTEAD INCORPORATION	*S -RE-REF COM ON STLOCGVT	04-21-99	
S 705	WELLONS	EXPEDITE JOHNSTON SCH. CONSTRUCTION	R -CH. SL 99-0102	04-01-99	04-21-99
S 708=	ODOM	AFFORDABLE HOUSING	R -CH. SL 99-0366	04-01-99	04-28-99
S 709=	ODOM	MECKLENBURG SCHOOL ACQUISITION	R -CH. SL 99-0065	04-01-99	04-07-99
S 710	ODOM	HUNTERSVILLE DEVELOPMENT	H -RE-REF COM ON LOCGOVI	04-01-99	04-27-99
S 719=	GULLEY W	DURHAM DEVELOPMENT PLANS	R -CH. SL 99-0070	04-01-99	04-14-99
S 720	GULLEY W	DURHAM ZONING NOTICES	*R -CH. SL 99-0055	04-01-99	04-15-99
S 723=	KINNAIRD	CHAPEL HILL OMNIBUS ACT	S -REF TO COM ON STLOCGVT	04-01-99	
S 724=	KINNAIRD	ORANGE/CHAPEL HILL LOCAL ACT	S -REF TO COM ON STLOCGVT	04-01-99	
S 929	REEVES	ABATEMENT OF NUISANCES	*R -CH. SL 99-0371	04-27-99	04-29-99
S 966	CLODFELTER	BUILDING INSPECTION CONTRACTS	*R -CH. SL 99-0372	04-15-99	04-27-99
S 984	MILLER B	ACCOUNTANT/CPA AUDITS	*S -RE-REF COM ON FINANCE	04-27-99	04-29-99
S1013	FOXX	DELIVERY OF STATE FUNDS/CLARIFIED	S -REF TO COM ON STLOCGVT	04-15-99	
S1039	PLYLER	ANSON-UNION COMMUNITY COLLEGES	R -CH. SL 99-0060	04-27-99	04-28-99
S1140	EAST	SURRY BILLBOARD BAN	*R -CH. SL 99-0218	04-15-99	04-28-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

STATE & LOCAL GOVERNMENT

WEDNESDAY, FEBRUARY 17, 1999

11:00 AM

ROOM 1124 LB

Bills	SB 108 Special Olympic School Bus Use	Senator Miller
	SB 43 Forest City/Alexander Mills	Senator Dalton

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, FEBRUARY 17, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, February 17, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 108, Special Olympic School Bus Use, was explained by Senator Brad Miller. Senator Miller moved to adopt an amendment. The motion carried unanimously. Ms. Esther Hill was recognized to speak about the Host Program. Sen. Jordan moved to give the bill a favorable report as amended, and to engross the amended bill into a committee substitute. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 43, Forest City/Alexander Mills, was explained by Senator Walter Dalton. Senator Miller moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chairman

Wednesday, February 17, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **43** Forest City/Alexander Mills.
Sequential Referral: Finance
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **108** Special Olympic School Bus Use.
Draft Number: PCS6521
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED:2

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 108
State and Local Government Committee Substitute Adopted 2/17/99

Short Title: Special Olympic School Bus Use. (Public)

Sponsors:

Referred to:

February 16, 1999

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE STATE TO PROVIDE SCHOOL AND ACTIVITY BUSES FOR THE TRANSPORTATION NEEDS OF THE SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1998-10 reads as rewritten:

"Section 2. Notwithstanding any other provisions of law, the Johnston County, Wake County, Orange County, ~~and~~ Durham County and any public school ~~systems~~ system within which there is a participating host town may permit, under terms and conditions set by the public school ~~systems,~~ system, the use and operation of public school buses and activity buses by the 1999 Special Olympics World Summer Games Organizing Committee, Inc., for the transportation of persons officially associated with the 1999 Special Olympics World Summer Games for the ~~periods from May 28, 1998, through May 31, 1998, and~~ period from ~~June 19,~~ June 15, 1999, through July 10, 1999."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

S 1 0 C

FEB 1 5 1999

D

SENATE DRS2524-LK037A(2.9)

Short Title: Special Olympic School Bus Use. (Public)

Sponsors: Senator Miller.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE STATE TO PROVIDE SCHOOL AND ACTIVITY BUSES FOR THE TRANSPORTATION NEEDS OF THE SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 98-10 reads as rewritten:

"Section 2. Notwithstanding any other provisions of law, ~~the Johnston County, Wake County, Orange County, and Durham County~~ any public school ~~systems~~ system may permit, under terms and conditions set by the public school ~~systems,~~ system, the use and operation of public school buses and activity buses by the 1999 Special Olympics World Summer Games Organizing Committee, Inc., for the transportation of persons officially associated with the 1999 Special Olympics World Summer Games for the ~~periods from May 28, 1998, through May 31, 1998, and~~ period from ~~June 19,~~ June 1, 1999, through July 10, 1999."

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

TO: Senate State & Local Government Committee
FROM: Ed Rossi, Committee Counsel
DATE: February 16, 1999
RE: Special Olympics School Bus Use, SB 108 1st Ed.

Background

State law[1] prohibits the private use of state or county owned vehicles. In 1998, the General Assembly made an exception to this law for the 1999 Special Olympics. Under this exception[2], the State and certain county public school systems could permit the 1999 Special Olympics to use their vehicles. This exception would only apply during the months of May, June, and July in 1998, and 1999, and the State would incur no liability for damages resulting from the use of vehicles under the exception. Moreover, the Special Olympics would be required to carry liability insurance of not less than five million dollars ($5,000,0000) and be responsible for the cost of repairs if any damage occurs to the vehicles while used by the Special Olympics.

The 1998 exception allowed four county public school systems to provide school busses for the Special Olympics. Senator Miller's bill (SB 108) would modify the 1998 exception by allowing all county public school systems to provide school busses for use by the Special Olympics.

---

[1] G.S. § 14-247
[2] Session Law 1998-10 (SB 845)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE 2

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 7&

by rewriting those lines to read

"Section 2. Notwithstanding any other provisions of law, the Johnston County, Wake County, Orange County, ~~and~~ Durham County and any public school ~~systems~~ system within which there is a participating host town; and further amends

page 1, line 14 by deleting "June 1," and substituting "June 15"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 43*

Short Title: Forest City/Alexander Mills. (Local)

Sponsors: Senator Dalton.

Referred to: State and Local Government.

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE THE TOWN OF ALEXANDER MILLS INTO THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. (a) The Town of Alexander Mills is merged into the Town of Forest City. The effective date of the merger is July 1, 1999. The Town of Alexander Mills is abolished as a separate municipal corporation.

(b) Subsection (a) of this section is effective only if approved in a referendum by the qualified voters of the Town of Alexander Mills.

(c) The referendum shall be held on a date set by the Rutherford County Board of Elections, but no later than May 31, 1999. It may be held on the same day as any other referendum or election in the county, but may not otherwise be held during the period beginning 50 days before and ending 50 days after the day of any other referendum or election to be conducted by the board of elections conducting the referendum and already validly called or scheduled by law. The proposition submitted to the voters shall be in the form approved by the Rutherford County Board of Elections.

Section 2. (a) On the effective date of the merger, all property, real and personal and mixed, including accounts receivable, belonging to the Town of Alexander Mills, shall by operation of law vest in, belong to, and be the property of the Town of Forest City. The governing body of the Town of Alexander Mills shall take such additional actions and execute such documents as will carry into effect the provisions and the intent of this section.

(b) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Alexander Mills shall vest in and remain and inure to the benefit of the Town of Forest City.

(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owed to the Town of Alexander Mills shall be owed to and collected by the Town of Forest City.

(d) All actions, suits, and proceedings pending against, or having been instituted by the Town of Alexander Mills, shall not be abated by this act or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and the Town of Forest City shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Alexander Mills and shall pay or cause to be paid any judgments rendered against the Town of Alexander Mills in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(e) All obligations of the Town of Alexander Mills, including outstanding indebtedness, shall be assumed by the Town of Forest City, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Forest City.

(f) The Town of Forest City may adopt any ordinances, rules, and regulations under Article 19 of Chapter 160A of the General Statutes prior to July 1, 1999, as to the area of the Town of Alexander Mills, to become effective not earlier than July 1, 1999. All other ordinances of the Town of Forest City become effective July 1, 1999, in the area formerly of the Town of Alexander Mills except as provided by subsection (g) of this section.

(g) All franchises heretofore granted by the Town of Alexander Mills, which are still in force, shall continue as valid franchises of the Town of Forest City for the purposes granted within the area formerly comprising the Town of Alexander Mills, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the Town of Forest City.

(h) The Town of Forest City shall assume responsibility for all current and future liabilities of the Town of Alexander Mills for unemployment insurance benefit charges under G.S. 96-9(f)(1).

Section 3. The Charter of the Town of Forest City, being Chapter 209, Session Laws of 1981, is amended by adding the following new section:

"Sec. 1.4. The corporate limits of the Town of Forest City also include all areas within the corporate limits of the Town of Alexander Mills on the date the Town of Alexander Mills was merged into the Town of Forest City."

Section 4. The Mayor and Town Commissioners of the Town of Forest City continue in existence after the consolidation. The Mayor and Commissioners of the Town of Alexander Mills are abolished as of July 1, 1999, but shall continue from that date until the organizational meeting after the 1999 Forest City municipal election as an advisory panel of the Town of Forest City to provide information and guidance in regard to matters pertaining to the area which was formerly the Town of Alexander Mills. In the 1999 municipal election, residents of the area formerly the

Town of Alexander Mills shall have full rights to be candidates for elective office in the Town of Forest City as provided by law.

Section 5. All property that had a tax situs in the Town of Alexander Mills on January 1, 1999, shall be considered to have a tax situs in the Town of Forest City for the appropriate fiscal year, and any property properly listed for taxation in the Town of Alexander Mills is properly listed for taxation in the Town of Forest City.

Section 6. Chapter 99, Private Laws of 1925, being the Charter of the Town of Alexander Mills, is repealed.

Section 7. Sections 2 through 6 of this act become effective only if the Town of Alexander Mills is merged into the Town of Forest City under Section 1 of this act.

Section 8. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

State & Fed Gov — Feb 17 99

Name of Committee — Date

May 22, 1996

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Benny Scarboro	Good Neighbors
Lisa Rains	The Insider
Fairchild	Capitol Group
John McAlister	Duke Energy
Don Beam	the Capitol Group
Mark Benson	The Capitol Group
[illegible]	Press Corps
CHUCK SUMMEY	TOWN OF FOREST CITY
GROVER H. BRADLEY	TOWN OF FOREST CITY
Tommy Davis	Town of Forest City
Leonard Allen	SOS
Shannon Townsend	Governmental
ELLIS HANKINS	NCLM
Joe Sheron	Councilman Louisburg NC
Jim Blackburn	NC Association of County Commrs
Gaston County	NC Metro Coalition

VISITOR REGISTRATION SHEET

Name of Committee

Date
May 22, 1996

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Andy Romanet	N.C. League of Municipalities
Cam Cover	BPMHL
Ann Berlam	St. Board of Education
[illegible] Hall	Special Olympics

VISITOR REGISTRATION SHEET

Name of Committee

Date

May 22, 1996

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS

Agenda

State and Local Government Committee Meeting

Wednesday, March 17,1999

11:00 AM

Room 1124 LB

CALL MEETING TO ORDER

INTRODUCE VICE CHAIRS

RECOGNIZE ANY SPECIAL GUEST

RECOGNIZE ANY HOUSE MEMBERS ATTENDING THE MEETING

INTRODUCE PAGES

REMARKS

BILLS

• HB 68	Town of China Grove	Rep. Gardner
• HB 31	Shelby Private Sale	Rep. Dedmon
• HB 37	Lenoir/Wayne Condemnation Consent	Rep. Baddour
• HB 129	Brevard Property Conveyance	Rep. Walend
• HB 145	Edgecomb School Vacancies	Rep. Hardaway
• SB 18	Carthage Charter Consolidation	Sen. Lee
• SB 184	Reduce Pitt Co. Pistol Permit Fee	Sen. Martin of Pitt
• SB 299	Cabarrus/Concord Force Acct. Incr.	Sen. Hartsell
• SB 300	Town of Calabash	Sen. Soles

Senator Kinnaird, Chair

ADJOURNMENT

STATE AND LOCAL GOVERNMENT

WEDNESDAY, MARCH 17, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, March 17, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 68,Town of China Grove. was explained by Rep. Gardner. Senator Soles moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

HB 31,Shelby Private Sale. was explained by Rep. Dedmon. Senator Dalton moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

HB 37,Lenoir/Wayne Condemnation Consent. was explained by Rep. Baddour. Senator Miller moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

HB 129, Brevard Property Conveyance. was explained by Representative Walend. Senator Garwood moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

HB 145, Edgecombe School Vacancies. was explained by Senator Martin of Pitt. Senator Miller moved a favorable report of the bill. The motion carried unanimously. Senator Miller moved to reconsider the previous vote. Senator Martin of Pitt presented and explained a committee substitute. Senator Miller moved to adopt the Committee Substitute. The motion carried unanimously. **Unfavorable as to committee substitute # 1 but favorable as to Senate Committee Substitute.Bill.**

SB 18, Carthage Charter Consolidation was explained by Ed Rossi and a committee substitute was presented by Ed Rossi. Senator Horton request Committee Substitute be held until next meeting because the committee members had no had 24 hours to review the substitute. Senator Kinnaird agreed.

SB184 , Reduce Pitt Co. Pistol Permit Fee. was explained by Senator Martin of Pitt. Senator Albertson moved a favorable report of the bill. The motion carried unanimously. The bill was referred to the Finance Committee. **Favorable Report.**

SB 299 Cabarrus/Concord Force Acct. Incr. was explained by Senator Hartsell. Senator Clodfelter moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

SB 300 Town of Calabash. was explained by Senator Soles. Senator Soles moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**

Senator Ellie Kinnaird, Chair

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, March 22, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **31** Shelby Private Sale.
Sequential Referral: None
Recommended Referral: None

H.B. **37** Lenoir/Wayne Condemnation Consent.
Sequential Referral: None
Recommended Referral: None

H.B. **68** Town of China Grove.
Sequential Referral: None
Recommended Referral: None

H.B. **129** Brevard Property Conveyance.
Sequential Referral: None
Recommended Referral: None

S.B. **184** Reduce Pitt Co. Pistol Permit Fee.
Sequential Referral: None
Recommended Referral: Finance

S.B. **299** Cabarrus/Concord Force Acct. Incr.
Sequential Referral: None
Recommended Referral: None

S.B. **300** Town of Calabash.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED:7

Committee Clerk Comment: none

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, March 22, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1)**145** Edgecombe School Vacancies.

Draft Number:	PCS2127
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 68
Committee Substitute Favorable 2/25/99

Short Title: Town of China Grove. (Local)

Sponsors:

Referred to:

February 11, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOUR-YEAR TERMS FOR THE MAYOR AND ALDERMEN OF THE TOWN OF CHINA GROVE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of China Grove, being Chapter 309 of the Private Laws of 1903, reads as rewritten:

"Sec. 3. The officers of ~~said corporation~~ the town shall be a Mayor and five Aldermen, who shall be elected ~~biennially, and whose term of office shall begin as provided in the general election law for municipal corporations, as passed by the Legislature of 1901.~~ to four-year terms, except as provided otherwise in this section.

In 1999, and quadrennially thereafter, a Mayor shall be elected to a four-year term.

In 1999, for the position of Alderman, the two persons receiving the highest number of votes shall be elected to four-year terms and the three persons receiving the next highest number of votes shall be elected to two-year terms. In 2001, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2003, and quadrennially thereafter, two persons shall be elected to four-year terms."

Section 2. This act applies beginning with persons elected in 1999.

Section 3. This act is effective when it becomes law.

TO: Eleanor Kinnaird, Chair, Senate State & Local Government Committee
FROM: Ed Rossi, Committee Co-Counsel
DATE: March 4, 1999
RE: Town of China Grove, House Bill 68 2nd Ed.

Summary – House bill 68 amends the charter of the Town of China Grove as it relates to the election of the Mayor and Alderman. The current charter provides that these officials will be elected biennially. House bill 68, as amended, provides for the quadrennial election of these officials and sets up staggered terms for the Board of Alderman.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 31

Short Title: Shelby Private Sale. (Local)

Sponsors: Representatives Dedmon; and Horn.

Referred to: Rules, Calendar and Operations of the House.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SHELBY TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE TO THE COUNCIL ON THE AGING OF CLEVELAND COUNTY, NORTH CAROLINA, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Shelby may convey by private negotiation and sale to the Council on the Aging of Cleveland County, North Carolina, Inc., with or without monetary consideration, any or all of its right, title, and interest in the following described property:

Beginning at a point in the right-of-way on the south side of East Marion Street, a common corner of the properties shown on Cleveland County Tax Map number S-4, and being lots 7 and 8 of block number 4 of said tax map. Thence with the south right-of-way of East Marion Street S 89-48-15 E 187.22' to the common corner of lots 8 and 11. Thence leaving East Marion Street right-of-way and continuing with the common line between lots 8 and 11 S 04-09-15 E 240.00' to a point. Thence continuing a new line across the City of Shelby property as shown on tax map number 14, block 1, and lot 11 S 04-09-15 E 200.00' to the north right-of-way of East Warren Street. Thence with the north right-of-way of East Warren Street N 84-51-00 W 125.41' to a point. Thence leaving the right-of-way the following calls: N 02-34-10 E 110.00', N 04-08-56 W 78.91', N 04-09-15 W 90.00', N 89-48-15 W 76.00', N 04-09-15 W 150.00' to the place of beginning.

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

TO: Eleanor Kinnaird, Chair, Senate State & Local Government Committee
FROM: Ed Rossi, Committee Co-Counsel
DATE: March 4, 1999
RE: Shelby Private Sale, House Bill 31 1st Ed.

Summary – House Bill 31 was introduced by Representative Dedmon and passed the House on March 1, 1999. The bill allows the City of Shelby, which is located in Cleveland county, to convey a certain parcel of property by private to the Council on Aging of Cleveland County, Inc. *with or without monetary consideration.*

Background – The Council on Aging reportedly had the property appraised at approximately $800,000. It currently leases the property from the city but plans to sell the property after it gets title. It then plans to use the proceeds from the sale to move to larger facilities. These facilities are to be built, in part, with proceeds from a proposed $3,500,00 county bond offering. [1]

The city contends that the Council on Aging's appraisal is too high. The property's tax value is $313,252.00[2]. According to the City Manager the parties have not yet reached an accord on all the terms of the sale. The City plans to place conditions on the sale which will it give it final approval on any resale and also ensure that any profits from a resale are used for the "public good."

Law – As a general rule, state law prohibits cities from selling real property by private negotiation and sale. Exceptions, however, are provided when the private negotiation and sale involve an exchange of property, a sale of property to a volunteer fire department, or a sale to an entity that is carrying out a public purpose. Where a private sale involves the last exception (entities carrying out a public purpose) further restrictions are imposed:

1. The property must not have been acquired by eminent domain.
2. The conveyance may not be to a for-profit entity.
3. The city must attach conditions and covenants that assure that the property will be put to public use by the recipient entity.
4. The City must provide pass a resolution authorizing the sale and provide 10 days notice prior to consummating the sale.[3]

Analysis – House bill 31 allows the City of Shelby to donate the real property in question to the Council on Aging without imposing any conditions on how the Council will use of the property. Accordingly, the "public use" constraint, which is currently embodied by state statute, is no longer guaranteed. Instead, "public use" and "public good" now become issues that are left to the parties to negotiate.

---

[1] Information obtained from City Manger Dee Freeman on 3/4/99
[2] See House Local Government II Counsels' memo dated 2/24/99.
[3] This last exception also provides that it does not limit the right of any entity to convey property by private sale when, "...that right is conferred by another law, public, or local." See G.S. § 160A-279(d).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 37

Short Title: Lenoir/Wayne Condemnation Consent. (Local)

Sponsors: Representatives Baddour, Russell, Braswell, and Wainwright (Primary Sponsors).

Referred to: Rules, Calendar and Operations of the House.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONSENT OF LENOIR AND WAYNE COUNTIES BEFORE LAND IN THOSE COUNTIES MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THOSE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-15(c) reads as rewritten:

"(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wayne, Wilkes, and Yancey Counties only."

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

TO: Eleanor Kinnaird, Chair, Senate State & Local Government Committee
FROM: Ed Rossi, Committee Co-Counsel
DATE: March 9, 1999
RE: Lenoir/Wayne Condemnation Consent, House Bill 37 1st Ed.

Summary –House bill 37seeks to require the consent of Lenoir and Wayne counties before land in those counties may be condemned or acquired by a local government unit outside those counties.

Background – This bill was introduced by Representative Baddour and passed the House on March 4, 1999. With the addition of Lenoir and Wayne counties there will be 83 counties who have the right to veto any condemnations or acquisitions within their borders, when those condemnations or acquisitions are initiated by units of local government outside the counties' borders.

All of these counties acquired their veto in a piecemeal approach through local bills enacted by the General Assembly. These local laws were then codified as G.S. § 153A-15 at the direction of the Revisor of Statutes.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 129

Short Title: Brevard Property Conveyance. (Local)

Sponsors: Representative Walend.

Referred to: Local Government I.

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF BREVARD TO CONVEY CERTAIN PARCELS OF REAL PROPERTY TO PRIVATE LANDOWNERS IN EXCHANGE FOR PUBLIC RIGHTS-OF-WAY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the City of Brevard may transfer by private conveyance, with or without monetary consideration, all or part of its right, title, and interest in and to parcels of real estate owned by it in exchange for rights-of-way for public utilities and public roadways, provided that the parcels conveyed are of comparable value to the rights-of-way exchanged for the parcels, as determined by the City Council.

Section 2. The City of Brevard may convey properties described in Section 1 of this act provided that the value of the properties, in any one instance, does not exceed five thousand dollars ($5,000).

Section 3. This act applies only to the City of Brevard in Transylvania County.

Section 4. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 17, 1999

TO: Senate Committee on State Government, Local Government, and Personnel

FROM: Barbara Riley, Committee Counsel

RE: House Bill 129: Brevard Property Conveyance

House Bill 129, introduced by Representative Walend, would provide for the City of Brevard to exchange parcels of real property with private landowners without meeting the provisions of Article 12 of Chapter 160A, Sale and Disposition of Property.

G.S. 160A-271 governs the exchange of property by a city by private negotiation. The section requires that a city receive full and fair consideration in the exchange and that the exchange be accomplished pursuant to an authorizing resolution adopted at a regular meeting of the city council on 10 days public notice.

House Bill 129 provides that Brevard may exchange real estate it holds for rights of way for public utilities and public roadways. It also provide that the parcels be of comparative value and that the value of the properties, in any one instance, may not exceed $5,000.

The act is effective when it becomes law.

§ 160A-271. Exchange of property.

A city may exchange any real or personal property belonging to the city for other real or personal property by private negotiation if the city receives a full and fair consideration in exchange for its property. A city may also exchange facilities of a city-owned enterprise for like facilities located within or outside the corporate limits. Property shall be exchanged only pursuant to a resolution authorizing the exchange adopted at a regular meeting of the council upon 10 days' public notice. Notice shall be given by publication describing the properties to be exchanged, stating the value of the properties and other consideration changing hands, and announcing the council's intent to authorize the exchange at its next regular meeting.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 4

HOUSE BILL 145
Committee Substitute Favorable 3/2/99
Senate State and Local Government Committee Substitute Adopted 3/22/99
Corrected Copy 3/23/99

Short Title: Edgecombe School Vacancies. (Local)

Sponsors:

Referred to:

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A SPECIAL ELECTION FOR A VACANCY ON THE EDGECOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE THAT FUTURE VACANCIES ON THE BOARD SHALL BE FILLED ONLY UNTIL THE NEXT REGULARLY SCHEDULED ELECTION FOR THE BOARD RATHER THAN FOR THE REMAINDER OF THE TERM.

The General Assembly of North Carolina enacts:

Section 1.(a) There currently exists a vacancy on the Edgecombe County Board of Education for the member to represent District 4 as provided in Chapter 809 of the Session Laws of 1991. The term for which the vacancy exists expires in 2000. Notwithstanding the provisions of Section 6 of Chapter 809 of the Session Laws of 1991 concerning the filling of vacancies on the board, the Edgecombe County Board of Elections shall schedule and conduct an election to fill the vacancy for the remainder of the unexpired term of that office.

Section 1.(b) The election shall be nonpartisan and shall be determined by a substantial plurality and by a runoff, if needed, as provided in Section 3 of Chapter 809 of the Session Laws of 1991. A person must reside in District 4 at the time of filing the notice of candidacy to be eligible to be a candidate in the election.

Section 1.(c) Upon preclearance under section 5 of the Voting Rights Act of 1965 of the portion of this act authorizing the special election, the Edgecombe County Board of Elections, in consultation with the State Board of Elections and the

Edgecombe County Board of Education, shall set and publicize a schedule for the special election at the earliest convenient date. The schedule shall include a filing period of two weeks.

Section 1.(d) The person elected to fill the vacancy in District 4 at the special election shall take office at the first regular meeting of the Board of Education following the certification of the results of the election and shall serve the remainder of the unexpired term of that office.

Section 2. Section 6 of Chapter 809 of the 1991 Session Laws reads as rewritten:

"Sec. 6. (a) Any vacancy on the board shall be filled by appointment by the remaining members of the board. The person appointed to fill the vacancy must reside in the district in which the vacancy occurs. The person appointed to fill the vacancy shall serve the remainder of the unexpired term of the vacating ~~member.~~ member if, (i) the term of office expires the same year as the next election for members of the board of education, or (ii) the vacancy occurs after the tenth day before the filing period ends under G.S. 163-106(c) preceding the next election. Otherwise, an election shall be held to fill the office for the remainder of the unexpired term, and the person appointed shall serve only until the person elected at that time qualifies and takes office.

(b) If the vacancy occurs after the filing period opens, and an election is to be held that year to elect a person to serve the remainder of the unexpired term under subsection (a) of this section, then filing shall open at 12:00 noon on the next business day and shall close seven days after it would have closed under G.S. 163-106.

(c) The provisions of G.S. 115C-37(f) do not apply to the Edgecombe County Board of Education."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 145
Committee Substitute Favorable 3/2/99
State and Local Government Committee Substitute Adopted 3/22/99

Short Title: Edgecombe School Vacancies. (Local)

Sponsors:

Referred to:

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A SPECIAL ELECTION FOR A VACANCY ON THE EDGECOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE THAT FUTURE VACANCIES ON THE BOARD SHALL BE FILLED ONLY UNTIL THE NEXT REGULARLY SCHEDULED ELECTION FOR THE BOARD RATHER THAN FOR THE REMAINDER OF THE TERM.

The General Assembly of North Carolina enacts:

Section 1.(a) There currently exists a vacancy on the Edgecombe County Board of Education for the member to represent District 4 as provided in Chapter 809 of the Session Laws of 1991. The term for which the vacancy exists expires in 2000. Notwithstanding the provisions of Section 6 of Chapter 809 of the Session Laws of 1991 concerning the filling of vacancies on the board, the Edgecombe County Board of Elections shall schedule and conduct an election to fill the vacancy for the remainder of the unexpired term of that office.

Section 1.(b) The election shall be nonpartisan and shall be determined by a substantial plurality and by a runoff, if needed, as provided in Section 3 of Chapter 809 of the Session Laws of 1991. A person must reside in District 4 at the time of filing the notice of candidacy to be eligible to be a candidate in the election.

Section 1.(c) Upon preclearance under section 5 of the Voting Rights Act of 1965 of the portion of this act authorizing the special election, the Edgecombe County Board of Elections, in consultation with the State Board of Elections and the

Edgecombe County Board of Education, shall set and publicize a schedule for the special election at the earliest convenient date. The schedule shall include a filing period of two weeks.

Section 1.(d) The person elected to fill the vacancy in District 4 at the special election shall take office at the first regular meeting of the Board of Education following the certification of the results of the election and shall serve the remainder of the unexpired term of that office.

Section 2. Section 6 of Chapter 809 of the 1991 Session Laws reads as rewritten:

"Sec. 6. (a) Any vacancy on the board shall be filled by appointment by the remaining members of the board. The person appointed to fill the vacancy must reside in the district in which the vacancy occurs. The person appointed to fill the vacancy shall serve the remainder of the unexpired term of the vacating ~~member.~~ member if, (i) the term of office expires the same year as the next election for members of the board of education, or (ii) the vacancy occurs after the tenth day before the filing period ends under G.S. 163-106(c) preceding the next election. Otherwise, an election shall be held to fill the office for the remainder of the unexpired term, and the person appointed shall serve only until the person elected at that time qualifies and takes office.

(b) If the vacancy occurs after the filing period opens, and an election is to be held that year to elect a person to serve the remainder of the unexpired term under subsection (a) of this section, then filing shall open at 12:00 noon on the next business day and shall close seven days after it would have closed under G.S. 163-106.

(c) The provisions of G.S. 115C-37(f) do not apply to the Edgecombe County Board of Education."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 145
Committee Substitute Favorable 3/2/99

Short Title: Edgecombe School Vacancies. (Local)

Sponsors:

Referred to:

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A SPECIAL ELECTION FOR A VACANCY ON THE EDGECOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE THAT FUTURE VACANCIES ON THE BOARD SHALL BE FILLED ONLY UNTIL THE NEXT REGULARLY SCHEDULED ELECTION FOR THE BOARD RATHER THAN FOR THE REMAINDER OF THE TERM.

The General Assembly of North Carolina enacts:

Section 1.(a) There currently exists a vacancy on the Edgecombe County Board of Education for the member to represent District 4 as provided in Chapter 809 of the Session Laws of 1991. The term for which the vacancy exists expires in 2000. Notwithstanding the provisions of Section 6 of Chapter 809 of the Session Laws of 1991 concerning the filling of vacancies on the board, the Edgecombe County Board of Elections shall schedule and conduct an election to fill the vacancy for the remainder of the unexpired term of that office.

Section 1.(b) The election shall be nonpartisan and shall be determined by a substantial plurality and by a runoff, if needed, as provided in Section 3 of Chapter 809 of the Session Laws of 1991. A person must reside in District 4 at the time of filing the notice of candidacy to be eligible to be a candidate in the election.

Section 1.(c) Upon preclearance under section 5 of the Voting Rights Act of 1965, the portion of this act authorizing the special election, the Edgecombe County Board of Elections, in consultation with the State Board of Elections and the Edgecombe County Board of Education, shall set and publicize a schedule for the

special election at the earliest convenient date. The schedule shall include a filing period of two weeks.

Section 1.(d) The person elected to fill the vacancy in District 4 at the special election shall take office at the first regular meeting of the Board of Education following the certification of the results of the election and shall serve the remainder of the unexpired term of that office.

Section 2. Section 6 of Chapter 809 of the 1991 Session Laws reads as rewritten:

"Sec. 6. (a) Any vacancy on the board shall be filled by appointment by the remaining members of the board. The person appointed to fill the vacancy must reside in the district in which the vacancy occurs. The person appointed to fill the vacancy shall serve the remainder of the unexpired term of the vacating ~~member.~~ member if, (i) the term of office expires the same year as the next election for members of the board of education, or (ii) the vacancy occurs after the tenth day before the filing period ends under G.S. 163-106(c) preceding the next election. Otherwise, an election shall be held to fill the office for the remainder of the unexpired term, and the person appointed shall serve only until the person elected at that time qualifies and takes office.

(b) If the vacancy occurs after the filing period opens, and an election is to be held that year to elect a person to serve the remainder of the unexpired term under subsection (a) of this section, then filing shall open at 12:00 noon on the next business day and shall close seven days after it would have closed under G.S. 163-106."

Section 3. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 17, 1999

TO: Senate Committee on State Government, Local Government, and Personnel

FROM: Barbara Riley, Committee Counsel

RE: House Bill 145; Edgecombe School Vacancies

House Bill 145, introduced by Representative Tolson, would amend the existing procedures for filling vacancies on the Edgecombe County Board of Education and allow the scheduling of an election for a current vacancy in District 4 on the Edgecombe County Board of Education to fill the vacancy for the remainder of the unexpired term. The election shall be nonpartisan and shall be determined by a substantial plurality and by a runoff, if needed.

The current procedure, set out in Section 6 of Chapter 809 of the 1991 Session Laws provides that vacancies are to be filled by appointment of the remaining members of the Board and the person so appointed serves for the remainder of the term of the vacating member.

The bill also amends Section 6 of Chapter 809 of the 1991 Session Laws to provide that a vacancy shall be filled for the remainder of the unexpired term by appointment if the term of office expires the same year as the next election of the Board of Education or if the vacancy occurs after the 10th day before the filing period ends preceding the next election. Otherwise, an election shall be held to fill the vacancy for the remainder of the unexpired term. The filing period is also extended in circumstances where the vacancy occurs after the filing period opens.

The act is effective when it becomes law and is subject to preclearance by the Department of Justice under Section 5 of the Voting Rights Act.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 184

Short Title: Reduce Pitt Co. Pistol Permit Fee. (Local)

Sponsors: Senators Martin of Pitt; and Warren.

Referred to: State and Local Government.

March 1, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 205 of the 1993 Session Laws reads as rewritten:

"Sec. 2. This act applies ~~only to Martin County and Pitt County.~~ to Martin County only."

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

TO: Eleanor Kinnaird, Chair, Senate State & Local Government Committee
FROM: Ed Rossi, Committee Co-Counsel
DATE: March 4, 1999
RE: Reduce Pitt Co. Pistol Permit Fee, Senate Bill 184 1st Ed.

Summary – Senate bill 184, introduced by Senator R.L. Martin, reduces the pistol permit fee in Pitt County from $20.00 to $5.00

Background – State law requires anyone wanting to purchase or receive a handgun to first obtain a permit for that handgun from the sheriff of the county that they reside in. After receiving the fee, the sheriff must perform a criminal background check, and generally satisfy herself as to the applicant's good moral character.

Permit Fees – The statewide fee for a handgun permit is $5.00. In 1993, Representative Rogers introduced House bill 715. That bill raised the pistol permit fees in Martin and Pitt counties to $20.00. It was ratified on June 23, 1993, as Chapter 205 of the 1993 Session Laws. Senator Martin's bill, Senate bill 184, repeals that law as it applies to Pitt County, thereby reducing the pistol permit fee in Pitt County to $5.00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 299

Short Title: Cabarrus/Concord Force Acct. Incr. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FORCE ACCOUNT LIMIT FOR CABARRUS COUNTY AND THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000)~~ three hundred thousand dollars ($300,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

Section 2. This act applies only to Cabarrus County and the City of Concord.

Section 3. This act is effective when it becomes law and expires June 30, 2000.

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 17, 1999

TO: Senate Committee on State Government, Local Government, and Personnel

FROM: Barbara Riley, Committee Counsel

RE: Senate Bill 299: Cabarrus/Concord Force Acct. Labor

Senate Bill 299, introduced by Senator Hartsell, would increase the dollar limit for use of force account labor set in G.S. 143-135.

G.S. 143-135 permits the use of force account labor (in-house labor) for construction and repair work by units of government when the total cost of the project does not exceed $125,000. Senate Bill 299 would increase that limit to $300,000 for Cabarrus County and the City of Concord. The increase limits would expire June 30, 2000.

The act is effective when it becomes law and expires on June 30, 2000.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 300

Short Title: Town of Calabash. (Local)

Sponsors: Senator Soles.

Referred to: State and Local Government.

March 9, 1999

A BILL TO BE ENTITLED

AN ACT REPEALING THE TOWN OF CALABASH'S LIMITATIONS ON THE HEIGHT OF BUILDINGS, EXTENDING THE TOWN'S EXTRATERRITORIAL JURISDICTION, INCREASING THE NUMBER OF TOWN COMMISSIONERS, AND STAGGERING THE COMMISSIONERS' TERMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 621 of the 1995 Session Laws is repealed.

Section 2. In addition to any areas where the Town of Calabash exercises extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, the Town shall have extraterritorial jurisdiction under that Article in the following described area:

From that portion of the existing extraterritorial jurisdiction line that bisects the Ocean Harbour Golf Course in a southeasterly manner through the Ocean Harbour Estates subdivision to the middle of the Intracoastal Waterway.

Section 3. Section 1.(f) of S.L. 1998-75 reads as rewritten:

"(f) Beginning with the organizational meeting after the 1999 municipal election, the ~~Board of Commissioners of the Town of Calabash consists of four members.~~ governing body of the Town of Calabash shall consist of the Town Board of Commissioners and the Mayor. The Town Board of Commissioners has five members. The Commissioners and the Mayor shall be elected to four-year terms by the qualified voters of the entire Town. In 1999, the two persons receiving the highest number of votes are elected to four-year terms and the three persons receiving the next highest number of votes are elected to two-year terms. In 2001,

and quadrennially thereafter, three persons are elected to four-year terms. In 2003, and quadrennially thereafter, two persons are elected to four-year terms."

Section 4. This act is effective when it becomes law.

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 17, 1999

TO: Senate Committee on State Government, Local Government, and Personnel

FROM: Barbara Riley, Committee Counsel

RE: Senate Bill 300; Town of Calabash

Senate Bill 300, introduced by Senator Soles, makes a number of changes to the laws affecting the Town of Calabash.

Section 1 of the bill repeals Chapter 621 of the 1995 Session Laws which imposed a 35' height limitation on buildings in the Town.

Section 2 of the bill would extend Calabash's existing extraterritorial jurisdiction to include the area defined in the bill, the Ocean Harbour Estates subdivision.

Section 3 of the bill provides for the composition and election of the Town Board of Commissioners and for the election of the Mayor. This section amends S.L.1998-75, the bill which provided for the separation of the Town of Calabash and the Town of Carolina Shores. In particular, Section 3 amends Section 1(f) of S.L. 1998-75 that simply provided that the Board of Commissioners of the Town would consists of 4 members. Under Senate Bill 300, this provision is fleshed out and provides that the Town will be governed by a Mayor and a five member Town Board of Commissioners. The Mayor and the Board will be elected to 4 year terms by the qualified voters of the whole town. Terms of the Board of Commissions are to be staggered.

The act is effective when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 18

Short Title: Carthage Charter Consolidation. (Local)

Sponsors: Senators Lee and Kinnaird.

Referred to: State & Local Government.

February 2, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the

Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who receive the highest number of votes shall be elected for four-year terms, while the two candidates who receive the next highest number of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons

shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. STREET IMPROVEMENTS.

"Section 6.1. **Assessments for Street Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order street improvements and assess the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, upon the following findings of fact:

(1) The street improvement project does not exceed 3,000 linear feet; and

(2) a. The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement;

b. It is in the public interest to connect two streets, or portions of a street already improved; or

c. It is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof.

"Section 6.2. **Street Improvement Defined.** For the purposes of this Article, the term 'street improvement' shall include excavation, grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities, including legal and engineering fees, charges, and costs.

"Section 6.3. **Procedure; Effect of Assessment.** In ordering street improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE VII. SIDEWALKS.

"Section 7.1. **Assessments for Sidewalk Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the Town, and assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street. In ordering sidewalk improvements or repairs without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statues, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 7.2. **Property Owner's Responsibility; Costs Become Lien.** It shall be the duty of every property owner in the Town to keep the sidewalks abutting his or her property clean and free of debris, trash, and other obstacles or impediments. The Council may by ordinance establish a procedure whereby Town forces may clean any sidewalk or remove therefrom any debris or trash after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such cleaning or removal shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

"ARTICLE VIII. REMOVAL OF MOTOR VEHICLES.

"Section 8.1. **Liens for Removal of Motor Vehicles.** The Council may establish charges to be made for the cost of removing abandoned, junked, or nuisance motor vehicles from private property. When the town causes the removal of any such vehicle from private property pursuant to an ordinance permitting such removal, and the owner or other person having control of said property fails to pay the cost of the removal within 30 days after it becomes due, the amount of the cost of removal of the vehicle shall become a lien against the real property from which the vehicle was removed; said cost shall be placed upon the Town's tax books against the property

and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE IX. EXTRATERRITORIAL POWERS.

"Section 9.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

"ARTICLE X. MINIMUM HOUSING/ABANDONED BUILDINGS.

"Section 10.1. **Buildings Vacated and Closed for One Year.** The Town may exercise the authority contained in G.S. 160A-443(5a)."

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their

successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE 3-17-99

S. B. No. 18 (S18-PCS1547-SD) Amendment No. _____
(to be filled in by Principal Clerk)

Rep.)
) _____
Sen.)

moves to amend the bill on page 4, lines 20 + 23

by changing "160A-303.3" TO "160A-303.2"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 17, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Phil Baddour	NC House
Andy Dalton	N.C. House
Michael Crowell	Atty, Raleigh
Kim Hibbard	NCLM
Dale Simpson	Carolinas AGC
Lucille Dalton	wife of Sen. Walter Dalton
Henry Jones	Attorney - Raleigh
T. Pad	Pilot E. Pines

STATE & LOCAL GOVERNMENT

WEDNESDAY, MARCH 24, 1999

11:00 AM

ROOM 1124 LB

. Bills

• SB 18	Carthage Charter Consolidation	Sen. Lee
• SB 333	Equity in Appointments	Sen. Perdue
• SB 369	Asheville Antidiscrimination Act	Sen. Metcalf C ACCEL TIL ~~3/31~~ APR 7
• SB 391	Moore Deer Hunting	Sen. Kinnaird

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, MARCH 24, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, March 24, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 18 Carthage Charter Consolidation. was explained by Sen. Lee. Sen. Horton moved to hear committee substitute. The motion carried unanimously. Sen. Lee sent forward a technical amendment. Sen. Miller moved to adopt the technical amendment. The motion carried. Sen. Albertson moved a favorable report of the committee substitute. **Unfavorable as to bill, but favorable as to committee substitute bill.**

SB 333 Equity in Appointments. Sen. Perdue explained the bill. Sen. Dalton sent forward an amendment. Sen. Ballance moved to adopt the amendment. The motion carried. Ann Bulam , president of Women's Forum of NC spoken in favor of the bill. Betty Ann Knudsen responded to questions. Sen. Ballance moved a favorable report of the committee substitute. The motion carried unanimously. **Unfavorable as to bill, but Favorable as to committee substitute bill.**

SB 369 Asheville Antidiscrimination Act was removed from the calendar at the request of Sen. Metcalf.

SB 391 Moore Deer Hunting Sen. Kinnaird explained the bill. Sen. Robinson requested the bill be displaced until a representative from the NC Wildlife Commission could explain their position on a deer-hunting bill. Sen. Kinnaird with drew the bill.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, March 29, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **18** Carthage Charter Consolidation.

Draft Number:	PCS 6588
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **333** Equity in Appointments.

Draft Number:	PCS 3678
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 18
State and Local Government Committee Substitute Adopted 3/29/99

Short Title: Carthage Charter Consolidation. (Local)

Sponsors:

Referred to:

February 2, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the

Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council,' and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who received the highest numbers of votes shall be elected for four-year terms, while the two candidates who receive the next highest numbers of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons

shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. REMOVAL OF MOTOR VEHICLES.

"Section 6.1. **Liens for Removal of Motor Vehicles.** Pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, the Council may establish reasonable towing fees for the cost of removing junked motor vehicles from private property. When the town causes the removal of a junked motor vehicle from private property pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, and the owner of the vehicle fails to pay the towing fee within 30 days after it becomes due, the towing fee shall become a lien against the real property from which the vehicle was removed provided the owner of the real property from which the vehicle was removed was also the owner of the junked motor vehicle; said cost shall be placed upon the Town's tax books against the property and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE VII. EXTRATERRITORIAL POWERS.

"Section 7.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act or State law shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended

General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 18

Short Title: Carthage Charter Consolidation. (Local)

Sponsors: Senators Lee and Kinnaird.

Referred to: State & Local Government.

February 2, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the

Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who receive the highest number of votes shall be elected for four-year terms, while the two candidates who receive the next highest number of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons

shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. STREET IMPROVEMENTS.

"Section 6.1. **Assessments for Street Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order street improvements and assess the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, upon the following findings of fact:

(1) The street improvement project does not exceed 3,000 linear feet; and

(2) a. The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement;

b. It is in the public interest to connect two streets, or portions of a street already improved; or

c. It is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof.

"Section 6.2. **Street Improvement Defined.** For the purposes of this Article, the term 'street improvement' shall include excavation, grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities, including legal and engineering fees, charges, and costs.

"Section 6.3. **Procedure; Effect of Assessment.** In ordering street improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE VII. SIDEWALKS.

"Section 7.1. **Assessments for Sidewalk Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the Town, and assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street. In ordering sidewalk improvements or repairs without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statues, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 7.2. **Property Owner's Responsibility; Costs Become Lien.** It shall be the duty of every property owner in the Town to keep the sidewalks abutting his or her property clean and free of debris, trash, and other obstacles or impediments. The Council may by ordinance establish a procedure whereby Town forces may clean any sidewalk or remove therefrom any debris or trash after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such cleaning or removal shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes.

"ARTICLE VIII. REMOVAL OF MOTOR VEHICLES.

"Section 8.1. **Liens for Removal of Motor Vehicles.** The Council may establish charges to be made for the cost of removing abandoned, junked, or nuisance motor vehicles from private property. When the town causes the removal of any such vehicle from private property pursuant to an ordinance permitting such removal, and the owner or other person having control of said property fails to pay the cost of the removal within 30 days after it becomes due, the amount of the cost of removal of the vehicle shall become a lien against the real property from which the vehicle was removed; said cost shall be placed upon the Town's tax books against the property

and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE IX. EXTRATERRITORIAL POWERS.

"Section 9.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

"ARTICLE X. MINIMUM HOUSING/ABANDONED BUILDINGS.

"Section 10.1. **Buildings Vacated and Closed for One Year.** The Town may exercise the authority contained in G.S. 160A-443(5a)."

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their

successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 18
Proposed Committee Substitute S18-PCS6588-SD

Short Title: Carthage Charter Consolidation. (Local)

Sponsors:

Referred to:

February 2, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the

Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council,' and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who received the highest numbers of votes shall be elected for four-year terms, while the two candidates who receive the next highest numbers of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons

shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. REMOVAL OF MOTOR VEHICLES.

"Section 6.1. **Liens for Removal of Motor Vehicles.** Pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, the Council may establish reasonable towing fees for the cost of removing junked motor vehicles from private property. When the town causes the removal of a junked motor vehicle from private property pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, and the owner of the vehicle fails to pay the towing fee within 30 days after it becomes due, the towing fee shall become a lien against the real property from which the vehicle was removed provided the owner of the real property from which the vehicle was removed was also the owner of the junked motor vehicle; said cost shall be placed upon the Town's tax books against the property and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE VII. EXTRATERRITORIAL POWERS.

"Section 7.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act or State law shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended

General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

S18:
Carthage Charter Consolidation

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Senators Lee & Kinnaird
Date:	March 16, 1999	**Summary by:**	Ed Rossi
Version:	S18-PCS1547-SD		Committee Co-Counsel

SUMMARY: ***The proposed committee substitute to Senate Bill 18 consolidates the town's charter and reflects the changes in governance that have already taken place. In addition, the bill:***

- ***Allows the Council to authorize the Town Manager to settle claims of not more than $2,500.***
- ***Allows the Town Manager to appoint the Town Attorney, Town Clerk, and Tax Collector.***
- ***Allows the Town to impose liens on real property that cover the cost of the reasonable towing fees for the removal of junked vehicles.***
- ***With the approval of County Commissioners, allows the Town to extend its extraterritorial jurisdiction up to two miles form its corporate limits.***

BILL ANALYSIS:

Form of Government – Chapter 160A of the General Statutes gives local governments the authority to change their form of government. In 1997, The Town of Carthage amended its charter to provide for a four-year term for its mayor and staggered four-year terms for its council members. In 1998, it adopted a Council-Manager form of government. This bill reflects those changes.

Vehicle Towing --Towns do not ordinarily have the authority to remove vehicles from private property. In 1987, the General Assembly gave Moore County and by extension the Town of Carthage the authority to go on private property to remove "junked" motor vehicles. The 1987 law sets out a procedure that affords a hearing to the vehicle owner and also allows the municipality to sell the vehicle to recover its "reasonable towing fees." This bill takes this process one step further and allows a lien to be placed on the vehicle owner's land when the vehicle was towed from the vehicle owner's land.

Extraterritorial Jurisdiction – Chapter 160A of the General Statutes also gives towns with populations of more than 10,000 but less than 25,000 the authority to exercise extraterritorial jurisdiction within two miles of their corporate borders. The Town of Carthage, which has a population of approximately 1,460, does not meet those criteria. This bill waives the population criteria and allows Carthage to exercise extraterritorial jurisdiction up to two miles from its corporate limits if it has approval from the County Board of Commissioners.

BACKGROUND:

Senate bill 18, as introduced, is identical to Senate bill 1248 which passed the Senate last year and got held up in the House Local & Regional Government I Committee

Referral

Pursuant to Senate Rule 42(b) this bill should be referred to the Committee on Finance.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 3-24-99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S18-PCS1547-SD

Rep.)
) _____
Sen.)

moves to amend the bill on page 4, lines 20+23

( ) WHICH CHANGES THE TITLE

by deleting The term "G.S. 160A-303.3"
and inserting in its place: "G.S. 160A-303
and G.S. 160A-303.2"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 333*

Short Title: Equity in Appointments. (Public)

Sponsors: Senators Perdue; Albertson, Ballance, Carter, Clodfelter, Cochrane, Cooper, Dannelly, Foxx, Garrou, Hagan, Harris, Hoyle, Kerr, Kinnaird, Lucas, Martin of Pitt, Martin of Guilford, Metcalf, Miller, Odom, Phillips, Plyler, Rand, Reeves, Robinson, Soles, and Warren.

Referred to: State and Local Government.

March 11, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MEMBERSHIP OF STATUTORILY CREATED DECISION-MAKING OR REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES; PROVIDING INTENT; PROVIDING POLICY WITH RESPECT TO THE APPOINTMENT OF MEMBERS TO SUCH BODIES TO ENSURE PROPORTIONATE REPRESENTATION OF WOMEN; REQUIRING ANNUAL REPORTS; AND REQUIRING RETENTION OF CERTAIN INFORMATION REGARDING APPLICANTS.

The General Assembly of North Carolina enacts:

Section 1.(a) It is the intent of the General Assembly to recognize the importance of balance in the appointment of both genders to membership on statutorily created decision-making and regulatory boards, commissions, councils, and committees, and to promote that balance through the provisions of this section. Furthermore, the General Assembly recognizes that statutorily created decision-making and regulatory boards, commissions, councils, and committees play a vital role in shaping public policy for North Carolina, and the selection of well-qualified candidates is the paramount obligation of the appointing authority.

Section 1.(b) In appointing members to any statutorily created decision-making or regulatory board, commission, council, or committee of the State, the appointing authority should select, from among the most qualified persons, those persons whose appointment would ensure that the membership of the board,

commission, council, or committee accurately reflects the proportion that each gender represents in the population of the State as a whole or, in the case of a local board, commission, council, or committee, in the population of the area represented by the board, commission, council, or committee, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the board, commission, council, or committee, they shall consult with each other to ensure compliance with this section.

Section 1.(c) Each appointing authority described in subsection (b) shall submit a report to the Secretary of State annually by December 1 which discloses the number of appointments made during the preceding year from each gender and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the board, commission, council, or committee. A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 1.(d) This act applies to appointments and reappointments made after the effective date of this act. It does not prohibit a member of a decision-making or regulatory board, commission, council, or committee from completing a term being served as such member when this act takes effect. A person appointed to a decision-making or regulatory board, commission, council, or committee before the effective date of this act may not be removed from office solely for the purpose of meeting the requirements of this section.

Section 2. This act becomes effective January 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 333*
Proposed Committee Substitute S333-PCS3678-LB

Short Title: Equity in Appointments. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MEMBERSHIP OF STATUTORILY CREATED DECISION-MAKING OR REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES; PROVIDING INTENT; PROVIDING POLICY WITH RESPECT TO THE APPOINTMENT OF MEMBERS TO SUCH BODIES TO ENSURE PROPORTIONATE REPRESENTATION OF WOMEN; REQUIRING ANNUAL REPORTS; AND REQUIRING RETENTION OF CERTAIN INFORMATION REGARDING APPLICANTS.

The General Assembly of North Carolina enacts:

Section 1.(a) It is the intent of the General Assembly to recognize the importance of balance in the appointment of both genders to membership on statutorily created decision-making and regulatory boards, commissions, councils, and committees, and to promote that balance through the provisions of this section. Furthermore, the General Assembly recognizes that statutorily created decision-making and regulatory boards, commissions, councils, and committees play a vital role in shaping public policy for North Carolina, and the selection of well-qualified candidates is the paramount obligation of the appointing authority.

Section 1.(b) In appointing members to any statutorily created decision-making or regulatory board, commission, council, or committee of the State, the appointing authority should select, from among the most qualified persons, those persons whose appointment would ensure that the membership of the board, commission, council, or committee accurately reflects the proportion that each gender represents in the population of the State as a whole or, in the case of a local board,

commission, council, or committee, in the population of the area represented by the board, commission, council, or committee, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the board, commission, council, or committee, they shall consult with each other to ensure compliance with this section.

Section 1.(c) Each appointing authority described in subsection (b) shall submit a report to the Secretary of State annually by December 1 which discloses the number of appointments made during the preceding year from each gender and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the board, commission, council, or committee. A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 1.(d) This act applies to appointments and reappointments made after the effective date of this act. It does not prohibit a member of a decision-making or regulatory board, commission, council, or committee from completing a term being served as such member when this act takes effect. A person appointed to a decision-making or regulatory board, commission, council, or committee before the effective date of this act may not be removed from office solely for the purpose of meeting the requirements of this section.

Section 2. This act becomes effective June 1, 1999.

S333:
Equity in Appointments

BILL ANALYSIS

Committee:	Senate State and Local Gov't	**Introduced by:**	Senator Perdue
Date:	March 24, 1999	**Summary by:**	Barbara Riley
Version:	1st Ed		Committee Counsel

SUMMARY: ***Senate Bill 333 establishes as State policy that appointments to statutorily created decision making or regulatory boards and commissions be made so as to ensure the proportionate representation women.***

BILL ANALYSIS: Section 1(a) of the bill sets forth the intent of the General Assembly to recognize the importance of the balanced representation of both genders on decision making boards and commissions given the role that these boards play in shaping North Carolina public policy. This section acknowleges that the selection of well qualified candidates is the paramount obligation of the appointing authority.

Section 1(b) provides that in appointing members to a statutorily created decision making or regulatory board, the appointing authority should select from among those most qualified people, those whose appointment would create a membership reflecting the proportion of each gender in the State population, or in the case of a local board, in the locality.

Section 1(c) requires that each appointing authority submit a report to the Secretary of State by December 1 of each year that sets out the number of appointments made during the preceding year from each gender. The figures shall be set out both numerically and as a percentage of the total membership on each board. Copies shall be filed with the Governor, the Speaker, and the President Pro Tem. Each appointing authority shal also designate a person to retain all appointment applications and assure that information describing each applicant's gender and qualifications for appointment are available for public inspection. Information that is made confidential by law, such as an applicant's identity, is not required to be disclosed.

Section 1(d) provides that the act shall be applicable to appointments and reappointments made after the effective date of the act. A person appointed to a board may not be removed from office solely for the purpose of meeting the requirements of the act.

The act becomes effective January 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st

H. B. No. _____ DATE 3/24/99

S. B. No. 333 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 2, line 28
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the term "January 1, 1999"
4 and substituting the term
5 "June 1, 1999"
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 24, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Deborah Ross	ACLU
Betty Ann Knudsen	Women's Forum of NC
Ann Belanger	SBE
Jane Pinsley	NC Equity
Alice Garland	Electricities
Katherine Davis	"
Kay Michaels	PPOD
Pat Yancey	BCSL
John Phelps	NCLM
John MAY	NC CWA Council

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 24, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Henderson	CALNC
Marie S. Pawlak	LWV-Carteret County
Edey Reni Magel	LWV Carteret County
Norma McClellon	LWV Carteret County
Kim Hibbard	NCLM
Christina Medlin	Covenant w/ NC's Children
Jean Cornell	DOA-NCCFW
John Blackwell	Danville, Va., Register & Bee newspaper
T. Dail	The Pilot, Southern Pines
Anne White	NC-NOW/NCAWA
B Summers	NC Equity

STATE & LOCAL GOVERNMENT

WEDNESDAY, MARCH 31, 1999

11:00 AM

ROOM 1124 LB

Bills

• SB 302	Lee Hunting Regulation	Sen. Kinnaird
• SB 350	Charlotte Private Prop. Dispositi	Sen. Odom
• SB 369	Asheville Antidiscrimination Act	Sen. Metcalf
• SB 391	Moore Deer Hunting	Sen. Kinnaird
• SB 474	Hendersonville ABC Profits	Sen. Robinson
• HB 153	Hoke School Election Filling	Rep. Yongue

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, MARCH 31, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, March 31, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eleven members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 333,Equity in Appointment s and HB 501, Hospital Authority/Craven were added to the agenda.

SB 302,Lee Hunting Regulations. Sen. Kinnaird offered a committee substitute. Sen. Horton moved to hear the committee substitute. The motion carried unanimously. Sen. Kinnaird explained the bill. Don Buie a resident and hunter from Sanford and Bert Matthews a Lee County Commissioner spoke in favor of the bill. Jimmy Love, Sr., Gerald Shaw and Bobby Powell spoke in opposition to the bill. Sen. Ballance offered an amendment to the committee substitute. Sen. Ballance moved to amend the committee substitute. The motion carried. Sen. Garwood moved to give the committee substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Committee Substitute.**

SB 350, 369 and 391 were displaced due to time.

SB 474, Hendersonville ABC Profits. Sen. Robinson explained the bill. Sen. Horton moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 333, Equity in Appointments. Sen. Kinnaird moved for reconsideration of the bill. The motion carried unanimously. Sen. Perdue explained the changes requested. Sen. Dalton moved to adopt the committee amendment. After extensive discussion about the bill and the lateness of the hour the committee decided to hear the bill in the next meeting.

HB 501, Hospital Authority/Craven. Sen. Perdue explained the bill. Sen. Ballance moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, March 31, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **501** Hospital Authority/Craven.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, April 05, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **153** Hoke School Election Filing.
Sequential Referral: None
Recommended Referral: None

S.B. **474** Hendersonville ABC Profits.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **302** Lee Hunting Regulation.
Draft Number: PCS 2635
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 302

Short Title: Lee Hunting Regulation. (Local)

Sponsors: Senators Kinnaird; and Harris.

Referred to: State and Local Government.

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land of another unless the person has, on his person, a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare.

Section 4. It is unlawful for any person to possess a loaded firearm on the land of another while under the influence of an impairing substance. For purposes of this section, a person is under the influence of an impairing substance

when the person has consumed a sufficient quantity of any impairing substance to cause that person to lose normal control of the person's bodily or mental facilities, or both, to such an extent that there is an appreciable impairment of either or both of these facilities.

Section 5. Violation of the provisions of Sections 1 through 4 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 6. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 7. This act applies only to Lee County.

Section 8. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 302
State and Local Government Committee Substitute Adopted 4/5/99

Short Title: Lee Hunting Regulation. (Local)

Sponsors:

Referred to:

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow or crossbow, or other deadly weapon while on the land of another unless the person is a spouse, child, or grandchild of the landowner or has on his person a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare. This

section shall not apply to law enforcement officers who discharge their firearms in the lawful discharge of their duties.

Section 4. Violation of the provisions of Sections 1 through 3 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Lee County.

Section 7. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 302
Proposed Committee Substitute S302-PCS1596-SD

Short Title: Lee Hunting Regulation. (Local)

Sponsors:

Referred to:

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land of another unless the person has, on his person, a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare.

Section 4. Violation of the provisions of Sections 1 through 3 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-

1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Lee County.

Section 7. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 302
Proposed Committee Substitute S302-PCS2635-SD

Short Title: Lee Hunting Regulation. (Local)

Sponsors:

Referred to:

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow or crossbow, or other deadly weapon while on the land of another unless the person is a spouse, child, or grandchild of the landowner or has on his person a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare. This

section shall not apply to law enforcement officers who discharge their firearms in the lawful discharge of their duties.

Section 4. Violation of the provisions of Sections 1 through 3 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Lee County.

Section 7. This act becomes effective October 1, 1999.

S302:
Lee Hunting Regulations

BILL ANALYSIS

Committee: Senate State & Local Gov.
Date: March 26, 1999
Version: Proposed Com. Sub.
Introduced by: Senators Kinnaird & Lee

Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: Senate bill 302 does the following:

- ***Requires hunters who are not hunting on their own land to get written permission to hunt from either the owner or lessee of the land.***
- ***Requires hunters to display this written permission when asked to by law enforcement.***
- ***Prohibits hunting with a deadly weapon: (i) from a right-of way; (ii) across a right-of-way; or (iii) on a right-of way of public road, highway, or thoroughfare. .***
- ***Makes violation of the act a Class 3 misdemeanor punishable by a $300.00 fine.***

CURRENT LAW: North Carolina has a generally applicable laws that regulate hunting. Under these laws,[1] persons who control hunting rights to a tract of property can register that property with the Wildlife Resources Commission. Once the land is registered, the Commission issues entry permits that are good for one year. Thereafter, hunters must carry these permits when hunting on the land.

Land that is registered with the Commission is required to have "posted" notices. These notices must measure at least 120 square inches and contain the word "POSTED" in letters that are at least three inches high and must also state that the property is registered with the Commission and that hunting is prohibited without an entry permit.

Hunters who are on someone else's land without permission have an affirmative duty to look for these "posted" notices.[2] If land has been registered and "posted" a hunter may not hunt on that land unless she has in her possession a valid entry permit issued by the Commission. Violations of this provision are punishable as a Class 3 misdemeanors for 1st convictions and Class 2 misdemeanor for any subsequent convictions within 2 years.

BILL ANALYSIS: The permits required under current law for land registered with the Wildlife Resources Commission and the permits required by this bill are different. They are issued by different entities. Accordingly, "double jeopardy" does not apply because the elements for the offenses are different.[3] Nonetheless, it is conceivable that hunters in Lee County might in certain instances have to get more than one permit and might be subject to more than one fine.

---

[1] Chapter 113 Article 21A
[2] G.S. § 113-284
[3] State v. Evans, 125 N.C. App. 301, 480 S.E.2d 435, disc. review denied, 346 N.C. 551, 488 S.E.2d 813 (1997)

Ladies and Gentlemen of the General Assembly, it is indeed a pleasure to appear before you today to speak on behalf of the Lee County Hunting Regulations Bill. My name is Don Buie, I am a resident of Lee County and an avid hunter. At the present time I am a member of several Wildlife related organizations: The North Carolina Wildlife Federation serving on the Board of Directors, The F. L. Knight Hunting and Conservation Club in Lee County, serving as the president, past president of the Lee County Wildlife Club and serve as Coach of the Lee County Hunter Safety team.

The Lee County Board of Commissioners appointed a committee to study the issue of local hunting regulations a year ago. The committee was balanced as to representation from various parts of our county and balanced as to hunters and land owners.

The committee held a number of meetings where we studied local laws of surrounding counties. The committee held a public hearing at the Lee County Courthouse to allow for public input and then made a report to the county commission recommending the following regulations:

(1) Prohibiting the hunting from or shooting across highway right of ways

(2) Requiring written permission to hunt with a gun or weapon on private property

The commissioners then held another public hearing for citizen input and then approved the bill and sent it to Raleigh. As with most laws there was and is opposition to this bill, but it is believed that the vast majority of Lee County citizens favor this bill for several reasons:

Safety - The available land for hunting in Lee County is shrinking almost daily. Our new airport required 900 acres of prime forest land, a planned golf course and residential community will claim another 900 acres. We have more people and less land. Also, counties around us have written permission laws which encourages hunters to come to Lee County to hunt. A hunting buddy of mine was in a stand two years ago and had seven different hunters come by during a morning hunt.

Privacy - Our Laws state that no one person owns the game in our great nation but we do have the opportunity to own land. We should have the right to deny access to people from entering our property for the purposes of hunting and we deserve the support of our Wildlife Officers to help us protect the right. Sometimes in our society we feel that it is easier to get forgiveness than permission. A courteous, respectful hunter can contact the land owners during the off season to get the required written permission slips.

Again in the name of safety and respect for landowners right to privacy we hope that you will support this bill.

Donald Buie
Chairman of Lee County
Hunting Regulations
Study Committee 1998
919 776 9687
3519 Wicker St
Sanford, N.C.
27330

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 474

Short Title: Hendersonville ABC Profits. (Local)

Sponsors: Senators Robinson; and Carpenter.

Referred to: State and Local Government.

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE DISTRIBUTION OF THE PROFITS FROM THE HENDERSONVILLE LOCAL ALCOHOLIC BEVERAGE CONTROL SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 954 of the 1955 Session Laws as amended by Section 1 of Chapter 105 of the 1995 Session Laws reads as rewritten:

"Sec. 6. The net profits derived from the operation of a liquor control store in the City of Hendersonville, after deducting the necessary funds for law enforcement as provided in ~~G.S. 18B-805(c)(2),~~ G.S. 18B-805(c)(2) and after deducting the necessary funds for treatment of alcoholism or substance abuse or for research or education on alcoholism or substance abuse as provided in G.S. 18B-805(c)(3), shall be divided as follows: Fifty per cent (50%) for municipality of Hendersonville. Twenty-five per cent (25%) to Governing Body of the County of Henderson. One per cent (1%) to the City Library. Twenty-four per cent (24%) to the Henderson County Public Schools. Such funds shall be subject to appropriation by the Governing Bodies of the City of Hendersonville and the County of Henderson for any lawful purpose."

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

S474:
Hendersonville ABC Profits

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen. Robinson & Carpenter
Date:	March 26, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: ***This act requires the City of Hendersonville to spend 7% of the net profits from its liquor control store(s) for the treatment of alcoholism or substance abuse.***

CURRENT LAW: G.S. § 18B-805(c)(3) requires ABC boards to spend 7% of their net profits from ABC stores on the treatment of alcoholism and substance abuse. This provision however is not applicable if a local board is subject to a local act that sets a different distribution requirement.

The City of Hendersonville operates an ABC store and is subject to a local act that sets a different requirement. That act[1] does not require the city to spend any of the profit from the ABC store on alcoholism or substance abuse.

BILL ANALYSIS: This bill modifies the local act to bring it line with the requirements set forth in G.S. § 18B-805(c)(3).

[1] Chapter 954 of the 1955 Session Laws as amended by Chapter 105 of the 1995 Session Laws.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 153

Short Title: Hoke School Election Filing. (Local)

Sponsors: Representatives Yongue, Bonner, and Sutton (Primary Sponsors).

Referred to: Local Government II.

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE FILING PERIOD FOR THE HOKE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 707 of the 1973 Session Laws is amended by adding a new section to read:

"Section 2.1. Candidates shall file notice of candidacy not earlier than 12:00 noon on the first Monday in July (except that if that day is a holiday, then not earlier than 12:00 noon on the next day) and not later than 12:00 noon on the first Monday in August of the year of election."

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

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Tony C. Goldman, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 10, 1999

To: **Committee on Local Government II**

From: Esther Manheimer, Committee Counsel

Re: **House Bill 153 – Hoke County Board of Education Election Filing – Representative Yongue**

House Bill 153 is a local bill that would amend Chapter 707 of the 1973 Session Laws by adding a new section. The new section, Section 2.1, would require that candidates for the Hoke County Board of Education file notice of candidacy between the first Monday in July and the first Monday in August of the election year.

This act is effective when is becomes law, subject to preclearance by the U.S. Justice Department under Section 5 of the Voting Rights Act.

H153-SMSK-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 501

Short Title: Hospital Authority/Craven. (Local)

Sponsors: Representatives Thomas, Wainwright, and Edwards (Primary Sponsors).

Referred to: Local Government I.

March 18, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING APPOINTMENTS AND COMPENSATION OF HOSPITAL AUTHORITIES IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-18(a) reads as rewritten:

"(a) The ~~mayor or the chairman of the county board~~ board of county commissioners shall appoint the commissioners of the ~~authority.~~ authority in accordance with subsection (d) of this section, as modified in its applicability to Craven County by Chapter 190 of the 1989 Session Laws. There shall be ~~not less than six~~ not fewer than 11 and not more than 30 commissioners. Upon a finding that it is in the public interest, the board of county commissioners may adopt a resolution increasing or decreasing the number of commissioners by a fixed number; Provided that no decrease in the number of commissioners shall shorten a commissioner's term. ~~A certified copy of the resolution and a list of nominees shall be submitted to the mayor or the chairman of the county board of commissioners for appointments in accordance with the procedures set forth in subsection (d) of this section.~~"

Section 2. Section 2 of Chapter 922 of the 1987 Session Laws, Regular Session 1988, is repealed.

Section 3. This act applies to Craven County only.

Section 4. This act is effective when it becomes law.

HOUSE BILL 501:
Hospital Authority/Craven

BILL ANALYSIS

Committee:	House Local Government I	**Introduced by:**	Reps. Thomas, Wainwright and Edwards
Date:	March 23, 1999		
Version:	First Edition	**Summary by:**	Giles S. Perry Committee Counsel

SUMMARY:

House Bill 501 changes the way hospital authorities are selected and compensated in Craven County.

Under current law, hospital authorities in Craven County are selected by the mayor or County Board of Commissioners chairperson, have six to thirty members, and members are eligible for reasonable compensation.

House Bill 501 gives the power to select the hospital authority members to the Craven County Board of Commissioners, requires the Board to have at least 11 members, and eliminates compensation other than expenses.

Effective Date: when it becomes law.

ATTENDANCE

Committee: STATE & LOCAL GOVERNMENT

DATES / NAMES	F 17	M 17	M 24	M 31												
Senator Kinnaird	X	X	X	X												
Senator Dalton	X	X	X	X												
Senator Jordan	X															
Senator Miller	X	X	X	X												
Senator Webster		X	X	X												
Senator Albertson	X	X	X	X												
Senator Ballance	X		X	X												
Senator Clodfelter	X	X	X	X												
Senator Garwood		X	X	X												
Senator Horton	X	X	X	X												
Senator Robinson	X	X	X	X												
Senator Soles	X	X		X												

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 3-31-97

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 1, line 21

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following after the period:

4

5 "This section shall not apply to law

6 enforcement officers ~~that~~ who discharge their

7 firearms ~~while~~ in the lawful discharge

8 of their duties."

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 3-31-99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 1, line 6
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting the line to read:
4
5 "person is ~~the~~ a spouse, child, or grandchild
6 of the landowner or has on his person, a
7 paper writing dated and signed by the
8 owner or lessee of."
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 31, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Donald Bullis	3519 Wicker St Sanford NC 27330
Linda Winn	NC-NOW
B Simmons	NC Equity
Jean Carroll	DC-CFW/DOA
Betty Ann Knudsen	Women's Forum of NC.
Kim Hibbard	NCLM
John V. Hall	NCCES 225 South Steele St. SANFORD, NC
Jane S. Barringer	490 Barringer Road Sanford, NC 27330
Hubert Garner	319 Rob Sullivan Rd Sanford. NC. 27330
Bill Matthews	5479 Loma Springs Dr, Fayetteville NC 27330
William K. Cowan	LEE County Manager P.O. Box 1468, Sanford, N.C. 27330

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 31, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Vernon Dennis	Lee County Commissioner
Ed Paschal	" " "
Gerald E. Shaw	Sanford, N.C.
L.W. Bobby Pollard	Sanford, N.C.
Mary Taylor Valand	Raleigh, NC
Jonathan Valand	Raleigh, NC
Cathy Valand	Raleigh, NC
Paul Stock	NC Bankers
Mary Cornelius	Mecklenburg County
John Hunt	NCFPC
John D'Ippolito	NCFPC

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MARCH 31, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
T. Dail	The Pilot

STATE & LOCAL GOVERNMENT

WEDNESDAY, APRIL 07, 1999

11:00 AM

ROOM 1124 LB

Bills

• SB 333	Equity In Appointments	Sen. Perdue
• SB 709	Mecklenberg School Acquisition	Sen. Odom
• SB 391	Moore Deer Hunting	Sen. Kinnaird
• SB 578	Conference of Clerks of Superior Court	Sen. Jordan
• SB 595	Modify NE Regional Commission	Sen. Robert Martin of Pitt
• SB 626	Durham Fireworks	Sen. Lucas
• SB 627	Durham City Contract Execution	Sen. Lucas

Senator Kinnaird, Chair

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, APRIL 7, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, April 7, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eleven members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 595, Modify NE Regional Commission, was explained by Sen. Robert Martin of Pitt. Sen. Soles moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Jordan moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 709, Mecklenberg School Acquisition, was explained by Sen. Odom. Sen. Garwood moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 333, Equity in Appointments, was explained by Sen. Perdue. Sen. Dalton moved to hear a Proposed Committee Substitute. The motion carried unanimously. Sen. Ballance moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 391, Moore Deer Hunting, was explained by Sen. Kinnaird. Sen. Jordan moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 578, Conference of Clerks of Superior Court, was explained by Sen. Jordan. Sen. Jordan moved to adopt a Proposed Committee Substitute. John Kennedy, Clerk of Superior Court-Wake County, explained the changes in the amendment. The motion carried unanimously. Sen. Ballance moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. The bill was a sequential referred to Appropriation /Base Budget. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 626, Durham Fireworks and SB 627 Durham City Contract Execution were Displaced until next week. The sponsor was not at the meeting.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 07, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **391** Moore Deer Hunting.
Sequential Referral: None
Recommended Referral: None

S.B. **709** Mecklenberg School Acquisition
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

S.B. **333** Equity in Appointments.
Draft Number: PCS 1650
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 3

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, April 12, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **578** Conference of Clerks of Superior Court.

Draft Number:	PCS A607
Sequential Referral:	Appro/Base Budget
Recommended Referral:	None
Long Title Amended:	No

S.B. **595** Modify NE Regional Commission.

Draft Number:	PCS 3714
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 595
State and Local Government Committee Substitute Adopted 4/12/99

Short Title: Modify NE Regional Commission. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAW CREATING THE NORTHEASTERN REGIONAL ECONOMIC DEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-8.2 reads as rewritten:

"**§ 158-8.2. Creation of Northeastern North Carolina Regional Economic Development Commission.**

(a) There is created the Northeastern North Carolina Regional Economic Development Commission to facilitate economic development ~~and tourism development~~ in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and ~~two~~ one ex officio ~~members,~~ member, as ~~follows:~~ provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

(1) Six members shall be appointed by the ~~Governor, including one developer of northeastern North Carolina, one banker, one county~~

~~commissioner from Camden, Currituck, Pasquotank, or Perquimans Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law, and one county commissioner from Beaufort, Bertie, Chowan, or Martin Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law.~~ Governor.

(2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Dare, Hyde, Tyrrell, or Washington Counties.~~ 120-121.

(3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Halifax, Hertford, Gates, or Northampton Counties.~~ 120-121.

(4) The Secretary of Commerce, or a designee.

~~(5) The Secretary of Cultural Resources, or a designee.~~

Any person appointed to the Commission ~~in a categorical appointment as~~ who is also a county commissioner may hold ~~such~~ that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(c) ~~The appointing authority shall designate two of the initial appointees pursuant to subdivision (b)(1), one of the initial appointees pursuant to subdivision (b)(2), two of the initial appointees pursuant to subdivision (b)(3), and two of the initial appointees pursuant to subdivision (b)(4) to serve for terms ending June 30, 1995; the remainder of the initial appointees shall serve for terms ending June 30, 1997. Their successors shall serve for four-year terms ending on June 30 quadrennially thereafter.~~ All members shall serve staggered two-year terms ending on June 30 biennially.

(d) Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122.

(d1) The initial meeting shall be called by the Secretary of the Department of Commerce. The Commission shall meet no less than quarterly.

(e) The Commission shall ~~appoint an economic development advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing an economic development program. The Commission shall also appoint a tourism advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing a tourism development program. Members of the Commission may serve on these advisory boards.~~ elect

annually from among its membership a four-member executive committee consisting of a chair, a vice-chair, a secretary, and a treasurer. Members shall serve one-year terms on the executive committee. The executive committee shall meet no less than quarterly.

(f) In addition to the powers and duties granted to economic development commissions in this Article, the Northeastern North Carolina Regional Economic Development Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:

a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;

b. Enhance economic development activities that use the area's natural resources;

c. Develop and evaluate alternatives for northeastern North Carolina economic development;

d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;

e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;

f. Identify potential sites for economic development; and

g. Carry out other activities to develop and promote economic ~~development;~~ development.

~~(2) Adopt and implement a tourism development program, with the advice and assistance of the tourism advisory board, as follows:~~

~~a. Adopt, implement, and update a water-based tourism development strategy;~~

~~b. Provide assistance to developers with requirements for tourism development, as deemed necessary by the Commission;~~

~~c. Conduct feasibility studies to determine the nature and placement of tourism developments for maximum economic impact;~~

~~d. Identify sites for tourism development; and~~

~~e. Carry out other activities to develop and promote water-based tourism;~~

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and ~~duties; and~~ duties.

(4) Report to the General Assembly by March 31 each year on the work of the Commission.

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission shall hire an employee to serve as president and chief executive officer. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

(h) Members of the Commission who are State employees shall receive travel expenses as provided in G.S. 138-6. Other Commission members shall receive per diem of one hundred dollars ($100.00) a day for each day of service when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5. ~~The Commission may adopt policies authorizing additional per diem of one hundred dollars ($100.00) a day for non-State employee members' additional days of service including Commission subcommittee meetings or other Commission activities, plus reimbursement for related travel and subsistence as provided in G.S. 138-5. Members of the advisory boards who are State employees shall receive travel expenses as provided in G.S. 138-6 for participating in meetings and other official activities authorized by the Commission. Other members of the advisory boards shall receive per diem and travel expenses as provided in G.S. 138-5 for participating in meetings and other official activities authorized by the Commission.~~"

Section 2. The Northeastern North Carolina Regional Economic Development Commission shall make the transition from the former membership to the new membership provided in this act, as follows:

(1) The present executive committee shall serve until a new executive committee is elected.

(2) The Governor and the General Assembly shall make the appointments provided in G.S. 158-8.2(b)(1) through (3) for terms beginning July 1, 1999. Each appointing authority shall designate one-half of the appointees to serve initial terms of three years and shall designate the remaining appointees to serve two-year terms. Their successors shall serve two-year terms.

(3) On the date the members of the Commission appointed pursuant to this section take office, the terms of all current members of the Commission appointed before the effective date of this act expire.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 595
Proposed Committee Substitute S595-PCS3714-LC

Short Title: Modify NE Regional Commission. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAW CREATING THE NORTHEASTERN REGIONAL ECONOMIC DEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-8.2 reads as rewritten:

"**§ 158-8.2. Creation of Northeastern North Carolina Regional Economic Development Commission.**

(a) There is created the Northeastern North Carolina Regional Economic Development Commission to facilitate economic development ~~and tourism development~~ in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and ~~two~~ one ex officio ~~members,~~ member, as ~~follows:~~ provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

(1) Six members shall be appointed by the ~~Governor, including one developer of northeastern North Carolina, one banker, one county~~

~~commissioner from Camden, Currituck, Pasquotank, or Perquimans Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law, and one county commissioner from Beaufort, Bertie, Chowan, or Martin Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law.~~ Governor.

(2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Dare, Hyde, Tyrrell, or Washington Counties.~~ 120-121.

(3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Halifax, Hertford, Gates, or Northampton Counties.~~ 120-121.

(4) The Secretary of Commerce, or a designee.

~~(5) The Secretary of Cultural Resources, or a designee.~~

Any person appointed to the Commission ~~in a categorical appointment as~~ who is also a county commissioner may hold ~~such~~ that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(c) ~~The appointing authority shall designate two of the initial appointees pursuant to subdivision (b)(1), one of the initial appointees pursuant to subdivision (b)(2), two of the initial appointees pursuant to subdivision (b)(3), and two of the initial appointees pursuant to subdivision (b)(4) to serve for terms ending June 30, 1995; the remainder of the initial appointees shall serve for terms ending June 30, 1997. Their successors shall serve for four-year terms ending on June 30 quadrennially thereafter.~~ All members shall serve staggered two-year terms ending on June 30 biennially.

(d) Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122.

(d1) The initial meeting shall be called by the Secretary of the Department of Commerce. The Commission shall meet no less than quarterly.

(e) The Commission shall ~~appoint an economic development advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing an economic development program. The Commission shall also appoint a tourism advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing a tourism development program. Members of the Commission may serve on these advisory boards.~~ elect

annually from among its membership a four-member executive committee consisting of a chair, a vice-chair, a secretary, and a treasurer. Members shall serve one-year terms on the executive committee. The executive committee shall meet no less than quarterly.

(f) In addition to the powers and duties granted to economic development commissions in this Article, the Northeastern North Carolina Regional Economic Development Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:

a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;

b. Enhance economic development activities that use the area's natural resources;

c. Develop and evaluate alternatives for northeastern North Carolina economic development;

d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;

e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;

f. Identify potential sites for economic development; and

g. Carry out other activities to develop and promote economic ~~development;~~ development.

~~(2) Adopt and implement a tourism development program, with the advice and assistance of the tourism advisory board, as follows:~~

~~a. Adopt, implement, and update a water-based tourism development strategy;~~

~~b. Provide assistance to developers with requirements for tourism development, as deemed necessary by the Commission;~~

~~c. Conduct feasibility studies to determine the nature and placement of tourism developments for maximum economic impact;~~

~~d. Identify sites for tourism development; and~~

~~e. Carry out other activities to develop and promote water-based tourism;~~

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and ~~duties; and~~ duties.

(4) Report to the General Assembly by March 31 each year on the work of the Commission.

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission shall hire an employee to serve as president and chief executive officer. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

(h) Members of the Commission who are State employees shall receive travel expenses as provided in G.S. 138-6. Other Commission members shall receive per diem of one hundred dollars ($100.00) a day for each day of service when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5. ~~The Commission may adopt policies authorizing additional per diem of one hundred dollars ($100.00) a day for non-State employee members' additional days of service including Commission subcommittee meetings or other Commission activities, plus reimbursement for related travel and subsistence as provided in G.S. 138-5. Members of the advisory boards who are State employees shall receive travel expenses as provided in G.S. 138-6 for participating in meetings and other official activities authorized by the Commission. Other members of the advisory boards shall receive per diem and travel expenses as provided in G.S. 138-5 for participating in meetings and other official activities authorized by the Commission.~~"

Section 2. The Northeastern North Carolina Regional Economic Development Commission shall make the transition from the former membership to the new membership provided in this act, as follows:

(1) The present executive committee shall serve until a new executive committee is elected.

(2) The Governor and the General Assembly shall make the appointments provided in G.S. 158-8.2(b)(1) through (3) for terms beginning July 1, 1999. Each appointing authority shall designate one-half of the appointees to serve initial terms of three years and shall designate the remaining appointees to serve two-year terms. Their successors shall serve two-year terms.

(3) On the date the members of the Commission appointed pursuant to this section take office, the terms of all current members of the Commission appointed before the effective date of this act expire.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 595

Short Title: Modify NE Regional Commission. (Public)

Sponsors: Senator Martin of Pitt.

Referred to: State and Local Government.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAW CREATING THE NORTHEASTERN REGIONAL DEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 158-8.2 reads as rewritten:

"**§ 158-8.2. Creation of Northeastern North Carolina Regional Economic Development Commission.**

(a) There is created the Northeastern North Carolina Regional Economic Development Commission to facilitate economic development ~~and tourism development~~ in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and any other county assigned to the Commission by the Department of Commerce as authorized by law. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) The Commission shall consist of 18 appointed members and ~~two~~ one ex officio ~~members,~~ member, as ~~follows:~~ provided below. Each appointed member shall be an experienced business person who resides for most of the year in one or more of the counties that are members of the Commission.

(1) Six members shall be appointed by the ~~Governor, including one developer of northeastern North Carolina, one banker, one county commissioner from Camden, Currituck, Pasquotank, or~~

~~Perquimans Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law, and one county commissioner from Beaufort, Bertie, Chowan, or Martin Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law.~~ Governor.

(2) Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Dare, Hyde, Tyrrell, or Washington Counties.~~ 120-121.

(3) Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. ~~120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Halifax, Hertford, Gates, or Northampton Counties.~~ 120-121.

(4) The Secretary of Commerce, or a designee.

~~(5) The Secretary of Cultural Resources, or a designee.~~

Any person appointed to the Commission ~~in a categorical appointment as~~ who is also a county commissioner may hold ~~such~~ that office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission.

(c) ~~The appointing authority shall designate two of the initial appointees pursuant to subdivision (b)(1), one of the initial appointees pursuant to subdivision (b)(2), two of the initial appointees pursuant to subdivision (b)(3), and two of the initial appointees pursuant to subdivision (b)(4) to serve for terms ending June 30, 1995; the remainder of the initial appointees shall serve for terms ending June 30, 1997. Their successors shall serve for four-year terms ending on June 30 quadrennially thereafter.~~ All members shall serve staggered two-year terms ending on June 30 biennially.

(d) Any appointment to fill a vacancy on the Commission shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be in accordance with G.S. 120-122.

(d1) The initial meeting shall be called by the Secretary of the Department of Commerce. The Commission shall meet no less than quarterly.

(e) The Commission shall ~~appoint an economic development advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing an economic development program. The Commission shall also appoint a tourism advisory board made up of no more than seven members to advise and assist the Commission in adopting and implementing a tourism development program. Members of the Commission may serve on these advisory boards.~~ elect annually from among its membership a four-member executive committee consisting

of a chair, a vice-chair, a secretary, and a treasurer. Members shall serve one-year terms on the executive committee. The executive committee shall meet no less than quarterly.

(f) In addition to the powers and duties granted to economic development commissions in this Article, the Northeastern North Carolina Regional Economic Development Commission shall:

(1) Adopt and implement an economic development program, with the assistance of the economic development advisory board, as follows:

a. Survey northeastern North Carolina and determine the assets, liabilities, and resources that the region contributes to the economic development process;

b. Enhance economic development activities that use the area's natural resources;

c. Develop and evaluate alternatives for northeastern North Carolina economic development;

d. Develop a preferred economic development plan for the region and establish strategies for implementing the plan;

e. Conduct feasibility studies to determine the nature and placement of economic developments for maximum economic impact;

f. Identify potential sites for economic development; and

g. Carry out other activities to develop and promote economic ~~development;~~ development.

~~(2) Adopt and implement a tourism development program, with the advice and assistance of the tourism advisory board, as follows:~~

~~a. Adopt, implement, and update a water-based tourism development strategy;~~

~~b. Provide assistance to developers with requirements for tourism development, as deemed necessary by the Commission;~~

~~c. Conduct feasibility studies to determine the nature and placement of tourism developments for maximum economic impact;~~

~~d. Identify sites for tourism development; and~~

~~e. Carry out other activities to develop and promote water-based tourism;~~

(3) Coordinate activities with and enter into contracts with any nonprofit corporation created to assist the Commission in carrying out its powers and ~~duties; and~~ duties.

(4) Report to the General Assembly by March 31 each year on the work of the Commission.

(g) Within the limits of funds available, the Commission may hire and fix the compensation of any personnel necessary to its operations, contract with consultants

for any services as it may require, and contract with the State of North Carolina or the federal government, or any agency or department thereof, for any services as may be provided by those agencies. The Commission shall hire an employee to serve as president and chief executive officer. The Commission may carry out the provisions of any contracts it may enter.

Within the limits of funds available, the Commission may lease, rent, purchase, or otherwise obtain suitable quarters and office space for its staff, and may lease, rent, or purchase necessary furniture, fixtures, and other equipment.

(h) Members of the Commission who are State employees shall receive travel expenses as provided in G.S. 138-6. Other Commission members shall receive per diem of one hundred dollars ($100.00) a day for each day of service when the Commission meets and shall be reimbursed for travel and subsistence as provided in G.S. 138-5. ~~The Commission may adopt policies authorizing additional per diem of one hundred dollars ($100.00) a day for non-State employee members' additional days of service including Commission subcommittee meetings or other Commission activities, plus reimbursement for related travel and subsistence as provided in G.S. 138-5. Members of the advisory boards who are State employees shall receive travel expenses as provided in G.S. 138-6 for participating in meetings and other official activities authorized by the Commission. Other members of the advisory boards shall receive per diem and travel expenses as provided in G.S. 138-5 for participating in meetings and other official activities authorized by the Commission.~~"

Section 2. The Northeastern North Carolina Regional Economic Development Commission shall make the transition from the former membership to the new membership provided in this act, as follows:

(1) The present executive committee shall serve until a new executive committee is elected.

(2) The Governor and the General Assembly shall make the appointments provided in G.S. 158-8.2(b)(1) through (3) for terms beginning July 1, 1999. Each appointing authority shall designate one-half of the appointees to serve initial terms of three years and shall designate the remaining appointees to serve two-year terms. Their successors shall serve two-year terms.

(3) On the date the members of the Commission appointed pursuant to this section take office, the terms of all current members of the Commission appointed before the effective date of this act expire.

Section 3. This act is effective when it becomes law.

SB 595:
Modify NE Regional Commission

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Senator Martin of Pitt
Date:	April 6, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 595 modifies the membership and the powers and duties of the Northeastern Regional Development Commission

CURRENT LAW: The Northeastern Regional Development Commission was established in 1993 pursuant to the provisions of G.S. 158-8.2. The composition of the Board was modified over the years and currently consists of 18 members and 2 ex officio members, 6 appointed by the Governor, 6 by the President Pro Tem, and 6 by the Speaker according to the specifications spelled out in the statute. The NE Regional Development Commission is authorized to adopt and implement economic development programs and tourism development programs.

BILL ANALYSIS: Senate Bill 595 removes the languge in G.S. 158-8.2(f) authorzing the NE Regional Development commission to adopt and implement a tourism program. The bill also makes a number of modifications to the membership of the Commission. The Secretary of Cultural Resources is removed as an ex officio member. Further, the specifications for appointment of members by each appointing authority are eliminated and provision is made requiring each appointed member to be an experienced business person residing for most of the year in a member county of the Commission. Other changes include reducing Commission member terms from 4year terms to 2 year staggered terms ending on June 30 biennially, requiring quarterly meetings, and establishing an executive committee also required to meet at least quarterly. The Commission is directed to hire an employee to serve as president and CEO of the Commission The per diem allowance for Commission members is limited to travel expenses for members who are State employees, as provided in G.S. 138-6. Other members of the Commission are entitled to $100 per day per diem plus travel and subsistence as provided in G.S. 138-5. (G.DS. 138-5 provides $15 per diem). Provisionsion is made for the transition to the new Commission membership with the existing executive committee serving until a new committee is elected, and the Governor, President Pro Tem and Speaker making appointments for terms beginning July 1, 1999. One-half of the appointees of each appointing authority shal serve initial terms of 3 years and half shall serve 2 year terms. The terms of the members of the Commission appointed prior to the effective date of the act shall terminate the date the persons appointed pursuant to this act take office.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 709*

Short Title: Mecklenburg School Acquisition. (Local)

Sponsors: Senators Odom; and Clodfelter.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW MECKLENBURG COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-158.1 reads as rewritten:

"**§ 153A-158.1. Acquisition and improvement of school property in certain counties.**

(a) Acquisition by County. -- A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. -- A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. -- Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. -- Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. -- This section applies to Alamance, Alexander, Alleghany, Ashe, Avery, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Columbus, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Mecklenburg, Mitchell, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Union, Vance, Wake, Watauga, Wayne, Wilkes, and Wilson Counties."

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

SB 709:
Mecklenburg School Acquisition

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Senator Odom
Date:	April 7, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 709 adds Mecklenburg County to the 75 counties who are authorized to aquire property for use by the local Boards of Education.***

CURRENT LAW: G.S. 153A-158.1 allows a county to to acquire and improve property for use by a local school administrative unit within the county. Such acquisition may occur only upon the request by the board of education and after a public hearing. In addition, a county may construct and equip property for use of a local public school. The local board of education may, in connection with any improvements made to its property, lease or sell the property to the board of county commissioners. Local boards of education may also enter into construction contracts for school buildings on sites owned by the county in which the school is to be located.

BILL ANALYSIS: Senate Bill 709 adds Mecklenburg County to those counties to whom G.S. 153A-158.1 applies. Utilizing this section has a number of advantages to school systems including allowing the use of the installment purchase method (local acts allowing school systems to use this method are prohibited by Article V, Section 4(1) of the North Carolina Constitution) and counties may obtain sales tax refunds on their purchases pursuant to G.S. 105-164.14 that are not available to local school boards.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 333*
State and Local Government Committee Substitute Adopted 3/29/99
State and Local Government Committee Substitute #2 Adopted 4/7/99

Short Title: Equity in Appointments. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MEMBERSHIP OF STATUTORILY CREATED DECISION-MAKING OR REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES; PROVIDING INTENT; PROVIDING POLICY WITH RESPECT TO THE APPOINTMENT OF MEMBERS TO SUCH BODIES TO ENCOURAGE PROPORTIONATE REPRESENTATION OF WOMEN; REQUIRING ANNUAL REPORTS; AND REQUIRING RETENTION OF CERTAIN INFORMATION REGARDING APPLICANTS.

The General Assembly of North Carolina enacts:

Section 1.(a) It is the intent of the General Assembly to recognize the importance of balance in the appointment of both genders to membership on statutorily created decision-making and regulatory boards, commissions, councils, and committees, and to promote that balance through the provisions of this section. Furthermore, the General Assembly recognizes that statutorily created decision-making and regulatory boards, commissions, councils, and committees play a vital role in shaping public policy for North Carolina, and the selection of well-qualified candidates is the paramount obligation of the appointing authority.

Section 1.(b) In appointing members to any statutorily created decision-making or regulatory board, commission, council, or committee of the State, the appointing authority should select, from among the most qualified persons, those persons whose appointment would promote membership on the board, commission, council, or committee that accurately reflects the proportion that each gender

represents in the population of the State as a whole or, in the case of a local board, commission, council, or committee, in the population of the area represented by the board, commission, council, or committee, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the board, commission, council, or committee, they shall consult with each other to accomplish the purposes of this section.

Section 1.(c) Each appointing authority described in subsection (b) shall submit a report to the Secretary of State annually by December 1 which discloses the number of appointments made during the preceding year from each gender and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the board, commission, council, or committee. A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 1.(d) This act applies to appointments and reappointments made after the effective date of this act. It does not prohibit a member of a decision-making or regulatory board, commission, council, or committee from completing a term being served as such member when this act takes effect. A person appointed to a decision-making or regulatory board, commission, council, or committee before the effective date of this act may not be removed from office solely for the purpose of meeting the requirements of this section.

Section 2. This act becomes effective June 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 333*
State and Local Government Committee Substitute Adopted 3/29/99

Short Title: Equity in Appointments. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MEMBERSHIP OF STATUTORILY CREATED DECISION-MAKING OR REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES; PROVIDING INTENT; PROVIDING POLICY WITH RESPECT TO THE APPOINTMENT OF MEMBERS TO SUCH BODIES TO ENSURE PROPORTIONATE REPRESENTATION OF WOMEN; REQUIRING ANNUAL REPORTS; AND REQUIRING RETENTION OF CERTAIN INFORMATION REGARDING APPLICANTS.

The General Assembly of North Carolina enacts:

Section 1.(a) It is the intent of the General Assembly to recognize the importance of balance in the appointment of both genders to membership on statutorily created decision-making and regulatory boards, commissions, councils, and committees, and to promote that balance through the provisions of this section. Furthermore, the General Assembly recognizes that statutorily created decision-making and regulatory boards, commissions, councils, and committees play a vital role in shaping public policy for North Carolina, and the selection of well-qualified candidates is the paramount obligation of the appointing authority.

Section 1.(b) In appointing members to any statutorily created decision-making or regulatory board, commission, council, or committee of the State, the appointing authority should select, from among the most qualified persons, those persons whose appointment would ensure that the membership of the board, commission, council, or committee accurately reflects the proportion that each gender represents in the population of the State as a whole or, in the case of a local board,

commission, council, or committee, in the population of the area represented by the board, commission, council, or committee, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the board, commission, council, or committee, they shall consult with each other to ensure compliance with this section.

Section 1.(c) Each appointing authority described in subsection (b) shall submit a report to the Secretary of State annually by December 1 which discloses the number of appointments made during the preceding year from each gender and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the board, commission, council, or committee. A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 1.(d) This act applies to appointments and reappointments made after the effective date of this act. It does not prohibit a member of a decision-making or regulatory board, commission, council, or committee from completing a term being served as such member when this act takes effect. A person appointed to a decision-making or regulatory board, commission, council, or committee before the effective date of this act may not be removed from office solely for the purpose of meeting the requirements of this section.

Section 2. This act becomes effective June 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 333*
State and Local Government Committee Substitute Adopted 3/29/99
Proposed Committee Substitute S333-PCS1650-RF

Short Title: Equity in Appointments. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MEMBERSHIP OF STATUTORILY CREATED DECISION-MAKING OR REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES; PROVIDING INTENT; PROVIDING POLICY WITH RESPECT TO THE APPOINTMENT OF MEMBERS TO SUCH BODIES TO ENCOURAGE PROPORTIONATE REPRESENTATION OF WOMEN; REQUIRING ANNUAL REPORTS; AND REQUIRING RETENTION OF CERTAIN INFORMATION REGARDING APPLICANTS.

The General Assembly of North Carolina enacts:

Section 1.(a) It is the intent of the General Assembly to recognize the importance of balance in the appointment of both genders to membership on statutorily created decision-making and regulatory boards, commissions, councils, and committees, and to promote that balance through the provisions of this section. Furthermore, the General Assembly recognizes that statutorily created decision-making and regulatory boards, commissions, councils, and committees play a vital role in shaping public policy for North Carolina, and the selection of well-qualified candidates is the paramount obligation of the appointing authority.

Section 1.(b) In appointing members to any statutorily created decision-making or regulatory board, commission, council, or committee of the State, the appointing authority should select, from among the most qualified persons, those persons whose appointment would promote membership on the board, commission, council, or committee that accurately reflects the proportion that each gender

represents in the population of the State as a whole or, in the case of a local board, commission, council, or committee, in the population of the area represented by the board, commission, council, or committee, as determined pursuant to the most recent federal decennial census, unless the law regulating such appointment requires otherwise. If there are multiple appointing authorities for the board, commission, council, or committee, they shall consult with each other to accomplish the purposes of this section.

Section 1.(c) Each appointing authority described in subsection (b) shall submit a report to the Secretary of State annually by December 1 which discloses the number of appointments made during the preceding year from each gender and the number of appointments of each gender made, expressed both in numerical terms and as a percentage of the total membership of the board, commission, council, or committee. A copy of the report shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. In addition, each appointing authority shall designate a person responsible for retaining all applications for appointment, who shall ensure that information describing each applicant's gender and qualifications is available for public inspection during reasonable hours. Nothing in this section requires disclosure of an applicant's identity or of any other information made confidential by law.

Section 1.(d) This act applies to appointments and reappointments made after the effective date of this act. It does not prohibit a member of a decision-making or regulatory board, commission, council, or committee from completing a term being served as such member when this act takes effect. A person appointed to a decision-making or regulatory board, commission, council, or committee before the effective date of this act may not be removed from office solely for the purpose of meeting the requirements of this section.

Section 2. This act becomes effective June 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 391

Short Title: Moore Deer Hunting. (Local)

Sponsors: Senators Kinnaird; and Lee.

Referred to: State and Local Government.

March 16, 1999

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DEER HUNTING IN MOORE COUNTY WITHOUT THE WRITTEN PERMISSION OF THE LANDOWNER, TO PROHIBIT DEER HUNTING FROM THE RIGHT-OF-WAY OF A PUBLIC ROAD IN MOORE COUNTY, AND TO REQUIRE OWNER IDENTIFICATION ON DOGS USED TO HUNT DEER IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt deer on the land of another unless the hunter has, on the hunter's person, a written permission signed and dated by the owner or lessee of the land granting the hunter permission to hunt deer on that land. If the land is owned or leased by a club, the president of the club shall issue the permission to club members to hunt deer. Unless otherwise specified in the writing, the written permission shall be valid for one year from the date of the permission. The written permission shall be displayed upon request to any law enforcement officer with the authority to enforce this act.

Section 2. It is unlawful to hunt, take, or kill deer at any time on, from, or across the right-of-way of any public road or highway.

Section 3. It is unlawful to hunt deer with the aid of dogs unless each dog bears a collar, tag, or other identification showing its owner's full name and address. It is unlawful for any person other than the dog's owner to remove an identification collar or tracking collar from a dog. The provisions of this section shall not apply to a landowner or the landowner's children while those persons are hunting deer on the landowner's property.

Section 4. Violation of this act is a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of this act is punishable (i) upon a first conviction by a fine of not less than three hundred dollars ($300.00) and not more than five hundred dollars ($500.00), and (ii) upon a second or subsequent conviction by a fine of not less than five hundred dollars ($500.00) and not more than seven hundred dollars ($700.00), by imprisonment for up to 60 days, loss of the defendant's North Carolina hunting license, or all three, in the discretion of the court.

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Moore County.

Section 7. This act becomes effective October 1, 1999.

S391:
Moore Deer Hunting

BILL ANALYSIS

Committee: Senate State & Local Gov.
Date: March 23, 1999
Version: 1st. Ed.
Introduced by: Senators Kinnaird & Lee

Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: Senate bill 391 does the following:

- ***Requires deer hunters who are not hunting on their own land to get written permission to hunt from either the owner or lessee of the land.***
- ***Prohibits deer hunting: (i) from a right-of way; (ii) across a right-of-way; or (iii) on a right-of way of public road or highway.***
- ***Requires that dogs used in hunting deer bear their owners name when not on their owner's land.***
- ***Makes it unlawful for anyone other than a dog's owner to remove a dog's collar***
- ***Provides that a violation of the act is a Class 3 misdemeanor punishable by: (i) a fine of $300.00 to $500 for a 1st offense; and (ii) a fine from $500 to $700, or jail time of up to 60 days, or loss of a hunting license or all three for a 2nd or any subsequent offenses .***

CURRENT LAW: North Carolina has a generally applicable laws that regulate hunting. Under these laws,[1] persons who control hunting rights to a tract of property can register that property with the Wildlife Resources Commission. Once the land is registered, the Commission issues entry permits that are good for one year. Thereafter, hunters must carry these permits when hunting on the land.

Land that is registered with the Commission is required to have "posted" notices. These notices must measure at least 120 square inches and contain the word "POSTED" in letters that are at least three inches high and must also state that the property is registered with the Commission and that hunting is prohibited without an entry permit.

Hunters who are on someone else's land without permission have an affirmative duty to look for these "posted" notices.[2] If land has been registered and "posted" a hunter may not hunt on that land unless she has in her possession a valid entry permit issued by the Commission. Violations of this provision are punishable as a Class 3 misdemeanors for 1st convictions and Class 2 misdemeanor for any subsequent convictions within 2 years.

BILL ANALYSIS: The permits required under current law for land and the permits required by this bill are different. They are issued by different entities. Accordingly, "double jeopardy" does not apply because the elements for the offenses are different.[3] Nonetheless, it is conceivable that deer hunters in Moore County might in certain instances have to get more than one permit and might be subject to more than one fine.

---

[1] Chapter 113 Article 21A
[2] G.S. § 113-284
[3] State v. Evans, 125 N.C. App. 301, 480 S.E.2d 435, disc. review denied, 346 N.C. 551, 488 S.E.2d 813 (1997)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 578
State and Local Government Committee Substitute Adopted 4/12/99

Short Title: Conference of Clerks of Superior Court. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A CONFERENCE OF CLERKS OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 33.

"Conference of Clerks of Superior Court.

"**§ 7A-420. Establishment and purpose.**

There is created the Conference of Clerks of Superior Court of North Carolina, of which the elected Clerk of Superior Court of each county in the State of North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the case processing and judicial efforts of the various Clerks of Superior Court. The Conference shall exercise the powers and duties provided for in this Article.

"**§ 7A-421. Annual meetings; organization; election of officers.**

(a) Annual Meetings. -- The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. -- Officers of the Conference are a President, a Vice-President, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference.

(c) Executive Committee. -- The Executive Committee of the Conference shall consist of the President, the Vice-President, and other officers and appointees from among its membership as the Conference shall designate in its bylaws.

(d) Organization and Functioning; Bylaws. -- The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

"**§ 7A-422. Powers of Conference.**

(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.

(2) Assist Clerks of Superior Court in establishing consistent systems and methods for processing various court actions.

(3) Provide training and instruction in the various judicial responsibilities of the Clerks of Superior Court.

(4) Cooperate with the Administrative Office of the Courts and the Institute of Government concerning education and training programs for Clerks of Superior Court and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"**§ 7A-423. Executive Secretary; clerical support.**

The Conference may employ an Executive Secretary and any necessary supporting staff to assist it in carrying out its duties."

Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 578

Short Title: Conference of Clerks of Superior Court. (Public)

Sponsors: Senator Jordan.

Referred to: State and Local Government.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A CONFERENCE OF CLERKS OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 33.

"Conference of Clerks of Superior Court.

"**§ 7A-420. Establishment and purpose.**

There is created the Conference of Clerks of Superior Court of North Carolina, of which every clerk of superior court in North Carolina is a member. The purpose of the Conference is to assist in improving the operation of the General Court of Justice by coordinating activity between the clerks of court and other elected officials in the judicial system, by providing a focal point for the training and education of clerks and their staffs, by assisting clerks in the administration of their offices, and by exercising the powers and performing the duties provided for in this Article.

"**§ 7A-421. Annual meetings; organization; election of officers.**

(a) Annual Meetings. -- The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. -- Officers of the Conference are a President, a President-elect, a Vice-president, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference, and take office on July 1 immediately following their election.

(c) Executive Committee. -- The Executive Committee of the Conference consists of the President, the President-elect, the Vice-president, and four other members of the Conference. One of these four members shall be the immediate past president if there is one and if he continues to be a member.

(d) Organization and Functioning; Bylaws. -- The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

(e) Calling Meetings; Duty to Attend. -- The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees.

"**§ 7A-422. Powers of Conference.**

(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective operation of the General Court of Justice.

(2) Assist clerks in the organization and administration of their offices.

(3) Cooperate with the Administrative Office of the Courts and the Institute of Government concerning education and training programs for clerks and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"**§ 7A-423. Executive Secretary; clerical support.**

The Conference may employ an Executive Secretary and any necessary supporting staff to assist it in carrying out its duties."

Section 2. This act becomes effective July 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

DATE: _____

S.B. No. 578 Amendment No. _____
(to be filed in by
Principal Clerk)

Sen.) _____

moves to amend the bill on page 1, lines 11 through 16, by deleting lines 11 through 16 and inserting the following:

"which the elected Clerk of Superior Court of each County in the State of North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the case processing and judicial efforts of the various Clerks of Superior Court. The Conference shall exercise the powers and duties provided for in this Article."

and further moves to amend the bill on page 1, lines 20 and 21 by deleting the following:

"a President-elect,"

and further moves to amend the bill on page 1, lines 23 and 24 by deleting the following:

", and take office on July 1 immediately following their election"

and further moves to amend the bill on page 2, lines 1 through 4 by deleting the lines 1 through 4 and inserting the following:

"(c) Executive Committee -- The Executive Committee of the Conference shall consist of the President, Vice-president, and other officers and appointees from among its membership as the Conference shall designate in its bylaws."

and further moves to amend the bill on page 2, lines 10 through 15, by deleting lines 10 through 15,

and further moves to amend the bill on page 2, lines 19 through 20 by deleting lines 19 through 20 and inserting the following:

"promote the effective administration of justice.
(2) Assist Clerks of Superior Court in establishing consistent systems and methods for processing various court actions.
(3) Provide training and instruction in the various judicial responsibilities of the Clerks of Superior Court."

and further moves to amend the bill on page 2, line 21, by renumbering the paragraph as paragraph (4),

and further moves to amend the bill on page 2, line 23, by deleting "clerks" and inserting the following:

"Clerks of Superior Court"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

99S578a.doc/bills

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 578
Proposed Committee Substitute S578-PCSA607

Short Title: Conference of Clerks of Superior Court. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A CONFERENCE OF CLERKS OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 33.

"Conference of Clerks of Superior Court.

"**§ 7A-420. Establishment and purpose.**

There is created the Conference of Clerks of Superior Court of North Carolina, of which the elected Clerk of Superior Court of each county in the State of North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the case processing and judicial efforts of the various Clerks of Superior Court. The Conference shall exercise the powers and duties provided for in this Article.

"**§ 7A-421. Annual meetings; organization; election of officers.**

(a) Annual Meetings. -- The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. -- Officers of the Conference are a President, a Vice-President, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference.

(c) Executive Committee. -- The Executive Committee of the Conference shall consist of the President, the Vice-President, and other officers and appointees from among its membership as the Conference shall designate in its bylaws.

(d) Organization and Functioning; Bylaws. -- The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

"**§ 7A-422. Powers of Conference.**

(a) The Conference may:

(1) Cooperate with citizens and other public and private agencies to promote the effective administration of justice.

(2) Assist Clerks of Superior Court in establishing consistent systems and methods for processing various court actions.

(3) Provide training and instruction in the various judicial responsibilities of the Clerks of Superior Court.

(4) Cooperate with the Administrative Office of the Courts and the Institute of Government concerning education and training programs for Clerks of Superior Court and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150B of the General Statutes.

"**§ 7A-423. Executive Secretary; clerical support.**

The Conference may employ an Executive Secretary and any necessary supporting staff to assist it in carrying out its duties."

Section 2. This act becomes effective July 1, 1999.

SB 578:
Conference of Clerks of Superior Court

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Senator Jordan
Date:	April 6, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 578 establishes a Conference of Clerks of Superior Court to assist in improving the operation of the General Court of Justice. All clerks of superior court in the State shall be members of the Conference.***

BILL ANALYSIS: Senate Bill 578 adds a new Article 33 to Chapter 7A of the General Statutes that establishes the Conference. Officers, which shall include a President, President-elect, and Vice-president, are to be elected from the membership at the annual conference. The bill also provides for an Executive Committee, consisting of the President, President-elect, Vice-president and 4 other members, the adoption of by-laws, and the calling of meetings. Members have a duty to attend each meeting of the conference and are entitled to reimbursement for travel and subsistence expenses at the same rate as State employees. The Conference shall have the power to cooperate with citizens, and public and private agencies for the effective operation of the General Court of Justice, assist clerks in the operation of their offices, and cooperate with the AOC and IOG regarding education and training programs for clerks and staff. The Conference is authorized to employ an Executive Secretary. The Conference may not adopt rules.

The act becomes effective July 1, 1999.

VISITOR REGISTRATION SHEET

STATE & LOCAL GOV. 4-7-99

Name of Committee Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
[illegible]	AOC
[illegible]	Clerk of Superior Court - Wake
[illegible]	NCSOS
Kim Hibbard	NCLM
[illegible]	NC Council for Women
[illegible]	NC Equity
[illegible]	NC-NAS
[illegible]	AIA NC
[illegible]	AIA-NC
[illegible]	Mecklenburg County
[illegible]	Meck. Co.
[illegible]	Moore Van Allen

STATE & LOCAL GOVERNMENT

WEDNESDAY, APRIL 14, 1999

11:00 AM

ROOM 1124 LB

- Bills

• SB 350	Charlotte Private Prop. Dispositi	Sen. Odom
• SB 573	Charlotte Development	Sen. Clodfelter
• SB 659	Meck School Const. Flexibility	Sen. Clodfelter
• SB 625	Durham Privilege License Technica	Sen. Lucas
• SB 626	Durham Fireworks	Sen. Lucas
• SB 627	Durham City Contract Execution	Sen. Lucas
• SB 700	Durham City Zoning Notice	Sen. Lucas
• SB 652	Ambulance Service Fraus/Durham	Sen. Gulley
• SB 719	Durham City Development Plans	Sen. Gulley
• SB 720	Durham Zoning Notices	Sen. Gulley
• HB 652	Roanoke Island Historical Assoc.	Rep. Bill Culpepper

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, APRIL 14, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, April 14, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 350, Charlotte Private Prop. Dispositi, was explained by Sen. Clodfelter. Sen. Soles moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Albertson moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 573, Charlotte Development, was explained by Sen. Clodfelter. Sen. Ballance moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 659, Meck School Const. Flexibility, was withdrawn from the agenda.

SB 625, Durham Privilege License Technical, was explained by Sen. Gulley. Sen. Ballance Moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**.

SB 626, Durham Fireworks, was explained by Sen. Gulley. Sen. Ballance moved to adopt the Amendment. The motion carried unanimously. Sen. Ballance moved to give the bill a favorable report as amended. The motion carried unanimously. **Favorable, As Amended.**

SB 627, Durham City Contract Execution, was explained by Sen. Gulley. Sen. Albertson moved a favorable report of the bill. The motion carried unanimously. **Favorable Report**.

SB 700, Durham City Zoning Notice, was withdrawn. Same as SB 720.

SB 652, Ambulance Service Fraud/Durham, was explained by Sen. Gulley. Sen. Horton moved a favorable report of the bill. The motion carried. **Favorable Report.**

SB 719, Durham City Development Plans, was explained by Sen. Gulley. Sen. Ballance moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 720, Durham Zoning Notices, was explained by Sen. Gulley. Sen. Horton moved to hear the technical amendment. The motion carried unanimously. Sen. Miller

moved to hear a technical amendment. The motion carried unanimously. Sen. Miller moved to adopt Committee Substitute. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 652, Roanoke Island Historical Assoc., was explained by Sen. Soles. Sen. Albertson moved to adopt a Proposed Senate Committee Substitute. The motion carried unanimously. Sen. Albertson moved to give the Proposed Senate Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 14, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **573** Charlotte Development.
Sequential Referral: None
Recommended Referral: None

S.B. **625** Durham Privilege License Technical.
Sequential Referral: None
Recommended Referral: None

S.B. **627** Durham City Contract Execution.
Sequential Referral: None
Recommended Referral: None

S.B. **652** Ambulance Service Fraud/Durham.
Sequential Referral: None
Recommended Referral: None

S.B. **719** Durham City Development Plans.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

S.B. **626** Durham Fireworks.
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 6

Committee Clerk Comment: None

CORRECTED COPY

SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, April 15, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **350** Charlotte Property Disposition.

Draft Number:	PCS 1702
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **720** Durham Zoning Notice.

Draft Number:	PCS 2743
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B(CS #1)**652** Roanoke Island Historical Assoc.

Draft Number:	PCS 6159
Sequential Referral:	none
Recommended Referral:	none
Long Title Amended:	No

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 350
State and Local Government Committee Substitute Adopted 4/15/99

Short Title: Charlotte Property Disposition. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE OR SUBJECT TO RESTRICTIONS OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws as amended by Chapter 216, Session Laws of 1967, Chapter 92 of the Session Laws of 1983, and Chapter 343 of the Session Laws of 1985, and as rewritten by Chapter 170 of the 1995 Session Laws, reads as rewritten:

"Section 9.22. Real Property. (a) The City Council shall have the power at all times to sell any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North Carolina in the foreclosure of mortgages or deeds of trust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor or the Mayor's designee and attested by the City ~~Clerk,~~ Clerk or Deputy City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale

of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

(b) The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

(c) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

(d) The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(e) When the City Council determines that a sale or disposition of property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction,including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction. Notwithstanding the foregoing, the city may not sell the land or buildings located at 100 Paul Buck Boulevard by private sale."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 350

Short Title: Charlotte Private Property Disposition. (Local)

Sponsors: Senators Odom; Clodfelter, Dannelly, and Rucho.

Referred to: State and Local Government.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE AND/OR SUBJECT TO RESTRICTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte being Section 1 of Chapter 713 of the Session Laws of 1965, as amended by Section 1 of Chapter 92 of the Session Laws of 1983, and as further amended by Section 3 of Chapter 343 of the Session Laws of 1985, reads as rewritten:

"Section 9.22. Real Property. The City Council shall have the power at all times to sell any real property belonging to the City after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North carolina in the foreclosure of mortgages or deeds of rust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor, or his or her designee, and attested by the City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other

governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

The City may convey interest in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

The City Council may, upon the affirmative vote of the City Council, publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged, or otherwise conveyed any property, real or personal or any interest in such property, belonging to the City.

The City Council may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to such covenants, conditions, and restrictions as the City Council may deem to be in the public interest. Such sale, exchange, or other transfer may be made pursuant to either (i) Section 9.22 of the Charter, (ii) Article 12 of Chapter 160A of the North Carolina General Statutes, (iii) G.S. 160A-514, or (iv) any other applicable provision of law, and the consideration received by the City, if any, for such sale, exchange, or transfer may reflect the restricted use of the property resulting from such covenants, conditions, and restrictions. The City may invite bids or written proposals (including detailed development plans and site plans for the purchase of any such property or property interest (whether by sale, exchange, or other transfer) pursuant to such specifications as may be approved by the City. A sale, exchange, or other transfer of real property (or interest therein) pursuant to this section may be made contingent upon any necessary rezoning of such property.

The authority contained in this section is in addition to and not in limitation of any other authority granted by this charter or any other law."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 350
Proposed Committee Substitute S350-PCS4600-SD

Short Title: Charlotte Property Disposition. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE OR SUBJECT TO RESTRICTIONS OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws as amended by Chapter 216, Session Laws of 1967, Chapter 92 of the Session Laws of 1983, and Chapter 343 of the Session Laws of 1985, and as rewritten by Chapter 170 of the 1995 Session Laws, reads as rewritten:

"Section 9.22. Real Property. (a) The City Council shall have the power at all times to sell any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North Carolina in the foreclosure of mortgages or deeds of trust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor or the Mayor's designee and attested by the City ~~Clerk,~~ Clerk or Deputy City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale

of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

(b) The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

(c) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

(d) The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(e) When the City Council determines that a sale or disposition of property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction,including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 350
Proposed Committee Substitute S350-PCS4600-SD

Short Title: Charlotte Property Disposition. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE OR SUBJECT TO RESTRICTIONS OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws as amended by Chapter 216, Session Laws of 1967, Chapter 92 of the Session Laws of 1983, and Chapter 343 of the Session Laws of 1985, and as rewritten by Chapter 170 of the 1995 Session Laws, reads as rewritten:

"Section 9.22. Real Property. (a) The City Council shall have the power at all times to sell any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North Carolina in the foreclosure of mortgages or deeds of trust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor or the Mayor's designee and attested by the City ~~Clerk,~~ Clerk or Deputy City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale

of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

(b) The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

(c) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

(d) The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(e) When the City Council determines that a sale or disposition of property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction,including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

S350-PCSSD-002
SENATE BILL 350
Proposed Committee Substitute

Short Title: Charlotte Property Disposition. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE WITH RESPECT TO EXECUTION OF DEEDS AND THE DISPOSITION OF REAL PROPERTY BY PRIVATE SALE OR SUBJECT TO RESTRICTIONS OR BOTH.

The General Assembly of North Carolina enacts:

Section 1. Section 9.22 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws as amended by Chapter 216, Session Laws of 1967, Chapter 92 of the Session Laws of 1983, and Chapter 343 of the Session Laws of 1985, and as rewritten by Chapter 170 of the 1995 Session Laws, reads as rewritten:

"Section 9.22. Real Property. (a) The City Council shall have the power at all times to sell any real property belonging to the city after having advertised the same once a week for four (4) consecutive weeks in a newspaper published in Mecklenburg County following the procedure prescribed by the general laws of the State of North Carolina in the foreclosure of mortgages or deeds of trust under the power of sale therein contained; provided, that before any bid shall be deemed accepted or any sale made, or any title passed by virtue of said sale, such sale shall be confirmed by the City Council and said Council may, in its discretion, refuse confirmation, and when so authorized, a deed for said real estate may be executed by the Mayor or the Mayor's

designee and attested by the City ~~Clerk,~~ Clerk or Deputy City Clerk, with the corporate seal of the city attached; provided, however, this Section shall not apply to plots in the cemetery except as to the manner of execution of the deed. In the sale of real estate, the city is authorized to execute deeds in the usual form and containing full covenants of warranty.

(b) The City Council is hereby authorized to sell, convey, transfer, or assign any or all right, title and interest in or to real property owned by the City of Charlotte to other governmental units at private sale, when in the judgment of the City, such real property is no longer needed or suitable for the purposes of the City, or when such sale is deemed to be in the public interest.

(c) The City may convey interests in real property owned by it by private negotiation or sale, with respect to parcels of property having a fair market value of ten thousand dollars ($10,000) or less, and Article 12 of Chapter 160A of the General Statutes shall not apply to such dispositions. The City Manager is authorized and empowered to approve such dispositions.

(d) The City may, in addition to other authorized means, convey real property owned by it to persons of low or moderate income for residential purposes using the negotiated offer, advertisement, and upset bid process and requirements established by G.S. 160A-269, provided, however, the City may lower the bid deposit requirement to an amount not less than one percent (1%) of an offeror's bid.

(e) When the City Council determines that a sale or disposition of property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the City deems necessary to further such adopted policies or plans. The consideration received by the City, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;
(2) The nature of the interest to be conveyed; and
(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction. Notwithstanding the foregoing, the City may not sell the land or buildings located at 100 Paul Buck Boulevard by private sale."

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

SB 350:
Charlotte Property Disposition

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Senator Clodfelter
Date:	April 14, 1999	**Summary by:**	Barbara Riley
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***Senate Bill 350 amends the provisions of the Charter of the City of Charlotte dealing with the disposition of real property.***

CURRENT LAW: The current provisions of the Charlotte charter allow the sale of city property after having advertised the property once a week for 4 weeks in a Mecklenberg County newspaper. The Charter also provides that the provisions of Article 12 of Chapter 160A do not apply to conveyances by the City by private negotiation of property with a fair market value of $10,000 or less. When the transfer of property by the City is authorized by the City Council, the deed may be executed by the Mayor and attested by the City Clerk.

BILL ANALYSIS: Senate Bill 350 makes a number of changes to the provisions of the Charlotte Charter regarding the disposition of real property. First, the deed may be executed by the Mayor or his designee, and attested by the City Clerk or Deputy City Clerk. The bill also allows the sale of property by the City Council by negotiated private sale when the Council determines that the disposition of the property will advance the Council's economic development, transportation, urban revitalization, or land use policy. Property may only be conveyed under this section pursuant to a resolution of the City Council and notice of the proposed sale must be published at least 10 days before the adoption of the resolution. Charlotte, however, may not convey the Charlotte Coliseum by private sale.

§ 160A-267. Private sale.

When the council proposes to dispose of property by private sale, it shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property by private sale at a negotiated price. The resolution or order shall identify the property to be sold and may, but need not, specify a minimum price. A notice summarizing the contents of the resolution or order shall be published once after its adoption, and no sale shall be consummated thereunder until 10 days after its publication.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 573

Short Title: Charlotte Development. (Local)

Sponsors: Senator Clodfelter.

Referred to: State and Local Government.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO ENGAGE IN PUBLIC-PRIVATE PROJECTS OUTSIDE THE DOWNTOWN AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.109 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as added by Chapter 55 of the 1981 Session Laws, reads as rewritten:

"Sec. 7.109. ~~Uptown~~ Public-private development projects.

(a) Definition. In this Article, '~~uptown~~ public-private development projects' means a capital project located: (i) in the city's central business district, as defined by the city ~~council,~~ council; (ii) in or along a major transportation corridor; or (iii) in a development zone designated pursuant to G.S. 105-129.3A; comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. If the city council finds that it is likely to ~~have a significant effect on the revitalization of the central business district,~~ be of significant economic benefit to the area of the city in which the project is located, the city may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of ~~an uptown~~ a public-private development project or of specific facilities within such a project. The city may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

(1) The property interest of both the city and the developer or developers in the project.
(2) The responsibilities of the city and the developer or developers for construction of the project.
(3) The responsibilities of the city and the developer or developers with respect to financing the project.
(4) The responsibilities of the city and the developer or developers with respect to the operation of the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Property acquisition. ~~An uptown~~ A public-private development project may be constructed on property acquired by the developer or developers or on property directly acquired by the city by purchase.

(d) Property disposition. In connection with ~~an uptown~~ a public-private development project, the city may lease or convey interests in property owned by it, including air rights over public facilities, by private negotiation or sale, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(e) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire ~~uptown~~ public-private development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that the public facility or facilities included in the project meet the needs of the city and are constructed at a reasonable price. A project constructed pursuant to this paragraph is not subject to Article 8 of Chapter 143 of the General ~~Statutes.~~ Statutes as long as city funds constitute not more than fifty percent (50%) of the total costs of the project.

(f) Operation. The city may contract for the operation of any public facility or facilities included in ~~an uptown~~ a public-private development project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city.

(g) Grant funds. To assist in the financing of its share of ~~an uptown~~ a public-private development project, the city may apply for, accept and expend grant funds from the federal or State governments."

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

SB 573:
Charlotte Development

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Sen. Clodfelter
Date:	April 14, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 573 authorizes the City of Charlotte to undertake public-private development projects in areas of the city outside of the central business district.

CURRENT LAW: In 1981 the charter for the City of Charlotte was amended to authorize the City to undertake "Uptown" development projects. Section 7.109 of the City of Charlotte. Chapter 713 of the 1965 Session Laws as amended by Chapter 55 of the 1981 Session Laws. These Uptown development projects are captial projects located in the City's central business district. Under this provision in the Charter the City is authorized to acquire, construct, own, operate, or participate in the acquisition construction and operation of an Uptown development project upon a finding by the City Council that the project is likely to have a significant effect on the revitalization of the central business district. The charter provision allows the City to enter into contracts with private developers regarding the acquisition, construction, ownership and operation of such a project.

BILL ANALYSIS: Senate Bill 573 renames the development projects authorized under Section 7.109 of the City's Charter "Public-Private development projects." The area in which these projects may be undertaken is expanded from the central business district to include areas along a major transportation corridor and development zones as defined by ***G.S. 105-129.3A***. The City Council may undtertake a public-private developpment project upon a finding that the project would be of significant economic benefit to the area in which it is located. Any contract entered into between theCity and aprivate developer must contain an additional provision specifiying the responsibilities of the parties with respect to the operation of the project. Finally, the bill provides that the provisions of Article 8 of Chapter 143, Public Contracts, shall not apply to any project where the City funds 50% or less of the total cost of the project.

§ 105-129.3A. (Repealed effective January 1, 2002) Development zone designation.

(a) Development Zone Defined. - A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) It is located in whole or in part in a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 625

Short Title: Durham Privilege License Technical. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL AN OBSOLETE SECTION OF THE CHARTER OF THE CITY OF DURHAM REGARDING THE PRIVILEGE LICENSE TAX YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 47 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is repealed.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 626

Short Title: Durham Fireworks. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DURHAM CITY COUNCIL TO DELEGATE TO CITY DEPARTMENTS THE AUTHORITY TO APPROVE FIREWORKS DISPLAYS.

The General Assembly of North Carolina enacts:

Section 1. Section 60 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, reads as rewritten:

"Sec. 60. **Fireworks and Firearms.** -- The City Council ~~shall have power to~~ may regulate or prevent the firing of firearms, fireworks, and all explosives or combustible or dangerous material in the streets, public grounds or elsewhere, within or near the City.

Fireworks may be exhibited, used or discharged at public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, only after written permission has been obtained from the ~~City Council.~~ City. The City Council may delegate authority to grant such permission to the city fire department or other department or agency of the City."

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

S626:
Durham Fireworks

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen. Lucas
Date:	April 6, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: Senate bill 626 allows the Durham City Council to delegate its authority to permit fireworks displays to the city fire department or to another agency or department.

CURRENT LAW: Under current law, the city council must give written permission for such displays.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 4/14/99

S. B. No. 626 Amendment No. _____

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 1, line 15+16

2 ( ) WHICH CHANGES THE TITLE

3 by inserting a period after the word "department"

4 and deleting the rest of the sentence.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

SIGNED Tom Ballantine

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page _____, line _____
2 ( ) WHICH CHANGES THE TITLE
3 by _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 627

Short Title: Durham City Contract Execution. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE DURHAM CITY COUNCIL TO AUTHORIZE DEPUTY AND ASSISTANT CITY MANAGERS TO MAKE AND EXECUTE CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Section 17 of the Charter of the City of Durham, being Chapter 671, Session Laws of 1975, as amended by Chapter 1249, Session Laws of 1979, Chapter 694, Session Laws of 1981, and Chapters 532 and 617, Session Laws of 1991, and as rewritten by Chapter 121 of the 1993 Session Laws, reads as rewritten:

"Sec. 17. **Powers and Duties of the City Manager.** -- (a) The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City under his direction and control. It shall be his duty to attend all meetings of the City Council, with the right to take part in the discussion, but without a vote. He shall be entitled to notice of all special meetings. He shall recommend to the City Council from time to time such measures as he shall deem necessary, and shall furnish the City Council with necessary information respecting any of the departments of the City under his direction and control. The City Manager shall not be personally interested in any contract in which the City is a party for supplying the City materials of any kind.

The City Manager shall have power, and it shall be his duty, to see that the laws and ordinances of the City are enforced.

He shall have power and authority to revoke licenses, pending action by the City Council.

(b) Except as otherwise provided in this Charter, the City Manager shall have power to appoint and remove all heads of departments and all subordinate officers and employees of the City. He shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions created herein, or that hereafter may be created by the City Council. He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof, he shall call the attention of the City Council and the City Attorney to the same. He shall make and execute all contracts on behalf of the City in such manner as is authorized or provided by resolutions or ordinances passed by the City Council. The City Council may, on such terms as it deems proper, allow the City Manager to authorize one or more assistant city managers and deputy city managers to make and execute such contracts. He shall prepare and submit to the City Council a proposed annual budget, after receiving estimates made by the heads or directors of departments or by any board officer, or commissioner not within a department. He shall keep the City Council at all times advised as to the financial needs and condition of the City. He shall from time to time make oral and written reports to the City Council of the condition and efficiency of the various departments of the City government under his direction and control. The Council may in its discretion cause such written reports to be published for the information of citizens. The City Manager shall perform such other duties as may be prescribed by this Charter, or be required of him by ordinance or resolution of the City Council.

(c) The City Manager shall not engage in political campaigns for elective office, nor attempt to influence the result of such campaigns, except by exercising his right to vote. Improper campaign activity as described herein by the City Manager shall be a cause for his immediate suspension or removal from office.

(d) The City Council may delegate authority to the City Manager to purchase real property or any interest in real property, provided:

(1) The money for the purchase of such real property or interest in real property is available in the then current budget; and

(2) The City Manager, within 45 days following the purchase, shall submit to the City Council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of the property or interest in property.

(e) The City Council may authorize the City Manager to make, approve, award, and execute any contract for the purchase of apparatus, supplies, materials, or equipment and any contract for construction or repair work provided:

(1) The amount of the contract shall not exceed one hundred thousand dollars ($100,000);

(2) The City Manager shall, within 45 days of the award of such contract, report such award to the City Council, provided however,

contracts in an amount less than an amount prescribed by the City Council need not be reported;

(3) The City Manager shall comply with all applicable provisions of Article 8 of Chapter 143 of the General Statutes, and of Section 84 of this Charter. The City Manager may take any action that the City Council is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing such contracts."

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

S627:
Durham City Contract Execution

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Sen. Lucas
Date:	April 6, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: Senate bill 627 gives assistant city managers and deputy city managers in the City of Durham the authority to "make and execute" contracts on behalf of the City. The City Council may place conditions on how this authority is exercised, and the City Manager has discretion to not allow the use of this new authority.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 700

Short Title: Durham City Zoning Notices. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THE CITY OF DURHAM WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"94.6. Service of Process of Zoning Code Violations.

(a) Notice of violation of an ordinance adopted under Parts 1, 2, 3, or 3C of Article 19 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises affected.

(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the city. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 652

Short Title: Ambulance Service Fraud/Durham. (Local)

Sponsors: Senators Gulley; and Lucas.

Referred to: Judiciary I.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE IT A CRIMINAL OFFENSE IN DURHAM COUNTY TO FRAUDULENTLY OBTAIN AMBULANCE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-111.2 reads as rewritten:

"**§ 14-111.2. Obtaining ambulance services without intending to pay therefor -- certain named counties.**

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Anson, Ashe, Beaufort, Caldwell, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, Orange, Pasquotank, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only."

Section 2. G.S. 14-111.3 reads as rewritten:

"**§ 14-111.3. Making unneeded ambulance request in certain counties.**

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Ashe, Buncombe, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Haywood, Hoke, Macon, Madison, Polk, Robeson, Washington, Wilkes and Yadkin."

Section 3. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

S652:
Ambulance Service Fraud/ Durham

BILL ANALYSIS

Committee: Senate State & Local Government
Date: April 13, 1999
Version: 1st. Ed.

Introduced by: Sen. Gulley
Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: Senate bill 652 adds Durham county to the list of 41 other counties that make it a class 2 misdemeanor to obtain ambulance services with the intent to defraud, if financially able to pay for those services. In addition, the bill also makes it a class 3 misdemeanor to willfully obtain or attempt to obtain unneeded ambulance services in Durham County.

CURRENT LAW: There are two sets of local laws that are codified in the General Statutes that address obtaining ambulance services with the intent to defraud [1] and one set of local laws that is codified in the General Statutes that addresses making unneeded ambulance requests.[2]

G.S. § 14-111.2 , the larger of the sets of laws that addresses obtaining ambulance services with the intent to defraud, makes it a class 2 Misdemeanor to:

1. Obtain ambulance services;
2. With the intent to defraud;
3. Without intending at the time of obtaining the service to pay for the service;
4. While being financially able to pay reasonable charges.

A judicial determination that the recipient of the ambulance service has not paid the ambulance bill for 90 days but **is** able to do so raises the presumption that the recipient intended to defraud the ambulance service at the time that services were provided and did not intend to pay for the services.

BILL ANALYSIS:

Section 1. of the bill (G.S. § 14-111.2) looks at the present tense to raise a presumption of criminal intent in the past the past tense. There are four elements to the crime addressed by the bill. The relevant time period for those elements is the time at which ambulance services are obtained. However, a presumption is raised as to two of those elements (intent to defraud and intent to not pay) based on the recipient's current financial ability to pay. [3]

Section 2. of the bill (G.S. § 14-111.3) could criminalize poor judgement. No standards are set to determine when ambulance service is, or is not, needed. Thus, someone with heartburn who calls an ambulance because they believe they are having a heart attack could be guilty of a misdemeanor if it were later determined that an ambulance was not needed.

---

[1] G.S. §§ 14-111.1 & 14-111.2
[2] G.S. § 14-111.3
[3] See page one lines 13-15 ("...that the recipient ***is*** financially able to do so, shall raise the presumption that the recipient at the time of obtaining the services intended to defraud...and did not intend to pay").

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 719

Short Title: Durham City Development Plans. (Local)

Sponsors: Senators Gulley and Lucas.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING THE CITY OF DURHAM TO CONSIDER LIMITATIONS ON USES AS REQUESTED IN THE DEVELOPMENT PLANS SUBMITTED FOR REZONINGS AND TO MAKE OTHER CHANGES REGARDING THE CONSIDERATION OF DEVELOPMENT PLANS.

The General Assembly of North Carolina enacts:

Section 1. Section 92 of Chapter 671 of the 1975 Session Laws, being the Charter of the City of Durham, as amended by Chapter 380 of the 1991 Session Laws, reads as rewritten:

"Sec. 92. Development Plans and Site Plans. -- In exercising the zoning power granted to municipalities by G.S. 160A-381, the City Council may require that a development plan showing the proposed development of property be submitted with any request for rezoning of such property. The City Council may consider such development plan in its deliberations and may require that any site plan subsequently submitted be in conformity with any such approved development plan. The City Council may also consider any limitations an applicant who submits a development plan may propose on the number, range, or type of uses to be made of the property and may limit its consideration of uses to those proposed uses. Such use proposals, where approved, shall be binding as part of the zoning of the property. In considering development plans and developer-proposed use limitations, the City Council shall use the legislative public hearing procedures applicable to general use district rezonings.

In addition, the Council is authorized to require that a site plan be submitted and approved prior to the issuance of any building permit. The Council may specify the

information to be set forth in a site plan and may require that such site plan be prepared by a professional engineer, architect, or land surveyor licensed to practice in North Carolina. The Council may prescribe procedures for the review of such site plans to insure that development of property shall conform to applicable zoning and building laws and regulations or any other relevant law or regulation. The Council may require that site plans be in conformity with previously approved development plans for the same property. In approving development ~~plans and~~ plans, site plans, and subdivision plats, the City may require that on-site and off-site street and utility rights-of-way be dedicated to the public, that necessary street and utility improvements be constructed, and that provision be made for recreational space and facilities where appropriate."

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

S719:
Durham City Development Plans

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen. Gulley
Date:	April 14, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: Senate bill 719 allows the Durham City Council to limit its review of rezoning applications to the uses of the property proposed by rezoning applicant. If the application is approved, this bill would make the proposed uses binding as part of the zoning for the property.

CURRENT LAW: Contract zoning is currently illegal. It occurs where both the landowner and a zoning authority undertake reciprocal obligations, such as where a landowner binds itself to a proposed use of a property and a city council binds itself to enact a zoning amendment that will not be altered for set period of time.[1] "A typical example of such reciprocal assurances occurs when the applicant assures the city council that the property will be used only for a specified purpose and no other, and the city council, in consideration of such assurance, agrees to rezone the property in question and not to alter the zoning for a specified period of time thereafter."[2] "Most courts will conclude that by agreeing to curtail its legislative power, the Council acted *ultra vires* (beyond the powers conferred by law)".[3] "Such contract zoning is illegal and the rezoning is therefore a nullity."[4]

In Hall v. City of Durham,[5] the North Carolina Supreme Court examined the Durham ordinance that is being amended by this bill. The case involved a rezoning application by Lowes home improvement center where Lowes promised to limit the uses of the property if the rezoning was approved and the city council relied on Lowes promise in granting the rezoning bid. The court held that the city council could not simply limit its review of the rezoning application to the proposed uses put forth by Lowes. Instead, the city was required to look at all the permissible uses of the property and must determine that the property is suitable for all uses permitted by a new general use zoning designation.[6]

BILL ANALYSIS: For the purposes of Durham County only, senate bill 719 appears to overrule the Hall case and allow the practice of contract zoning.

[1] Hall v. City of Durham, 323 N.C. 293, 298 (1988)
[2] Id.
[3] Id.
[4] Id.
[5] 323 N.C. 293
[6] Id

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 720
State and Local Government Committee Substitute Adopted 4/15/99

Short Title: Durham Zoning Notices. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE DURHAM COUNTY AND THE CITY OF DURHAM WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1.(a) Notice of violation of an ordinance adopted under Parts 1, 2, and 3 of Article 18 of Chapter 153A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected.

Section 1.(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the county. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 2. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"94.6. Service of Process of Zoning Code Violations.

(a) Notice of violation of an ordinance adopted under Parts 1, 2, 3, or 3C of Article 19 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected.

(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the city. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected."

Section 3. Section 1 of this act applies to Durham County only. Section 2 of this act applies to the City of Durham only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 720

Short Title: Durham Zoning Notices. (Local)

Sponsors: Senator Gulley.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE DURHAM COUNTY AND THE CITY OF DURHAM WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1.(a) Notice of violation of an ordinance adopted under Parts 1, 2, and 3 of Article 18 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 1.(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the county. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 2. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"94.6. Service of Process of Zoning Code Violations.

(a) Notice of violation of an ordinance adopted under Parts 1, 2, 3, or 3C of Article 19 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises affected.

(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the city. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected."

Section 3. Section 1 of this act applies to Durham County only. Section 2 of this act applies to the City of Durham only.

Section 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st

H. B. No. _____ DATE _____

S. B. No. 720 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Sen.) Miller

moves to amend the bill on page 2, line 7

( ) WHICH CHANGES THE TITLE

by rewriting that line to read

" days after mailing, provided that a notice of violation is posted in " ;

~~conspicuous place on the premises affected~~

and further amends the bill on page 1, line 12, by rewriting that line to read:

" days after mailing, provided that a notice of violation is posted in ".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st

H. B. No. _____ DATE 4/14/99

S. B. No. 720 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) HORTON
Sen.)

1 moves to amend the bill on page 1, line 7
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the term "Chapter 160A" and
4
5 substituting the term "Chapter 153A".
6 And,
7 On Page 2, Line 2 by
8 deleting the term "Chapter 160A" and substituting
9 the term "Chapter 153A"
10
11
12
13
14
15
16
17
18
19

SIGNED Horton

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 652
Committee Substitute Favorable 4/1/99

Short Title: Roanoke Island Historical Assoc. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE ROANOKE ISLAND HISTORICAL ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-200 reads as rewritten:

"**§ 143-200. Members of board of directors; terms; appointment.**

The governing body of ~~said~~ the Association shall be a board of directors consisting of the Governor of the State, the Attorney ~~General~~ General, the Superintendent of Public Instruction, and the Secretary of Cultural ~~Resources~~ Resources, or their designees, as ex officio members, and the following 21 members: J. Spencer Love, Greensboro; Miles Clark, Elizabeth City; Mrs. Richard J. Reynolds, Winston-Salem; D. Hiden Ramsey, Asheville; Mrs. Charles A. Cannon, Concord; Dr. Fred Hanes, Durham; Mrs. Frank P. Graham, Chapel Hill; Bishop Thomas C. Darst, Wilmington; W. Dorsey Pruden, Edenton; John A. Buchanan, Durham; William B. Rodman, Jr., Washington; J. Melville Broughton, Raleigh; Melvin R. Daniels, Manteo; Paul Green, Chapel Hill; Samuel Selden, Chapel Hill; R. Bruce Etheridge, Manteo; Theodore S. Meekins, Manteo; Roy L. Davis, Manteo; M. K. Fearing, Manteo; A. R. Newsome, Chapel Hill. The members of ~~said~~ the board of directors herein named other than the ex officio members, shall serve for a term of two years and until their successors are appointed. Appointments thereafter shall be made by the membership of the Association in regular annual meeting or special meeting called for such purpose. In the event the Association through its membership should fail to make such appointments, then the appointments shall be made by the Governor of the State. If

a vacancy occurs between annual meetings, the board of directors may fill the vacancy until the next annual meeting. All vacancies occurring on the board of directors not filled by the board of directors within 30 days of the vacancy shall be filled by the Governor of the State."

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

HOUSE BILL 652:
Roanoke Island Historical Assoc.

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep.Culpepper
Date:	April 12, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 652 modifies the membership of the Roanoke Island Historical Association.

CURRENT LAW: Article 19 of Chapter 143 of the General Statutes places the Roanoke Island Historical Association under the patronage and control of the State. The Association's board of directors consists of the Governor, Attorney General, and the Secretary of Cultural Resources as ex officio members plus 21 additional members appointed by the membership of the Association. The organization is a tax exempt, educational and charitable association under the laws of North Carolina. The elected officers of the Association serve as an advisory committee to the Secretary of Cultural Resources concerning matters relating to the "Lost Colony" production.

BILL ANALYSIS: House Bill 652 amends the membership of the board of directors of the Association by adding the Superintendent of Public Instruction as an ex officio member and by allowing the four ex officio members to select a designee to serve in their stead. \

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 652

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H652-ALG-1 Page 1 of __

Date_____,1999

Comm. Sub. [YES]
Amends Title []
Second Edition

moves to amend the bill on page 1, line 9, by adding after the phrase "Instruction," the phrase "the Chair of the Dare County Board of Commissioners,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Explanation of HB 652: Roanoke Island Historical Assoc.

Background:

The Roanoke Island Historical Association has deep roots in North Carolina's history. The original Association was formed 1896 and was called the Virginia Dare Memorial Association. By 1932, the Association had been renamed The Roanoke Island Historical Association, and was placed under the patronage of the state in 1945 by act of the General Assembly. This non-profit corporation currently oversees and supports The Lost Colony. The Lost Colony is America's longest running outdoor drama, and was written by Paul Green, North Carolina's Pulitzer Prize winning playwright and author.

Some of North Carolina's most distinguished citizens have served on the Association Board of Directors, including Paul Green himself, Mrs. Richard J. Reynolds of Winston-Salem, J. Melville Broughton of Raleigh, Mrs. Charles A. Cannon of Concord, and Mrs. Frank Porter Graham of Chapel Hill.

The Bill:

HB 652 makes two changes to G.S. 143-200 (which sets out the membership of the Association Board):

(1) Clarifies that the ex officio members of the Board (the Governor, the Attorney General, and the Secretary of Cultural Resources), may appoint designees serve in their place;

(2) Adds the Superintendent of Public Instruction, or designee, as an ex officio member of the Board (the purpose of this addition is to develop a stronger relationship between The Lost Colony, which is of tremendous historical significance to our state, and our state's public schools)

The Amendment:

Since HB 652 came over from the House, the Association has requested that the Chair of the Dare County Board of Commissioners (or designee) be added as an ex officio member of the Board. This addition is justified because of the strong ties between The Lost Colony and Dare County, its home county.

**** The changes proposed in the bill and amendment are being made at the request of the Roanoke Island Historical Association Board of Directors ****

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 14, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Fullbright	Hunton & Williams
Kim Hibbard	NCLM
Boyd Cauble	City of Charlotte
Mary Carinalia	Mecklenburg County
Walter Price	Charlotte Chamber
Katie Carstens	SCO
Doug Bullock	SCO

Principal Clerk ___
Reading Clerk ___

SENATE
NOTICE OF COMMITTEE MEETING

The Senate Committee on **State and Local Government** will meet at the following time:

DATE: **Monday, April 19, 1999**
TIME: **5 minutes before session**
ROOM: **Around Sen. Kinnaird's Chamber Desk**

The following bills or resolutions will be considered:

- SB 385 Use of School Buses/US Open Sen. Lee

Senator Kinnaird, Chair

MINUTES

Senate State and Local Government Committee

Monday, April 19, 1999, 5 minutes before Session
Senate Chamber

The Senate State and Local Government Committee met on Monday, April 19, 1999, at 6:45 p.m. in the Senate Chamber to consider SB 385, Use of Sch. Buses OK'd/U.S. Open. Eight members of the committee were in attendance. Senator Kinnaird presided.

Senator Kinnaird introduced Senator Lee to explain SB 385. Senator Albertson moved the adoption of an amendment. The motion carried unanimously. Senator Albertson moved for a favorable report of the bill as amended, with a recommendation that the bill be referred to the Finance Committee. The motion carried unanimously.

The meeting adjourned at 6:50 p.m.

Senator Ellie Kinnaird, Chair

Dot Waugaman, Acting Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, April 19, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

S.B. **385** Use of Sch. Buses OK'd/U. S. Open.
Sequential Referral: None
Recommended Referral: Finance
Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 385

Short Title: Use of Sch. Buses OK'd/U.S. Open. (Local)

Sponsors: Senators Lee and Kinnaird.

Referred to: State and Local Government.

March 16, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Moore County Board of Education may permit the use and operation of public school activity buses as the board deems necessary from June 14, 1999, through June 20, 1999, for the transportation needs of persons associated with the U. S. Open Golf Tournament to be held in Moore County.

State funds shall not be used for the use and operation of buses under this act.

The State of North Carolina shall incur no liability for any damages resulting from the use and operation of buses under this act. Pinehurst, Inc., shall carry liability insurance covering the use and operation of buses under this act.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill No. 385

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S385-ASD-001 Page 1 of __

Date April 19 ,1999

Comm. Sub. [ ]
Amends Title [ ]

1 moves to amend the bill on page 1, lines 6 through 10,
2 by rewriting the lines to read:
3
4 "Section 1. Notwithstanding G.S. 66-58 or any other provision of
5 law, the Moore County Board of Education may enter into a contract,
6 under terms and conditions set by the Moore County Board of
7 Education, that permits public school activity buses and other
8 school property to be used from June 14, 1999, through June 20,
9 1999, for activities related to the U.S. Open Golf Tournament to be
10 held in Moore County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S385:
Use of Sch. Buses OK'd/U.S. Open

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen. Lee
Date:	April 15, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: ***Senate bill 385 gives the Moore County Board of Education the discretion to allow the use of public school activity busses by Pinehurst, Inc. (a private for profit corp.) for a brief period of time during the U.S. Open Golf Tournament. The buses are to be used for the transportation needs of persons associated with the Open.***

BILL ANALYSIS: Senate bill 385 grants the Moore County Board of Education the authority to allow a private corporation to use public school activity buses during the U.S. Golf Open. The buses can only be used from June 14th through June 20th and State funds cannot be used to operate the busses. The act also provides that the State will incur no liability from the private use of the busses and further provides that Pinehurst, Inc. is required to carry liability insurance that covers the use and operation of the busses.

BACKGROUND: According to counsel for the Moore County Board of Education, if this bill is approved, Pinehurst, Inc. will pay the Moore County Board of Education $40,000 for the use of school property (buses & parking) in connection with the U.S. Open. Counsel further states that Pinehurst, Inc. will pay driver's wages and will also pay for the gas used by the buses.

This bill is similar to Chapter 10 of the 1998 Session Laws, which allowed a number of school systems to furnish school busses to the 1999 Special Olympics World Summer Games Organizing Committee, Inc. That law required the Special Olympics, a not for profit corporation, to carry liability insurance of not less than 5 million dollars ($5,000,000) and to be responsible for the cost of repair to the vehicles if damaged.

CURRENT LAW: *N.C. Constitution* – Article I Sec. 32 of the North Carolina Constitution provides in pertinent part that: "[n]o person...is entitled to exclusive or separate...privileges from the community but in consideration of public services.

Umstead Act – The Umstead Act (G.S. 66-58) prohibits government from competing with private enterprise. It provides in pertinent part:

> "it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of the unit...to engage directly or indirectly in the sale of...services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise.

The act specifically addresses public school activity buses. It allows their use for the following purposes: (1) to transport pupils to and from school; (2) to transport pupils to and from athletic events or other school activities; (3) to transport the elderly; and (4) to provide transportation services to children, caretakers and instructors for activities held on the property of non-profit corporations or local government.

Referral: Pursuant to Senate Rule 42(b) this bill should most likely be referred to the Senate Finance Committee because it involves revenue that is payable to a subdivision of the State.

STATE & LOCAL GOVERNMENT

WEDNESDAY, APRIL 21, 1999

11:00 AM

ROOM 1124 LB

Bills

• SB 702	Matthews ETJ	Sen. Rucho
• SB 710	Huntersville Development Rights	Sen. Odom
• SB 617	SPA COLA Changes	Sen. Perdue
• SB 705	Expedite Johnston School Construction	Sen. Wellons
• SB 723	Chapel Hill Omnibus Act	Sen. Kinnaird
• SB 724	Orange/Chapel Hill Local Act	Sen. Kinnaird
• SB 701	Durham City Antidiscrimination	Sen. Lucas
• HB 447	Asheville Antidiscrimination Act	Rep. Nesbitt
• SB 605	Madison Commissioners Election	Sen. Metcalf
• SB 966	Building Inspection Contracts	Sen. Clodfelter

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, APRIL 21, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, April 21, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 617, 447 and 605 were removed.

SB 702, Matthews ETJ, was explained by Sen. Rucho. Sen. Clodfelter moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 723, Chapel Hill Omnibus Act, was explained by Sen. Kinnaird. Senator Dalton presided. Sen. Kinnaird moved to adopt an amendment. The motion carried unanimously. Mike Carpenter of the NC Home Builders Assoc. spoke against the bill. Sen. Kinnaird moved the bill be displaced until next week due to the lateness of the hour and because Sen. Kinnaird's presence was requested at the Children and Human Resources Committee meeting. The bill was displaced. Sen. Dalton continued to preside.

SB **705, Expedite Johnson Sch. Construction** was explained by Sen. Wellons. Sen. Dalton moved to adopt the amendment. The motion carried. Sen. Soles moved to adopt a second amendment. The motion carried. Sen. Webster moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 701, Durham City Antidiscrimination , was explained by Sen. Lucas. Bill Brooks, NC Family Policy Council, spoke against the bill. Sen. Ballance moved to give a favorable report of the bill. The motion carried. **Favorable Report**.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 21, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **701** Durham City Antidiscrimination.
Sequential Referral: None
Recommended Referral: None

S.B. **702** Matthews ETJ.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 21, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 705 Expedite Johnson Sch. Construction.

Draft Number:	PCS 2747
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 702

Short Title: Matthews ETJ. (Local)

Sponsors: Senator Rucho.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW RESTORATION OF ZONING AUTHORITY OF THE TOWN OF MATTHEWS AS TO CERTAIN PROPERTY IF MECKLENBURG COUNTY DISPOSES OF IT.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 161 of the 1991 Session Laws reads as rewritten:

"Sec. 4. The authority granted by this act shall not be exercised with respect to the property acquired by Mecklenburg County from Hazeline Massey, tax parcel number 215-062-02; the property acquired by Mecklenburg County from National Facilities Corporation, tax parcel number 215-081-15; or the property acquired by Mecklenburg County from Lester H. Yandle Jr., tax parcel numbers 215-062-01 and 215-061-06. As owner and user of the property exempted in this section, Mecklenburg County shall not cause the elevation of the property to be increased more than 25 feet above the highest point existing on the property on the date of ratification of this act, unless the increase is approved in a resolution adopted by the Board of Commissioners of the Town of Matthews. This section does not apply to any property when it is sold or otherwise disposed of by Mecklenburg County. The Town of Matthews may adopt, in accordance with law, a zoning classification for the property at any time, but such classification shall not become effective until the property is sold or disposed of by Mecklenburg County."

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

SENATE BILL 702:
Matthews ETJ

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Senator Rucho
Date:	April 20, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 702 would restore the zoning authority of the Town of Matthews over specified parcels of land, if Mecklenburg County choses to dispose of these properties.

CURRENT LAW: Chapter 161 of the 1991 Session Laws dealt with the authority of the towns of Matthews, Mint Hill, Pineville and the City of Charlotte to exercise their zoning and development authority under Article 19 of Chapter 160A of the General Statutes in their extraterritorial area within Mecklenburg County. Section 4 specifically excluded several tracts from this extraterritorial jurisdiction for the Town of Matthews.

BILL ANALYSIS: Senate Bill 702 provides that the exception to the Town of Matthews extraterritorial jurisdiction does not apply if Mecklenburg County sells or otherwise disposes of any of these parcels of land. The bill also allows Matthews to adopt zoning classifications for the property, however these classifications would not become effective until the property was sold.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 705
State and Local Government Committee Substitute Adopted 4/21/99

Short Title: Expedite Johnston Sch. Construction. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ASSIST THE JOHNSTON COUNTY BOARD OF EDUCATION WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Johnston County Board of Education may select and negotiate with separate-prime contractors to build the Unitary System Approach (USA) model school plan if the Johnston County Board of Education determines that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to the construction of only two of the following schools: Riverwood Elementary School in the Clayton area, Riverwood Middle School in the Clayton area, West Johnston Elementary School, North East Elementary School, Four Oaks Middle School, and Smithfield Elementary School. The Johnston County Board of Education shall report to the General Assembly the net price per square foot for each project at the completion of each project.

Section 3. This act is effective when it becomes law and shall expire on June 30, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 705
Proposed Committee Substitute S705-PCS2747-LE

Short Title: Expedite Johnston Sch. Construction. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ASSIST THE JOHNSTON COUNTY BOARD OF EDUCATION WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Johnston County Board of Education may select and negotiate with separate-prime contractors to build the Unitary System Approach (USA) model school plan if the Johnston County Board of Education determines that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to the construction of only two of the following schools: Riverwood Elementary School in the Clayton area, Riverwood Middle School in the Clayton area, West Johnston Elementary School, North East Elementary School, Four Oaks Middle School, and Smithfield Elementary School. The Johnston County Board of Education shall report to the General Assembly the net price per square foot for each project at the completion of each project.

Section 3. This act is effective when it becomes law and shall expire on June 30, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 705

Short Title: Expedite Johnston Sch. Construction. (Local)

Sponsors: Senator Wellons.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ASSIST THE JOHNSTON COUNTY BOARD OF EDUCATION WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

Whereas, Johnston County is faced with the critical need for school facilities created by an unusual growth in student population; and

Whereas, the Johnston County Board of Education and the Johnston County Board of Commissioners have jointly approved and funded a School Facilities 2000 building program; and

Whereas, the Johnston County Board of Education, faced with the critical need for school facilities, has implemented a model facilities plan using the Unitary System Approach (USA) to design school facilities that are educationally effective and economically efficient; and

Whereas, the Johnston County Board of Education has competitively bid the USA school design under the separate-prime bid laws of North Carolina and has developed certain cost parameters based on this USA concept; and

Whereas, the Johnston County Board of Education desires to explore alternative approaches to expedite the construction of school facilities that could assist in meeting the critical need for school facilities; and

Whereas, the General Assembly reaffirms its commitment to enhance public education and to encourage innovation by public officials in meeting the critical need for school facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Johnston County Board of Education may select and

negotiate with separate-prime contractors to build the Unitary System Approach (USA) model school plan if the Johnston County Board of Education determines that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to the construction of Riverwood Elementary School in the Clayton area, Riverwood Middle School in the Clayton area, West Johnston Elementary School, North East Elementary School, Four Oaks Middle School, and Smithfield Elementary School. The Johnston County Board of Education shall report to the General Assembly the net price per square foot for each project at the completion of each project.

Section 3. This act is effective when it becomes law and shall expire on June 30, 2003.

SENATE BILL 705:
Expedite Johnston County School Constr.

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Wellons
Date:	April 20, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 705 would exempt the Johnston County Board of Education from the public contracts requirements of Article 8 of Chapter 143 of the General Statutes and allow the Board to select and negotiate with separate prime contractors to build the unitary systems approach (USA) model school plan for a number of Johnston County public schools.

CURRENT LAW:

Article 8 of Chapter 143 sets forth the requirements for bidding state building contracts. During the 1998 Regular Session, the General Assembly enacted a new subdivision (d1) to G.S. 143-128 that provided additional options to local school administrative units for building projects in excess of $500,000. Pursuant to (d1) a local school administrative unit may seek bids from both single prime and separate prime bidders. The unit may award the contract to either the lowest single prime bidder or the lowest separate prime bidder. In determining which system to proceed with, the local school administrative unit may consider the cost of construction, oversight, and other factors it deems relevant.

With regard to Johnston County in particular, in 1997 the General Assemlby passed legislation permitting the Johnston County Board of Education to negotiate with and select separate prime contractor to build to build an elementary school at McGee's Crossroads using the USA model school plan. Chapter 37 of the 1997 Session Laws.

BILL ANALYSIS:

Senate Bill 705 would permit the Johnston County Board of Education to select and negotiate contracts with separate prime contractors to build six public school buildings using the USA model school plan without following the competative bidding process set out in Article 8 of Chapter 143.

The act is effective when it becomes law and expires June 30, 2003.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st Ed

H. B. No. _____ DATE 4/21/99

S. B. No. 705 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 2, line 6

( ) WHICH CHANGES THE TITLE

by rewriting that line to read:

"Section 2. This act shall apply only to the construction of two of the following schools: Riverwood"

and on page 1, lines 4 through 21 by deleting those lines.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 701

Short Title: Durham City Antidiscrimination. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND HOUSING BASED ON CRITERIA IN ADDITION TO RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, AND AGE, AND TO PRESCRIBE THE PROCEDURE FOR THE ADOPTION OF ANY SUCH ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. The full title of Chapter 227 of the 1993 Session Laws reads as rewritten:

"AN ACT TO AUTHORIZE THE CITY OF DURHAM AND DURHAM COUNTY TO PROHIBIT ACTS OF DISCRIMINATION IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR ~~AGE.~~ AGE AND TO AUTHORIZE THE CITY OF DURHAM TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND HOUSING BASED ON CRITERIA IN ADDITION TO RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, AND AGE, AND TO PRESCRIBE THE PROCEDURE FOR THE ADOPTION OF ANY SUCH ORDINANCE."

Section 2. Section 2 of Chapter 227 of the 1993 Session Laws, as amended by Chapter 537 of the 1995 Session Laws, reads as rewritten:

"Sec. 2. Authority to adopt ordinances. -- A city or county may adopt ordinances to prohibit discrimination in employment and public accommodations based on race, color, national origin, religion, sex, disability, ~~or~~ having attained the age of 40 or

more ~~years.~~ years, or any other criteria prescribed in an ordinance pursuant to Section 2.2 of this act. To assist in the enforcement of these ordinances, a city or county may create an agency or commission of the city or county ('the Agency') to take any actions and to have any powers as are appropriate and necessary to implement these ordinances including, but not limited to, the powers to: receive; initiate; investigate; seek to conciliate; hold hearings on and pass upon complaints; mediate alleged violations of these ordinances; issue orders against persons it finds, after notice and hearing, to have violated these ordinances; and to seek enforcement of the orders by a court.

The General Assembly does not intend to expand the authority or powers of the Agency beyond those prescribed by federal laws or regulations with respect to a specific employer or public accommodation. The Agency may, as part of an enforcing order, require any person to cease and desist from unlawful practices and to engage in additional remedial action as may be appropriate, including, but not limited to, require the person:

(1) To hire, reinstate, or upgrade aggrieved individuals, with or without back pay;
(2) To admit aggrieved individuals or to allow aggrieved individuals to participate in guidance programs, apprenticeship training programs, on-the-job training programs, or other occupational training or retraining programs; and to use objective criteria in the admission of any individual to these programs;
(3) To submit to the Agency, for approval or disapproval, plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex, disability, or age;
(4) To provide technical assistance to aggrieved individuals;
(5) To report as to the manner of compliance with this act;
(6) To post notices in conspicuous places in the form prescribed by the Agency;
(7) To admit or restore an aggrieved individual to a place of public accommodation.

When the Commission determines that a respondent has engaged in unlawful intentional discrimination in an employment practice (not an employment practice that is unlawful because of its disparate impact), the Commission may enforce an ordinance adopted pursuant to this act by applying to the superior court of the county in which the city is predominantly located for any appropriate legal and equitable remedies, including, but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, compensatory and punitive damages, and the court may grant such remedies. A complainant shall not recover punitive damages against a respondent unless the complainant demonstrates that the respondent engaged in a discriminatory practice with malice or with reckless indifference to the protected rights of an aggrieved individual under an ordinance adopted pursuant to this act.

No compensatory damages shall be awarded for back pay, interest on back pay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(g), as amended.

If a complainant seeks compensatory or punitive damages in an action brought under an ordinance adopted pursuant to this act, any party may demand a trial by jury."

Section 3. Chapter 227 of the 1993 Session Laws, as amended by Chapter 537 of the 1995 Session Laws, is further amended by adding a new section to read:

"Sec. 2.2. An ordinance adopted pursuant to Section 2 of this act may prohibit discrimination in employment and public accommodations based on any criteria in addition to race, color, national origin, religion, sex, disability, or having attained the age of 40 or more years, provided the following procedure is followed with respect to each additional criteria:

(1) The Agency, created pursuant to Section 2 of this act, shall compile a report in which the Agency documents the facts, events, or occurrences that, in the opinion of the Agency, indicate the need for the additional criteria upon which prohibition of discrimination shall be based.

(2) The Agency shall make the report available for public inspection and shall hold at least one public hearing at which persons who wish to comment on the report may do so.

(3) The report, together with any amendments to the report that the Agency may make based upon comments received at the public hearing, shall be transmitted to the city council of the city.

(4) The city council may consider the report and may cause a proposed ordinance to be prepared that prohibits discrimination based on the criteria specified in the report.

(5) The city council shall cause the report and the proposed ordinance to be made available for public inspection in the office of the city clerk at least 10 days prior to the date of the public hearing specified in subdivision (6) of this section.

(6) The city council shall hold at least one public hearing on the proposed ordinance. The public hearing shall be held no sooner than 10 days after the proposed ordinance is made available for public inspection pursuant to subdivision (5) of this section. A notice of the public hearing shall be given at least once in a newspaper having general circulation in the city. The notice shall be published no fewer than five and no more than 10 days before the date of the public hearing.

(7) If after considering the Agency's report, the proposed ordinance, and the comments made at the public hearing, the city council finds that it is in the public interest to adopt the proposed ordinance, or the proposed ordinance with such amendments as

the city council may deem advisable, then the city council may adopt the ordinance or the amended ordinance.

(8) An ordinance adopted pursuant to this section shall provide that the ordinance will terminate at a time no later than five years after adoption unless extended by further action of the city council. A termination of the ordinance pursuant to this subdivision shall not terminate any action or proceeding under the ordinance that was pending at the time the ordinance terminated. An ordinance extending the effectiveness of the first ordinance need not contain a further termination date and may be adopted without the necessity of following the procedure prescribed in this section."

Section 4. Section 121 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, added by Chapter 373 of the 1983 Session Laws, and as rewritten by Section 1 of Chapter 379 of the 1991 Session Laws, reads as rewritten:

"Sec. 121. Equal Housing. The City Council may adopt ordinances prohibiting discrimination in real estate transactions on the basis of race, color, sex, religion, national origin, age, familial status, ~~or handicap in real estate transactions.~~ handicap, or any other criteria prescribed in an ordinance pursuant to Section 121.1 of this Charter. Such ordinances may regulate or prohibit any act, practice, activity or procedure related, directly or indirectly to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a misdemeanor, and shall be punishable under G.S. 14-4; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to the General Court of Justice, Superior Court Division, for appropriate legal and equitable remedies, including but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorney's fees and not more than one thousand dollars ($1,000) punitive damages, and the court shall have jurisdiction to grant such remedies."

Section 5. The Charter of the City of Durham, enacted as Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"Sec. 121.1. An ordinance adopted pursuant to Section 121 of this Charter may prohibit discrimination in real estate transactions based on any criteria in addition to race, color, sex, religion, familial status, or handicap, provided the following procedure is followed with respect to each additional criteria:

(1) The Committee, created pursuant to Section 123 of this Charter, shall compile a report in which the Committee documents the facts, events, or occurrences that, in the opinion of the Committee, indicate the need for the additional criteria upon which prohibition of discrimination shall be heard.

(2) The Committee shall make the report available for public inspection and shall hold at least one public hearing at which persons who wish to comment on the report may do so.

(3) The report, together with any amendments to the report that the Committee may make based upon comments received at the public hearing, shall be transmitted to the city council.

(4) The city council may consider the report and may cause a proposed ordinance to be prepared that prohibits discrimination based on the criteria specified in the report.

(5) The city council shall cause the report and the proposed ordinance to be made available for public inspection in the office of the city clerk at least 10 days prior to the date of the public hearing specified in subdivision (6) of this section.

(6) The city council shall hold at least one public hearing on the proposed ordinance. The public hearing shall be held no fewer than 10 days after the proposed ordinance is made available for public inspection pursuant to subdivision (5) of this section. A notice of the public hearing shall be given at least once in a newspaper having general circulation in the city. The notice shall be published no fewer than five and no more than 10 days before the date of the public hearing.

(7) If after considering the Committee's report, the proposed ordinance, and the comments made at the public hearing, the city council finds that it is in the public interest to adopt the proposed ordinance, or the proposed ordinance with such amendments as the city council may deem advisable, then the city council may adopt the ordinance.

(8) An ordinance adopted pursuant to this section shall provide that the ordinance will terminate at a time no later than five years after adoption unless extended by further action of the council. A termination of the ordinance pursuant to this subdivision shall not terminate any action or proceeding under the ordinance that was pending at the time the ordinance terminated. An ordinance extending the effectiveness of the initial ordinance need not contain a further termination date and may be adopted without the necessity of following the procedure prescribed in this section."

Section 6. This act applies to the City of Durham only.

Section 7. This act is effective when it becomes law.

SENATE BILL 701:
Durham City Antidiscrimination

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Sen. Lucas
Date:	April 20, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 701 amends the authorty of the City of Durham to adopt antidiscrimination ordinances and allows the City to adopt ordinances that prohibit discrimination in employment, public accomodations, or housing based on any other criteria.

CURRENT LAW:

(1) Chapter 227 of the 1993 Session Laws authorized the City of Durham and Durham County to adopt ordinances prohibiting discrimination in employment or public accomodations on the basis of race, color, national origin, religion, sex, disability, or age. The Charter of the City of Durham also allows the City to adopt ordinances prohibiting discrimination in real estate transactions.

(2) N.C. Const. Art. II, Sec. 24(1)(j) prohibits local acts regulating labor, trade, mining, or manufacturing.

BILL ANALYSIS:

Senate Bill 701 would expand the ordinance making authority of the City of Durham to prohibit discrimination on the basis of any criteria it deems necessary provided the City follows the procedures set forth in the bill. The provisions of Senate Bill 701, as they relate to employment, are constitutionally suspect. Article II, Section 24(1)(j) of the North Carolina Constitution prohibits the General Assembly from enacting local acts regulating labor, trade, mining, or manufacturing. As a practical matter, Chapter 227 of the 1993 Session Laws is also constitutionally suspect on the same grounds.

Under the provisions of the bill, in order to adopt an ordinance prohibiting discrimination in employment or public accomodations on the basis of other criteria, the City's deferral agency must comple a report documenting the need for the additional criteria, make the report available to the public and hold a public hearing on the matter before transmitting the report to the City Council. The City Council may consider the report and may prepare an ordinance to adopt the additional criteria. If the City Council chooses to proceed it must make the report and the proposed ordinance available for public inspection. A public hearing must be held and a notice of public hearing published no fewer than 5 and no more than 10 days before the hearing. If the City Council finds that it is in the public interest to adopt the ordinance it may do so. Any ordinance so adopted must provide that it will terminate within 5 years unless extended by further action of the City Council. Similar procedures are outlined for the adoption of ordinances prohibitng discrimination in real estate transactions on the basis of any criteria.

The act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 21, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edward Jernigan	Agriculture Alliance of N.C.
Jim Burnette, Jr	NCDA&CS - Pesticide Section
Maurice Weaver	NCDA&CS
Thomas M. Johnson	Johnston County Board of Comm.
Ray DeBruhl	The Public Facilities Group
Jim Causby	Johnston County Schools
Paul Wilms	NCMBA
Mike Carpenter	NCMBA
Wilda Denny	NCDA&CS
J. Carlyle Teague	Co-op Council / Ag Alliance
John Cyrus	N.C. State Grange

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 21, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Wilder	N.C. Soybean Assn.
Paul Meyer	NCACC
Kim Hibbard	NC League of Municipalities
Bill Brooks	NCFPC
Ann Hammons	Town of Huntersville
Sam Lang	Turfgrass Council of North Carolina
David McLeod	NCDA&CS
Curt Willis	NC Bld Insp. Assoc.
Steve Upchurch	C P&C
Natalie English	NC Agribusiness Council
Dick Carlton	Turf Grass Council of N.C.
	NC FB
Steve Woodson Mitch Peele	NC FB " "

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 21, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
WALTER PRICE	CHARLOTTE CHAMBER
Mary Carmelia	Mecklenburg County
Richard O'Brien	PFFPNC
Bobby Riddle	PFFPNC
David R. Anders	PFFPNC
Spurgeon Flagg	State Court Office
Dan Barden	NCHBA

STATE & LOCAL GOVERNMENT

TUESDAY, APRIL 27, 1999

12:00 ~~AM~~ NOON

ROOM 1124 LB

Bills

• SB 710	Huntersville Development	Sen. Odom
• SB 723	Chapel Hill Omnibus Act	Sen. Kinnaird
• SB 966	Building Inspection Contracts	Sen. Clodfelter

Senator Kinnaird, Chair

Adjournment

STATE AND LOCAL GOVERNMENT

TUESDAY, APRIL 27, 1999

MINUTES

The Senate State and Local Government Committee met on Tuesday, April 27 1999 at 12:00 a. m. in Room 1124 of the Legislative Building. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 710, Huntersville Development, was explained by Sen. Odom. Mike Carpenter of Home Builders Assn. NC spoke against the bill. David Knight of the Sierra Club, NC Chapter spoke in favor of the bill. Sen. Clodfelter moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

SB 966, Building Inspection Contracts, was explained by Sen. Clodfelter. Sen. Garwood moved to adopt the amendment. The motion carried. Sen. Garwood moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. Sen. Webster moved for reconsideration. The motion carried unanimously. Tim Bradley, NC Department of Insurance and Edward Cianfarrh, City of Goldsboro/NC Building inspection Assoc. spoke against the bill.
Unfavorable as to bill, but favorable as to Senate Committee Substitute.

SB 723, Chapel Hill Omnibus Act, was withdrawn by Sen. Kinnaird.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Tuesday, April 27, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **710** Huntersville Development Rights.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **966** Building Inspection Contracts.
Draft Number: PCS 7673
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 710

Short Title: Huntersville Development Rights. (Local)

Sponsors: Senator Odom.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF HUNTERSVILLE TO ESTABLISH A VOLUNTARY TRANSFER OF DEVELOPMENT RIGHTS PILOT PROGRAM FOR THE PROTECTION OF FARMLAND, ENVIRONMENTALLY SENSITIVE LAND, AND OTHER OPEN LAND WITHIN THE TOWN'S EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In order to protect and sustain the natural resources of the community and provide for orderly planned growth, the Town of Huntersville may establish a voluntary transfer of development rights pilot program to facilitate the protection of farmland, environmentally sensitive land, and other open land in the municipality and its extraterritorial jurisdiction. The Town may adopt ordinances that it deems necessary or appropriate to implement the pilot program, and these ordinances may provide that the owner of property described herein may voluntarily transfer the development rights accruing to his or her property under Article 19 of Chapter 160A of the General Statutes from no more than 1,000 acres located in the open space zoning district to other qualified property located in the open space zoning district. Development rights shall be computed on a per acre basis. The pilot program may authorize the Town to purchase, hold, and convey such rights or to facilitate the direct voluntary transfer of rights between properties. The transfer of rights from or to property shall not be deemed a rezoning of the property requiring compliance with Article 19 of Chapter 160A of the General Statutes.

Section 2. Prior to adopting the pilot program authorized under Section 1 of this act, the Mayor shall appoint an Implementation Task Force to advise the

Mayor and Board of Commissioners on minimum standards for participation of transferring properties, criteria for establishing receiving zones responsive to market conditions, and administrative and other structural and operational issues of pilot program implementation. The Implementation Task Force shall include, but not be limited to, property owners, development and building industry representatives, and representatives from the Huntersville Board of Commissioners. The Town shall convene no fewer than four meetings of the Implementation Task Force during a period of not less than 90 days and not more than 120 days. The Task Force shall report its recommendations to the Mayor, Board of Commissioners, Huntersville Planning Board, and to the community.

Section 3. Upon receipt of the Implementation Task Force's report, but prior to the adoption of the pilot program, the Town shall sponsor a public workshop and the Town's governing body shall hold a public hearing. Notice of the public hearing shall be given in accordance with G.S. 160A-364 and given after the Town has complied with the requirements for the adoption of amendments to the Town's zoning ordinance.

Section 4. Authorization to implement the pilot program under this act shall expire five years after the adoption of zoning ordinance amendments establishing districts to accommodate transferable development rights or after the transfer cap of 1,000 acres has been exhausted, whichever occurs first. Development rights transactions in process on the date the authorization expires may be completed.

Section 5. This act shall apply only to the Town of Huntersville.

Section 6. This act is effective when it becomes law.

SENATE BILL 710:
Huntersville Development Rights

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Odom
Date:	April 21, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 710 allows the Town of Huntersville to develop a pilot program for the voluntary transfer of development rights for the protection of farmland and environmentally sensitive land.

CURRENT LAW: The transfer of development rights (TDR)is considered to be one of several 'tools" available to help preserve farmland and other open space. It essentially allows a landowner to transfer the right to develop his land to another parcel of land. As such, TDR is used to shift development activitiy from the area desired to be kept as open space or farmland to areas designated for higher density development.

BILL ANALYSIS: Senate Bill 710 would allow the Town of Huntersville to implement a voluntary TDR program. Development rights could be transferred from no more than 1,000 acres located in the open space zoning district . The Town may be authorized to purchase, hold or convey the development rights or to facilitate their transfer.

Before adopting the program, the Mayor is to appoint an Implementation Task Force whose duties will be to advise the Mayor and Board of Commissioners on issues such as minimum standards for participation , criteria for establishing receiving zones, and other operational issues., The Task Force shall meet at least 4 times in a 3 to 4 month period before making its recommendations. The Town shall also sponsor a public workshop on the pilot program prior to its adoption.

The authorization to implement the program shall expire either 5 years from the adoption of a zoning ordinance establishing districts to accommodate TDR's or when the 1,000 acre cap is reached, whichever occurs first.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 966
State and Local Government Committee Substitute Adopted 4/27/99

Short Title: Building Inspection Contracts. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE AUTHORITY TO ENTER INTO CONTRACTS FOR CONDUCTING MUNICIPAL AND COUNTY BUILDING INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-353 reads as rewritten:

"**§ 153A-353. Joint inspection department; other arrangements.**

A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city, or may contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 153A-351.1 or ~~G.S. 160A-411.1.~~ G.S. 160A-411.1, or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1. The inspector, if designated from another county or city under this section, while exercising the duties of the position, is a county employee. The county shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the county as it does for an individual who is an employee of the

county. The company or individual with whom the county contracts shall have errors and omissions and other insurance coverage acceptable to the county."

Section 2. G.S. 153A-355 reads as rewritten:

"**§ 153A-355. Conflicts of interest.**

Unless he or she is the owner of the building, no member of an inspection department ~~or other individual contracting with a county to conduct inspections~~ shall be financially interested or employed by a business that is financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department or other individual or an employee of a company contracting with a county to conduct inspections may engage in any work that is inconsistent with his or her duties or with the interest of the ~~county.~~ county, as determined by the county. The county must find a conflict of interest:

(1) If the individual, company, or employee of a company contracting to perform inspections for the county has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform inspections for the county is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform inspections for the county has a financial or business interest in the project to be inspected."

Section 3. G.S. 160A-413 reads as rewritten:

"**§ 160A-413. Joint inspection department; other arrangements.**

A city council may enter into and carry out contracts with another city, county, or combination thereof under which the parties agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a city council may designate an inspector from any other city or county to serve as a member of its inspection department with the approval of the governing body of the other city or county, or may contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 160A-411.1 or ~~G.S. 153A-351.1.~~ G.S. 153A-351.1, or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1. The inspector, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered a municipal employee. The city shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the city as it does for an individual who is an employee of the city.

The company or individual with whom the city contracts shall have errors and omissions and other insurance coverage acceptable to the city.

The city council of any city may request the board of county commissioners of the county in which the city is located to direct one or more county building inspectors to exercise their powers within part or all of the city's jurisdiction, and they shall thereupon be empowered to do so until the city council officially withdraws its request in the manner provided in G.S. 160A-360(g)."

Section 4. G.S. 160A-415 reads as rewritten:

"**§ 160A-415. Conflicts of interest.**

No member of an inspection department ~~or other individual contracting with a city to conduct inspections~~ shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the city's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a city to conduct inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the ~~city.~~ city, as determined by the city. The city must find a conflict of interest:

(1) If the individual, company, or employee of a company contracting to perform inspections for the city has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform inspections for the city is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform inspections for the city has a financial or business interest in the project to be inspected.

The Provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue, but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years."

Section 5. G.S. 143-151.8 reads as rewritten:

"**§ 143-151.8. Definitions.**

(a) As used in this Article, unless the context otherwise requires:

(1) "Board" means the North Carolina Code Officials Qualification Board.

(2) "Code" means the North Carolina State Building Code and related local building rules approved by the Building Code Council heretofore or hereinafter enacted, adopted or approved pursuant to G.S. 143-138.

(3) "Code enforcement" means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof, or the enforcement of fire code regulations as an employee of the State or local government ~~or other~~ as an individual contracting with the State or a local government to conduct inspections, or as an individual who is employed by a company contracting with a county or a city to conduct inspections, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the Code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules.

(4) "Local inspection department" means the agency or agencies of local government with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings, and conditions that may create hazards of fire, explosion, or related hazards.

(5) "Qualified Code-enforcement official" means a person qualified under this Article to engage in the practice of Code enforcement.

(b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified."

Section 6. This act is effective when it becomes law.

Kathr

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 966
S966-PCSSD-001
21-APR-99 09:36:25

Short Title: Building Inspection Contracts. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE AUTHORITY TO ENTER INTO CONTRACTS FOR CONDUCTING MUNICIPAL AND COUNTY BUILDING INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-353 reads as rewritten:

"**§ 153A-353. Joint inspection department; other arrangements.**

A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city, or

may contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 153A-351.1 or ~~G.S. 160A-411.1.~~ G.S. 160A-411.1, or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1. The inspector, if designated from another county or city under this section, while exercising the duties of the position, is a county employee. The county shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the county as it does for an individual who is an employee of the county. The company or individual with whom the county contracts shall have errors and omissions and other insurance coverage acceptable to the county."

Section 2. G.S. 153A-355 reads as rewritten:

"**§ 153A-355. Conflicts of interest.**

Unless he or she is the owner of the building, no member of an inspection department or other individual contracting with a county to conduct inspections shall be financially interested or employed by a business that is financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department or other individual or an employee of a company contracting with a county to conduct inspections may engage in any work that is inconsistent with his or her duties or with the interest of the ~~county.~~ county, as determined by the county. The county must find a conflict of interest:

(1) If the individual, company, or employee of a company contracting to perform inspections for the county has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform inspections for the county is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform inspections for the

county has a financial or business interest in the project to be inspected."

Section 3. G.S. 160A-413 reads as rewritten:

"**§ 160A-413. Joint inspection department; other arrangements.**

A city council may enter into and carry out contracts with another city, county, or combination thereof under which the parties agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a city council may designate an inspector from any other city or county to serve as a member of its inspection department with the approval of the governing body of the other city or county, or may contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 160A-411.1 or ~~G.S. 153A-351.1.~~ G.S. 153A-351.1, or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1. The inspector, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered a municipal employee. The city shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the city as it does for an individual who is an employee of the city. The company or individual with whom the city contracts shall have errors and omissions and other insurance coverage acceptable to the city.

The city council of any city may request the board of county commissioners of the county in which the city is located to direct one or more county building inspectors to exercise their powers within part or all of the city's jurisdiction, and they shall thereupon be empowered to do so until the city council officially withdraws its request in the manner provided in G.S. 160A-360(g)."

Section 4. G.S. 160A-415 reads as rewritten:

"**§ 160A-415. Conflicts of interest.**

No member of an inspection department or other individual contracting with a city to conduct inspections shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or

appliances for the construction, alteration, or maintenance of any building within the city's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a city to conduct inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the ~~city.~~ city, as determined by the city. The city must find a conflict of interest:

(1) If the individual, company, or employee of a company contracting to perform inspections for the city has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform inspections for the city is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform inspections for the city has a financial or business interest in the project to be inspected.

The Provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue, but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years."

Section 5. G.S. 143-151.8 reads as rewritten:

"**§ 143-151.8. Definitions.**

(a) As used in this Article, unless the context otherwise requires:

(1) "Board" means the North Carolina Code Officials Qualification Board.

(2) "Code" means the North Carolina State Building Code and related local building rules approved by the Building Code Council heretofore or hereinafter

enacted, adopted or approved pursuant to G.S. 143-138.

(3) "Code enforcement" means the examination and approval of plans and specifications, or the inspection of the manner of construction, workmanship, and materials for construction of buildings and structures and components thereof, or the enforcement of fire code regulations as an employee of the State or local government ~~or other~~ as an individual contracting with the State or a local government to conduct inspections, or as an individual who is employed by a company contracting with a county or a city to conduct inspections, except an employee of the State Department of Labor engaged in the administration and enforcement of those sections of the Code which pertain to boilers and elevators, to assure compliance with the State Building Code and related local building rules.

(4) "Local inspection department" means the agency or agencies of local government with authority to make inspections of buildings and to enforce the Code and other laws, ordinances, and rules enacted by the State and the local government which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings, and conditions that may create hazards of fire, explosion, or related hazards.

(5) "Qualified Code-enforcement official" means a person qualified under this Article to engage in the practice of Code enforcement.

(b) For purposes of this Article, the population of a city or county shall be determined according to the most current federal census, unless otherwise specified."

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 966

Short Title: Building Inspection Contracts. (Public)

Sponsors: Senator Clodfelter.

Referred to: State and Local Government.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE AUTHORITY TO ENTER INTO CONTRACTS FOR CONDUCTING MUNICIPAL AND COUNTY BUILDING INSPECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-353 reads as rewritten:

"**§ 153A-353. Joint inspection department; other arrangements.**

A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city, or may contract with a company or an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1. The inspector, if designated from another county or city under this section, while exercising the duties of the position, is a county employee. The county shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the county as it does for an individual who is an employee of the county. The company or individual with whom the county contracts shall have errors and omissions and other insurance coverage acceptable to the county."

Section 2. G.S. 153A-355 reads as rewritten:

"**§ 153A-355. Conflicts of interest.**

Unless he or she is the owner of the building, no member of an inspection department or other individual contracting with a county to conduct inspections shall be financially interested or employed by a business that is financially interested in furnishing labor, material, or appliances for the construction, alteration, or maintenance of any building within the county's territorial jurisdiction or any part or system thereof, or in making plans or specifications therefor. No member of any inspection department or other individual or company contracting with a county to conduct inspections may engage in any work that is inconsistent with his or her duties or with the interest of the ~~county.~~ county, as determined by the county. The county must find a conflict of interest:

(1) If the individual contracting to perform inspections for the county has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual contracting to perform inspections for the county has a financial or business interest in the project to be inspected."

Section 3. G.S. 160A-415 reads as rewritten:

"**§ 160A-415. Conflicts of interest.**

~~No~~ Unless he or she is the owner of the building, no member of an inspection department or other individual contracting with a city to conduct inspections shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the city's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or company contracting with a city to conduct inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the city."

Section 4. This act is effective when it becomes law.

S966:
Building Inspection Contracts

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen. Clodfelter
Date:	April 17, 1999	**Summary by:**	Ed Rossi
Version:	S966-PCSSD-001		Committee Co-Counsel

SUMMARY: Senate bill 966 does the following:

- ***Allows cities and counties to hire companies to do building inspections.***
- ***Gives cities and counties discretion to determine when an inspector has a conflict of interest.***
- ***Requires cities and counties to find that a conflict of interest exists when the individual hired to perform the inspection:***
  1. ***Worked for the owner, developer, or project manager with in the last 2 years;***
  2. ***Is closely related to the owner, developer, or project manager;***
  3. ***Has a financial interest in the property being inspected.***

Current Law: Chapter 153A and 160A have mirror provisions that allow municipalities to contract with state-qualified inspectors. To qualify as an inspector, an individual must have a certificate from the Code Enforcement Qualifications Board. There are three types of certificates[1]:

1. A standard certificate – This is issued to person who have passed an examination based on the North Carolina Building Code and the administrative procedures required to enforce the code.
2. A limited certificate – This was issued to persons who were grandfathered in when the original legislation was passed. This certificate becomes invalid when the person leaves office.
3. A probationary certificate – These are certificates that are valid for a period of 1 to 3 years and by rule are issued to persons who have either have 2 years of related experience, have passed a test issued by the Board, or are directly supervised by a current certificate holder.

Bill Analysis: Senate bill 966, as amended by the committee substitute, lets cities and counties contract with individuals or companies to conduct building inspections. Sections 1 and 3 of the committee substitute create mirror provisions which allow cites and counties to contract with companies to perform building inspections. Sections 2 and 4 set out certain situations where these individuals or companies would not be allowed to conduct inspections due to conflicts of interest. And, section 5, modifies the definition of "code enforcement" to allow for the contractual relations contemplated by the bill.

[1] G.S. § 143-151.13

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 723*

Short Title: Chapel Hill Omnibus Act. (Local)

Sponsors: Senators Kinnaird and Lee.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS AMENDMENTS CONCERNING THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaign. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaign.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 2. Article 2 of Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new section to read:

"Sec. 5.19. Ordinances requiring provision of housing for persons of low and moderate income.

(a) Subject to the provision of subsection (b) of this section, for the purpose of increasing the availability of housing for persons of low and moderate income and thereby promoting the public health, safety, and welfare, the Town of Chapel Hill may enact ordinances which may require that subdividers of residentially zoned land and developers of housing within the Town and its extraterritorial planning jurisdiction:

(1) Construct up to but no more than twenty-five percent (25%) of the total dwelling units of a housing development for persons of low or moderate income; or

(2) Construct up to but no more than ten percent (10%) of the total units of housing development for lower income persons; or

(3) Dedicate land in the immediate area of the subdivision or development for use by the Town for housing for persons of low and moderate income, or provide funds to the Town whereby the Town may acquire other lands or areas for the purpose of providing additional housing; or

(4) Provide housing opportunities for persons of low and moderate income. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes.

(b) The authority of subsection (a) of this section may only be exercised when a proposed development or subdivision contains at least 10 dwelling units or is at least 10 acres in size, or both.

(c) The Town may exercise the authority granted in subsection (a) of this section only if the Town either grants a density bonus or provides other incentives of equivalent financial value to a developer required to provide low- or moderate-income housing."

Section 3. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Articles to read:

"Article 9. Adequate Public Facilities.

"Sec. 5.50. Adequate public facilities ordinance authorized.

For the purpose of protecting against scattered or premature development of land that would threaten the public health, safety, and welfare due to lack of adequate water supply, sewerage, stormwater drainage, traffic circulation, mass transit, solid waste, open space, parks, schools, fire protection, or any other public facilities or services; for the purpose of preventing the excessive, inefficient, and uncoordinated expenditure of public funds for the supply of such facilities or services; and for the

purpose of promoting the health, safety, and general welfare of the community, the Town of Chapel Hill may exercise the following powers:

(1) To adopt ordinances to assure that public facilities or services (including, but not limited to, streets and roads, sidewalks, traffic control devices, water and sewer lines, and schools) are available at an adequate level of service to serve proposed development.

(2) To condition development application approvals upon the applicant's provision of transportation management programs which address the traffic and transportation impacts of the new development, which programs may include, but are not limited to, requirements for improvements to public transportation facilities impacted by the proposed development or payments in lieu of improvements.

(3) To adopt ordinances to require existing development to address the impact on the health, safety, and general welfare of the community, of traffic generated or promoted by that development, including the authority to require implementation of transportation management plans and other steps to ensure implementation of an appropriate transportation management program by existing development.

"Article 10. Regulation of Open Burning.

"Sec. 5.51. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 4.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county board of elections may allow judges of election to serve for half-day shifts."

Section 4.(b) This act applies to Orange County only.

Section 5. This act is effective when it becomes law.

S723:
Chapel Hill Omnibus Act

BILL ANALYSIS

Committee:	Senat State & Local Gov.	**Introduced by:**	Sen. Kinnaird & Lee
Date:	April 20, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: Senate bill 723 allows the Town of Chapel Hill to do the following:

- *Require political candidates and their political committees to disclose the names of campaign contributors.*
- *Limit the amount of contributions to political campaigns.*
- *Require developers to construct set amounts of low or moderate-income housing.*
- *Adopt ordinances that assure that adequate levels of roads, water and sewer lines, and sidewalks are available to serve proposed developments.*
- *Regulate open burning.*
- *Allow the county board of elections to permit election judges to serve half-day shifts.*

This bill is constitutionally suspect because it is local bill that could be interpreted to relate to matters affecting health and the abatement of nuisances in violation of Article II Sec. 24 of the North Carolina Constitution.

TOWN OF HUNTERSVILLE

VOLUNTARY TRANSFER OF DEVELOPMENT RIGHTS

EXECUTIVE SUMMARY

Jurisdiction

This request is made by the Mayor and Board of Commissioners of the Town of Huntersville for application within its municipal limits and extraterritorial zoning jurisdiction.

Request

Legislation is requested to authorize the Town of Huntersville to establish a Voluntary Transfer of Development Rights (TDR) Pilot Program.

Goals and Objectives of a Voluntary Transfer of Development Rights Pilot Program

The proposed voluntary transfer of development rights pilot program is constructed to meet the **goal of preserving open space of rural character, as recommended in land use and strategic plans adopted by the Town of Huntersville and Mecklenburg County over the past 10 years.**

The **specific objectives of the pilot program** are:

- To test the effectiveness of an incentive-based tool, of limited scope and duration, to conserve open space and rural landscape as called for in the Town of Huntersville Strategic Plan, and its predecessor plans.
- To determine the efficacy of a voluntary transfer of development rights as an incentive that enables landowners and developers to make market-based land use decisions that support one or more of the environmental values below:
  - ◊ conserving land in water supply watersheds
  - ◊ protecting wetlands
  - ◊ preserving floodplains and flood fringes to minimize stream pollution and flooding
  - ◊ preserving historic sites and historic corridors such as Beatties Ford Road
- To offer landowners the option of realizing an economic return on their property by selling some or all of their development rights in return for maintaining some or all of their land in agricultural use or in an undeveloped condition.
- To offer developers an incentive to consider compact development in locations accessible to urban infrastructure in lieu of land-consuming development in still-rural areas, in environmentally fragile areas and in areas poorly served by urban infrastructure.

Pilot Program

It is proposed that a pilot program be established to determine the effectiveness of allowing development rights to be transferred **from** parcels with environmental, agricultural, historic, or rural open space assets **to** parcels with developable land forms that are well-served by existing or planned urban infrastructure. The legislation requests authorization for a TDR pilot program that is limited in scope, entirely voluntary, and market-driven. If approved, such a program would:

- provide landowners in **sending zones** with the option of selling some or all of their development rights while keeping their land, and
- provide developers with the option of purchasing development rights for use in a **receiving zones** to increase development intensity and, if desired, diversity, and
- maintain all existing rights to develop property in the Open Space zoning district for those who **do not choose to participate in the TDR pilot program**, no matter whether they are in a sending zone or a receiving zone.

Extent of Pilot Program

In order to assess the efficacy and market appeal of the pilot program, the town requests that the program be limited as follows:

- "Development Rights" of sending zones will be computed on a "per acre" basis without adjustment for land development values such as watershed limitations, floodways, steep topography, access and the like;
- Development rights may be transferred off of no more than 1000 acres (the transfer cap) during the lifetime of the pilot;
- Location of "sending zones" and "receiving zones" will be limited to land within the Open Space Zoning District;
- The Town of Huntersville's authority to conduct the program will expire after a period of five (5) years or the exhaustion of the transfer cap (1000 acres), whichever occurs first;
- Prior to adopting a pilot program, the Town will create an "Implementation Task Force" that will meet over at least a 90 day period to advise the Mayor and Commissioners on structural and operational issues of pilot program implementation. The task force will include property owner representatives, development and building industry representatives, and representatives from the Huntersville Board of Commissioners.
- Prior to the required public hearing, the Town will convene a public workshop to again present the program and receive public input. This will supplement, not replace, the public hearing.

Legislative Monitoring

The Town of Huntersville will prepare an annual report, beginning on the first anniversary of the commencement of the voluntary TDR pilot program. The report will be provided to the Chairperson of the Mecklenburg County Legislative Delegation and to any other individuals, agencies, or organizations that the Chairperson designates. The

report will quantify the program activity during the past year and the cumulative activity over all prior years. The report shall include a summary of comments received from those who use, or explore the use of, the voluntary Transfer of Development Rights program. Comments will be used to evaluate the standards established in the pilot program for sensitivity to landowner needs and sensitivity to market needs.

Don & Sue Adair

Riada Farms
9800 Sao Paula Drive
Huntersville, NC 28078

Telephone (704) 399-2200

April 7, 1999

Mayor Randy Quillen
Town of Huntersville
P.O. Box 664
Huntersville, N.C. 28078

Dear Mayor Quillen,

Twenty years ago we bought some acreage on Prosperity Church Road and built our "retirement" home. Our friends said that we were so far out in the country that they would probably never visit. Ten years later the subdivisions were sprouting up around us. This was not what we envisioned so we sold, bought more acreage, built our new "retirement home" in Long Creek. Prosperity Church Road will likely be a 4-lane road in the near future. As you can imagine, traffic is horrible and the rural life is gone.

After 10 years living in Long Creek, it appears the same thing could be happening. Developments just north of us on Beatties Ford Road will produce almost 1500 housing units. And it is just beginning. With the new middle school, the proposed high school, and probably a new elementary up there, even more homes will be built. We are losing our rural setting very quickly.

I have read with great interest the plans for TDR. I do not understand how it will work yet but it sounds wonderful. If it will provide tax relief and some funds for my retirement then there would be no reason for me to sell for another subdivision. I would not have to move again. It would provide a large green space. It would protect a large area of Gar Creek. My children would inherit land that could stay in the family and enjoy the peace we see daily (for the time being). Everybody wins.

Some land owners are waiting on the big dollars that developers will provide for their retirement and I do not fault them for that. Other land owners share my concern and wish to stay on their land and provide green space for their children and grandchildren.

From what I have read so far, I heartily support the TDR program and ask that my approximately 65 acres be considered for the pilot program that was mentioned in Monday's paper.

Sincerely,

Don Adair

pizzagalli properties, llc
7421 Carmel Executive Park, Suite 210
Charlotte, North Carolina 28226
Telephone (704) 542-8886
Fax (704) 541-3027

March 29, 1999

Mr. Randy Quillen
Mayor, Town of Huntersville
P. O. Box 664
Huntersville, NC 28070

Dear Mr. Mayor:

We certainly appreciate having the opportunity to learn about your pilot program for the transfer of development rights.

The fact that there are no models for this concept should not deter Huntersville from moving forward with this plan. Someone always has to lead. With green area disappearing so rapidly in Huntersville, the sooner this program can go into effect, the better.

The old dictation that "all growth is good at all times" is simply not true. A balance, however, is very difficult to achieve and control. Huntersville can become a model for "reasonable" growth, which provides increasing opportunities and services for its people while maintaining an environment which helps citizens maintain an important link to history, tradition and the "land".

We will be pleased to participate in any manner requested to help make this pilot program a success.

Sincerely,

Frederick B. Johnston, Jr.
Senior Vice President

FBJ/dh

KFDD

5900 Stephens Road
Huntersville, N.C 20-78

704-875-6051
Fax: 704-947-8314

April 19,1999

TO WHOMEVER IT MAY CONCERN:

RE: TRANSFER OF DEVELOPMENT RIGHTS LEGISLATION

It was my pleasure to serve on Huntersville's Transfer of Development Rights Committee, working with staff from the town, UNCC Urban Institute representatives, developers, landowners and concerned citizens.

It is my sincere belief that a TDR Program which is properly developed, implemented and maintained can become an unprecedented vehicle to preserve open space for future generations without penalizing current landowners. Obviously, this is a complicated concept with multiple factions to be dealt with, all of which can be accomplished with diligence and dedication. Because Huntersville seeks a voluntary program it presents a threat to no one, landowner or developer.

Under a good TDR Program everyone wins. Landowners can capitalize on the property without losing their home place, developers can optimize land which they wish to develop, and the general public for generations to come can enjoy the tranquility of open spaces.

Sincerely,

Linda Kidd

Linda Kidd
5900 Stephens Road
Huntersville, NC 28078
704-875-6051

The Charlotte Observer *** SUNDAY, JANUARY 24, 1999 Section M

Mecklenburg Neighbors



ED COTTINGHAM/Special to The Observer

Linda Kidd is a member of the committee that designed a proposed Transfer of Development Rights program for Huntersville. Kidd lives on her family's dairy farm near Beattles Ford Road west of Huntersville. Her land could be affected by the program.

AIM: LEAVE LEGACY OF OPEN LAND

Huntersville to air plan that attempts to keep some acreage safe from development 2M

9M Library Notes
10M School Notes
13M People Notes
19M Your Views
26M Police Blotter
28M Support Groups

Harding High: Showing that heart counts on the basketball court. 20M

The latest statistics in Mecklenburg high school sports. 22M

COVER STORY

Town's plan would try to save open land

[redacted]ers would be paid to leave their acres undeveloped

By HARRIET SPRY MCKENZIE
Special Correspondent

The rapid loss of agricultural and undeveloped land around Huntersville is a problem with no simple solutions.

But at a public meeting Thursday, area residents will have a chance to learn about one proposed solution that town officials are working on — a voluntary Transfer of Development Rights program.

The program allows landowners to sell, if they choose, their development rights. The landowners would receive money, and be required to keep their land undeveloped. Town Planner Richard Kos says those rights would then be transferred elsewhere in the community.

"The landowner benefits by receiving cash in hand while retaining ownership of the property," says Kos. "And the town creates a mechanism to steer growth where it can be more efficiently accommodated."

Growth would be steered to "receiving zones," many of which would lie along the Norfolk Southe[redacted]acks, an integral corridor o[redacted]ountywide 2025 Transi[redacted]se Plan.

"[redacted]nding zones," areas from which development rights have been sold, would coincide roughly with the rural Open Space District in the eastern and western portions of the town's 64-square-mile zoning jurisdiction.

There are more than 100 Transfer of Development Rights programs in the United States, but none are in North Carolina. Huntersville's proposed program would require approval of the state legislature.

Huntersville is the fastest growing municipality in North Carolina, according to the latest figures from the Office of State Planning. The population has jumped from 3,014 to 20,545 in this decade. There are few surviving farms.

A committee, composed of landowners, developers and other interested Huntersville citizens, has spent seven months designing a preliminary Transfer of Development Rights program.

Committee members said they tried to envision the proposed program from the perspectives of developers and rural landowners, while keeping the future of Huntersville in mind.

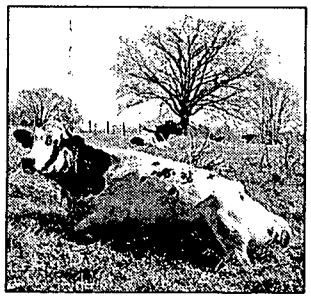
Linda Kidd is a committee member who lives on her family's dairy farm near Beatties Ford Road, west of Huntersville. Her land could be affected by the program.

"A[redacted]luntary TDR program offe[redacted]wners a concrete way to pr[redacted] the land without leaving it," says Kidd. "It may be one of our greatest gifts to our great-great-grandchildren."

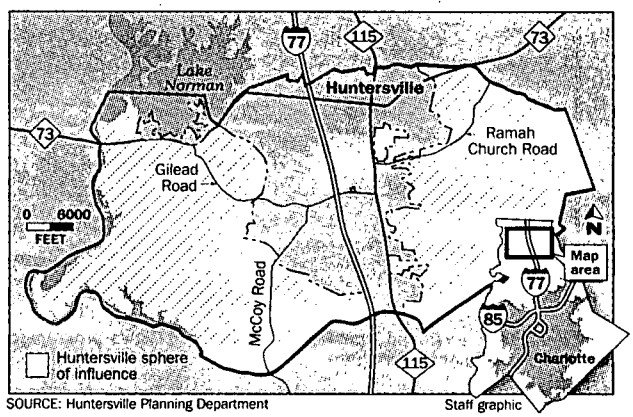


Photos by ED COTTINGHAM/Staff

Under a proposed Transfer of Development Rights program, landowners such as David and Linda Kidd of Huntersville, who own the land shown, could sell their development rights. The landowners would receive money and be required to keep their land undeveloped.



Cows on David and Linda Kidd's farm near Huntersville wouldn't be forced from their grazing fields under a open-land proposal.



SOURCE: Huntersville Planning Department — Staff graphic

Committee member Frank Bragg, who owns property along Ramah Creek east of Huntersville, believes the program is viable, though he doubts its appeal to developers.

"We need strong zoning in Huntersville to facilitate a TDR program, so developers will have the incentive to participate," Bragg said.

"I'm not antidevelopment, but we do need to save these larger contiguous tracts of land that can mean something to both people and wildlife."

Another committee member is Jim Bladon of the Harris Group, developers of Birkdale and Birkdale Village in the Northcross area.

"The committee has come up with good guidelines," Bladon said. "Of course, the town is now going to have to address the density issue. One concern I have is how aggressive the town is willing to be in increasing density."

Kidd and Bragg believe the program won't be the only answer to the loss of undeveloped land in north Mecklenburg.

"The program also must be complemented by public ownership of open spaces with public access," Kidd says. "And we must preserve enough space for wildlife."

Bragg said granting easements to the local nonprofit Catawba Lands Conservancy is another worthwhile option for landowners. That organization doesn't purchase rights, but it does offer the opportunity to take advantage of tax deductions.

Dr. Owen Furuseth of UNC Charlotte and of the Carolina Lands Conservation Network will share the citizen committee's report with the public at Thursday's meeting. Furuseth and other UNCC Urban Institute staff members have served as consultants.

Two key recommendations are that eligible property owners would choose whether to participate, and the town should maintain records of all transfers.

WANT TO ATTEND?

The meeting is at 6:30 p.m. Thursday at Huntersville Town Hall, 101 Huntersville-Concord Road. For details, call 875-6541.

'Smart growth' is pro-growth

Hugh McColl is right about the need for new growth planning, and other leaders and governments are catching on.

Washington Post Writers Group

CEOs of banks are expected to be cheerleaders for just about any profitable proposition thrown in their path.

But Hugh McColl Jr., whose Bank of America is the nation's largest financier of commercial and residential real estate, didn't sound quite that way in a talk before the International Council of Shopping Centers in Charlotte March 30.

Neal Peirce



Storm clouds are gathering over America's communities, warned McColl, the North Carolinian who vaulted to the chairmanship when BankAmerica merged with NationsBank. "Our roads and highways are filled to capacity. The quality of our air, rivers and streams has dropped considerably," he said.

In Las Vegas, he said, the demand for water is projected to exceed supply in 10 years — even while people continue to plant and water grass lawns in the desert. In Atlanta, McColl noted, Hewlett-Packard scrapped plans recently for a second office tower because management felt it couldn't ask workers to live in Atlanta's "sprawling, congested suburbs."

Flying time and again across America in the last year, said McColl, he found his awe at "the sheer beauty and wonder of our natural environment" had been matched by "profound sadness in seeing clearly the unintended consequences" of "spontaneous, prolific, undirected development."

The antidote, being identified by McColl and governors, mayors, county leaders and activists nationwide, is "smart growth."

But what is "smart growth"? State by state, "smart growth" is starting to mean very positive things.

In rock-ribbed conservative Wyoming, Republican Gov. Jim Geringer has posted a comprehensive land conservation guidebook on his Web site.

In Maryland, Democratic Gov. Parris Glendening pushed through the first "smart growth" law, cutting off state sewer and highway funds to areas beyond county-designated growth areas.

In Utah, Republican Gov. Mike Leavitt signed a Growth Quality Act to help localities develop sound growth management, especially to manage intense growth pressures along the Salt Lake City-Wasatch Mountains front.

In Pennsylvania, a cautious Republican governor, Tom Ridge, not only appointed a 21st-Century Environment Commission but has gone to the legislature with a $1.3-billion "Growing Greener" initiative. It includes such measures as grants for localities willing to work together on regional land-use planning, shared operations and brownfields cleanup.

In Tennessee, "smart growth" is encouraging counties and municipalities to implement, effectively, the dramatic new growth management law passed there last year.

In New Jersey, Republican Gov. Christie Todd Whitman, victorious last autumn in persuading voters to approve bonds to protect half of Jersey's remaining open spaces, is now declaring, "We must do better." Her specific goal: to breathe life into New Jersey's State Plan with its goal of focusing growth toward older, economically ignored and devastated communities.

In Georgia, Democratic Gov. Roy Barnes is pushing creation of a powerful new agency to build Atlanta metro area transit rail lines, providing an alternative for commuters (and cleaner air) in America's fastest-sprawling region.

These are just samples of legislative, regional activity nationwide. Admittedly none is perfect, each has shortcomings. Easily, smart growth clashes with ingrained preferences for single houses on big lots.

But America *is* moving on this issue. And why? Because, collectively, we *are* getting concerned. Because "smart growth" is thoroughly bipartisan.

Hear what McColl has to say about it: Smart growth is "pro-growth" because growth fuels the U.S. economy. It's about choices — not just to live in suburbs, but to be assured a right to safe and livable cities, too.

Smart growth, says McColl, works in America's "free market society" because it "favors incentives over controls." It "protects our environment," and seeks to "use our resources wisely" — values Americans embrace. Smart growth means "everybody gets a seat at the table" when regional growth options are discussed — "developers, business people, public officials, environmental advocates, ordinary citizens."

The McColl definition leaves dozens of questions to be answered on the "hows" of new growth practices and town planning. Smart growth is a vision under construction.

But it's becoming a formidable force in American life.

Neal Peirce is a nationally syndicated columnist who writes about state and local government and federal relations. Write him c/o Washington Post Writers Group, 1150 15th St. NW, Washington, DC 20071.

Transfer of Development Rights

TDR programs are based on the concept that property ownership consists of a "bundle of rights", and that some of these rights can be treated separately from the full bundle.

The full bundle of property ownership rights includes, among others, the right to:

- live on and use the land,
- sell, lease or bequeath it,
- use it as security for obtaining loans,
- mine it ("mineral rights"), and
- construct buildings and other structures on it ("development rights").

When a landowner sells his property, generally the entire bundle of rights is transferred to the buyer. This is what is meant by a "fee simple" transfer of ownership. In some instances, though, only some of the rights are sold and transferred, as is common with the sale of mineral rights.

TDR programs enable landowners to separate their development rights from their other property rights and to *transfer* the right to develop one parcel of land to another parcel of land. The development rights may be transferred between parcels owned by the same landowner, or, through a development rights sales transaction, transferred to a parcel owned by the buyer of the development rights.

Most TDR transactions are private market transactions between landowners and developers. Prices are negotiated freely just as are other real estate transaction prices.

The parcel from which development rights are transferred is called a **"sending"** parcel, and is placed under a deed restriction or conservation easement.

The parcel to which development rights are transferred is called a **"receiving"** parcel, and is permitted to be developed at a higher density than permitted by the base zoning for that parcel.

Local government's role in TDR programs is 3-fold:

- **Establish the TDR zoning ordinance** that defines the TDR program, including, if applicable, definition of specific "Sending" and "Receiving" zones.
- **Approve TDR transactions** and officially record transaction results.
- **Monitor** conservation easements and building permits.

Benefits of TDR

"Sending" Property Owners

Have increased options for dealing with their land.

Benefits of TDR participation include:

- Keep the land and all rights pertaining to it except to develop it.
- Receive cash in exchange for the land's development rights.
- Save on property and estate taxes, because the land's market value is reduced.
- Land is protected even upon sale, lease or bequeathing.

"Receiving" Property Owners

Have increased options and flexibility for developing their land.

Benefits of TDR participation include:

- Increased density permitted without time, uncertainty and expense of a re-zoning
- Purchasing TDRs is less costly than purchasing land in fee simple ownership
- A wider range of projects can profitably be considered for a given site
- Contributing to local land use goals enhances public image

Local Government and Citizens

Helps maintain the livability and character of the local area:

- Encourages growth and land development where it is most appropriate
- Encourages open space preservation where it is most appropriate

Allows private market to drive the process

Does not rely on large sums of public funds or erosion of tax base to achieve public goals

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 4/21/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S966-PCSSD-001

Rep.)
) _____
Sen.)

moves to amend the bill on page 2, line s 17 + 18

( ) WHICH CHANGES THE TITLE

by striking through the following language:

"or other individual contracting with a county to conduct inspections"

And on page 3 line 37 + 38 by striking through the following language "or other individual contracting with a city to conduct inspections"

SIGNED Daniel McLawhorn

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 27, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JAMES SPRAGUE	Durham City/County of Durham 101 City HALL PLAZA Durham N.C. 27701
Edward CIANFARRA	City of Goldsboro / N.C. Building Insp Assoc 221 S. Center St Goldsboro 275-3[illegible]
Curt Willis	NCBIA
Jim Burnette, Jr	NCDA & CS - Pesticide Section
John Cyrus	N.C. State Grange
Glenn Jernigan	Agricultural Alliance of N.C.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 27, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
GENE BRADHAM	DURHAM CITY-COUNTY INSPECTIONS DEPARTMENT CITY OF DURHAM, 101 CITY HALL PLAZA DURHAM, N.C. 27701
Jessica Bellas	4301-3 Avent Ferry Rd Raleigh NC 27606
John Barrow	NCHBA
Mary Carmilia	Mecklenburg County
Jim Blackburn	Association of County Commissioners
Andy Romanet	N.C. League of Municipalities
GROVER SAWYER	NC DEPT OF INSURANCE
Jim Bradley	NC DOI
Drew Saunders	NC House
Ann Hammond	Town of Huntersville
CAROLE ACQUESTA	NC Dept of Insurance

STATE & LOCAL GOVERNMENT

WEDNESDAY, APRIL 28, 1999

11:00 AM

ROOM 1124 LB

Bills

• SB 1039	Anson-Union Comm. Coll. Established.	Sen. Plyler
• SB 1013	Delivery of State Funds/Clarified	Sen. Foxx
• SB 1140	Surry Billboard Ban Repealed	Sen. East
• SB 708	Affordable Housing	Sen. Odom
• SB 395	Cabarrus County Local Act-2	Sen. Hartsell
• SB 532	Asheville Local Act 4	Sen. Carter
• SB 929	Abatement of Nuisances	Sen. Reeves
• SB 582	Winston-Salem Pawnbrokers	Sen. Horton
• SB 543	Forsyth Area Zoning Changes	Sen. Horton
• SB 984	Amendment 3	Sen. Miller

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, APRIL 28, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, April 28, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1039, Anson-Union Comm. Coll. Established, was explained by Sen. Plyer. Sen. Soles moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Soles moved to give the proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB **1013, Delivery of State Funds/Clarified,** was explained by Sen. Foxx. Sen. Foxx requested the bill be withdrawn.

SB 1140, Surry Billboard Ban Repealed, was explained by Sen. East. Sen. Garwood moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Horton moved to give the proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 708, Affordable Housing, was explained by Sen. Odom. Sen. Soles moved to amendment the bill. The motion carried unanimously. Sen. Miller moved to adopt the Proposed Committee Substitute as amended. The motion carried unanimously. Ed Regan County Commissioners Association spoke about the bill. Sen. Horton moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 395. Cabarrus County Local Act-2, was explained by Sen. Hartsell. Sen. Miller moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Miller moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 532, Asheville Local Act 4, was explained by Sen. Carter. Sen. Ballance moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Soles moved to adopt the amendment. The motion carried unanimously. Sen. Miller moved to give the Proposed Committee Substitute as amended a favorable report. The motion carried unanimously. . **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 929, Abatement of Nuisances, was explained by Sen. Reeves. Sen. Albertson moved to adopt the Proposed Committee Substitute. Sen. Garwood moved to adopt the amendment. The motion carried unanimously. John Williamson, Deputy General Council for the Department of Crime Control, answered questions. The bill was continued until the afternoon session.

The committee agreed to recess until 3:00 resuming the committee meeting in room 1124.

STATE AND LOCAL GOVERNMENT
WEDNESDAY, APRIL 28, 1999

MINUTES

The Senate State and Local Government Committee continued the morning meeting on Wednesday, April 28, 1999 at 3:00 p. m. in Room 1124 of the Legislative Building. Six members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 582, Winston-Salem Pawnbrokers, was explained by Sen. Horton. Sen. Horton moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Soles moved to give the Proposed Committee Substitute favorable report. The motion carried unanimously. . **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 543, Forsyth Area Zoning Changes, was explained by Sen. Horton. Sen. Horton moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Horton moved to give the Proposed Committee Substitute favorable report. The motion carried unanimously. . **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 929, Abatement of Nuisances, Sen. Reeves continued with his bill. Sen. Ballance moved to give Proposed Committee Substitute favorable report. The motion carried unanimously. . **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 984, Amendment 3, was explained by Sen. Miller. Sen. Miller moved to adopt the Proposed Committee Substitute. The motion carried unanimously. Sen. Horton moved to give the Proposed Committee Substitute favorable report. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young
Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 28, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

S.B. **708** Affordable Housing.

Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, April 28, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1039** Anson-Union Comm. Coll. Established.

Draft Number:	PCS 3801
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **1140** Surry Billboard Ban Repealed

Draft Number:	PCS 8607
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED:2

Committee Clerk Comment: None

CORRECTED COPY
NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, April 29, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **395** Cabarrus County Local Act-1.

Draft Number:	PCS 3809
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **532** Asheville Local Act.

Draft Number:	PCS 2761
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **929** Abatement of Nuisances.

Draft Number:	PCS 2762
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

S.B. **984** Amendment 3.

Draft Number:	PCS 8608
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 4

Committee Clerk Comment: None

CORRECTED COPY
NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, April 29, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **543** Forsyth Local Act.

Draft Number:	PCS 4697
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **582** Winston-Salem Pawnbrokers.

Draft Number:	PCS 6672
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1039
State and Local Government Committee Substitute Adopted 4/28/99

Short Title: Anson-Union Comm. Coll. Established. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NEW MULTICAMPUS COMMUNITY COLLEGE TO SERVE ANSON AND UNION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. There is established a new multicampus community college to serve the multiple-county administrative area of Anson and Union Counties. The initial board of trustees of the new college, which is appointed as provided in Section 2 of this act, shall select the name of the college.

Section 2. Notwithstanding G.S. 115D-12(a) and G.S. 115D-59, effective July 1, 1999, the initial board of trustees of the new college shall consist of 14 members appointed or elected as follows:

(1) Two residents of Anson County appointed by the Governor;
(2) Two residents of Union County appointed by the Governor;
(3) Two members elected by the Anson County Board of Education;
(4) Two members elected by the Union County Board of Education;
(5) Two members elected by the Anson County Commissioners;
(6) Three members elected by the Union County Commissioners; and
(7) The president of the student government or the chairman of the executive board of the student body of the community college, who shall serve as an ex officio nonvoting member.

The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (6), shall expire June 30, 2001. The initial terms of

one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2002. The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (4), shall expire June 30, 2003. The initial terms of one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (4), one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2004. Subsequent terms of office shall expire four years after appointment.

Section 3. Anson Community College is abolished. All functions, powers, duties, and obligations previously vested in Anson Community College are transferred to and vested in the new community college. The Anson County Board of Trustees shall serve as the board of trustees for the new college until the new board of trustees is appointed and qualified. The board of trustees for the new community college shall seek the transfer of the regional accreditation for Anson Community College to the new community college through the substantive change process of the Southern Association of Colleges and Schools.

Section 4. The State Board of Community Colleges may authorize the use of funds in the Anson-Union Community College Reserve to begin the operation of the new community college prior to July 1, 1999. Effective July 1, 1999, it is the intent of the General Assembly that the State Board repay the Reserve with funds appropriated for the operation of the new community college and that these funds remain available for expenditure for the new community college.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1039
Proposed Committee Substitute S1039-PCS38801-LE

Short Title: Anson-Union Comm. Coll. Established. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NEW MULTICAMPUS COMMUNITY COLLEGE TO SERVE ANSON AND UNION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. There is established a new multicampus community college to serve the multiple-county administrative area of Anson and Union Counties. The initial board of trustees of the new college, which is appointed as provided in Section 2 of this act, shall select the name of the college.

Section 2. Notwithstanding G.S. 115D-12(a) and G.S. 115D-59, effective July 1, 1999, the initial board of trustees of the new college shall consist of 14 members appointed or elected as follows:

(1) Two residents of Anson County appointed by the Governor;
(2) Two residents of Union County appointed by the Governor;
(3) Two members elected by the Anson County Board of Education;
(4) Two members elected by the Union County Board of Education;
(5) Two members elected by the Anson County Commissioners;
(6) Three members elected by the Union County Commissioners; and
(7) The president of the student government or the chairman of the executive board of the student body of the community college, who shall serve as an ex officio nonvoting member.

The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (6), shall expire June 30, 2001. The initial terms of

one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2002. The initial terms of one member appointed pursuant to subdivision (1) of this section, one member elected pursuant to subdivision (3), and one member elected pursuant to subdivision (4), shall expire June 30, 2003. The initial terms of one member appointed pursuant to subdivision (2) of this section, one member elected pursuant to subdivision (4), one member elected pursuant to subdivision (5), and one member elected pursuant to subdivision (6), shall expire June 30, 2004. Subsequent terms of office shall expire four years after appointment.

Section 3. Anson Community College is abolished. All functions, powers, duties, and obligations previously vested in Anson Community College are transferred to and vested in the new community college. The Anson County Board of Trustees shall serve as the board of trustees for the new college until the new board of trustees is appointed and qualified. The board of trustees for the new community college shall seek the transfer of the regional accreditation for Anson Community College to the new community college through the substantive change process of the Southern Association of Colleges and Schools.

Section 4. The State Board of Community Colleges may authorize the use of funds in the Anson-Union Community College Reserve to begin the operation of the new community college prior to July 1, 1999. Effective July 1, 1999, it is the intent of the General Assembly that the State Board repay the Reserve with funds appropriated for the operation of the new community college and that these funds remain available for expenditure for the new community college.

Section 5. This act is effective when it becomes law.

SENATE BILL 1039:
Anson-Union Comm. Coll. Estab.

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Plyler
Date:	April 28, 1999	**Summary by:**	Barbara Riley
Version:	S1039-PCS3801-LE		Committee Counsel

SUMMARY:

Senate Bill 1039 establishes a new multi-campus community college to serve Anson and Union Counties.

BILL ANALYSIS:

Senate Bill 1039 establishes a new multicampus community college to serve Anson and Union Counties. The initial board of trustees is to select the name of the new community college. This initial board shall consist of 14 members to be selected as follows:

2 residents of Anson County appointed by the Governor.

2 residents of Union County appointed by the Governor.

2 members elected by the Anson County Board of Education.

2 members elected by the Union County Board of Education.

2 members elected by the Anson County Commissioners.

3 members elected by the Union County Commissioners.

The president of the student government or the chairman of the executive board of the student body of the community college.

The functions, duties and obligations of Anson Community College are transferred to the new community college and Anson Community College is abolished. The Anson County Board of Trustees are to serve as the board of trustees for the new college until the new board is appointed. The new board is to seek transfer of the regional accreditation for Anson Community College to the new community college.

The State Board of Community Colleges may authorize the use of funds in the Anson-Union Community College Reserve Fund to begin operations of the new community college before July 1, 1999. The bill provides that it is the intent of the General Assembly that the State Board repay the Reserve Fund with funds appropriated for the new college.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1013

Short Title: Delivery of State Funds/Clarified. (Public)

Sponsors: Senators Foxx; Allran, Ballantine, Carpenter, Cochrane, Forrester, Garwood, Hartsell, Horton, Martin of Pitt, Moore, Rucho, and Webster.

Referred to: State and Local Government.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING THE DISBURSEMENT OF FUNDS TO NON-STATE ENTITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-3.2 reads as rewritten:

"**§ 143-3.2. Issuance of warrants upon State Treasurer; delivery of warrants and disbursements for non-State entities.**

(a) The State Controller shall have the exclusive responsibility for the issuance of all warrants for the payment of money upon the State Treasurer. All warrants upon the State Treasurer shall be signed by the State Controller, who before issuing them shall determine the legality of payment and the correctness of the accounts. All warrants issued for non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic funds transfer. Neither the disbursements nor facsimiles of the disbursements shall be delivered in person by a State officer or employee.

When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to make expenditures through a disbursing account with the State Treasurer. The State Controller shall authorize the Judicial Department and the General Assembly to make expenditures through such disbursing accounts. All disbursements made to non-State entities shall be delivered by the appropriate agency to the entity's legally designated recipient by United States mail or its equivalent, including electronic

funds transfer. Neither the disbursements nor facsimiles of the disbursements shall be delivered in person by a State officer or employee. All deposits in these disbursing accounts shall be by the State Controller's warrant. A copy of each voucher making withdrawals from these disbursing accounts and any supporting data required by the State Controller shall be forwarded to the Office of the State Controller monthly or as otherwise required by the State Controller. Supporting data for a voucher making a withdrawal from one of these disbursing accounts to meet a payroll shall include the amount of the payroll and the employees whose compensation is part of the payroll.

A central payroll unit operating under the Office of the State Controller may make deposits and withdrawals directly to and from a disbursing account. The disbursing account shall constitute a revolving fund for servicing payrolls passed through the central payroll unit.

The State Controller may use a facsimile signature machine in affixing his signature to warrants.

(b) The State Treasurer may impose on an agency a fee of fifteen dollars ($15.00) for each check drawn against the agency's disbursing account that causes the balance in the account to be in overdraft or while the account is in overdraft. The financial officer shall pay the fee from non-State or personal funds to the General Fund to the credit of the miscellaneous non-tax revenue account by the agency."

Section 2. This act becomes effective July 1, 1999.

SENATE BILL 1013:
Delivery of State Funds/Clarified

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Foxx
Date:	April 28, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1013 amends G.S. 143-3.2 to prohibit State officers and employees from delivering in person state disbursements, or facsimiles of such, to non-State entities.***

CURRENT LAW: G.S. 143-3.2 provides that the State Controller shall have the responsibility to issue all warrants for payment upon the State Treasure, and provides for the Controllers responsibility to determine the legality of payment and correctness of the amount. In 1995, the law was amended to provide that warrants issued for non-State entities were to be delivered to the entity by mail or by electronic funds transfer. Chapter 507 of the 1995 Session Laws. This amendment was designed to discourage State officials from personally delivering checks and the accompanying media attention. Apparently the amendment did not go far enough and some State officials are still creating opportunities to appear to deliver such disbursements.

BILL ANALYSIS: Senate Bill 1013 attempts to put an end to the practice by prohibiting the in person delivery of a disbursements,or a facsimile thereof, by a State officer or employee.

The act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1140
State and Local Government Committee Substitute Adopted 4/28/99

Short Title: Surry Billboard Ban. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO BAN NEW OR REPLACEMENT BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 559 of the 1993 Session Laws reads as rewritten:

"Section 1. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), that is visible and intended to be read from the right-of-way of the portion of North Carolina Highway 752 and United States Highway 52 south of the airport forming a corridor through the foothills of Surry County past Pilot Mountain State Park, shall be erected on or after the effective date of this act. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), shall be erected within 660 feet of any interstate highway located in Buncombe County outside the corporate limits of a municipality."

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

LEGISLATIVE
1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1140
S1140-CSLK-1
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Surry Billboard Ban. (Public)

Sponsors:

Referred to: State and Local Government

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO BAN NEW OR REPLACEMENT BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 559 of the 1993 Session Laws reads as rewritten:

"Section 1. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), that is visible and intended to be read from the right-of-way of the portion of North Carolina Highway 752 and United States Highway 52 south of the airport forming a corridor through the foothills of Surry County past Pilot Mountain State Park, shall be erected on or after the effective date of this act. No new or replacement outdoor advertising, as defined in G.S. 136-128(3), shall be erected within 660 feet of any interstate highway located in Buncombe County outside the corporate limits of a municipality."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1140

Short Title: Surry Billboard Ban Repealed. (Public)

Sponsors: Senators East; Carpenter, Carrington, Cochrane, Forrester, and Garwood.

Referred to: State and Local Government.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE BAN ON BILLBOARDS ON A PORTION OF U.S. HIGHWAY 52 AND NORTH CAROLINA HIGHWAY 752 IN SURRY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 559 of the 1993 Session Laws reads as rewritten:

"Section 1. ~~No outdoor advertising, as defined in G.S. 136-128(3), that is visible and intended to be read from the right-of-way of the portion of North Carolina Highway 752 and United States Highway 52 south of the airport forming a corridor through the foothills of Surry County past Pilot Mountain State Park, shall be erected on or after the effective date of this act.~~ No new or replacement outdoor advertising, as defined in G.S. 136-128(3), shall be erected within 660 feet of any interstate highway located in Buncombe County outside the corporate limits of a municipality."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 708
Second Edition Engrossed 4/28/99

Short Title: Affordable Housing. (Public)

Sponsors: Senator Odom.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares that the purpose of this act is to provide authority for counties in North Carolina to provide funds for residential housing construction, new or rehabilitated, and to provide for the sale or rental of housing to persons and families of low and moderate income. The General Assembly finds and declares that there exists in counties in the State a serious shortage of decent, safe, and sanitary residential housing available at low prices or rentals to persons and families of low and moderate income. This shortage is inimical to the health, safety, welfare, and prosperity of all residents of the State and to the sound growth of North Carolina communities.

Section 2. Part 5 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-378. Low- and moderate-income housing programs.**

In addition to the powers granted by G.S. 153A-376 and G.S. 153A-377, any county is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any board of commissioners may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the county or to be used by the county to provide affordable housing to persons of low and moderate income.

(3) Under procedures and standards established by the county, to convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income. The county shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) Under procedures and standards established by the county, to convey residential property by private sale to persons of low or moderate income in accordance with G.S. 160A-267 and any terms and conditions that the board of commissioners may determine."

Section 3. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(15b) Housing. -- To undertake housing programs for low- and moderate-income persons as provided in G.S. 153A-378."

Section 4. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4a) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of ~~subdivision (5)~~ subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.

(3) Providing county homes for the indigent and infirm.

(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.

(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.

(5) Providing for the octennial revaluation of real property for taxation.

(6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest supplements, and other programs of financial assistance to such persons. A housing project may provide housing for persons of other than low or moderate income if at least twenty percent (20%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy may be paid from bond proceeds."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 708

Short Title: Affordable Housing. (Public)

Sponsors: Senator Odom.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING COUNTIES HAVING A POPULATION IN EXCESS OF 500,000 TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares that the purpose of this act is to provide authority for larger urban counties in North Carolina to provide funds for residential housing construction, new or rehabilitated, and to provide for the sale or rental of housing to persons and families of low and moderate income. The General Assembly finds and declares that there exists in larger urban counties, including rural areas of such counties, a serious shortage of decent, safe, and sanitary residential housing available at low prices or rentals to persons and families of low and moderate income. This shortage is inimical to the health, safety, welfare, and prosperity of all residents of the State and to the sound growth of North Carolina communities.

Section 2. Part 5 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-378. Low- and moderate-income housing programs.**

In addition to the powers granted by G.S. 153A-376 and G.S. 153A-377, any county is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any board of

commissioners may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the county or to be used by the county to provide affordable housing to persons of low and moderate income.

(3) Under procedures and standards established by the county, to convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income. The county shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) Under procedures and standards established by the county, to convey residential property by private sale to persons of low or moderate income in accordance with G.S. 160A-267 and any terms and conditions that the board of commissioners may determine."

Section 3. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(15b) Housing. -- To undertake housing programs for low- and moderate-income persons as provided in G.S. 153A-378."

Section 4. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4a) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of ~~subdivision (5)~~ subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.

(3) Providing county homes for the indigent and infirm.

(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.

(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.

(5) Providing for the octennial revaluation of real property for taxation.

(6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest supplements, and other programs of financial assistance to such persons. A housing project may provide housing for persons of other than low or moderate income if at least twenty percent (20%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy may be paid from bond proceeds."

Section 5. This act applies only to counties having a population in excess of 500,000.

Section 6. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st

H. B. No. _____ DATE 4/28/99

S. B. No. 708 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Sen.) Soles

moves to amend the bill on page 1, line s 2 & 3

( ) WHICH CHANGES THE TITLE

by rewriting those lines to read:

"AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW";

and on page 1, line 7 by deleting the phrase "larger urban";

~~and~~ on page 1, lines 10 and 11 by deleting the phrase "larger urban counties, including ~~the~~ rural areas of such counties," and substituting the ~~phrase~~ "counties in the State";

and further amends the bill on page 3 lines 12 through 14 by rewriting those lines to read:

"Section 5. ~~This~~ act is effective when it becomes law."

SIGNED Soles

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 395
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Cabarrus County Tourism. (Local)

Sponsors:

Referred to:

March 17, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"Sec. 2. **Establishment, Appointment, and Duties of Cabarrus County Tourism Authority.** (a) Establishment and Membership. When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the Cabarrus County Tourism Authority composed of nine members, with seats on the Authority numbered one through nine, all of whom shall be appointed by the board, selected as follows:

(1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County Manager;

(2) Seats 2, 5, and 8 shall be appointed by the board from a list of at least three persons submitted by the ~~Concord-Cabarrus Chamber of Commerce;~~ Cabarrus County Tourism Authority; and

(3) Seats 3, 6, and 9 shall be appointed by the board from a list of at least three persons submitted to the board by the ~~Kannapolis~~ Cabarrus Regional Chamber of Commerce."

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

SENATE

GENERAL ASSEMBLY OF NORTH CAROLINA COMMITTEE SUBSTITUTE

SESSION 1999

APR 29 1999

S

ADOPTED

D

SENATE BILL 395
Proposed Committee Substitute S395-PCS3809-LR

Short Title: Cabarrus County Tourism. (Local)

Sponsors:

Referred to:

March 17, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"Sec. 2. **Establishment, Appointment, and Duties of Cabarrus County Tourism Authority.** (a) Establishment and Membership. When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the Cabarrus County Tourism Authority composed of nine members, with seats on the Authority numbered one through nine, all of whom shall be appointed by the board, selected as follows:

(1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County Manager;

(2) Seats 2, 5, and 8 shall be appointed by the board from a list of at least three persons submitted by the ~~Concord-Cabarrus Chamber of Commerce;~~ Cabarrus County Tourism Authority; and

(3) Seats 3, 6, and 9 shall be appointed by the board from a list of at least three persons submitted to the board by the ~~Kannapolis~~ Cabarrus Regional Chamber of Commerce."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 395
Proposed Committee Substitute S395-CSLR-8
WARNING: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Cabarrus County Tourism. (Local)

Sponsors:

Referred to:

March 17, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"Sec. 2. **Establishment, Appointment, and Duties of Cabarrus County Tourism Authority.** (a) Establishment and Membership. When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the Cabarrus County Tourism Authority composed of nine members, with seats on the Authority numbered one through nine, all of whom shall be appointed by the board, selected as follows:

(1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County Manager;

(2) Seats 2, 5, and 8 shall be appointed by the board from a list of at least three persons submitted by the ~~Concord-Cabarrus Chamber of Commerce;~~ Cabarrus County Tourism Authority; and

(3) Seats 3, 6, and 9 shall be appointed by the board from a list of at least three persons submitted to the board by the ~~Kannapolis~~ Cabarrus Regional Chamber of Commerce."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 395

Short Title: Cabarrus County Local Act-1. (Local)

Sponsors: Senator Hartsell.

Referred to: Rules and Operations of the Senate.

March 17, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO CABARRUS COUNTY AND THE MUNICIPALITIES LOCATED WHOLLY OR PARTIALLY WITHIN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act relates to Cabarrus County and the municipalities located wholly or partially within the County.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 532
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Asheville Civil Service Board. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT REWRITING THE LAWS RELATED TO THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 757 of the 1953 Session Laws, as amended, reads as rewritten:

"Section 1. There is hereby established as a part of government of the City of Asheville, ~~a municipal corporation of the State of North Carolina a Department of Civil Service, to be under the general management and control of a Director of Civil Service, acting in cooperation with~~ a Civil Service ~~Board, and having~~ Board which shall have the powers and ~~performing~~ perform the duties specified in this Act with respect to the classified service of the City of Asheville as ~~hereinafter defined.~~ defined in this Act. The City Manager shall provide for the operational needs of the Civil Service Board in the City's annual budget.

~~Sec. 2.~~ Section 2. ~~The Civil Service Board shall consist of five (5) members as follows: The Director of Civil Service, and one additional member who shall be chosen by the Council of the City of Asheville at a meeting of said Council, with fifteen (15) days after the ratification of this Act, and shall serve at the pleasure of said Council. Two (2) members, who shall be elected by the members of the classified service of the City, as hereinafter defined, at an election for that purpose, to be called by the City Manger, and held within fifteen (15) days after the naming of the above two members by the Council, and after ten (10) days written notice to each employee of said classified service, said two (2) members to serve for a term of two~~

~~years and until the election of their successors by the members of said classified service biennially thereafter. Within five (5) days after the election of the two (2) members of the board by the employees of the classified service, the City Manager shall call a meeting of the four members of the board then chosen, at which meeting, or an adjournment thereof, within five days thereafter, said members shall select by a majority vote, a fifth (5th) member of the board. If such member is not so elected, then the City shall choose a fifth (5th) member, of said board. The fifth (5th) member of the board shall serve for a term of two years and until the election of his successor biennially thereafter in the same manner as above provided.~~ The Civil Service Board shall consist of five members as follows: (i) two members who shall be chosen by the City Council at a meeting of the Council and they shall serve at the pleasure of the Council; (ii) two members who shall be elected by the members of the classified service of the City, as defined in this Act, at an election held for that purpose and on a normal City work day not less than 10 nor more than 30 days after written notice of the date of the election is provided to each member of the classified service; and (iii) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the classified service have taken office. If a member is not elected by majority vote of the four other members, the City Council shall appoint a member to the Board. All members of the Board shall serve a term of two years and be eligible for successive terms, in the same manner in which they were initially selected or elected, and may serve beyond the end of their respective terms until their successors take office. The chair of the Civil Service Board shall be appointed annually by the City Council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation, but may be reimbursed for expenses pursuant to policies adopted by the City.

The City Council shall, by ordinance not inconsistent with this act, establish the procedure for the election of the representatives of the employees in the classified service, and provide for meeting the expense for such elections. The members of the Civil Service Board must all be qualified voters of the City of Asheville, not employed by the ~~city,~~ city or serving on the City Council. In the event of a vacancy on ~~said~~ the Board, such vacancy shall be filled by the body or group, choosing the member, a successor to whom is to be chosen, and in the manner herein provided for the selection of such member.

~~Sec. 3.~~ Section 3. The classified service of the ~~city~~ City shall include all officers and employees of the City of Asheville, except officers elected by the people, the city manager, directors of departments, as defined in the city charter, and members of advisory boards appointed by such directors, the city clerk, ~~the clerk of the police court,~~ or any deputy clerk of the City of Asheville, and members of any board or commission appointed by the ~~council,~~ Council, and employees of independent boards now choosing their own employees.

~~Sec. 4.~~ Section 4. The Civil Service Board shall make, and may amend, rules for promoting efficiency in the classified service of the ~~city, for the appointment, promotion, transfer for the layoff, reinstatement, suspension and removal of~~

~~employees in the classified service.~~ City as provided in Section 5 of this Act. Such rules and any amendment thereto, shall be submitted to the ~~said council~~ Council for approval, and shall be open to public inspection, when filed with the ~~said council~~ Council for ~~such~~ approval. The ~~city council,~~ City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the ~~council,~~ Council, shall be in full force and effect. The ~~council~~ Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.

~~Sec. 5.~~ Section 5. Such rules, ~~above mentioned,~~ as authorized in Section 4 of this Act, among other things, may provide:

(1) For the standardization and classification of all positions and employments in the classified service of the ~~city.~~ City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions.

~~(2) For open competitive tests to ascertain the relative fitness of all applicants for appointment in the competitive class.~~

~~(3) For public notice of the time and place of all competitive tests, at least ten days in advance thereof, by publication in the paper of the city having the largest or second largest circulation and in all copies of the issues thereof having the largest circulation in the city, and by posting a notice in conspicuous place in the city hall.~~

~~(4) For the creation of eligible lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests, and without reference to the time of the test.~~

~~(5) For the rejection of applicants or eligibles who do not satisfy reasonable requirements as to age, sex, physical condition and moral character or who have attempted deception or fraud in connection with any test or their application therefor.~~

~~(6) For the certification to the appointing author from the appropriate eligible list, for filling a vacancy in the competitive class, of the three names standing highest in such list.~~

~~(7) For temporary employment without test, in the absence of an eligible list, but no such temporary employment shall continue after the establishment of a suitable eligible list nor for more than sixty days.~~

~~(8) For temporary employment for transitory work without test, but such employment shall require the consent of the Director of Civil Service in each case, and shall not continue for more than sixty days nor be renewed.~~

~~(9) For noncompetitive tests, for appointment to positions designated as requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.~~

~~(10) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.~~

~~(11) For transfer from a position to a similar position in the same class and grade.~~

~~(12) For immediate reinstatement at the head of the eligible list of person who, without fault or delinquency on their part, are separated from the service or reduced in rank.~~

~~(13) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.~~

~~(14) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he so requests, been presented by the person responsible for his appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his own defense by the Civil Service Board. The written reasons for such discharge or reduction and nay reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.~~

~~(15) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.~~

(2) For temporary or part-time employment to meet the transitory or seasonal needs of the City, except no temporary or part-time employment may occur or continue in violation of applicable State or federal law.

(3) For the establishment of a probationary period for new City employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.

(4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.

(5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the person responsible for his or her appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Civil Service Board, in accordance with Section 7 of this Act. The written reasons for the discharge or reduction and any reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.

(6) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

~~Sec. 6. There shall be kept in the department of Civil Service an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the office or employments which~~

~~they seek. All applications shall be upon forms prescribed by the department for Civil Service.~~

~~Sec. 7. Tests required by the department of Civil Service shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 5 of this Act, and by mail, at least ten days in advance, to each applicant upon the appropriate lists of the application register.~~

~~Sec. 8. The list of applicants eligible to appointment by reason of civil service tests, which their grades, shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than two years without a new application, and, if the civil service rules as require, a new test.~~

~~Sec. 9. When any position in the classified service is to be filed, the officer having authority to fill such vacancy shall request of the director of civil service the certification of names of eligibles for appointment to such vacancy and upon receipt of such request the director of civil service shall promptly certify to such officer the names and addresses of the highest three eligibles on the list for the class or grade to which such position belongs, with their respective grades as shown on the register of eligibles. The appointing authority shall appoint to such position one of the persons whose names are so certified.~~

~~Sec. 10. Whenever practicable, vacancies in the classified service shall be filled by promotion, and the civil service rules shall indicate the lines of promotion from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided by the civil service rules, and the appointment of eligibles therefrom shall be made in the same manner as original appointments. When there are less than three names on the promotion list eligible for certification in any instance, then if the City Manager requests it, appointments to higher positions shall be made after competitive tests, in which persons not in the service of the city may compete, as well as applicants for such positions from the lower grades of the service, or from other branches thereof. In such case, appointment shall be made from the highest three eligibles, as in the case of other competitive tests.~~

~~Sec. 11. There shall be maintained in the department of civil service a list of all persons in the classified service showing in connection with each name the position held, the salary or wages paid, the data and character of appointment, and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the department of~~

~~civil service all information requested for the establishment and maintenance of each register.~~

~~Sec. 12. The treasurer shall not pay, nor shall any officer of employee of the city issue a check for the payment of any salary or compensation to any person holding or claiming to hold, a position in the classified service, unless the payroll or account of such salary or compensation shall bear the certificate of the director of civil service that the persons named therein have been appointed or employed and are performing service in accordance with the civil service provisions of this Act and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the treasurer or any officer or employee shall willfully or negligently violate any of the provisions of this Section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by an taxpayer for the use of the city without making previous request of the city to sue.~~

~~Sec. 13.~~ Section 6. The ~~council,~~ Council, the ~~city manager,~~ City Manager, the ~~Director or~~ chair of the Civil Service Board, or any person designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the provisions of this Act and of the rules established thereunder, and concerning the condition of the civil service of the ~~city~~ City or any branch ~~thereof.~~ thereof, and may refer such matters to the Civil Service Board for hearing in accordance with Section 7 of this Act, or for further investigation as appropriate. ~~Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Director of Civil Service by any person. The Civil Service Board shall investigate any such charges, or cause them to be investigated, and report the findings of the investigation, in writing, to the authority responsible for the appointment of the officer or employee against whom the charges have been made.~~ Any person, or persons, making any investigation authorized or required by this ~~Section,~~ section, shall have the power to subpoena and require the attendance of witnesses. A copy of the report of ~~such~~ the investigation shall be filed with the city clerk and be open for public ~~inspection.~~ inspection, subject to the provisions of the Personnel Privacy Act or other laws governing the disclosure of records in this State.

~~Sec. 14.~~ Section 7. (a) Whenever any member of the classified service of the City ~~of Asheville~~ is discharged, suspended, reduced in rank, transferred against his or her will, ~~or is denied any promotion or raise in pay which he or she would be entitled to,~~ that member shall be entitled to a hearing before the Civil Service Board ~~of the City of Asheville~~ to determine whether or not the action complained of is justified.

(b) Any member of the classified service of the City ~~of Asheville~~ who desires ~~such~~ a hearing shall file his or her request for hearing with the city clerk within 10 days after learning of the act or omission of which he or she ~~complains.~~ complains, but not before the member shall have exhausted his or her remedy provided by the grievance procedures established by ordinance or policy of the City and the grievance procedure shall be concluded within 30 days. If the grievance procedure is not

concluded within 30 days, the member may proceed as provided in this section. Upon receipt of ~~such notice,~~ notice as required in this section, the city clerk shall set the matter for hearing before the ~~civil service board~~ Civil Service Board at a date not less than five nor more than 15 days from the clerk's receipt of such notice. Except for the time for filing the initial request for hearing with the Board, the Board may extend the time for taking action under this section for cause or by agreement of the parties to the proceeding.

(c) Any member of the classified service of the City ~~of Asheville~~ who requests a hearing pursuant to this ~~act~~ Act shall be entitled to be represented by counsel of his or her choice at all stages of the proceeding. ~~It shall be the duty of the city attorney to represent the city in cases where the complaining member of the classified service is represented by counsel.~~ The City may be represented by its attorney at any such hearing.

(d) At such hearing, the burden of proving the justification of the act or omission complained of shall be upon the City ~~of Asheville~~ and the member requesting the hearing shall be entitled to inspect and copy any records upon which the ~~city~~ City plans to rely at ~~such hearing, provided, that such~~ the hearing if the records are requested in writing by the member or his or her attorney prior to the day set for the hearing.

(e) The ~~civil service board~~ Civil Service Board shall render its decision in writing within five days after the conclusion of the hearing. If the ~~board~~ Board determines that the act or omission complained of is not justified, the ~~board~~ Board shall order to rescind whatever action the ~~board~~ Board has found to be unjustified and may order the ~~city~~ City to take such steps as are necessary for a just conclusion of the matter before the ~~board.~~ Board. Upon reaching its decision, the ~~board shall~~ Board shall, in writing, immediately inform the city clerk and the member requesting the hearing of the ~~board's decision and shall do so in writing.~~ Board's decision.

(f) Within ten days of the receipt of notice of the decision of the ~~board,~~ Board, either party may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. The appeal shall be effected by filing with the Clerk of the Superior Court of Buncombe County a petition for trial in superior court, setting out the facts upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the clerk of the superior court shall issue a civil summons as in regular civil action, and the sheriff of Buncombe County shall serve the summons and petition on all parties who did not join in the petition for trial. It shall be sufficient service upon the City ~~of Asheville~~ for the sheriff to serve the petition and summons upon the clerk of the ~~City of Asheville.~~ City. Thereafter, the matter shall proceed to trial as any other civil action.

~~Sec. 15. The Council shall be ordinance establish a schedule of compensation for officers and employees in the classified service which shall provide uniform compensation for like service. such schedule of compensation may establish a minimum and a maximum for any grade.~~

~~Sec. 16. Any applicant for any office or employment in the classified service who shall knowingly make any false statement in connection with any test shall thereby forfeit his right to be entered upon the eligible register and in case he has been appointed to an office or employment, he shall forfeit it and shall not within three years thereafter be eligible to appointment to any office or employment in the service of the City, nor shall he, during that time, be entitled to take any civil service test.~~

~~Sec. 17. No applicant for civil service test or for appointment to the classified service shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the services of the city other than a statement regarding any previous service to the city as a subordinate under such officer or employee.~~

~~Sec. 18. No person shall willfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or appointment held or made under the civil service provisions of this Act, or in any manner commit or attempt to commit any fraud on the impartial execution of any provisions of the civil service rules.~~

~~Sec. 19. No person in the administrative and/or classified service of the city shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or political purpose whatever. No person shall orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political purpose from any person holding a position in the administrative and/or classified service. No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the city as a reward or return for personal or partisan political service.~~

~~Sec. 20.~~ Section 8. No person about to be appointed to any position in the service of the ~~city~~ City shall sign or execute a resignation dated or undated, in advance of such appointment. No person in the service of the ~~city~~ City shall discharge, suspend, layoff, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution or money or service or any valuable thing for any political purpose. ~~No person in the administrataive service of the city shall use his official authority to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office.~~

~~Sec. 21. No person in the administrative and/or classified service of the City of Asheville shall act as an officer of a political organization, take part in a political campaign, serve as a member of a committee of any such organization, or circulate, or seek signatures to any petition provided for by primary or election laws, or act as a worker in favor of or in opposition to any candidate for public office. This shall not be construed to restrict the right of any employee in the qualified service, to vote in any election, when qualified.~~

~~Sec. 22.~~ Section 9. It shall be the duty of the ~~Director of~~ Civil Service Board to supervise the execution of the foregoing civil service provisions of this Act and of the rules made thereunder, and it shall be the duty of all persons in the service of the ~~city~~ City to comply with such rules and to aid in their enforcement. ~~Any person, who, by himself or with others, willfully or corruptly deceives or obstructs any person in respect to his/her right to take part in any test for admission to the classified service of the city; or willfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnished special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested, or to be appointed, employed or promoted; or impersonates any person, or permits or aids in any impersonation or appointment or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test, exercise the rights as stated herein; or willfully or through culpable negligence violates any of the provisions of this Act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or by imprisonment for a term not exceeding six (6) months. If any such person be an applicant for competitive test, he shall be excluded therefrom; if he be an eligible, his name shall be removed from the register of eligibles; and if he be an officer or employee of the city, he shall immediately forfeit his office or employment.~~

~~Sec. 23. Any taxpayer in the city may maintain an action to recover for the City any sum of money paid in violation of the civil service provisions, or to enjoin the Director of Civil Service from attaching his certificate to a payroll, or account for services rendered, in violation of this Act or the rules made thereunder; and the rules made under the foregooing provisions shall for this and all other purposes have the force of law.~~

~~Sec. 24.~~ Section 10. Any and all employees of the classified service as ~~hereinabove defined,~~ defined in this Act, who are members of the classified service as defined in this Act at the time of the ~~first election of a Civil Service Director under this Act, shall, without test, certification or reappointment, or without complying with any of the provisions of this Act, relating in any way to qualifications for or appointment to the position she or he then holds,~~ effective date of this Act, shall be deemed to hold and occupy such position as an employee of the civil service of the ~~city~~ City, as established by this Act, subject only to layoff, ~~suspension~~ suspension, or removal therefrom, as provided in this Act, and all of the provisions of this Act shall be applicable to any and all such employees.

~~Sec. 25. In case of emergency, declared to be such by a resolution adopted by the council in regular or special session, requiring, in the opinion of the council, the employment of more persons than are available for appointment from the eligible list in any branch of the classified service, or immediately available for appointment from such list, the city council may, without waiting for an eligible list of employees,~~

~~employ or authorize the employment of as many employees as, in the opinion of the council, may be needed to meet the emergency, such employment to continue throughout the emergency and until an eligible list of employees is available.~~

~~Sec. 26. Constitutionality of Act.~~ Section 11. If any ~~Section,~~ section, subsection, subdivision, sentence, ~~clause~~ clause, or phrase of this Act shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

~~Sec. 27.~~ Section 12. All laws and clauses of laws in conflict with the provisions of this ~~Act, including all of Chapter 83 of the Session Laws of 1947, as amended by Chapter 459 of the Session Laws of 1951, and Chapter 1000 of the Session Laws of 1951,~~ Act are hereby repealed.

~~Sec. 28. The public interest requires that this act shall be in full force and effect from and after its ratification.~~"

Section 2. Notwithstanding the provisions of this Act, the existing Civil Service Board shall continue in operation, with no interruption in the term of any current member, and without affecting the manner of selection or eligibility for current service or successive terms of any member, and the powers, duties, and responsibilities of the Board shall be as prescribed by this Act from and after the effective date of this Act.

Section 3. This Act shall become effective 30 days after ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA SENATE COMMITTEE SUBSTITUTE

SESSION 1999

APR 29 1999

S D

SENATE BILL 532 ADOPTED
Proposed Committee Substitute S532-PCS2761-LM

Short Title: Asheville Civil Service Board. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT REWRITING THE LAWS RELATED TO THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 757 of the 1953 Session Laws, as amended, reads as rewritten:

"Section 1. There is hereby established as a part of government of the City of Asheville, ~~a municipal corporation of the State of North Carolina a Department of Civil Service, to be under the general management and control of a Director of Civil Service, acting in cooperation with~~ a Civil Service ~~Board, and having~~ Board which shall have the powers and ~~performing~~ perform the duties specified in this Act with respect to the classified service of the City of Asheville as ~~hereinafter defined.~~ defined in this Act. The City Manager shall provide for the operational needs of the Civil Service Board in the City's annual budget.

~~Sec. 2.~~ Section 2. ~~The Civil Service Board shall consist of five (5) members as follows: The Director of Civil Service, and one additional member who shall be chosen by the Council of the City of Asheville at a meeting of said Council, with fifteen (15) days after the ratification of this Act, and shall serve at the pleasure of said Council. Two (2) members, who shall be elected by the members of the classified service of the City, as hereinafter defined, at an election for that purpose, to be called by the City Manger, and held within fifteen (15) days after the naming of the above two members by the Council, and after ten (10) days written notice to each employee of said classified service, said two (2) members to serve for a term of two~~

~~years and until the election of their successors by the members of said classified service biennially thereafter. Within five (5) days after the election of the two (2) members of the board by the employees of the classified service, the City Manager shall call a meeting of the four members of the board then chosen, at which meeting, or an adjournment thereof, within five days thereafter, said members shall select by a majority vote, a fifth (5th) member of the board. If such member is not so elected, then the City shall choose a fifth (5th) member, of said board. The fifth (5th) member of the board shall serve for a term of two years and until the election of his successor biennially thereafter in the same manner as above provided.~~ The Civil Service Board shall consist of five members as follows: (i) two members who shall be chosen by the City Council at a meeting of the Council and they shall serve at the pleasure of the Council; (ii) two members who shall be elected by the members of the classified service of the City, as defined in this Act, at an election held for that purpose and on a normal City work day not less than 10 nor more than 30 days after written notice of the date of the election is provided to each member of the classified service; and (iii) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the classified service have taken office. If a member is not elected by majority vote of the four other members, the City Council shall appoint a member to the Board. All members of the Board shall serve a term of two years and be eligible for successive terms, in the same manner in which they were initially selected or elected, and may serve beyond the end of their respective terms until their successors take office. The chair of the Civil Service Board shall be appointed annually by the City Council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation, but may be reimbursed for expenses pursuant to policies adopted by the City.

The City Council shall, by ordinance not inconsistent with this act, establish the procedure for the election of the representatives of the employees in the classified service, and provide for meeting the expense for such elections. The members of the Civil Service Board must all be qualified voters of the City of Asheville, not employed by the ~~city,~~ city or serving on the City Council. In the event of a vacancy on ~~said~~ the Board, such vacancy shall be filled by the body or group, choosing the member, a successor to whom is to be chosen, and in the manner herein provided for the selection of such member.

~~Sec. 3.~~ Section 3. The classified service of the ~~city~~ City shall include all officers and employees of the City of Asheville, except officers elected by the people, the city manager, directors of departments, as defined in the city charter, and members of advisory boards appointed by such directors, the city clerk, ~~the clerk of the police court,~~ or any deputy clerk of the City of Asheville, and members of any board or commission appointed by the ~~council,~~ Council, and employees of independent boards now choosing their own employees.

~~Sec. 4.~~ Section 4. The Civil Service Board shall make, and may amend, rules for promoting efficiency in the classified service of the ~~city, for the appointment, promotion, transfer for the layoff, reinstatement, suspension and removal of~~

~~employees in the classified service.~~ City as provided in Section 5 of this Act. Such rules and any amendment thereto, shall be submitted to the ~~said council~~ Council for approval, and shall be open to public inspection, when filed with the ~~said council~~ Council for ~~such~~ approval. The ~~city council,~~ City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the ~~council,~~ Council, shall be in full force and effect. The ~~council~~ Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.

~~Sec. 5.~~ Section 5. Such rules, ~~above mentioned,~~ as authorized in Section 4 of this Act, among other things, may provide:

(1) For the standardization and classification of all positions and employments in the classified service of the ~~city.~~ City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions.

~~(2) For open competitive tests to ascertain the relative fitness of all applicants for appointment in the competitive class.~~

~~(3) For public notice of the time and place of all competitive tests, at least ten days in advance thereof, by publication in the paper of the city having the largest or second largest circulation and in all copies of the issues thereof having the largest circulation in the city, and by posting a notice in conspicuous place in the city hall.~~

~~(4) For the creation of eligible lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests, and without reference to the time of the test.~~

~~(5) For the rejection of applicants or eligibles who do not satisfy reasonable requirements as to age, sex, physical condition and moral character or who have attempted deception or fraud in connection with any test or their application therefor.~~

~~(6) For the certification to the appointing author from the appropriate eligible list, for filling a vacancy in the competitive class, of the three names standing highest in such list.~~

~~(7) For temporary employment without test, in the absence of an eligible list; but no such temporary employment shall continue after the establishment of a suitable eligible list nor for more than sixty days.~~

~~(8) For temporary employment for transitory work without test, but such employment shall require the consent of the Director of Civil Service in each case, and shall not continue for more than sixty days nor be renewed.~~

~~(9) For noncompetitive tests, for appointment to positions designated as requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.~~

~~(10) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.~~

~~(11) For transfer from a position to a similar position in the same class and grade.~~

~~(12) For immediate reinstatement at the head of the eligible list of person who, without fault or delinquency on their part, are separated from the service or reduced in rank.~~

~~(13) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.~~

~~(14) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he so requests, been presented by the person responsible for his appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his own defense by the Civil Service Board. The written reasons for such discharge or reduction and nay reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.~~

~~(15) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.~~

(2) For temporary or part-time employment to meet the transitory or seasonal needs of the City, except no temporary or part-time employment may occur or continue in violation of applicable State or federal law.

(3) For the establishment of a probationary period for new City employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.

(4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.

(5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the person responsible for his or her appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Civil Service Board, in accordance with Section 7 of this Act. The written reasons for the discharge or reduction and any reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.

(6) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

~~Sec. 6. There shall be kept in the department of Civil Service an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the office or employments which~~

~~they seek. All applications shall be upon forms prescribed by the department for Civil Service.~~

~~Sec. 7. Tests required by the department of Civil Service shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 5 of this Act, and by mail, at least ten days in advance, to each applicant upon the appropriate lists of the application register.~~

~~Sec. 8. The list of applicants eligible to appointment by reason of civil service tests, which their grades, shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than two years without a new application, and, if the civil service rules as require, a new test.~~

~~Sec. 9. When any position in the classified service is to be filed, the officer having authority to fill such vacancy shall request of the director of civil service the certification of names of eligibles for appointment to such vacancy and upon receipt of such request the director of civil service shall promptly certify to such officer the names and addresses of the highest three eligibles on the list for the class or grade to which such position belongs, with their respective grades as shown on the register of eligibles. The appointing authority shall appoint to such position one of the persons whose names are so certified.~~

~~Sec. 10. Whenever practicable, vacancies in the classified service shall be filled by promotion, and the civil service rules shall indicate the lines of promotion from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided by the civil service rules, and the appointment of eligibles therefrom shall be made in the same manner as original appointments. When there are less than three names on the promotion list eligible for certification in any instance, then if the City Manager requests it, appointments to higher positions shall be made after competitive tests, in which persons not in the service of the city may compete, as well as applicants for such positions from the lower grades of the service, or from other branches thereof. In such case, appointment shall be made from the highest three eligibles, as in the case of other competitive tests.~~

~~Sec. 11. There shall be maintained in the department of civil service a list of all persons in the classified service showing in connection with each name the position held, the salary or wages paid, the data and character of appointment, and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the department of~~

~~civil service all information requested for the establishment and maintenance of each register.~~

~~Sec. 12. The treasurer shall not pay, nor shall any officer of employee of the city issue a check for the payment of any salary or compensation to any person holding or claiming to hold, a position in the classified service, unless the payroll or account of such salary or compensation shall bear the certificate of the director of civil service that the persons named therein have been appointed or employed and are performing service in accordance with the civil service provisions of this Act and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the treasurer or any officer or employee shall willfully or negligently violate any of the provisions of this Section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by an taxpayer for the use of the city without making previous request of the city to sue.~~

~~Sec. 13.~~ Section 6. The ~~council,~~ Council, the ~~city manager,~~ City Manager, the ~~Director or~~ chair of the Civil Service Board, or any person designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the provisions of this Act and of the rules established thereunder, and concerning the condition of the civil service of the ~~city~~ City or any branch ~~thereof.~~ thereof, and may refer such matters to the Civil Service Board for hearing in accordance with Section 7 of this Act, or for further investigation as appropriate. ~~Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Director of Civil Service by any person. The Civil Service Board shall investigate any such charges, or cause them to be investigated, and report the findings of the investigation, in writing, to the authority responsible for the appointment of the officer or employee against whom the charges have been made.~~ Any person, or persons, making any investigation authorized or required by this ~~Section,~~ section, shall have the power to subpoena and require the attendance of witnesses. A copy of the report of ~~such~~ the investigation shall be filed with the city clerk and be open for public ~~inspection.~~ inspection, subject to the provisions of the Personnel Privacy Act or other laws governing the disclosure of records in this State.

~~Sec. 14.~~ Section 7. (a) Whenever any member of the classified service of the City ~~of Asheville~~ is discharged, suspended, reduced in rank, transferred against his or her will, ~~or is denied any promotion or raise in pay which he or she would be entitled to,~~ that member shall be entitled to a hearing before the Civil Service Board ~~of the City of Asheville~~ to determine whether or not the action complained of is justified.

(b) Any member of the classified service of the City ~~of Asheville~~ who desires ~~such~~ a hearing shall file his or her request for hearing with the city clerk within 10 days after learning of the act or omission of which he or she ~~complains.~~ complains, but not before the member shall have exhausted his or her remedy provided by the grievance procedures established by ordinance or policy of the City and the grievance procedure shall be concluded within 30 days. If the grievance procedure is not

concluded within 30 days, the member may proceed as provided in this section. Upon receipt of ~~such notice,~~ notice as required in this section, the city clerk shall set the matter for hearing before the ~~civil service board~~ Civil Service Board at a date not less than five nor more than 15 days from the clerk's receipt of such notice. Except for the time for filing the initial request for hearing with the Board, the Board may extend the time for taking action under this section for cause or by agreement of the parties to the proceeding.

(c) Any member of the classified service of the City ~~of Asheville~~ who requests a hearing pursuant to this ~~act~~ Act shall be entitled to be represented by counsel of his or her choice at all stages of the proceeding. ~~It shall be the duty of the city attorney to represent the city in cases where the complaining member of the classified service is represented by counsel.~~ The City may be represented by its attorney at any such hearing.

(d) At such hearing, the burden of proving the justification of the act or omission complained of shall be upon the City ~~of Asheville~~ and the member requesting the hearing shall be entitled to inspect and copy any records upon which the ~~city~~ City plans to rely at ~~such hearing, provided, that such~~ the hearing if the records are requested in writing by the member or his or her attorney prior to the day set for the hearing.

(e) The ~~civil service board~~ Civil Service Board shall render its decision in writing within five days after the conclusion of the hearing. If the ~~board~~ Board determines that the act or omission complained of is not justified, the ~~board~~ Board shall order to rescind whatever action the ~~board~~ Board has found to be unjustified and may order the ~~city~~ City to take such steps as are necessary for a just conclusion of the matter before the ~~board.~~ Board. Upon reaching its decision, the ~~board shall~~ Board shall, in writing, immediately inform the city clerk and the member requesting the hearing of the ~~board's decision and shall do so in writing.~~ Board's decision.

(f) Within ten days of the receipt of notice of the decision of the ~~board,~~ Board, either party may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. The appeal shall be effected by filing with the Clerk of the Superior Court of Buncombe County a petition for trial in superior court, setting out the facts upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the clerk of the superior court shall issue a civil summons as in regular civil action, and the sheriff of Buncombe County shall serve the summons and petition on all parties who did not join in the petition for trial. It shall be sufficient service upon the City ~~of Asheville~~ for the sheriff to serve the petition and summons upon the clerk of the ~~City of Asheville.~~ City. Thereafter, the matter shall proceed to trial as any other civil action.

~~Sec. 15. The Council shall be ordinance establish a schedule of compensation for officers and employees in the classified service which shall provide uniform compensation for like service. such schedule of compensation may establish a minimum and a maximum for any grade.~~

~~Sec. 16. Any applicant for any office or employment in the classified service who shall knowingly make any false statement in connection with any test shall thereby forfeit his right to be entered upon the eligible register and in case he has been appointed to an office or employment, he shall forfeit it and shall not within three years thereafter be eligible to appointment to any office or employment in the service of the City, nor shall he, during that time, be entitled to take any civil service test.~~

~~Sec. 17. No applicant for civil service test or for appointment to the classified service shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the services of the city other than a statement regarding any previous service to the city as a subordinate under such officer or employee.~~

~~Sec. 18. No person shall willfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or appointment held or made under the civil service provisions of this Act, or in any manner commit or attempt to commit any fraud on the impartial execution of any provisions of the civil service rules.~~

~~Sec. 19. No person in the administrative and/or classified service of the city shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or political purpose whatever. No person shall orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political purpose from any person holding a position in the administrative and/or classified service. No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the city as a reward or return for personal or partisan political service.~~

~~Sec. 20.~~ Section 8. No person about to be appointed to any position in the service of the ~~city~~ City shall sign or execute a resignation dated or undated, in advance of such appointment. No person in the service of the ~~city~~ City shall discharge, suspend, layoff, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution or money or service or any valuable thing for any political purpose. ~~No person in the administrataive service of the city shall use his official authority to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office.~~

~~Sec. 21. No person in the administrative and/or classified service of the City of Asheville shall act as an officer of a political organization, take part in a political campaign, serve as a member of a committee of any such organization, or circulate, or seek signatures to any petition provided for by primary or election laws, or act as a worker in favor of or in opposition to any candidate for public office. This shall not be construed to restrict the right of any employee in the qualified service, to vote in any election, when qualified.~~

~~Sec. 22.~~ Section 9. It shall be the duty of the ~~Director of~~ Civil Service Board to supervise the execution of the foregoing civil service provisions of this Act and of the rules made thereunder, and it shall be the duty of all persons in the service of the ~~city~~ City to comply with such rules and to aid in their enforcement. ~~Any person, who, by himself or with others, willfully or corruptly deceives or obstructs any person in respect to his/her right to take part in any test for admission to the classified service of the city; or willfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnished special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested, or to be appointed, employed or promoted; or impersonates any person, or permits or aids in any impersonation or appointment or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test, exercise the rights as stated herein; or willfully or through culpable negligence violates any of the provisions of this Act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or by imprisonment for a term not exceeding six (6) months. If any such person be an applicant for competitive test, he shall be excluded therefrom; if he be an eligible, his name shall be removed from the register of eligibles; and if he be an officer or employee of the city, he shall immediately forfeit his office or employment.~~

~~Sec. 23. Any taxpayer in the city may maintain an action to recover for the City any sum of money paid in violation of the civil service provisions, or to enjoin the Director of Civil Service from attaching his certificate to a payroll, or account for services rendered, in violation of this Act or the rules made thereunder; and the rules made under the foregooing provisions shall for this and all other purposes have the force of law.~~

~~Sec. 24.~~ Section 10. Any and all employees of the classified service as ~~hereinabove defined,~~ defined in this Act, who are members of the classified service as defined in this Act at the time of the ~~first election of a Civil Service Director under this Act, shall, without test, certification or reappointment, or without complying with any of the provisions of this Act, relating in any way to qualifications for or appointment to the position she or he then holds,~~ effective date of this Act, shall be deemed to hold and occupy such position as an employee of the civil service of the ~~city~~ City, as established by this Act, subject only to layoff, ~~suspension~~ suspension, or removal therefrom, as provided in this Act, and all of the provisions of this Act shall be applicable to any and all such employees.

~~Sec. 25. In case of emergency, declared to be such by a resolution adopted by the council in regular or special session, requiring, in the opinion of the council, the employment of more persons than are available for appointment from the eligible list in any branch of the classified service, or immediately available for appointment from such list, the city council may, without waiting for an eligible list of employees,~~

~~employ or authorize the employment of as many employees as, in the opinion of the council, may be needed to meet the emergency, such employment to continue throughout the emergency and until an eligible list of employees is available.~~

~~Sec. 26. Constitutionality of Act.~~ Section 11. If any ~~Section,~~ section, subsection, subdivision, sentence, ~~clause~~ clause, or phrase of this Act shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

~~Sec. 27.~~ Section 12. All laws and clauses of laws in conflict with the provisions of this ~~Act, including all of Chapter 83 of the Session Laws of 1947, as amended by Chapter 459 of the Session Laws of 1951, and Chapter 1000 of the Session Laws of 1951,~~ Act are hereby repealed.

~~Sec. 28. The public interest requires that this act shall be in full force and effect from and after its ratification.~~"

Section 2. Notwithstanding the provisions of this Act, the existing Civil Service Board shall continue in operation, with no interruption in the term of any current member, and without affecting the manner of selection or eligibility for current service or successive terms of any member, and the powers, duties, and responsibilities of the Board shall be as prescribed by this Act from and after the effective date of this Act.

Section 3. This Act shall become effective 30 days after ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 532

Short Title: Asheville Local Act. (Local)

Sponsors: Senators Carter and Metcalf.

Referred to: Rules and Operations of the Senate.

March 25, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. This act relates to the City of Asheville.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 532
Proposed Committee Substitute S532-CSLM-1
WARNING: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Asheville Civil Service Board. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT REWRITING THE LAWS RELATED TO THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 757 of the 1953 Session Laws, as amended, reads as rewritten:

"Section 1. There is hereby established as a part of government of the City of Asheville, ~~a municipal corporation of the State of North Carolina a Department of Civil Service, to be under the general management and control of a Director of Civil Service, acting in cooperation with~~ a Civil Service ~~Board, and having~~ Board which shall have the powers and ~~performing~~ perform the duties specified in this Act with respect to the classified service of the City of Asheville as ~~hereinafter defined.~~ defined in this Act. The City Manager shall provide for the operational needs of the Civil Service Board in the City's annual budget.

~~Sec. 2.~~ Section 2. ~~The Civil Service Board shall consist of five (5) members as follows: The Director of Civil Service, and one additional member who shall be chosen by the Council of the City of Asheville at a meeting of said Council, with fifteen (15) days after the ratification of this Act, and shall serve at the pleasure of said Council. Two (2) members, who shall be elected~~

~~by the members of the classified service of the City, as hereinafter defined, at an election for that purpose, to be called by the City Manger, and held within fifteen (15) days after the naming of the above two members by the Council, and after ten (10) days written notice to each employee of said classified service, said two (2) members to serve for a term of two years and until the election of their successors by the members of said classified service biennially thereafter. Within five (5) days after the election of the two (2) members of the board by the employees of the classified service, the City Manager shall call a meeting of the four members of the board then chosen, at which meeting, or an adjournment thereof, within five days thereafter, said members shall select by a majority vote, a fifth (5th) member of the board. If such member is not so elected, then the City shall choose a fifth (5th) member, of said board. The fifth (5th) member of the board shall serve for a term of two years and until the election of his successor biennially thereafter in the same manner as above provided.~~

The Civil Service Board shall consist of five members as follows: (i) two members who shall be chosen by the City Council at a meeting of the Council and they shall serve at the pleasure of the Council; (ii) two members who shall be elected by the members of the classified service of the City, as defined in this Act, at an election held for that purpose and on a normal City work day not less than 10 nor more than 30 days after written notice of the date of the election is provided to each member of the classified service; and (iii) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the classified service have taken office. If a member is not elected by majority vote of the four other members, the City Council shall appoint a member to the Board. All members of the Board shall be eligible for successive terms, in the same manner in which they were initially selected or elected, and may serve beyond the end of their respective terms until their successors take office. The chair of the Civil Service Board shall be appointed annually by the City Council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation, but may be reimbursed for expenses pursuant to policies adopted by the City.

The City Council shall, by ordinance not inconsistent with this act, establish the procedure for the election of the representatives of the employees in the classified service, and provide for meeting the expense for such elections. The members

of the Civil Service Board must all be qualified voters of the City of Asheville, not employed by the ~~city,~~ city or serving on the City Council. In the event of a vacancy on ~~said~~ the Board, such vacancy shall be filled by the body or group, choosing the member, a successor to whom is to be chosen, and in the manner herein provided for the selection of such member.

~~Sec. 3.~~ Section 3. The classified service of the ~~city~~ City shall include all officers and employees of the City of Asheville, except officers elected by the people, the city manager, directors of departments, as defined in the city charter, and members of advisory boards appointed by such directors, the city clerk, ~~the clerk of the police court,~~ or any deputy clerk of the City of Asheville, and members of any board or commission appointed by the ~~council,~~ Council, and employees of independent boards now choosing their own employees.

~~Sec. 4.~~ Section 4. The Civil Service Board shall make, and may amend, rules for promoting efficiency in the classified service of the ~~city, for the appointment, promotion, transfer for the layoff, reinstatement, suspension and removal of employees in the classified service.~~ City as provided in Section 5 of this Act. Such rules and any amendment thereto, shall be submitted to the ~~said council~~ Council for approval, and shall be open to public inspection, when filed with the ~~said council~~ Council for ~~such~~ approval. The ~~city council,~~ City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the ~~council,~~ Council, shall be in full force and effect. The ~~council~~ Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.

~~Sec. 5.~~ Section 5. Such rules, ~~above mentioned,~~ as authorized in Section 4 of this Act, among other things, may provide:

(1) For the standardization and classification of all positions and employments in the classified service of the ~~city.~~ City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions.

~~(2) For open competitive tests to ascertain the relative fitness of all applicants for appointment in the competitive class.~~

~~(3) For public notice of the time and place of all competitive tests, at least: ten days in advance thereof, by publication in the paper of the city having the largest or second largest circulation and in all copies of the issues thereof having the largest circulation in the city, and by posting a notice in conspicuous place in the city hall.~~

~~(4) For the creation of eligible lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests, and without reference to the time of the test.~~

~~(5) For the rejection of applicants or eligibles who do not satisfy reasonable requirements as to age, sex, physical condition and moral character or who have attempted deception or fraud in connection with any test or their application therefor.~~

~~(6) For the certification to the appointing author from the appropriate eligible list, for filling a vacancy in the competitive class, of the three names standing highest in such list.~~

~~(7) For temporary employment without test, in the absence of an eligible list; but no such temporary employment shall continue after the establishment of a suitable eligible list nor for more than sixty days.~~

~~(8) For temporary employment for transitory work without test, but such employment shall require the consent of the Director of Civil Service in each case, and shall not continue for more than sixty days nor be renewed.~~

~~(9) For noncompetitive tests, for appointment to positions designated as requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.~~

~~(10) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.~~

~~(11) For transfer from a position to a similar position in the same class and grade.~~

~~(12) For immediate reinstatement at the head of the eligible list of person who, without fault or delinquency on their part, are separated from the service or reduced in rank.~~

~~(13) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.~~

~~(14) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he so requests, been presented by the person responsible for his appointment with the reasons therefor specifically stated in~~

~~writing and has been given an opportunity to be publicly heard in his own defense by the Civil Service Board. The written reasons for such discharge or reduction and nay reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.~~

~~(15) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.~~

(2) For temporary or part-time employment to meet the transitory or seasonal needs of the City, except no temporary or part-time employment may occur or continue in violation of applicable State or federal law.

(3) For the establishment of a probationary period for new City employees prior to employees becoming members of the classified service, except no probationary period or any extension thereof may exceed one year in the aggregate.

(4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.

(5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so requests, been presented by the person responsible for his or her appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Civil Service Board, in accordance with Section 7 of this Act. The written reasons for the discharge or reduction and any reply in writing thereto by any such officer or employee shall be filed with the Department of Civil Service.

(6) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

~~Sec. 6. There shall be kept in the department of Civil Service an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the office or employments which they seek. All applications shall be upon forms prescribed by the department for Civil Service.~~

~~Sec. 7. Tests required by the department of Civil Service shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 5 of this Act, and by mail, at least ten days in advance, to each applicant upon the appropriate lists of the application register.~~

~~Sec. 8. The list of applicants eligible to appointment by reason of civil service tests, which their grades, shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than two years without a new application, and, if the civil service rules as require, a new test.~~

~~Sec. 9. When any position in the classified service is to be filed, the officer having authority to fill such vacancy shall request of the director of civil service the certification of names of eligibles for appointment to such vacancy and upon receipt of such request the director of civil service shall promptly certify to such officer the names and addresses of the highest three eligibles on the list for the class or grade to which such position belongs, with their respective grades as shown on the register of eligibles. The appointing authority shall appoint to such position one of the persons whose names are so certified.~~

~~Sec. 10. Whenever practicable, vacancies in the classified service shall be filled by promotion, and the civil service rules shall indicate the lines of promotion from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided by the civil service rules, and the appointment of eligibles therefrom shall be made in the same manner as original appointments. When there are less than three names on the promotion list eligible for certification in any instance, then if the City Manager requests it, appointments to higher positions shall be made after competitive tests, in which~~

~~persons not in the service of the city may compete, as well as applicants for such positions from the lower grades of the service, or from other branches thereof. In such case, appointment shall be made from the highest three eligibles, as in the case of other competitive tests.~~

~~Sec. 11. There shall be maintained in the department of civil service a list of all persons in the classified service showing in connection with each name the position held, the salary or wages paid, the data and character of appointment, and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the department of civil service all information requested for the establishment and maintenance of each register.~~

~~Sec. 12. The treasurer shall not pay, nor shall any officer of employee of the city issue a check for the payment of any salary or compensation to any person holding or claiming to hold, a position in the classified service, unless the payroll or account of such salary or compensation shall bear the certificate of the director of civil service that the persons named therein have been appointed or employed and are performing service in accordance with the civil service provisions of this Act and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the treasurer or any officer or employee shall willfully or negligently violate any of the provisions of this Section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by an taxpayer for the use of the city without making previous request of the city to sue.~~

~~Sec. 13.~~ Section 6. The ~~council,~~ Council, the ~~city manager,~~ City Manager, the ~~Director or~~ chair of the Civil Service Board, or any person designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the provisions of this Act and of the rules established thereunder, and concerning the condition of the civil service of the ~~city~~ City or any branch ~~thereof.~~ thereof, and may refer such matters to the Civil Service Board for hearing in accordance with Section 7 of this Act, or for further investigation as appropriate. ~~Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Director of Civil Service by any person. The Civil Service Board shall investigate any such charges, or cause~~

~~City, nor shall he, during that time, be entitled to take any civil service test.~~

~~Sec. 17. No applicant for civil service test or for appointment to the classified service shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the services of the city other than a statement regarding any previous service to the city as a subordinate under such officer or employee.~~

~~Sec. 18. No person shall willfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or appointment held or made under the civil service provisions of this Act, or in any manner commit or attempt to commit any fraud on the impartial execution of any provisions of the civil service rules.~~

~~Sec. 19. No person in the administrative and/or classified service of the city shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or political purpose whatever. No person shall orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political purpose from any person holding a position in the administrative and/or classified service. No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the city as a reward or return for personal or partisan political service.~~

~~Sec. 20.~~ Section 8. No person about to be appointed to any position in the service of the ~~city~~ City shall sign or execute a resignation dated or undated, in advance of such appointment. No person in the service of the ~~city~~ City shall discharge, suspend, layoff, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution or money or service or any valuable thing for any political purpose. ~~No person in the administrataive service of the city shall use his official authority to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office.~~

~~Sec. 21. No person in the administrative and/or classified service of the City of Asheville shall act as an officer of a~~

~~political organization, take part in a political campaign, serve as a member of a committee of any such organization, or circulate, or seek signatures to any petition provided for by primary or election laws, or act as a worker in favor of or in opposition to any candidate for public office. This shall not be construed to restrict the right of any employee in the qualified service, to vote in any election, when qualified.~~

~~Sec. 22.~~ Section 9. It shall be the duty of the ~~Director of~~ Civil Service Board to supervise the execution of the foregoing civil service provisions of this Act and of the rules made thereunder, and it shall be the duty of all persons in the service of the ~~city~~ City to comply with such rules and to aid in their enforcement. ~~Any person, who, by himself or with others, willfully or corruptly deceives or obstructs any person in respect to his/her right to take part in any test for admission to the classified service of the city; or willfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnished special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested, or to be appointed, employed or promoted; or impersonates any person, or permits or aids in any impersonation or appointment or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test, exercise the rights as stated herein; or willfully or through culpable negligence violates any of the provisions of this Act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or by imprisonment for a term not exceeding six (6) months. If any such person be an applicant for competitive test, he shall be excluded therefrom; if he be an eligible, his name shall be removed from the register of eligibles; and if he be an officer or employee of the city, he shall immediately forfeit his office or employment.~~

~~Sec. 23. Any taxpayer in the city may maintain an action to recover for the City any sum of money paid in violation of the civil service provisions, or to enjoin the Director of Civil Service from attaching his certificate to a payroll, or account for services rendered, in violation of this~~

~~Act or the rules made thereunder; and the rules made under the foregooing provisions shall for this and all other purposes have the force of law.~~

~~Sec. 24.~~ Section 10. Any and all employees of the classified service as ~~hereinabove defined,~~ defined in this Act, who are members of the classified service as defined in this Act at the time of the ~~first election of a Civil Service Director under this Act, shall, without test, certification or reappointment, or without complying with any of the provisions of this Act, relating in any way to qualifications for or appointment to the position she or he then holds,~~ effective date of this Act, shall be deemed to hold and occupy such position as an employee of the civil service of the ~~city~~ City, as established by this Act, subject only to layoff, ~~suspension~~ suspension, or removal therefrom, as provided in this Act, and all of the provisions of this Act shall be applicable to any and all such employees.

~~Sec. 25. In case of emergency, declared to be such by a resolution adopted by the council in regular or special session, requiring, in the opinion of the council, the employment of more persons than are available for appointment from the eligible list in any branch of the classified service, or immediately available for appointment from such list, the city council may, without waiting for an eligible list of employees, employ or authorize the employment of as many employees as, in the opinion of the council, may be needed to meet the emergency, such employment to continue throughout the emergency and until an eligible list of employees is available.~~

~~Sec. 26. Constitutionality of Act.~~ Section 11. If any ~~Section,~~ section, subsection, subdivision, sentence, ~~clause~~ clause, or phrase of this Act shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

~~Sec. 27.~~ Section 12. All laws and clauses of laws in conflict with the provisions of this ~~Act, including all of Chapter 83 of the Session Laws of 1947, as amended by Chapter 459 of the Session Laws of 1951, and Chapter 1000 of the Session Laws of 1951,~~ Act are hereby repealed.

~~Sec. 28. The public interest requires that this act shall be in full force and effect from and after its ratification.~~"

Section 2. Notwithstanding the provisions of this Act, the existing Civil Service Board shall continue in operation, with no interruption in the term of any current member, and without affecting the manner of selection or eligibility for current service or successive terms of any member, and the

powers, duties, and responsibilities of the Board shall be as prescribed by this Act from and after the effective date of this Act.

Section 3. This Act shall become effective 30 days after ratification.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE 4/28/99

S. B. No. Com Sub S532-CSM-1 Amendment No. _____

(to be filled in by Principal Clerk)

Rep.)
) _____
Sen.)

moves to amend the bill on page 2, line 33

by inserting the following phrase between the words "shall" and "be":

"serve a term of two years and"

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

S532:
Asheville Civil Service Board

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Sen.'s Carter & Metcalf
Date:	April 28, 1999	**Summary by:**	Ed Rossi
Version:	S532-CSLM-1		Committee Co-Counsel

SUMMARY: Senate bill 532 abolishes civil service testing in the City of Asheville and also makes the following changes to the City charter:

- *Abolishes the prohibition against direct or indirect payment for appointment to "classified service."*
- *Abolishes the prohibition against making false statements in regard to appointments to classified service.*
- *Abolishes the prohibition against in any manner committing or attempting to commit any fraud on the impartial execution of the civil service rules.*
- *Abolishes the prohibition against using official authority to secure appointment or prospective appointment to any civil service position in return for personal or partisan political service.*
- *Abolishes the prohibition against persons in the administrative service of the city using their official authority to influence or coerce the political action of any person or body.*

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 929
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Abatement of Nuisances. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE THE ABATEMENT OF NUISANCES STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 19-1(a) reads as rewritten:

"(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance."

Section 2. G.S. 19-1.1 reads as rewritten:

"**§ 19-1.1. Definitions.**

As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19- 1, the following definitions shall apply:

(0.1) 'Breach of the peace' means repeated acts that disturb the public order including, but not limited to, homicide, assault, affray, communicating threats, unlawful possession of dangerous or deadly weapons, and discharging firearms.

(1) 'Knowledge' or 'knowledge of such nuisance' means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of ~~lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic~~

~~drugs as defined in the North Carolina Controlled Substances Act, or prostitution which occur on the premises.~~ lewdness. With regard to nuisances involving assignation, prostitution, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, evidence that the defendant knew or by the exercise of due diligence should have known of the acts or conduct constitutes proof of knowledge.

(2) 'Lewd matter' is synonymous with 'obscene matter' and means any matter:

a. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

b. Which depicts patently offensive representations of:

1. Ultimate sexual acts, normal or perverted, actual or simulated;
2. Masturbation, excretory functions, or lewd exhibition of the genitals or genital area;
3. Masochism or sadism; or
4. Sexual acts with a child or animal.

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.

(3) 'Lewdness' is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.

(4) 'Matter' means a motion picture film or a publication or both.

(5) 'Motion picture film' shall include any:

a. Film or plate negative;

b. Film or plate positive;

c. Film designed to be projected on a screen for exhibition;

d. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

e. Video ~~tape~~ tape, compact disc, digital video disc or any other medium used to electronically reproduce images on a screen.

(6) 'Person' means any individual, partnership, firm, association, corporation, or other legal entity.

(7) 'Place' includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent

or not, or the ground ~~itself, but excluding a private dwelling place not used for a profit.~~ itself.

(7a) 'Preserving the status quo' as used in G.S. 19-2.3 means returning conditions to the last actual, peaceable, lawful, and noncontested status which preceded the pending controversy and not allow the nuisance to continue.

(7b) 'Prostitution' means offering in any manner or receiving of the body in return for a fee, for acts of vaginal intercourse, anal intercourse, fellatio, cunnilingus, masturbation, or physical contact with a person's genitals, pubic area, buttocks or breasts, or other acts of sexual conduct offered or received for pay and sexual gratification.

(8) 'Publication' shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

(9) ~~'Sale'~~ 'Sale of obscene or lewd matter' means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.

(10) 'Sale' as the term relates to proscribed acts other than sale of obscene or lewd matter shall have the same meaning as the term is defined in Chapter 18B and Chapter 90 of the General Statutes prohibiting the illegal sale of alcoholic beverages and controlled substances respectively.

(11) 'Used for profit' shall mean any use of real or personal property to produce income in any manner, including, but not limited to, any commercial or business activities, or selling, leasing, or otherwise providing goods and services for profit."

Section 3. G.S. 19-1.2 reads as rewritten:

"**§ 19-1.2. Types of nuisances.**

The following are declared to be nuisances wherein obscene or lewd matter or other conduct prohibited in G.S. 19-1(a) is involved:

(1) Any and every place in the State where lewd films are publicly exhibited as a predominant and regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every place in the State where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a nuisance under this Article;

(4) Any and every place of business in the State in which lewd publications constitute a principal or substantial part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a nuisance under this Article;

(6) Every place which, as a regular course of business, is used for the purposes of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or prostitution, and every such place in or upon which acts of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or prostitution, are held or occur."

Section 4. G.S. 19-1.3 reads as rewritten:

"**§ 19-1.3. Personal property as a nuisance; knowledge of nuisance.**

The following are also declared to be nuisances, as personal property used in conducting and maintaining a nuisance under this Chapter:

(1) All moneys paid as admission price to the exhibition of any lewd film found to be a nuisance;

(2) All valuable consideration received for the sale of any lewd publication which is found to be a nuisance;

(3) All money or other valuable ~~consideration~~ consideration, vehicles, conveyances, or other property received or used in gambling, prostitution, the illegal sale of alcoholic beverages or the illegal sale of substances proscribed under the North Carolina Controlled Substances Act, as well as the furniture and movable contents of a place used in connection with such prohibited conduct.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in G.S. 19-2.4 upon the place, or its manager, or acting manager, or person then in charge, all such parties are deemed to have knowledge of the contents of the restraining order and the use of the place occurring thereafter. Where the circumstantial proof warrants a determination that a person had knowledge of the nuisance prior to such service of process, the court may make such finding."

Section 5. G.S. 19-2.1 reads as rewritten:

"**§ 19-2.1. Action for abatement; injunction.**

Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the Attorney General, district attorney, county, municipality, or any private citizen of the county may maintain a civil action in the name of the State of North Carolina to abate a nuisance under this Chapter, perpetually to enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance under this Chapter; provided, however, that no private citizen may

maintain such action where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.

Upon request from the Attorney General, district attorney, county or municipality, including the sheriff or chief of police of any county or municipality, the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety or any other law enforcement agency with jurisdiction may investigate alleged public nuisances and make recommendations regarding actions to abate the public nuisances.

If an action is instituted by a private person, the complainant shall execute a bond prior to the issuance of a restraining order or a temporary injunction, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than one thousand dollars ($1,000), to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, not prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally decided that the temporary restraining order or preliminary injunction ought not to have been granted. The party enjoined shall have recourse against said bond for all damages suffered, including damages to his property, person, or character and including reasonable attorney's fees incurred by him in making defense to said action. No bond shall be required of the prosecuting attorney, the Attorney General, county, or municipality, and no action shall be maintained against ~~the~~ any public official or public ~~entity for the official action.~~ entity, their employees, or agents for investigating or maintaining an action for abatement of a nuisance under the provisions of this Chapter.

The provisions of this Chapter to abate a public nuisance shall not be applied against the State or any of its political subdivisions."

Section 6. G.S. 19-2.3 reads as rewritten:

"**§ 19-2.3. Temporary order restraining removal of personal property from premises; service; punishment.**

Where such application for a preliminary injunction is made, the court may, on application of the complainant showing good cause, issue an ex parte temporary restraining order in accordance with G.S. 1A-1, Rule 65(b), preserving the status quo and restraining the defendant and all other persons from removing or in any manner interfering with any evidence specifically described, or in any manner removing or interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the decision of the court granting or refusing such preliminary injunction and until further order of the court thereon. Nothing herein shall be interpreted to allow the prior restraint of the distribution of any matter or the sale of the stock in trade, but an inventory and full accounting of all business transactions involving alleged obscene or lewd matter thereafter shall be required. The inventory provisions provided by this section shall not apply to nuisances occurring at a private dwelling place unless the court finds the private dwelling place is used for profit.

Any person, firm, or corporation enjoined pursuant to this section may file with the court a motion to dissolve any temporary restraining order. Such a motion shall be heard within 24 hours of the time a copy of the motion is served on the complaining party, or on the next day the superior courts are open in the district,

whichever is later. At such hearing the complaining party shall have the burden of showing why the restraining order should be continued.

In the event a temporary restraining order is issued, it may be served in accordance with the provisions of G.S. 1A-1, Rule 4, or may be served by handing to and leaving a copy of such order with any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place, or by such service under said Rule 4, delivery and posting. The officer serving such temporary restraining order shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance.

Any violation of such temporary restraining order is a contempt of court, and where such order is posted, mutilation or removal thereof, while the same remains in force, is a contempt of court, provided such posted order contains therein a notice to that effect."

Section 7. G.S. 19-2.5 reads as rewritten:

"**§ 19-2.5. Hearing on the preliminary injunction; issuance.**

If upon hearing, the allegations of the complaint are sustained to the satisfaction of the court, the court shall issue a preliminary injunction restraining the defendant and any other person from continuing the nuisance and effectually enjoining its use thereafter for the purpose of conducting any such nuisance. The court may, in its discretion, order the closure of the property pending trial on the merits."

Section 8. G.S. 19-3(b) reads as rewritten:

"(b) In such action, an admission or finding of guilt of any person under the criminal laws against lewdness, assignation, prostitution, gambling, breaches of the peace, the illegal possession or sale of alcoholic beverages, or the illegal possession or sale of substances proscribed by the North Carolina Controlled Substances Act, at any such place, is admissible for the purpose of proving the existence of said nuisance, and is evidence of such nuisance and of knowledge of, and of acquiescence and participation therein, on the part of the person charged with maintaining said nuisance."

Section 9. G.S. 19-6 reads as rewritten:

"**§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.**

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a

nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

Upon the filing of the action, the plaintiff may file a notice of lis pendens in the official records of the county where the property is located.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner."

Section 10. G.S. 19-6.1 reads as rewritten:

"**§ 19-6.1. Forfeiture of real property.**

In all actions where a preliminary injunction, permanent injunction, or an order of abatement is issued pursuant to this Article in which the nuisance consists of or includes at least two prior occurrences within five years of the ~~illegal possession or sale of narcotic drugs as defined in G.S. 90-87(17),~~ manufacture, possession with intent to sale, or sale of controlled substances as defined by the North Carolina Controlled Substances Act, or two prior occurrences of the possession of any controlled substance included within Schedule I or II of that Act, the real property on which the nuisance exists or is maintained is subject to forfeiture in accordance with this section.

If all of the owners of the property are defendants in the action, the plaintiff, other than a plaintiff who is a private citizen, may request forfeiture of the real property as part of the relief sought. If forfeiture is requested, and if jurisdiction over all defendant owners is established, upon judgment against the defendant or defendants, the court shall order forfeiture as follows:

(1) If the court finds by clear and convincing evidence that all the owners either (i) have participated in maintaining the nuisance on the property, or (ii) prior to the action had written notice from the ~~plaintiff prior to the action~~ plaintiff, or any governmental agent or entity authorized to bring an action pursuant to this Chapter, that the nuisance existed or was maintained on the property and have

not made good faith efforts to stop the nuisance from occurring or recurring, the court shall order that the property be forfeited;

(2) If the court finds that one or more of the owners did not participate in maintaining the nuisance on the property or did not have written notice from the plaintiff prior to the action that the nuisance existed or was maintained on the property, the court shall not order forfeiture of the property immediately upon judgment. However, if after judgment and an order directing the defendants to abate the nuisance, the nuisance either continues, begins again, or otherwise recurs within five years of the order and the defendants have not made good faith efforts to abate the nuisance, the plaintiff may petition the court for forfeiture. Upon such petition, the defendant owner or owners shall be given notice and an opportunity to appear and be heard at a hearing to determine the continuation or recurrence of the nuisance. If, in this hearing (i) the plaintiff establishes by clear and convincing evidence that the nuisance, with the owner's or owners' knowledge, has either continued, begun again, or otherwise recurred, and (ii) the defendants fail to establish that they have made and are continuing to make good faith efforts to abate the nuisance, the court shall order that the property be forfeited.

For the purposes of this section, factors which may evidence good faith by the defendant to abate the nuisance include but are not limited to (i) cooperation with law enforcement authorities to abate the nuisance; (ii) lease restrictions prohibiting the illegal possession or sale of narcotic drugs and an action to evict a tenant for any violations of the lease provision; (iii) a criminal record check of prospective tenants; and (iv) reference checks of prior residency of prospective tenants.

Upon an order of forfeiture, title to the property shall vest in the school board of the county in which the property is located. If at the time of forfeiture the property is subject to a lien or security interest of a person not participating in the maintenance of the nuisance, the school board shall either (i) pay an amount to that person satisfying the lien or security interest; or (ii) sell the property and satisfy the lien or security interest from the proceeds of the ~~sale and additional monies, if necessary.~~ sale. If the property is not subject to any lien or security interest at the time of forfeiture, the school board may hold, maintain, lease, sell, or otherwise dispose of the property as it sees fit.

Upon the filing of the action, the plaintiff may file a notice of lis pendens in the official records of the county where the property is located. If the plaintiff files a notice of lis pendens, any person purchasing or obtaining an interest in the property thereafter shall be considered to have notice of the alleged nuisance, and shall forfeit his interest in the property upon a judgment of forfeiture in favor of the plaintiff.

If in the same action in which real property is forfeited the court finds that a tenant or occupant of the property participated in or maintained the nuisance, the lease or other title under which the tenant or occupant holds is void, and the right of

possession vests in the new owner. Upon forfeiture, the rights of innocent tenants occupying separate units of the property who were not involved in the nuisance at the time the action was filed shall be in accordance with any relevant lease provisions in effect at the time or, in the absence of relevant lease provisions, in accordance with the law applying to other tenants or occupants of property that is sold, foreclosed upon, or otherwise obtained by new owners."

Section 11. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 929

Short Title: Abatement of Nuisances. (Public)

Sponsors: Senator Reeves.

Referred to: Judiciary II.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE THE ABATEMENT OF NUISANCES STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 19-1(a) reads as rewritten:

"(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance."

Section 2. G.S. 19-1.1 reads as rewritten:

"**§ 19-1.1. Definitions.**

As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19- 1, the following definitions shall apply:

(1) 'Assignation' means making an appointment or engagement for prostitution or solicitation for acts of prostitution or any act in furtherance of the appointment, engagement, or solicitation.

(2) 'Breach of the peace' means any act that disturbs the public tranquility and order including, but not limited to, homicide, assault, affray, communicating threats, stalking, loud obscene or abusive language, unlawful possession of dangerous or deadly weapons, and discharging firearms.

(3) 'Knowledge' or 'knowledge of such nuisance' means having knowledge of the contents and character of the patently offensive

sexual conduct which appears in the lewd matter, or knowledge of the acts of ~~lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution which occur on the premises.~~ lewdness. With regard to nuisances involving assignation, prostitution, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, evidence that the defendant knew or by the exercise of due diligence should have known of the acts or conduct constitutes proof of knowledge.

~~(2)~~ (4) 'Lewd matter' is synonymous with 'obscene matter' and means any matter:

a. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

b. Which depicts patently offensive representations of:

1. Ultimate sexual acts, normal or perverted, actual or simulated;
2. Masturbation, excretory functions, or lewd exhibition of the genitals or genital area;
3. Masochism or sadism; or
4. Sexual acts with a child or animal.

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.

~~(3)~~ (5) 'Lewdness' is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.

~~(4)~~ (6) 'Matter' means a motion picture film or a publication or both.

~~(5)~~ (7) 'Motion picture film' shall include any:

a. Film or plate negative;
b. Film or plate positive;
c. Film designed to be projected on a screen for exhibition;
d. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;
e. Video ~~tape~~ tape, compact disc, digital video disc or any other medium used to electronically reproduce images on a screen.

~~(6)~~ (8) 'Person' means any individual, partnership, firm, association, corporation, or other legal entity.

~~(7)~~ (9) 'Place' includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent or not, or the ground ~~itself, but excluding a private dwelling place not used for a profit.~~ itself.

(10) 'Prostitution' means offering in any manner or receiving of the body in return for a fee, for acts of vaginal intercourse, anal intercourse, fellatio, cunnilingus, masturbation, or physical contact with a person's genitals, pubic area, buttocks or breasts, or other acts of sexual conduct offered or received for pay and sexual gratification.

(11) 'Preserving the status quo' as used in G.S. 19-2.3 means returning conditions to the last actual, peaceable, lawful, and nonconstested status which preceded the pending controversy and not allow the nuisance to continue.

~~(8)~~(12) 'Publication' shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

~~(9)~~ (13) ~~'Sale'~~ 'Sale of obscene or lewd matter' means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.

~~(10)~~ (14) 'Sale' as the term relates to proscribed acts other than sale of obscene or lewd matter shall have the same meaning as the term is defined in Chapter 18B and Chapter 90 of the General Statutes prohibiting the illegal sale of alcoholic beverages and controlled substances respectively.

(15) 'Used for profit' shall mean any use of real or personal property to produce income in any manner, including, but not limited to, any commercial or business activities, or selling, leasing, or otherwise providing goods and services for profit."

Section 3. G.S. 19-1.2 reads as rewritten:

"**§ 19-1.2. Types of nuisances.**

The following are declared to be nuisances wherein obscene or lewd matter or other conduct prohibited in G.S. 19-1(a) is involved:

(1) Any and every place in the State where lewd films are publicly exhibited as a predominant and regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every place in the State where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a nuisance under this Article;

(4) Any and every place of business in the State in which lewd publications constitute a principal or substantial part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a nuisance under this Article;

(6) Every place which, as a regular course of business, is used for the purposes of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or prostitution, and every such place in or upon which acts of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of ~~narcotic drugs~~ controlled substances as defined in the North Carolina Controlled Substances Act, or prostitution, are held or occur."

Section 4. G.S. 19-1.3 reads as rewritten:

"**§ 19-1.3. Personal property as a nuisance; knowledge of nuisance.**

The following are also declared to be nuisances, as personal property used in conducting and maintaining a nuisance under this Chapter:

(1) All moneys paid as admission price to the exhibition of any lewd film found to be a nuisance;

(2) All valuable consideration received for the sale of any lewd publication which is found to be a nuisance;

(3) All money or other valuable ~~consideration~~ consideration, vehicles, conveyances, or other property received or used in gambling, prostitution, the illegal sale of alcoholic beverages or the illegal sale of substances proscribed under the North Carolina Controlled Substances Act, as well as the furniture and movable contents of a place used in connection with such prohibited conduct.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in G.S. 19-2.4 upon the place, or its manager, or acting manager, or person then in charge, all such parties are deemed to have knowledge of the contents of the restraining order and the use of the place occurring thereafter. Where the circumstantial proof warrants a determination that a person had knowledge of the nuisance prior to such service of process, the court may make such finding."

Section 5. Chapter 19 of the General Statutes is amended by adding a new section to read:

"**§ 19-1.6. Cessation of nuisance does not preclude action.**

The cessation of nuisance activities does not preclude an action for abatement of a nuisance based on its past operation."

Section 6. G.S. 19-2. Repealed.

Section 7. G.S. 19-2.1 reads as rewritten:

"**§ 19-2.1. Action for abatement; injunction.**

Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the Attorney General, district attorney, county, municipality, or any private citizen of the county may maintain a civil action in the name of the State of North Carolina to abate a nuisance under this Chapter, perpetually to enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance under this Chapter; provided, however, that no private citizen may maintain such action where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.

Upon request from the Attorney General, district attorney, county or municipality, including the sheriff or chief of police of any county or municipality, the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety or any other law enforcement agency with jurisdiction may investigate alleged public nuisances and make recommendations regarding actions to abate the public nuisances.

If an action is instituted by a private person, the complainant shall execute a bond prior to the issuance of a restraining order or a temporary injunction, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than one thousand dollars ($1,000), to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, not prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally decided that the temporary restraining order or preliminary injunction ought not to have been granted. The party enjoined shall have recourse against said bond for all damages suffered, including damages to his property, person, or character and including reasonable attorney's fees incurred by him in making defense to said action. No bond shall be required of the prosecuting attorney, the Attorney General, county, or municipality, and no action shall be maintained against ~~the~~ any public official or public ~~entity for the official action.~~ entity, their employees, or agents for investigating or maintaining an action for abatement of a nuisance under the provisions of this Chapter.

The provisions of this Chapter to abate a public nuisance shall not be applied against the State or any of its political subdivisions."

Section 8. G.S. 19-2.3 reads as rewritten:

"**§ 19-2.3. Temporary order restraining removal of personal property from premises; service; punishment.**

Where such application for a preliminary injunction is made, the court may, on application of the complainant showing good cause, issue an ex parte temporary restraining order in accordance with G.S. 1A-1, Rule 65(b), preserving the status quo and restraining the defendant and all other persons from removing or in any manner interfering with any evidence specifically described, or in any manner removing or interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the decision of the court granting or refusing such preliminary injunction and until further order of the court thereon. Nothing herein shall be interpreted to allow the prior restraint of the distribution of any matter or the sale of

the stock in trade, but an inventory and full accounting of all business transactions involving alleged obscene or lewd matter thereafter shall be required. The inventory provisions provided by this section shall not apply to nuisances occurring at a private dwelling place unless the court finds the private dwelling place is used for profit.

Any person, firm, or corporation enjoined pursuant to this section may file with the court a motion to dissolve any temporary restraining order. Such a motion shall be heard within 24 hours of the time a copy of the motion is served on the complaining party, or on the next day the superior courts are open in the district, whichever is later. At such hearing the complaining party shall have the burden of showing why the restraining order should be continued.

In the event a temporary restraining order is issued, it may be served in accordance with the provisions of G.S. 1A-1, Rule 4, or may be served by handing to and leaving a copy of such order with any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place, or by such service under said Rule 4, delivery and posting. The officer serving such temporary restraining order shall forthwith enter upon the property and make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance.

Any violation of such temporary restraining order is a contempt of court, and where such order is posted, mutilation or removal thereof, while the same remains in force, is a contempt of court, provided such posted order contains therein a notice to that effect."

Section 9. G.S. 19-2.5 reads as rewritten:

"**§ 19-2.5. Hearing on the preliminary injunction; issuance.**

If upon hearing, the allegations of the complaint are sustained to the satisfaction of the court, the court shall issue a preliminary injunction restraining the defendant and any other person from continuing the nuisance and effectually enjoining its use thereafter for the purpose of conducting any such nuisance. The court may in its discretion order the closure of the property pending trial on the merits."

Section 10. G.S. 19-3(b) reads as rewritten:

"(b) In such action, an admission or finding of guilt of any person under the criminal laws against lewdness, assignation, prostitution, gambling, breaches of the peace, the illegal possession or sale of alcoholic beverages, or the illegal possession or sale of substances proscribed by the North Carolina Controlled Substances Act, at any such place, is admissible for the purpose of proving the existence of said nuisance, and is evidence of such nuisance and of knowledge of, and of acquiescence and participation therein, on the part of the person charged with maintaining said nuisance."

Section 11. G.S. 19-6 reads as rewritten:

"**§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.**

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance

under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

Upon the filing of the action, the plaintiff may file a notice of lis pendens in the official records of the county where the property is located.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner.

~~The clear proceeds of civil penalties and forfeitures provided for in this section, except for penalties and properties that accrue to local governments instead of the State, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.~~"

Section 12. G.S. 19-6.1 reads as rewritten:

"**§ 19-6.1. Forfeiture of real property.**

In all actions where a preliminary injunction, permanent injunction, or an order of abatement is issued pursuant to this Article in which the nuisance consists of or includes at least two prior occurrences within five years of the ~~illegal possession or sale of narcotic drugs as defined in G.S. 90-87(17),~~ manufacture, possession with intent to sale, or sale of controlled substances as defined by the North Carolina Controlled Substances Act, or two prior occurrences of the possession of any controlled substance included within Schedule I or II of that Act, the real property

on which the nuisance exists or is maintained is subject to forfeiture in accordance with this section.

If all of the owners of the property are defendants in the action, the plaintiff, other than a plaintiff who is a private citizen, may request forfeiture of the real property as part of the relief sought. If forfeiture is requested, and if jurisdiction over all defendant owners is established, upon judgment against the defendant or defendants, the court shall order forfeiture as follows:

(1) If the court finds by clear and convincing evidence that all the owners either (i) have participated in maintaining the nuisance on the property, or (ii) prior to the action had written notice from the ~~plaintiff prior to the action~~ plaintiff, or any governmental agent or entity authorized to bring an action pursuant to this Chapter, that the nuisance existed or was maintained on the property and have not made good faith efforts to stop the nuisance from occurring or recurring, the court shall order that the property be forfeited;

(2) If the court finds that one or more of the owners did not participate in maintaining the nuisance on the property or did not have written notice from the plaintiff prior to the action that the nuisance existed or was maintained on the property, the court shall not order forfeiture of the property immediately upon judgment. However, if after judgment and an order directing the defendants to abate the nuisance, the nuisance either continues, begins again, or otherwise recurs within five years of the order and the defendants have not made good faith efforts to abate the nuisance, the plaintiff may petition the court for forfeiture. Upon such petition, the defendant owner or owners shall be given notice and an opportunity to appear and be heard at a hearing to determine the continuation or recurrence of the nuisance. If, in this hearing (i) the plaintiff establishes by clear and convincing evidence that the nuisance, with the owner's or owners' knowledge, has either continued, begun again, or otherwise recurred, and (ii) the defendants fail to establish that they have made and are continuing to make good faith efforts to abate the nuisance, the court shall order that the property be forfeited.

For the purposes of this section, factors which may evidence good faith by the defendant to abate the nuisance include but are not limited to (i) cooperation with law enforcement authorities to abate the nuisance; (ii) lease restrictions prohibiting the illegal possession or sale of narcotic drugs and an action to evict a tenant for any violations of the lease provision; (iii) a criminal record check of prospective tenants; and (iv) reference checks of prior residency of prospective tenants.

Upon an order of forfeiture, title to the property shall vest in the school board of the county in which the property is located. If at the time of forfeiture the property is subject to a lien or security interest of a person not participating in the maintenance of the nuisance, the school board shall either (i) pay an amount to that person

satisfying the lien or security interest; or (ii) sell the property and satisfy the lien or security interest from the proceeds of the ~~sale and additional monies, if necessary.~~ sale. If the property is not subject to any lien or security interest at the time of forfeiture, the school board may hold, maintain, lease, sell, or otherwise dispose of the property as it sees fit.

Upon the filing of the action, the plaintiff may file a notice of lis pendens in the official records of the county where the property is located. If the plaintiff files a notice of lis pendens, any person purchasing or obtaining an interest in the property thereafter shall be considered to have notice of the alleged nuisance, and shall forfeit his interest in the property upon a judgment of forfeiture in favor of the plaintiff.

If in the same action in which real property is forfeited the court finds that a tenant or occupant of the property participated in or maintained the nuisance, the lease or other title under which the tenant or occupant holds is void, and the right of possession vests in the new owner. Upon forfeiture, the rights of innocent tenants occupying separate units of the property who were not involved in the nuisance at the time the action was filed shall be in accordance with any relevant lease provisions in effect at the time or, in the absence of relevant lease provisions, in accordance with the law applying to other tenants or occupants of property that is sold, foreclosed upon, or otherwise obtained by new owners."

Section 13. This act becomes effective October 1, 1999.

S929:
Abatement of Nuisances

BILL ANALYSIS

Committee:	Senate JII	**Introduced by:**	Sen. Reeves
Date:	April 21, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed		Committee Counsel

SUMMARY: Senate bill 929, "...amends GS 19-1.1(3) to provide that "knowledge" or "knowledge of such nuisance" means, with regard to nuisances involving assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages or controlled substances, or repeated acts that create and constitute a breach of the peace, evidence that defendant knew, or by exercise of due diligence should have known, of the acts or conduct. Amends GS 19-1.1 to define "breach of the peace" as act that disturbs public tranquility and order including, but not limited to, homicide, assault, affray, communicating threats, stalking, loud obscene or abusive language, unlawful possession of dangerous or deadly weapons, and discharging firearms. Amends GS 19-1.1 to define "prostitution" as offering in any manner or receiving in return for fee, for acts of vaginal intercourse, anal intercourse, fellatio, cunnilingus, masturbation, or physical contact with person's genitals, pubic area, buttocks, or breasts, or other acts of sexual conduct offered or received for pay and sexual gratification. Amends GS 19-1.3(3) to include vehicles and conveyances as personal property declared as nuisances as set out in subsection. Adds new GS 19-1.6 to provide that cessation of nuisance activities does not preclude action for abatement of nuisance based on its past operation. Amends GS 19-2.1 to provide that on request of Att'y General, district attorney, county or municipality, including sheriff or chief of police, Alcohol Law Enforcement Div'n of Dep't of Crime Control and Public Safety or other law enforcement agency may investigate alleged public nuisances and make recommendations concerning actions to abate public nuisances. Amends GS 19-2.5 to provide that court may order closure of property pending trial on merits."[1]

[1] Institute of Government Bill Summary

S 929 (Committee Substitute): Abatement of Nuisances

This package of changes updates Chapter 19 and makes it more effective in combating public nuisances including alcohol, drugs, prostitution and pornography. The Alcohol Law Enforcement Division of Crime Control and Public Safety has an active Nuisance Abatement Team that uses Chapter 19 in communities statewide to reclaim streets and neighborhoods from criminal activity. The Team's emphasis is on alcohol and drug abuse and accompanying violent crimes.

The primary weapon of the Nuisance Abatement Team is Chapter 19's authority to seek a civil court order to halt the use of property for criminal activity (crack houses, liquor houses, etc.). Too often, merely arresting criminals one by one does nothing to solve an ongoing community problem in particular neighborhoods. With a court order against the property owner or tenants, more concrete steps can be required to end the criminal use. In extreme cases where Schedule I drugs are involved (heroin, etc.), property could even be subject to forfeit if it can be proved that the owner was warned, made no good faith efforts to stop the use, and it is proved that the property was used for the purpose of carrying on the criminal activity as a regular course of business.

Issue in existing statute	*Change*
Definition refers only to "narcotic drugs"	Change to "controlled substances"
Does not define "breach of the peace" although statute permits enjoining such breaches	Defines "breach of the peace"
Definition requires proof of defendant's knowledge that property used for nuisance	Codifies caselaw that includes constructive knowledge
Limited definition of "motion pictures"	Add videodiscs, CDs
Definition prohibits action against a private dwelling as a nuisance unless activity is for profit	Deletes restriction
"Sale" definition not consistent with other statutes	Refer to alcohol and controlled substance statutes
Personal property subject to forfeit limited to money and movable contents	Add vehicles (statute already permits enjoining vehicles used for nuisance)
Role of state law enforcement vague	Authorize DA to request ALE investigation
Immunity vague	Immunity extends to employees and agents
Status of government property vague	Exempt state and its political subdivisions
Inventory provisions to restrain use of property by ex parte order should exclude private dwellings	Excludes private dwellings unless used for profit
Statute allows court to enjoin nuisance pending trial, unclear whether court may close entirely	Give court express discretion to close property (some judges do already)
No authority to file lis pendens to provide record notice to innocent buyer of action	Authorize filing lis pendens
Property owner must forfeit property if warned of nuisance prior to suit, but not clear whether that applies if one agency warns and another sues	State that forfeiture triggered by notice of nuisance by any agency if that agency could have brought action itself

A.L.E.'s Nuisance Abatement Team at a glance:

- *Started work in November 1994*
- *5 sworn officers and one support person*
- *Based in Tarboro, Durham and Greensboro*
- *Acts only by invitation from local governments*
- *Has investigated 237 referrals, has 40 investigations pending*
- *Has enjoined/terminated nuisances at 81 sites*
- *Has never lost a case in court*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 4/27/99

S. B. No. 929- Amendment No. _____

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE 929-CSLK-1

Rep.)
)
Sen.)

1 moves to amend the bill on page 1, line 21 + 22

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the ~~[illegible]~~ phrase:

4

5 "Stalking, loud obscene or abusive

6 language,"

7

8 And on page 5 Line 34 by

9 be deleting ~~the~~ Section 5. and renumbering

10 the remaining sections.

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 582
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Electronic Pawn Records. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE LAW ENFORCEMENT EFFORTS TO RECOVER STOLEN PROPERTY BY PROVIDING SHERIFFS WITH ACCESS TO PAWN TICKET RECORDS OF PAWNSHOPS LOCATED IN MUNICIPALITIES AND BY AUTHORIZING CERTAIN CHIEFS OF POLICE TO REQUIRE PAWNBROKERS TO MAKE PAWN TICKET RECORDS AVAILABLE IN ELECTRONIC FORMAT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 91A-7(d) reads as rewritten:

"(d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the sheriff of the county ~~or~~ and the chief of police of the municipality in which the pawnshop is located. These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours."

Section 2. Chapter 91A of the General Statutes is amended by adding a new section to read:

"**§ 91A-7.1. Authority to require electronic records.**

(a) In any municipality that has a population in excess of 140,000 by the most recent decennial census, the chief of police may require a pawnshop located within that municipality to make its correct copy pawn and purchase transaction records available to the chief of police in an electronic format acceptable to the chief of

police. The information included in the electronic records shall match the information provided on the pawn ticket records and shall be made available to the chief of police at the same time as the pawn ticket records are made available. The chief of police shall make the electronic copies of records available to the sheriff of the county in which the pawn shop is located.

(b) Before requiring a pawnshop to make pawn records available in an electronic format under subsection (a) of this section, the chief of police of a municipality shall determine the pawn shop's average monthly pawn transaction volume for the most recent 12-month period for which records are available. No pawn shop with an average of fewer than 200 monthly pawn transactions for that 12-month period shall be required to provide electronic copies of its pawn ticket records. The chief of police shall annually review each pawn shop's average monthly transaction volume and shall adjust electronic reporting requirements based upon the annual review.

(c) A pawnbroker operating a pawnshop that will be required to make its pawn transaction records available in an electronic format as provided in this section shall be notified by the chief of police in writing at least 45 days prior to the requirement taking effect."

Section 3. This act is effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE
COMMITTEE SUBSTITUTE
D

SENATE BILL 582
Proposed Committee Substitute S582-PCS6672-RV

APR 29 1999

ADOPTED

Short Title: Electronic Pawn Records. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE LAW ENFORCEMENT EFFORTS TO RECOVER STOLEN PROPERTY BY PROVIDING SHERIFFS WITH ACCESS TO PAWN TICKET RECORDS OF PAWNSHOPS LOCATED IN MUNICIPALITIES AND BY AUTHORIZING CERTAIN CHIEFS OF POLICE TO REQUIRE PAWNBROKERS TO MAKE PAWN TICKET RECORDS AVAILABLE IN ELECTRONIC FORMAT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 91A-7(d) reads as rewritten:

"(d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the sheriff of the county ~~or~~ and the chief of police of the municipality in which the pawnshop is located. These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours."

Section 2. Chapter 91A of the General Statutes is amended by adding a new section to read:

"**§ 91A-7.1. Authority to require electronic records.**

(a) In any municipality that has a population in excess of 140,000 by the most recent decennial census, the chief of police may require a pawnshop located within that municipality to make its correct copy pawn and purchase transaction records available to the chief of police in an electronic format acceptable to the chief of

police. The information included in the electronic records shall match the information provided on the pawn ticket records and shall be made available to the chief of police at the same time as the pawn ticket records are made available. The chief of police shall make the electronic copies of records available to the sheriff of the county in which the pawn shop is located.

(b) Before requiring a pawnshop to make pawn records available in an electronic format under subsection (a) of this section, the chief of police of a municipality shall determine the pawn shop's average monthly pawn transaction volume for the most recent 12-month period for which records are available. No pawn shop with an average of fewer than 200 monthly pawn transactions for that 12-month period shall be required to provide electronic copies of its pawn ticket records. The chief of police shall annually review each pawn shop's average monthly transaction volume and shall adjust electronic reporting requirements based upon the annual review.

(c) A pawnbroker operating a pawnshop that will be required to make its pawn transaction records available in an electronic format as provided in this section shall be notified by the chief of police in writing at least 45 days prior to the requirement taking effect."

Section 3. This act is effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

S582-CSRV-001
PROPOSED COMMITTEE SUBSTITUTE
SENATE BILL 582
THIS IS A DRAFT 26-APR-99 21:05:52
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Electronic Pawn Records. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE LAW ENFORCEMENT EFFORTS TO RECOVER STOLEN PROPERTY BY PROVIDING SHERIFFS WITH ACCESS TO PAWN TICKET RECORDS OF PAWNSHOPS LOCATED IN MUNICIPALITIES AND BY AUTHORIZING CERTAIN CHIEFS OF POLICE TO REQUIRE PAWNBROKERS TO MAKE PAWN TICKET RECORDS AVAILABLE IN ELECTRONIC FORMAT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 91A-7(d) reads as rewritten:

"(d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker. These records shall be available for inspection and pickup each regular workday by the sheriff of the county ~~or~~ and the chief of police of the municipality in which the pawnshop is located. These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours."

Section 2. Chapter 91A of the General Statutes is amended by adding a new section to read:

"**§91A-7.1. Authority to require electronic records.**

(a) In any municipality that has a population in excess of 140,000 by the most recent decennial census, the chief of police may require a pawnshop located within that municipality to make its correct copy pawn and purchase transaction records available to the chief of police in an electronic format acceptable to the chief of police. The information included in the electronic records shall match the information provided on the pawn ticket records and shall be made available to the chief of police at the same time as the pawn ticket records are made available. The chief of police shall make the electronic copies of records available to the sheriff of the county in which the pawn shop is located.

(b) Before requiring a pawnshop to make pawn records available in an electronic format under subsection (a) of this section, the chief of police of a municipality shall determine the pawn shop's average monthly pawn transaction volume for the most recent twelve-month period for which records are available. No pawn shop with an average of fewer than 200 monthly pawn transactions for that twelve-month period shall be required to provide electronic copies of its pawn ticket records. The chief of police shall annually review each pawn shop's average monthly transaction volume and shall adjust electronic reporting requirements based upon the annual review.

(c) A pawnbroker operating a pawnshop that will be required to make its pawn transaction records available in an electronic format as provided in this section shall be notified by the chief of police in writing at least 45 days prior to the requirement taking effect."

Section 3. This act is effective July 1, 1999.

SENATE BILL 582:
Electronic Pawn Records

BILL ANALYSIS

Committee:	Senate Judiciary II	**Introduced by:**	Senator Horton
Date:	April 27, 1999	**Summary by:**	Brenda J. Carter
Version:	Proposed Committee Substitute S582-CSRV-001		Committee Co-Counsel

SUMMARY: ***The proposed committee substitute for Senate Bill 582, as reported by subcommittee, would provide sheriffs with access to pawn ticket records of pawnshops located within municipalities. It would also authorize the chief of police in a municipality with a population in excess of 140,000 to require pawnbrokers to make pawn ticket records available in electronic format.***

CURRENT LAW: Chapter 91A of the General Statutes sets out the law governing pawnbrokers. A pawnbroker is basically one who lends money upon personal property pledged as security. Pawnbrokers must be licensed by the city or county in which they are to conduct business. G.S. 91A-7 requires that every pawnbroker keep consecutively numbered records of each and every pawn transaction. The records must correspond to the detachable pawn ticket attached to the record. The information must include:

- A description of the property
- Information on the person pledging the property - Name, address, phone number and date of birth; type of ID and the ID number; description including approx. height, weight, sex, and race
- Date of the pawn transaction
- Amount of money advanced, the date due and the amount due
- All monthly pawn charges, including interest
- Agreed upon value of the property, in the event of loss or destruction

The current law requires that records be available for inspection and pickup each regular workday by the sheriff of the county or the chief of police of the municipality in which the pawnshop is located. The records must be a correct copy of the entries made of the pawn or purchase transaction, must be carefully preserved without alteration, and must be available during regular business hours.

BILL ANALYSIS: The PCS for Senate Bill 582 rewrites a local bill which formerly applied only to the City of Winston-Salem. The bill is rewritten as a public bill which would require that pawn ticket records be made available to the sheriff and the chief of police, and would authorize the chief of police of any city with a population in excess of 140,000 to require that pawn ticket records be made available in electronic format. The requirement would only apply to pawn shops with an average of at least 200 monthly pawn transactions within a 12-month period. The chief of police would annually review the pawnshop's record of average monthly transactions, and adjust the electronic reporting requirement based upon the annual review. A pawnbroker is entitled to at least 45 days notice in advance of the electronic record requirement taking effect.

The bill would become effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 582

Short Title: Winston-Salem Pawnbrokers. (Local)

Sponsors: Senators Horton; and Garrou.

Referred to: Judiciary II.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE LAW ENFORCEMENT EFFORTS TO RECOVER STOLEN PROPERTY BY AUTHORIZING THE CHIEF OF POLICE OF WINSTON-SALEM TO REQUIRE PAWNBROKERS TO MAKE PAWN TICKET RECORDS AVAILABLE IN ELECTRONIC FORMAT.

The General Assembly of North Carolina enacts:

Section 1. In addition to the record-inspection requirements of G.S. 91A-7(d), the chief of police of the municipality in which the pawnshop is located may require the correct copy of pawnshop records to be made available in an electronic database format specified by and acceptable to the chief of police.

Section 2. This act is enacted pursuant to the general police power.

Section 3. This act applies only to the City of Winston-Salem.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 543
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Forsyth Area Zoning Changes. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO ZONING BY FORSYTH COUNTY, THE TOWNS OF KERNERSVILLE AND LEWISVILLE, AND THE VILLAGE OF CLEMMONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Section 1. Section 23 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended as follows: by inserting between the first and second paragraphs thereof the eight following paragraphs:

'The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Winston-Salem to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find ~~appropriate, but not to include architectural review or controls.~~ appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 2. Section 2 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Sec. 2. Section 25 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended by inserting the seven following paragraphs after the first paragraph therein:

'For any or all these purposes, the County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in

other districts; provided, however, that the County may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Forsyth County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners of a special use district permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board determines to be desirable in promoting public health, safety and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of County Commissioners, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 3. The Charter of the Town of Kernersville, being Chapter 381 of the 1989 Session Laws, is amended by adding a new section to read:

"**Sec. 27.1. Zoning.** The Board of Aldermen of the Town of Kernersville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 4. The Charter of the Town of Lewisville, being Chapter 116 of the 1991 Session Laws, is amended by adding a new section to read:

"**Section 5-3. Zoning.** The Town Council of the Town of Lewisville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses

of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Town Council of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Town Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Town Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Town Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Town Council determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Town Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Town Council may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 5. The Charter of the Village of Clemmons, being Section 7 of Chapter 437 of the 1985 Session Laws, is amended by adding a new Article to read:

"ARTICLE VII. ADMINISTRATION.

"**Sec. 7.1. Zoning.** The Village Council of the Village of Clemmons is hereby empowered by ordinance to regulate in any portion or portions of the Village the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Village may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Village may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Village Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Village Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Village Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Village Council determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Village Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the

timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA SENATE
SESSION 1999 COMMITTEE SUBSTITUTE
APR 29 1999
S D

SENATE BILL 543
Proposed Committee Substitute S543-PCS4697-LR ADOPTED

Short Title: Forsyth Area Zoning Changes. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO ZONING BY FORSYTH COUNTY, THE TOWNS OF KERNERSVILLE AND LEWISVILLE, AND THE VILLAGE OF CLEMMONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Section 1. Section 23 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended as follows: by inserting between the first and second paragraphs thereof the eight following paragraphs:

'The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Winston-Salem to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find ~~appropriate, but not to include architectural review or controls.~~ appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 2. Section 2 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Sec. 2. Section 25 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended by inserting the seven following paragraphs after the first paragraph therein:

'For any or all these purposes, the County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in

other districts; provided, however, that the County may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Forsyth County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners of a special use district permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board determines to be desirable in promoting public health, safety and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of County Commissioners, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 3. The Charter of the Town of Kernersville, being Chapter 381 of the 1989 Session Laws, is amended by adding a new section to read:

"**Sec. 27.1. Zoning.** The Board of Aldermen of the Town of Kernersville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 4. The Charter of the Town of Lewisville, being Chapter 116 of the 1991 Session Laws, is amended by adding a new section to read:

"**Section 5-3. Zoning.** The Town Council of the Town of Lewisville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses

of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Town Council of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Town Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Town Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Town Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Town Council determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Town Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Town Council may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 5. The Charter of the Village of Clemmons, being Section 7 of Chapter 437 of the 1985 Session Laws, is amended by adding a new Article to read:

"ARTICLE VII. ADMINISTRATION.

"**Sec. 7.1. Zoning.** The Village Council of the Village of Clemmons is hereby empowered by ordinance to regulate in any portion or portions of the Village the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Village may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Village may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Village Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Village Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Village Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Village Council determines to be desirable in promoting public health, safety, and general welfare.

The conditions contained in a special use permit issued by the Village Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the

timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety, and welfare, and insure that substantial justice be done."

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 543
Proposed Committee Substitute S543-CSLR-005
WARNING: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Forsyth Area Zoning Changes. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO ZONING BY FORSYTH COUNTY, THE TOWNS OF KERNERSVILLE AND LEWISVILLE, AND THE VILLAGE OF CLEMMONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Section 1. Section 23 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended as follows: by inserting between the first and second paragraphs thereof the eight following paragraphs:

'The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and

restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Winston-Salem to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use <u>district</u> permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen

may find ~~appropriate, but not to include architectural review or controls.~~ appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 2. Section 2 of Chapter 381 of the 1973 Session Laws reads as rewritten:

"Sec. 2. Section 25 of Chapter 677 of the Session Laws of 1947, as amended, is hereby amended by inserting the seven following paragraphs after the first paragraph therein:

'For any or all these purposes, the County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the County may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit Forsyth County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of County Commissioners of a special use district permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of County Commissioners may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of County Commissioners is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board determines to be desirable in promoting public health, safety and general welfare. The act of issuing a special use district permit shall be deemed to be a legislative act of the Board of County Commissioners, and the procedural standards applicable to the legislative acts shall apply to the consideration and issuance of a special use permit.

The conditions contained in a special use permit issued by the Board may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board may find appropriate, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.'"

Section 3. The Charter of the Town of Kernersville, being, Chapter 381 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 27.1. Zoning. The Board of Aldermen of the Town of Kernersville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations

shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Board of Aldermen may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Board of Aldermen is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Board of Aldermen shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Board of Aldermen determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Board of Aldermen may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Section 4. The Charter of the Town of Lewisville, being Chapter 116 of the 1991 Session Laws, is amended by adding a new section to read:

"Section 5-3. Zoning. The Town Council of the Town of Lewisville is hereby empowered by ordinance to regulate in any portion or portions of the Town the uses of buildings and structures for trade, industry, .residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Town may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the Town may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Town Council of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Town Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Town Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Town Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Town Council determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Town Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Town Council may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Section 5. The Charter of the Village of Clemmons, being Section 7 of Chapter 437 of the 1985 Session Laws, is amended by adding a new Article to read:

"ARTICLE VII. ADMINISTRATION.

"Sec. 7.1. Zoning. The Village Council of the Village of Clemmons is hereby empowered by ordinance to regulate in any portion or portions of the Village the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservations, soil conservation, forestry or other purposes.

For any or all these purposes, the Village may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the

Village may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this section to permit the Town to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the Board of Aldermen of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If he elects to petition for general use district zoning, he may not refer, either in his petition or at any hearings related to the petition, to the use intended for the property upon rezoning. The Village Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the re-zoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the Village Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the Village Council shall issue a special use district permit authorizing the requested use with such reasonable conditions as the Village Council determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the Village Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the petitioner may propose and the Board of Aldermen may find appropriate.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 543

Short Title: Forsyth Local Act. (Local)

Sponsors: Senator Horton.

Referred to: Rules and Operations of the Senate.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE GOVERNANCE OF FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies to Forsyth County only.

Section 2. This is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 984
State and Local Government Committee Substitute Adopted 4/29/99

Short Title: Accountant/CPA Audits. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CERTAIN ACCOUNTANTS AND CERTIFIED PUBLIC ACCOUNTANTS TO ISSUE AUDITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-1(a)(5) reads as rewritten:

"(5) A person is engaged in the "public practice of accountancy" who holds himself or herself out to the public as a certified public accountant or an accountant and in consideration of compensation received or to be received offers to perform or does perform, for other persons, services which involve the auditing or verification of financial transactions, books, accounts, or records, or the preparation, verification or certification of financial, ~~accounting~~ accounting, and related statements intended for publication or renders professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or the recording, ~~presentation~~ presentation, or certification and the interpretation of such service through statements and reports. An accountant or certified public accountant who meets the requirements of G.S. 93-12(8c)g. may, in the public practice of accountancy, issue an audit and any review of a financial statement, any compilation of a financial statement, and any agreed upon procedure."

Section 2. G.S. 93-12(8c)f. reads as rewritten:

"f. For purposes of this section, a firm means an entity, individual proprietorship, ~~partnership~~ partnership, or professional association through which one or more certificate ~~holder engages~~ holders or accountants engage in the public practice of accountancy through an office or offices."

Section 3. G.S. 93-12(8c) is amended by adding a new sub-subdivision to read:

"g. An accountant may issue an audit to a qualified client if: (i) the qualified client is one for which the accountant has issued an audit for the years 1997, 1998, or 1999; (ii) the accountant has completed an independent peer review program, established by a recognized professional accounting association deemed acceptable by the Board, of the accounting systems, procedures, and examples of prior reports on or before December 31, 2000, and every three years after that date; (iii) the accountant notifies the Board and provides satisfactory evidence to the Board that he or she has met the requirements of (i) and (ii) of this sub-subdivision prior to December 31, 2000; and (iv) no more than two years has lapsed since the accountant provided an audit to the qualified client."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

SENATE COMMITTEE SUBSTITUTE

APR 29 1999

ADOPTED

S

SENATE BILL 984
Proposed Committee Substitute S984-PCS8608-LM

Short Title: Accountant/CPA Audits. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CERTAIN ACCOUNTANTS AND CERTIFIED PUBLIC ACCOUNTANTS TO ISSUE AUDITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-1(a)(5) reads as rewritten:

"(5) A person is engaged in the "public practice of accountancy" who holds himself or herself out to the public as a certified public accountant or an accountant and in consideration of compensation received or to be received offers to perform or does perform, for other persons, services which involve the auditing or verification of financial transactions, books, accounts, or records, or the preparation, verification or certification of financial, ~~accounting~~ accounting, and related statements intended for publication or renders professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or the recording, ~~presentation~~ presentation, or certification and the interpretation of such service through statements and reports. An accountant or certified public accountant who meets the requirements of G.S. 93-12(8c)g. may, in the public practice of accountancy, issue an audit and any review of a financial statement, any compilation of a financial statement, and any agreed upon procedure."

Section 2. G.S. 93-12(8c)f. reads as rewritten:

"f. For purposes of this section, a firm means an entity, individual proprietorship, ~~partnership~~ partnership, or professional association through which one or more certificate ~~holder engages~~ holders or accountants engage in the public practice of accountancy through an office or offices."

Section 3. G.S. 93-12(8c) is amended by adding a new sub-subdivision to read:

"g. An accountant may issue an audit to a qualified client if: (i) the qualified client is one for which the accountant has issued an audit for the years 1997, 1998, or 1999; (ii) the accountant has completed an independent peer review program, established by a recognized professional accounting association deemed acceptable by the Board, of the accounting systems, procedures, and examples of prior reports on or before December 31, 2000, and every three years after that date; (iii) the accountant notifies the Board and provides satisfactory evidence to the Board that he or she has met the requirements of (i) and (ii) of this sub-subdivision prior to December 31, 2000; and (iv) no more than two years has lapsed since the accountant provided an audit to the qualified client."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 984
Proposed Committee Substitute S984-CSLM-1
WARNING: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Accountant/CPA Audits. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CERTAIN ACCOUNTANTS AND CERTIFIED PUBLIC ACCOUNTANTS TO ISSUE AUDITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-1(a)(5) reads as rewritten:

"(5) A person is engaged in the "public practice of accountancy" who holds himself or herself out to the public as a certified public accountant or an accountant and in consideration of compensation received or to be received offers to perform or does perform, for other persons, services which involve the auditing or verification of financial transactions, books, accounts, or records, or the preparation, verification or certification of financial, ~~accounting~~ accounting, and related statements intended for publication or renders professional services or assistance in or about any and all matters of principle or detail relating to accounting procedure and systems, or the recording, ~~presentation~~ presentation, or certification and the interpretation of such service through statements and reports. An accountant or certified public

accountant who meets the requirements of G.S. 93-12(8c)g. may, in the public practice of accountancy, issue an audit and any review of a financial statement, any compilation of a financial statement, and any agreed upon procedure."

Section 2. G.S. 93-12(8c)f. reads as rewritten:

"f. For purposes of this section, a firm means an entity, individual proprietorship, ~~partnership~~ partnership, or professional association through which one or more certificate ~~holder engages~~ holders or accountants engage in the public practice of accountancy through an office or offices."

Section 3. G.S. 93-12(8c) is amended by adding a new subdivision to read:

"g. An accountant may issue an audit to a qualified client if: (i) the qualified client is one for which the accountant has issued an audit for the years 1997, 1998, or 1999; (ii) the accountant has completed an independent peer review program, established by a recognized professional accounting association deemed acceptable by the Board, of the accounting systems, procedures, and examples of prior reports on or before December 31, 2000, and every three years after that date; (iii) the accountant notifies the Board and provides satisfactory evidence to the Board that he or she has met the requirements of (i) and (ii) of this subdivision g. prior to December 31, 2000; and (iv) no more than two years has lapsed since the accountant provided an audit to the qualified client."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 984

Short Title: Amendments 3. (Public)

Sponsors: Senator Miller.

Referred to: Rules and Operations of the Senate.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The law is amended.

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 28, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ELLIS HAWKINS	NCLM
Andy Romanet	N.C.L.M.
Kevin Wilson	City of Asheville
JEFF RICHARDSON	City OF Asheville
BOB OAST	City of Asheville
Ed Rego	N.C. Assoc. of Co. Comm.
Mary Cornilia	Mecklenburg County
Matt Osborne	AOC
Steve Woodson	NC Farm Bureau
JACK NICHOLS	Allen & Pinnix
G Markham	EGHS

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — APRIL 28, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Karl Kapp	City of Winston-Salem

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 5, 1999

11:00 AM

ROOM 1124 LB

Bills

• HB 253	SIPS Name Change/AB.	Rep. Owens
• HB 615	Elizabeth City Watercraft Reg.	Rep. Owens
• HB 637	Coinjock Canal No-wake Zone	Rep. Owens
• HB 319	Add'l Duty of Sec. Of State/AB.	Rep. Goodwin
• HB 326	Aquarium Exhibit Disposal.	Rep. Culpepper
• HB 327	Food/Vending at NC Aquariums/AB.	Rep. Culpepper
• HB 872	Dare Countyhouse Construction Flex	Rep. Culpepper
• HB 429	Madison Commissioners Election	Rep. Haire

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 05, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 5, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 615, Elizabeth City Watercraft Reg., was removed from the agenda.

HB 319, Add'l Duty of Sec. Of State/AB, was explained by Rep. Goodwin. Sen. Dalton moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

HB 253, SIPS Name Change/AB., was explained by Rep. Owens. Denny McGuire, The Division of Information Technology answered questions. Sen. Ballance moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

HB 637, Coinjock Canal No-Wake Zone, was explained by Rep. Owens. Sen. Horton moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

HB 326, Aquarium Exhibit Disposal, was explained by Rep. Culpepper. Sen. Garwood moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

HB 327, Food/Vending at NC Aquariums/AB, was explained by Rep. Culpepper. Sen. Dalton moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.** The bill was re-referred to the Appropriations Committee.

HB 872, Dare Courthouse Construction Flex, was explained by Rep. Culpepper. Sen. Ballance moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

HB 429, Madison Commissioners Election, was explained by Sen. Metcalf. Sen. Robinson moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young
Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 05, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS) **253** SIPS Name Change/AB.
Sequential Referral: None
Recommended Referral: None

H.B. **319** Add'l Duty of Sec. of State/AB.
Sequential Referral: None
Recommended Referral: None

H.B.(CS) **326** Aquarium Exhibit Disposal.
Sequential Referral: None
Recommended Referral: None

H.B.(CS) **327** Food/Vending at NC Aquariums/AB.
Sequential Referral: Appropriations
Recommended Referral: None

H.B. **429** Madison Commissioners Election.
Sequential Referral: None
Recommended Referral: None

H.B. **637** Coinjock Canal No-Wake Zone.
Sequential Referral: None
Recommended Referral: None

H.B. **872** Dare Courthouse Construction Flex.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 7

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 615

Short Title: Elizabeth City Watercraft Reg. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE OPERATION OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed and operation of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. This act applies only to the City of Elizabeth City.

Section 3. This act is effective when it becomes law.

HOUSE BILL 615:
Elizabeth City Watercraft Reg.

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Representative Owens
Date:	May 4, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 615 authorizes the Elizabeth City to adopt ordinances that would allow the city to regulate the speed and operation of boats on waterways within the city limits and the limits of its extraterritorial jurisdiction.***

BILL ANALYSIS: Authority to regulate the operation of watercraft, including restrictions on speed and types of activity is expressly given to the Wildlife Resources Commission (WRC) in the Boating Safety Act. Chapter 75A of the General Statutes. The WRC has authority to adopt rules for local waters on these issues. G.S.75A-15(a). Subdivisions of the State may apply to the WRC for rules on waters within the subdivisions boundaries or extraterritorial limits. G.S. 75A-15(b). House Bill 615 would give Elizabeth City the right to directy control the operation of watercraft within its jurisdiction.

§ 75A-15. Rules on water safety; adoption of the Uniform Waterway Marking System.

(a) In accordance with subsection (b) of this section, the Wildlife Resources Commission is empowered to make rules, for the local water in question, as to:

(1) Operation of vessels, including restrictions concerning speed zones, and type of activity conducted.

(2) Promotion of boating and water safety generally by occupants of vessels, swimmers, fishermen, and others using the water.

(3) Placement and maintenance of navigation aids and markers, in conformity with governing provisions of law.

Prior to making any rules, the Commission shall investigate the water recreation and safety needs of the local water in question. In making such investigation, the Commission in its discretion may hold public hearings on the rules proposed and the general needs of the local water in question. After such investigation and application of standards, the Commission may in its discretion pass the rules requested, pass them in an amended form, or refuse to pass them. After passage, the Commission may amend or repeal the rules after first holding a public hearing.

(b) Any subdivision of this State may, but only after public notice, make formal application to the Wildlife Resources Commission for rules on waters within the subdivision's territorial limits as to the matters listed in subsection (a) of this section. The Wildlife Resources Commission may, adopt rules applicable to local areas of water defined by the Commission that are found to be heavily used for water recreation purposes by persons from other areas of the State and as to which there is not coordinated local interest in regulation.

The Wildlife Resources Commission may adopt rules prohibiting entry of vessels into public swimming areas and establishing speed zones at public boat launching ramps, marinas, or boat service areas and on other congested water areas where there are demonstrated water safety hazards. Enforcement of such rules shall be dependent upon placement and maintenance of regulatory markers in accordance with the

Uniform State Waterway Marking System by such agency or agencies as may be designated by the Wildlife Resources Commission.

(c) The Uniform State Waterway Marking System as approved by the Advisory Panel of State Officials to the Merchant Marine Council, United States Coast Guard, in October 1961 is hereby adopted for use on the waters of North Carolina. The Wildlife Resources Commission is authorized to pass rules implementing the marking system and may:

(1) Modify provisions as necessary to meet the special water recreational and safety needs of this State, provided that such modifications do not depart in any essential manner from the uniform standards being adopted in other states.

(2) Modify provisions as necessary to conform with amendments to the marking system that may be proposed for adoption by the states.

(3) Enact supplementary standards regarding design, construction, placement, and maintenance of markers.

(4) Enact clarifying rules as to matters not covered with precision in the report of the Advisory Panel of State Officials.

(5) Enact implementing rules as to matters left to State discretion in the report of the Advisory Panel of State Officials.

(6) Enact rules forbidding or restricting the placement of markers either throughout the State or in certain classes or areas of waters without prior permission having been obtained from the Commission or some agency or official designated by the Commission.

It is unlawful to place or maintain any marker of the sort covered by the marking system in the waters of North Carolina that does not conform to or is in violation of the marking system and the implementing rules of the Commission.

(d) Rules enacted under the authority of subsections (a) and (b) of this section shall supersede all local rules in conflict or incompatible with such rules. As used in this subsection, "local rules" shall include provisions relating to boating, water safety, or other recreational use of local waters in special local, or private acts, in ordinances or rules of local governing bodies, or in ordinances or rules of local water authorities. Except as may be authorized in subsections (a) and (b) of this section, no local rules may be made respecting the Uniform Waterway Marking System and its implementation or respecting supplemental safety equipment on vessels.

(e) The Wildlife Resources Commission may adopt rules prohibiting entry or use by vessels or swimmers of waters of the State immediately surrounding impoundment structures and powerhouses associated with electric generating facilities that are found to pose a hazard to water safety. This subsection shall not apply to the Person-Caswell Lake Authority, Carolina Power and Light Company Lake (Hyco).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 319

Short Title: Add'l Duty of Sec. of State/AB. (Public)

Sponsors: Representatives Goodwin; and Wainwright.

Referred to: Ways & Means.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SECRETARY OF STATE TO APPLY FOR AND ACCEPT GRANT FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-36 reads as rewritten:

"**§ 147-36. Duties of Secretary of State.**

It is the duty of the Secretary of State:

(1) To perform such duties as may then be devolved upon the Secretary by resolution of the two houses of the General Assembly or either of them;

(2) To attend the Governor, whenever required by the Governor, for the purpose of receiving documents which have passed the great seal;

(3) To receive and keep all conveyances and mortgages belonging to the State;

(4) To distribute annually the statutes and the legislative journals;

(5) To distribute the acts of Congress received at the Secretary's office in the manner prescribed for the statutes of the State;

(6) To keep a receipt book, in which the Secretary shall take from every person to whom a grant shall be delivered, a receipt for the same; but may inclose grants by mail in a registered letter at the expense of the grantee, unless otherwise directed, first entering the same upon the receipt book;

(7) To issue charters and all necessary certificates for the incorporation, domestication, suspension, reinstatement, cancellation and dissolution of corporations as may be required by the corporation laws of the State and maintain a record thereof;

(8) To issue certificates of registration of trademarks, labels and designs as may be required by law and maintain a record thereof;

(9) To maintain a Division of Publications to compile data on the State's several governmental agencies and for legislative reference;

(10) To receive, enroll and safely preserve the Constitution of the State and all amendments thereto;

(11) To serve as a member of such boards and commissions as the Constitution and laws of the State may designate;

(12) To administer the Securities Law of the State, regulating the issuance and sale of securities, as is now or may be directed;

(13) To receive and keep all oaths of public officials required by law to be filed in the Secretary's office, and as Secretary of State, is fully empowered to administer official oaths to any public official of whom an oath is required;

(14) To receive and maintain a journal of all appointments made to any State board, agency, commission, council or authority which is filed in the office of the Secretary of State; ~~and~~

(15) To regulate the solicitation of contributions pursuant to Chapter 131F of the General ~~Statutes.~~ Statutes; and

(16) To apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual in order to effectuate the purposes of the Nonprofit Corporation Act, Chapter 55A of the General Statutes, and to further aid in the operation and development of nonprofit corporations. The Secretary shall comply with the terms, conditions, and limitations of grants applied for and accepted and shall expend grant funds pursuant to Article 1 of Chapter 143 of the General Statutes, The Executive Budget Act."

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

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Tony C. Goldman, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 9, 1999

MEMORANDUM

To: Rep. Martin L. Nesbitt, Jr., Chairman
House Ways and Means Committee

From: Tim Hovis, Committee Counsel

Re: **House Bill 319—Add'l Duty of Sec. Of State/AB (Goodwin)**

House Bill 319 amends **G.S. 147-36, Duties of Secretary of State**, to add to the list of the Secretary's duties the application and acceptance of federal and private grants to effectuate the purposes of the Nonprofit Corporation Act and aid in the development of nonprofit corporations. The Secretary must comply with the terms of the grants and act in accordance with the Executive Budget Act. The Executive Budget Act requires State agencies to report the expenditure of federal funds in the same manner as State funds.

House Bill 319 is effective when it becomes law.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 253
Committee Substitute Favorable 3/25/99

Short Title: SIPS Name Change/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE STATE INFORMATION PROCESSING SERVICES TO THE DIVISION OF INFORMATION TECHNOLOGY SERVICES.

The General Assembly of North Carolina enacts:

Section 1. The name of the State Information Processing Services of the Department of Commerce is changed to the Division of Information Technology Services.

Section 2. G.S. 143B-472.44 reads as rewritten:

"**§ 143B-472.44.** ~~**State Information Processing Services.**~~ **Division of Information Technology Services.**

With respect to all executive departments and agencies of State government, except the Department of Justice and The University of North Carolina, the Department of Commerce shall have the following powers and duties:

(1) To establish and operate information resource centers and services to serve two or more departments on a cost-sharing basis, if the Information Resources Management Commission decides it is advisable from the standpoint of efficiency and economy to establish these centers and services;

(2) With the approval of the Information Resources Management Commission, to charge each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services;

(3) With the approval of the Information Resources Management Commission, to require any department served to transfer to the Department of Commerce ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services;

(4) With the approval of the Information Resources Management Commission, to adopt reasonable rules for the efficient and economical management and operation of the shared centers, services, and the integrated State telecommunications network;

(5) With the approval of the Information Resources Management Commission, to adopt plans, policies, procedures, and rules for the acquisition, management, and use of information technology resources in the departments affected by this subdivision to facilitate more efficient and economic use of information technology in these departments; and

(6) To develop and promote training programs to efficiently implement, use, and manage information technology resources.

(7) To provide cities, counties, and other local governmental units with access to ~~State Information Processing Services~~ Division of Information Technology Services information resource centers and services as authorized in this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

The Department of Revenue is authorized to deviate from this subsection's requirements that departments or agencies consolidate information processing functions on equipment owned, controlled or under custody of the ~~State Information Processing Services.~~ Division of Information Technology Services. All deviations from this subsection's requirements shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission and shall be consistent with available funding. The Department of Revenue is authorized to adopt and shall adopt plans, policies, procedures, requirements and rules for the acquisition, management, and use of information processing equipment, information processing programs, data communications capabilities, and information systems personnel in the Department of Revenue. If the plans, policies, procedures, requirements, rules, or standards adopted by the Department of Revenue deviate from the policies, procedures, or guidelines adopted by the ~~State Information Processing Services~~ Division of Information Technology Services or the Information Resources Management Commission, those deviations shall be allowed and shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission. The Department of Revenue and the ~~State Information Processing Services~~ Division of Information Technology Services shall develop data communications capabilities between the two computer centers utilizing the North Carolina Integrated Network, subject to a security review by the Secretary of Revenue.

The Department of Revenue shall prepare a plan to allow for substantial recovery and operation of major, critical computer applications. The plan shall include the names of the computer programs, databases, and data communications capabilities, identify the maximum amount of outage that can occur prior to the initiation of the plan and resumption of operation. The plan shall be consistent with commonly accepted practices for disaster recovery in the information processing industry. The plan shall be tested as soon as practical, but not later than six months, after the establishment of the Department of Revenue information processing capability.

No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any cost-sharing information resource center or network established under this subdivision until safeguards for the data's security satisfactory to the department head and the Secretary of Commerce have been designed and installed and are fully operational. Nothing in this subsection may be construed to prescribe what programs to satisfy a department's objectives are to be undertaken, nor to remove from the control and administration of the departments the responsibility for program efforts, regardless whether these efforts are specifically required by statute or are administered under the general program authority and responsibility of the department. This subdivision does not affect the provisions of G.S. 147-64.6, 147-64.7, or 143B-472.42(1). Notwithstanding any other provision of law, the Department of Commerce shall provide information technology services on a cost-sharing basis to the General Assembly and its agencies as requested by the Legislative Services Commission."

Section 3. G.S. 143B-472.41(8) reads as rewritten:

"(8) The Chair of the ~~State Information Processing Services~~ Division of Information Technology Services Advisory Board."

Section 4. G.S. 143B-472.42(1) reads as rewritten:

"(1) With respect to State agencies, exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of these agencies. In discharging that responsibility the Secretary of Commerce may in cooperation with affected State agency heads, do such of the following things as the Secretary of Commerce deems necessary and advisable:

a. Provide for the establishment, management, and operation, through either State ownership or commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:

1. Central telephone systems and telephone networks;
2. Teleprocessing systems;
3. Teletype and facsimile services;
4. Satellite services;
5. Closed-circuit TV systems;
6. Two-way radio systems;
7. Microwave systems;

8. Related systems based on telecommunication technologies.

b. With the approval of the Information Technology Council, coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in item "a." of this subdivision.

c. Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.

d. Perform traffic analysis and engineering for all telecommunications services and systems listed in item "a." of this subdivision.

e. Pursuant to G.S. 143-49, establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.

f. Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.

g. Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes, coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.

h. Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.

i. Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including but not limited to the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.

j. Perform frequency coordination and management for State agencies and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.

k. Advise all State agencies on telecommunications management planning and related matters and provide through the State Personnel Training Center or the ~~State Information Processing Services~~ Division of Information Technology Services training to users within State agencies in telecommunications technology and systems.

l. Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems; and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.

m. Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this subdivision.

The provisions of this subdivision shall not apply to the Criminal Information Division of the Department of Justice or to the Judicial Information System in the Judicial Department."

Section 5. This act is effective when it becomes law.

HOUSE BILL 253:
SIPS Name Change/AB

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Representative Owens
Date:	May 4,1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 253 changes the name of the State Information Processing Services (SIPS) to the Division of Information Technology Services.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 637

Short Title: Coinjock Canal No-Wake Zone. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NO-WAKE SPEED ZONE IN COINJOCK CANAL IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than a no-wake speed in the Coinjock Canal Intracoastal Waterway in Currituck County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. With regard to marking the no-wake speed zone established in Section 1 of this act, Currituck County or its designee may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 4. Violation of Section 1 of this act is a Class 3 misdemeanor.

Section 5. This act applies only to Currituck County.

Section 6. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

HOUSE BILL 637:
Coinjock Canal No-Wake Zone

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Representative Owens
Date:	May 4, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

House Bill 637 establishes a no-wake zone in the Coinjock Canal in Currituck County.

BILL ANALYSIS:

House Bill 637 makes it unlawful to operate a vessel at greater than no-wake speed in the Coinjock Canal. No-wake speed is idle speed or slow speed creating no appreciable wake.

Currituck County is to place markers in accordance with the Uhiform Waterway Marking System. The act is enforceable as a provision of Chapter 75A of the General Statutes, The Boating Safety Act. Violation of the Act is aClass 3 misdemeanor.

The act is effective when it becomes law and is enforceable after markers are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 326
Committee Substitute Favorable 3/25/99

Short Title: Aquarium Exhibit Disposal. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DIVISION OF NORTH CAROLINA AQUARIUMS TO DISPOSE OF EXHIBITS FROM THE COLLECTIONS OF THE NORTH CAROLINA AQUARIUMS IN ACCORDANCE WITH GENERALLY ACCEPTED PRACTICES FOR ACCREDITED ZOOS AND AQUARIUMS, TO REQUIRE THAT THE NET PROCEEDS OF ANY SALE OR LEASE OF EXHIBITS BE CREDITED TO THE NORTH CAROLINA AQUARIUMS FUND, AND TO REQUIRE THE DIVISION OF NORTH CAROLINA AQUARIUMS TO REPORT ON RECEIPTS OF AND EXPENDITURES FROM THE NORTH CAROLINA AQUARIUMS FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-289.41(a) is amended by adding a new subdivision to read:

"(1c) Notwithstanding Article 3A of Chapter 143 of the General Statutes, and G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Aquariums by sale, lease, or trade. A sale, lease, or trade under this subdivision shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net

proceeds of any sale or lease shall be credited to the North Carolina Aquariums Fund."

Section 2. G.S. 143B-289.44 is amended by adding a new subsection to read:

"(d) The Division of North Carolina Aquariums shall submit to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year a report on the North Carolina Aquariums Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

Section 3. The first report required by G.S. 143B-289.44(d), as enacted by Section 2 of this act, shall be due on September 30, 2000.

Section 4. Sections 1 and 4 of this act are effective when this act becomes law. Sections 2 and 3 of this act become effective July 1, 1999.

HOUSE BILL 326:
Aquarium ExhibitDisposal

BILL ANALYSIS

Committee: Senate State & Local Government
Date: May 4,1999
Version: 2nd Edition

Introduced by: Rep. Culpepper
Summary by: Barbara Riley
Committee Counsel

SUMMARY: House Bill 326 authorizes the Division of North Carolina Aquariums, rather than the Department of Administration, to sell, lease, or trade exhibits contained in the collections of the North Carolina Aquariums.

CURRENT LAW: Under Article 3A of Chapter 143 of the General Statutes, the Department of Administration is designated as the State agency for State surplus property and is authorized to sell all supplies, materials, and equipment that are surplus, obsolete, or unused. Under this authority, the Department of Administration disposes of exhibits contained in the collections of the North Carolina Aquariums. Receipts from the sale of State surplus property, including aquarium exhibits, are credited to the Office of State Treasurer, Nontax Revenues.

BILL ANALYSIS: House Bill 326 transfers the authority to dispose of exhibits in the collections of the North Carolina Aquariums from the Department of Administration to the Division of North Carolina Aquariums in the Department of Environment and Natural Resources. House Bill 326 authorizes the Division of North Carolina Aquariums to dispose of exhibits through sale, lease, or trade, but requires the Division to do so in accordance with the generally accepted practices of zoos and aquariums accredited by the American Association of Zoos and Aquariums. House Bill 326 also directs the Division of North Carolina Aquariums to credit to the North Carolina Aquariums Fund the net proceeds from any sale or lease of an exhibit. Funds held in the North Carolina Aquariums Fund are used for repair, maintenance, educational exhibit construction, and operational expenses of the aquariums as well as to match private funds raised for these purposes.

Section 2 of the bill, added in the 2nd edition, requires the Division of North Carolina Aquariums to report to Gov Ops and the House and Senate Appropriations subcommittees on Natural and Economic Resources on the sources and amounts of all funds credited to the Aquariums Fund during the prior fiscal year.

BACKGROUND: North Carolina owns and operates three aquariums, the North Carolina Aquarium at Fort Fisher, the North Carolina Aquarium at Pine Knoll Shores, and the North Carolina Aquarium on Roanoke Island.

- The North Carolina Aquarium at Fort Fisher is located in Kure Beach and has been in operation since 1976. The aquarium holds 1,371 specimens of 189 different species of reptiles, amphibians, fish, and invertebrates. Attendance for the aquarium during 1997 was approximately 370,000 visitors.
- The North Carolina Aquarium at Pine Knoll Shores is located in Atlantic Beach and has been in operation since 1976. The aquarium holds 413 specimens of 70 different species of reptiles, fish, and invertebrates. Attendance for the aquarium during 1997 was approximately 302,000 visitors.

- The North Carolina Aquarium on Roanoke Island is located in Manteo and has been in operation since 1976. The aquarium holds 995 specimens of 79 different species of reptiles, fish, and invertebrates. Attendance for the aquarium during 1997 was approximately 250,000 visitors.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 327
Committee Substitute Favorable 3/25/99

Short Title: Food/Vending at NC Aquariums/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF NORTH CAROLINA AQUARIUMS, RATHER THAN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO OPERATE OR CONTRACT FOR FOOD AND VENDING SERVICES AT THE NORTH CAROLINA AQUARIUMS, AND TO REQUIRE THE NET PROCEEDS OF THESE FOOD AND VENDING SERVICES TO BE CREDITED TO THE NORTH CAROLINA AQUARIUMS FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-42 reads as rewritten:

"**§ 111-42. Definitions as used in this Article.**

(1) 'Automatic vending' means a coin, currency, token, ticket, or credit card operated machine that dispenses food, drinks, or sundries.

~~(a)~~ (2) 'Regular vending facility' means a vending facility where food preparation or cooking is not done on the State property.

~~(b)~~ (3) 'State agency' means department, commission, agency or instrumentality of the State.

~~(c)~~ (4) 'State property or State building' means building and land owned, leased, or otherwise controlled by the State, exclusive of schools, colleges and universities, the North Carolina State Fair, the North Carolina Aquariums, and the State Legislative Building.

~~(d)~~ (5) 'Vending facility' includes a snack bar, cafeteria, restaurant, cafe, concession stand, vending stand, cart service, or other facilities at which food, drinks,

novelties, newspapers, periodicals, confections, souvenirs, tobacco products or related items are regularly sold.

~~(c)~~ (6) 'Visually handicapped' means a person who is totally blind or whose vision with glasses is so defective as to prevent the performance of ordinary activity for which eyesight is essential and who is registered pursuant to G.S. 111-4."

Section 2. G.S. 111-43 reads as rewritten:

"**§ 111-43. Installation of ~~coin-operated~~ automatic vending machines.**

(a) In locations where the Department determines that a vending facility may not be operated or should not continue to operate due to insufficient revenues to support a blind vendor or due to the lack of qualified blind applicants, the Department shall have the first opportunity to secure, by negotiation of a contract with one or more licensed commercial vendors, ~~coin-operated~~ automatic vending machines for the location. Profits from ~~coin-operated~~ automatic vending machines secured by the Department shall be used by the Department for the support of programs that enable blind people to live more independently, including medical, rehabilitation, independent living, and educational services offered by the Division of Services for the Blind.

(b) Notwithstanding the provisions of G.S. 111-42(4), the North Carolina Aquariums shall not operate or secure a contract for the operation of automatic vending machines unless the Department fails or refuses to secure a contract for automatic vending machines pursuant to subsection (a) of this section."

Section 3. G.S. 111-45 reads as rewritten:

"**§ 111-45. Duty of State agency to inform Department.**

It shall be the duty of the State agencies to inform the Department of existing and prospective locations for vending facilities and ~~coin-operated~~ automatic vending machines and to prescribe regulations (upon request of the Department) to promote the successful operation of the vending facilities of the visually handicapped."

Section 4. G.S. 111-47 reads as rewritten:

"**§ 111-47. Exclusions.**

(a) This Article is not intended to cover food services provided by hospitals or residential institutions as a direct service to patients, inmates, trainees, or otherwise institutionalized persons, nor to cover coin-operated vending machines located in State facilities operated under the authority of G.S. 122C.

(b) This Article shall not prohibit the continued use of ~~coin-operated~~ automatic vending machines currently the property of the Division of Services for the Blind of the Department of Health and Human Services and now part of the vending-stand program."

Section 5. Part 5C of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-289.45. Proceeds from food and vending services.**

The net proceeds of revenue generated by food and vending services that are provided at the North Carolina Aquariums and are operated by or whose operation is contracted for by the Division of North Carolina Aquariums shall be deposited in the North Carolina Aquariums Fund."

Section 6. This act shall not be construed to alter any contract for food and vending services at the North Carolina Aquariums that is in force at the time this act becomes law.

Section 7. This act becomes effective July 1, 1999.

HOUSE BILL 327:
Food/Vending NC Aquariums

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep. Culpepper
Date:	May 4,1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 327 allows the Division of North Carolina Aquariums, rather than the North Carolina Division of Services for the Blind, to operate or contract for the operation of automatic vending machines at the North Carolina Aquariums.

CURRENT LAW: Under G.S. 111-41, visually handicapped persons are given a preference in the operation of vending facilities located on *State property*. G.S. 111-42(c) defines State property to include the North Carolina Aquariums. Profits from vending machine operations are used to support programs for independent living and eduational services for the blind.

BILL ANALYSIS: House Bill 327 excludes the North Carolina Aquariums from the definition of State property found in G.S. 111-42(c). With this exclusion, the North Carolina Aquariums would not have to give a preference to visually handicapped persons in the operation of vending facilities at the North Carolina Aquariums.

Section 2 of the bill, added in the 2nd edition, provides that the North Carolina Aquariums shall not operate or secure a contract for automatic vending machines unless the Department of Health and Human Services has failed or refused to secure a contract for such services. Automatic vending machines are defined as coin, currency, or credit card operated machines that dispense food, drinks, and sundries.

House Bill 327 also provides that the net proceeds generated by food and vending services that are operated by or whose operation is contracted for by the Division of North Carolina Aquariums will be deposited in the North Carolina Aquariums Fund.

Finally, House Bill 327 provides that this act does not alter any contract for food and vending services at the North Carolina Aquariums that is in force when the act becomes law.

EFFECTIVE DATE: This act is effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 872

Short Title: Dare Courthouse Construction Flex. (Local)

Sponsors: Representative Culpepper.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT DARE COUNTY FROM CERTAIN REQUIREMENTS FOR PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Dare County may contract for the design and construction of a courthouse facility without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132. In contracting for the design and construction of a courthouse facility, if Dare County accepts bids under the single-prime contract system, it shall also seek bids under the separate-prime contract system. Notwithstanding any provision of law, Dare County may award each contract in its sole discretion.

Section 2. This act is effective when it becomes law and expires July 1, 2002.

HOUSE BILL 872:
Dare Courthouse Construction Flex.

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep. Culpepper
Date:	May 4,1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

House Bill 872 allows Dare County to contract for the design and construction of a courthouse facility without complying with bidding requirements for public contracts. In so contracting, if the County accepts bids under the single-prime contract system it must also accept bids under the separate-prime system. Dare County may award each contract in its sole discretion.

The act is effective when it becomes law and expires July 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 429*

Short Title: Madison Commissioners Election. (Local)

Sponsors: Representatives Haire and Ramsey.

Referred to: Local Government II.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO VALIDATE A REFERENDUM CHANGING THE MANNER OF ELECTION OF THE BOARD OF COMMISSIONERS OF MADISON COUNTY, EFFECTIVE IN 2002, AS APPROVED BY THE VOTERS OF THAT COUNTY.

Whereas, the Board of Commissioners of Madison County, under the authority of Part 4 of Article 4 of Chapter 153A of the General Statutes conducted a referendum in November of 1998 on the issue of providing staggered terms for the Madison County Board of Commissioners, and the language in both the ballot and resolution stated this was to become effective beginning with the 2002 election; and

Whereas, the voters of Madison County approved that question in the referendum; and

Whereas, G.S. 153A-62 provides that all such referenda become effective "at the first succeeding primary and general election for county officers"; and

Whereas, the next election for county officers in Madison County is in 2000; and

Whereas, there is some doubt as to the legality of the clause in the resolution calling the referendum which stated it would become effective in 2002, but the General Assembly wishes to follow the will of the voters and validate the referendum; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 169 of the 1973 Session Laws reads as rewritten:

"Section 1. ~~Beginning~~ (a) Except as provided in subsection (b) of this section, beginning with the primary and general election to be held in 1974, the members of the Board of Commissioners of Madison County shall be elected for terms of four years.

(b) In the 2002 general election, the three persons receiving the highest numbers of votes shall be elected for four-year terms, and the two persons receiving the next highest numbers of votes shall be elected for two-year terms. Successors shall be elected for four-year terms.

(c) Effective on the first Monday in December of 2002, the Board of Commissioners of Madison County is expanded from three to five members."

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

HOUSE BILL 429:
Madison Commissioners Election

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Representative Haire
Date:	March 24, 1999	**Summary by:**	Esther Manheimer
Version:	First Edition		Committee Counsel

BILL ANALYSIS:

House Bill 429 is a local bill that would expand the Board of Commissioners of Madison County from three members to five members beginning in the year 2002. In the 2002 general election, the three candidates receiving the highest number of votes will serve four-year terms and the other two will serve two-year terms. Successors will be elected for four-year terms.

Currently, Madison County has three county commissioners serving four-year terms.

This act is effective when it becomes law and is not subject to preclearance by the U.S. Justice Department under Section 5 of the Voting Rights Act.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 5, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Denny McGuire	Commerce/ITS
Sheila Pope	SOS
Kate McGuire	NC Center for Nonprofits
Kim Hibbard	NCLM
Rhett White	NC AQUARIUMS
R. Rogers	DENR
David Simmons	ZOA, PA
Bernard Allen	SOS
Mrs Sandra Sims	480 Mitchell Rd Dudley NC 28333-5
John Phelps	NCLM
J Craig Lennon	PCMH

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 12 1999

11:00 AM

ROOM 1124 LB

Bills

• HB 880	Alamance Bid Process/Capital Proj.	Rep. Allred
• HB 587	Increase Bid Limit/Greensboro.	Rep. Bowie
• HB 371	Removal of Electronic Collars.	Rep. Carpenter
• HB 471	Local Zoning.	Rep. Decker
• HB707	Broadway Form of Government.	Rep. Cox
• HB 378	Roanoke Rapids Redevelopment.	Rep. Crawford
• HB 829	Transylvania Sch. Construction Flex.	Rep. Walend

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 12, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 12, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 880, Alamance Bid Process/Capital Proj., was explained by Rep. Allred. Sen. Robinson moved to adopt the amendment. The motion carried unanimously. Dave Simpson of Carolinas AGC, spoke against the bill. Henry Jones, N. C. Assoc. of Plumbing-Heating-Cooling Contractors Inc., spoke against the bill. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report as amended.**

HB 587, Increase Bid Limit/Greensboro, was explained by Rep. Bowie. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 371, Removal of Electronic Collars, was explained by Rep.Carpenter. Sen. Horton moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 471, Local Zoning, was explained by Rep. Decker. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 707, Broadway Form of Government, was displaced by Rep. Cox.
Sen. Horton moved to displace the bill. The motion carried unanimously.

HB 378, Roanoke Rapids Redevelopment, was explained by Rep. Crawford. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 829, Transylvania Sch. Construction Flex., was explained by Rep. Walend. Henry Jones, N. C. Assoc. of Plumbing-Heating-Cooling Contractors Inc., answered questions. Sen. Robinson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 12, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS) **371** Removal of Electronic Collars.
Sequential Referral: None
Recommended Referral: None

H.B. **378** Roanoke Rapids Redevelopment.
Sequential Referral: None
Recommended Referral: None

H.B.(CS) **471** Local Zoning.
Sequential Referral: None
Recommended Referral: None

H.B. **587** Increase Bid Limit/Greensboro.
Sequential Referral: None
Recommended Referral: None

H.B. **829** Transylvania Sch. Construction Flex.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS) **880** Alamance Bid Process/Capital Proj.
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 6

Committee Clerk Comment: None

HOUSE BILL 880:
Alamance Bid Process/Capital Projects

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Allred
Date:	May 12, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 880 changes the minimum bid requirements for several counties for projects costing $500,000 or less.

BACKGROUND: G.S. 143-132 requires that construction and repair contracts that are required to be bid undet the formal bidding procedures set out in G.S. 143-129 must have received at least 3 competative bids to be let. If 3 bids are not received, the project must be advertised a second time and the contract let to the lowest responsible bidder. When contracts are bid in the alternative between separate prime and single prime, each single prime bid is a competative bid in each of the 4 categories of work, and each full set of separate prime bids shall constitute a competative single prime bid. If there are at least 3 single prime bids but not one full set of separate prime bids, no separate prime bids are to be opened.

BILL ANALYSIS: House Bill 880 would allow Alamance, Beaufort, Currituck, Camden, Pasquotank, and Perquimans Counties to use a simplified system. When the total cost of the construction contract is $500,000 or less, the county, city, or local school administrative unit may award a contract based on receipt of 2 competative bids. If there are at least 2 single prime bids, but not at least one full set of separate priime bids, the separate prime bids shall not be opened.

The act becomes effective July 1, 1999 and applies to projects advertised on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 880
Committee Substitute Favorable 4/26/99

Short Title: Alamance Bid Process/Capital Proj. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE COMPETITIVE BID PROCESS IN ALAMANCE COUNTY FOR CITY, COUNTY, AND PUBLIC SCHOOL PROJECTS OF FIVE HUNDRED THOUSAND DOLLARS OR LESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-132 reads as rewritten:

"**§ 143-132. Minimum number of bids for public contracts.**

(a) ~~No~~ Except as provided in subsection (b1) of this section, no contract to which G.S. 143-129 applies for construction or repairs shall be awarded by any board or governing body of the State, or any subdivision thereof, unless at least three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor; however, this section shall not apply to contracts which are negotiated as provided for in G.S. 143-129. Provided that if after advertisement for bids as required by G.S. 143-129, not as many as three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor, said board or governing body of the State agency or of a county, city, town or other subdivision of the State shall again advertise for bids; and if as a result of such second advertisement, not as many as three competitive bids from reputable and qualified contractors are received, such board or governing body may then let the contract to the lowest responsible bidder submitting a bid for such project, even though only one bid is received.

(b) For purposes of contracts bid in the alternative between the separate-prime and single-prime contracts, pursuant to G.S. 143-128(c) or (d), each single-prime bid

shall constitute a competitive bid in each of the four subdivisions or branches of work listed in G.S. 143-128(a), and each full set of separate-prime bids shall constitute a competitive single-prime bid in meeting the requirements of subsection (a) of this section. If there are at least three single-prime bids but there is not at least one full set of separate-prime bids, no separate-prime bids shall be opened.

(b1) When the entire cost of construction or repairs is five hundred thousand dollars ($500,000) or less, a county, city, as defined in G.S. 160A-1(2), or local school administrative unit may award a contract if at least two competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor. If after advertisement for bids as required by G.S. 143-129, fewer than two such competitive bids have been received, the governing body of the county, city, or local board of education shall again advertise for bids. If, as a result of the second advertisement, only one such competitive bid is received from a responsible bidder, the governing body may let the contract to that bidder.

For purposes of contracts bid in the alternative between the separate-prime and single-prime contracts, pursuant to G.S. 143-128(c) or (d), each single-prime bid shall constitute a competitive bid in each of the four subdivisions or branches of work listed in G.S. 143-128(a), and each full set of separate-prime bids shall constitute a competitive single-prime bid in meeting the requirements of this subsection. For purposes of this subsection, a single-prime bid and a full set of separate-prime bids made by the same contractor shall constitute only one competitive bid. If there are at least two single-prime bids but there is not at least one full set of separate-prime bids, no separate-prime bids shall be opened.

(c) The State Building Commission shall develop guidelines no later than January 1, 1991, governing the opening of bids pursuant to this Article. These guidelines shall be distributed to all public bodies subject to this Article. The guidelines shall not be subject to the provisions of Chapter 150B of the General Statutes."

Section 2. This act applies only to Alamance, Beaufort, Currituck, Camden, Pasquotank, and Perquimans County and to municipalities and local school administrative units within those counties.

Section 3. This act becomes effective July 1, 1999, and applies to projects advertised on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 880

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H880-ARF-001

Page 1 of __

Date 5/12/99 ,1999

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

1 moves to amend the bill on page 1, lines 2 and 3,
2 by deleting the phrase "ALAMANCE COUNTY" and substituting the phrase
3 "SEVERAL COUNTIES".

SIGNED Dan Robinson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 880:
Alamance Bid Process/Capital Projects

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Allred
Date:	May 12, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 880 changes the minimum bid requirements for several counties for projects costing $500,000 or less.

BACKGROUND: G.S. 143-132 requires that construction and repair contracts that are required to be bid undet the formal bidding procedures set out in G.S. 143-129 must have received at least 3 competative bids to be let. If 3 bids are not received, the project must be advertised a second time and the contract let to the lowest responsible bidder. When contracts are bid in the alternative between separate prime and single prime, each single prime bid is a competative bid in each of the 4 categories of work, and each full set of separate prime bids shall constitute a competative single prime bid. If there are at least 3 single prime bids but not one full set of separate prime bids, no separate prime bids are to be opened.

BILL ANALYSIS: House Bill 880 would allow Alamance, Beaufort, Currituck, Camden, Pasquotank, and Perquimans Counties to use a simplified system. When the total cost of the construction contract is $500,000 or less, the county, city, or local school administrative unit may award a contract based on receipt of 2 competative bids. If there are at least 2 single prime bids, but not at least one full set of separate priime bids, the separate prime bids shall not be opened.

The act becomes effective July 1, 1999 and applies to projects advertised on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 587

Short Title: Increase Bid Limit/Greensboro. (Local)

Sponsors: Representatives Bowie; Adams, Jarrell, Jeffus, and Boyd-McIntyre.

Referred to: Local Government II.

March 24, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE INFORMAL BID LIMITS RELATING TO THE LETTING OF PURCHASE CONTRACTS BY THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129(a) reads as rewritten:

"(a) No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than one hundred thousand dollars ($100,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ~~thirty thousand dollars ($30,000),~~ fifty thousand dollars ($50,000), except in cases of group purchases made by hospitals through a competitive bidding purchasing program or in cases of special emergency involving the health and safety of the people or their property, shall be performed, nor shall any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any county, city, town, or other subdivision of the State, unless the provisions of this section are complied with. For purposes of this Article, a competitive bidding group purchasing program is a formally organized program that offers purchasing services at discount prices to two or more hospital facilities. The limitation contained in this paragraph shall not apply to construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section. Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131.

For purchases of apparatus, supplies, materials, or equipment, the governing body of any municipality, county, or other political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager or the chief purchasing official the authority to award contracts, reject bids, readvertise to receive bids on behalf of the unit, or waive bid bonds or deposits, or performance and payment bond requirements. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body."

Section 2. This act applies only to the City of Greensboro.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 371
Committee Substitute Favorable 3/24/99

Short Title: Removal of Electronic Collars. (Local)

Sponsors:

Referred to:

March 9, 1999

A BILL TO BE ENTITLED

AN ACT TO ADD SEVERAL COUNTIES TO THOSE COUNTIES IN WHICH IT IS UNLAWFUL TO REMOVE OR DESTROY ELECTRONIC COLLARS ON DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.17 reads as rewritten:

"**§ 14-401.17. Unlawful removal or destruction of electronic dog collars.**

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Caswell, Cherokee, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, ~~Macon, Henderson,~~ Transylvania, Union, ~~and Wilkes,~~ Wilkes, and Yancey Counties."

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

HOUSE BILL 371:
Removal of Electronic Collars

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Carpenter
Date:	May 12, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY:

House Bill 371 adds 14 ~~16~~ counties to those in which it is a misdemeanor to remove or destroy an electronic collar from a dog.. A first violation of the act is a Class 3 misdemeanor and subsequent convictions are Class 2 misdemeanors.

The Act becomes effective December 1, 1999 and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 471
Committee Substitute Favorable 4/26/99

Short Title: Local Zoning. (Local)

Sponsors:

Referred to:

March 17, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTERS OF THE TOWNS OF STOKESDALE, SUMMERFIELD, PLEASANT GARDEN, AND OAK RIDGE TO EXEMPT AGRICULTURAL LAND USES WITHIN THOSE JURISDICTIONS FROM ZONING.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Stokesdale, being Chapter 488 of the 1989 Session Laws, as amended by Chapter 956 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 2. The Charter of the Town of Summerfield, being Chapter 426 of the 1995 Session Laws, as amended by Chapter 2 of the 1995 Session Laws, Second Extra Session 1996, and Chapter 249 of the 1997 Session Laws, is amended by adding a new section to read:

"Sec. 5.3. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as

defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 3. The Charter of the Town of Pleasant Garden, being Chapter 344 of the 1997 Session Laws, as amended by Chapter 205 of the 1997 Session Laws, 1998 Regular Session, is amended by adding a new section to read:

"Sec. 5-4. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 4. The Charter of the Town of Oak Ridge, being Chapter 113 of the 1997 Session Laws, 1998 Regular Session, as amended by Chapter 217 of the 1997 Session Laws, 1998 Regular Session, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 707

Short Title: Broadway Form of Government. (Local)

Sponsors: Representative Cox.

Referred to: Local Government II.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE TOWN TO OPERATE UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, is amended by adding a new section to read:

"Sec. 4A. The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes. The town manager shall have all the powers and duties conferred by general law and the additional powers and duties conferred by the council so far as authorized by general law."

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

H707:
Broadway Form of Government

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Cox
Date:	May 11, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 707 requires the Town of Broadway to adopt a council-manager form of government.

CURRENT LAW: G.S. §160A-101 allows cities and towns to adopt a council-manager form of government without the need for local legislation by the General Assembly.

BILL ANALYSIS: House bill 707 appears to do through local legislation what the town could have accomplished on its own initiative pursuant to the authority granted by G.S. § 160A-101.

BACKGROUND: The Town of Broadway is situated in Lee County. It has a land area of approximately 1.3 square miles and a population of approximately 1,000 people.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 378

Short Title: Roanoke Rapids Redevelopment. (Local)

Sponsors: Representative Crawford.

Referred to: Local Government II.

March 10, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ROANOKE RAPIDS HOUSING AUTHORITY AND THE ROANOKE RAPIDS REDEVELOPMENT COMMISSION TO CONVEY BY PRIVATE SALE REAL PROPERTY LOCATED WITHIN A REDEVELOPMENT PROJECT AREA.

The General Assembly of North Carolina enacts:

Section 1. The Roanoke Rapids Housing Authority and the Roanoke Rapids Redevelopment Commission may sell, exchange, or otherwise transfer real property located within a redevelopment project area as provided in G.S. 160A-457(4).

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

HOUSE BILL 378:
Roanoke Rapids Redevelopment

BILL ANALYSIS

Committee:	Senate State & LocalGov.	**Introduced by:**	Representative Crawford
Date:	March 17, 1999	**Summary by:**	Ed Rossi
Version:	First Edition		Committee Co-Counsel

SUMMARY:

House Bill 378 allows the Roanoke Rapids Housing Authority and the Roanoke Rapids Redevelopment Commission to transfer real property by private sale. Any such sale would require a public hearing, as well as the approval of the municipal governing body. Property sold under this provision could not be sold for less than the appraised value of the property.

CURRENT LAW:

Under current law[1], a redevelopment commission may transfer real property through:

1. Sale at public auction.
2. Exchange of property.
3. Negotiated sale, advertisement, and upset bid – a procedure whereby a proposed negotiated sale is advertised and the public is allowed to submit higher bids.

In addition, it can through private sale:

1. Transfer property to a municipality.
2. Grant easements and rights-of-way to utilities.
3. Convey property to a nonprofit organization that is organized for educational, charitable, or religious.

[1] G.S. § 160A-514

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 829

Short Title: Transylvania Sch. Construction Flex. (Local)

Sponsors: Representative Walend.

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO ASSIST THE TRANSYLVANIA SCHOOLS WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

Whereas, the Transylvania County Board of Education is currently engaged in the construction of educational facilities at Brevard High School; and

Whereas, the Transylvania County Board of Education desires to explore alternative approaches to expedite the construction of school facilities at Brevard High School in order to minimize the impact on teaching and learning; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Transylvania County Board of Education may select and negotiate with separate prime contractors to build Phase II of the Brevard High School project if the Transylvania County Board of Education determines that using the selection and negotiations process instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to Phase II construction of the Brevard High School project using 1996 State Bond funding and 1997 Local Bond funding with construction to begin in June 1999 and completion scheduled by December 2000.

Section 3. This act is effective when it becomes law and expires on June 30, 2001.

HOUSE BILL 829:
Transylvania Sch. Construction Flex

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Walend
Date:	May 12, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

House Bill 829 would allow the Transylvania County Board of Education to select and negotiate with separate prime contractors for Phase II of the construction of school facilities at Brevard High School if the Board determines that using the selection and negotiation process, instead of the competative bidding process, will expedite the project, create an effective construction team and control costs.

The act applies to the Phase II construction of the Brevard High School Project . Work is scheduled to begin in June 1999 and be completed by December 2000.

The act is effective when it becomes law and expires June 30, 2001.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 12, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Woodson	NC Farm Bureau
Kim Hibbard	NC League of Municipalities
BOYD CAMBLE	CITY OF CHARLOTTE
Jeff Saullin	
Dave Simpson	CAROLINAS AGC
Henry Jones	Attorney - Raleigh
Steve Bloggs	State Const. Office

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 19,1999

11:00 AM

ROOM 1124 LB

Bills

HB 951	Tenants on Housing Authority	Rep. Edwards
HB 440	Extend Beaufort/Hyde Hunting	Rep. Edwards
HB 649	Holden Beach No-Wake Zone	Rep. Redwine
HB 650	Brunswick Personal Watercraft	Rep. Redwine
HB 772	Lee' Cut No- Wake Zone	Rep. Wright
HB 615	Elizabeth City Watercraft	Rep. Owens

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 19, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 19, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 951, Tenants on Housing Authority, was explained by Rep. Edwards. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 440, Extend Beaufort/Hyde Hunting, was explained by Rep. Edwards. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 649, Holden Beach No-Wake Zone, was explained by Sen. Soles. Sen. Soles moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 650 Brunswick Personal Watercraft, was explained by Sen. Soles. Sen. Horton moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 772, Lee's Cut No-Wake Zone, was explained by Sen. Soles. Sen. Soles moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 615, Elizabeth City Watercraft, was explained by Sen. Soles. Sen. Soles moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Tammy Inge, a resident of Elizabeth City observing the committee meeting, answered questions. Sen. Horton moved to displace the bill until the next meeting. The motion carried unanimously.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

CORRECTED COPY

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 19, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS) **440** Extend Beaufort/Hyde Hunting.
Sequential Referral: None
Recommended Referral: None

H.B. **649** Holden Beach No-Wake Zone.
Sequential Referral: None
Recommended Referral: None

H.B.(CS) **650** Brunswick Personal Watercraft.
Sequential Referral: None
Recommended Referral: None

H.B.(CS#2) **772** Lee's Cut No-Wake Zone.
Sequential Referral: None
Recommended Referral: None

H.B. **951** Tenants on Housing Authority.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED:5

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 649

Short Title: Holden Beach No-Wake Zone. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Local Government I.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NO-WAKE SPEED ZONE IN HOLDEN BEACH.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than a no-wake speed in the Intracoastal Waterway within the Town of Holden Beach between the island area designated as Rogers Street and the eastern line of the L.S. Holden subdivision. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. With regard to marking the no-wake speed zone established in Section 1 of this act, the Town of Holden Beach, Brunswick County, or their designees may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 4. Violation of Section 1 of this act is a Class 3 misdemeanor.

Section 5. This act applies only to the Town of Holden Beach.

Section 6. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

BILL ANALYSIS

HB 649:
Holden Beach No Wake Zone

Committee:	State and Local Government	**Introduced by:**	Rep. Redwine
Date:	May 18, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY:

House Bill 649 establishes a no-wake zone in the Intracoastal Waterway within the Town of Holden Beach between the island area designated as Rogers Street and the eastern line of the L.S. Holden subdivision. No-wake speed is idle speed or a slow speed creating no appreciable wake. Holden Beach, Brunswick County or their designees may place and maintain the markers in accordance with the Uniform Waterway Marking system and any supplemental standards adopted by the Wildlife Resources Commission.

The act is enforceable as though it were a part of the Boating Safety Act, Chapter 75 A of the General Statutes. Violation of the act is a Class 3 Misdemeanor.

The actis effective when it becomes law and is enforceable after markers are placed in the water.

HB650:
Brunswick Personal Watercraft

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Redwine
Date:	May 19, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY:

House Bill 650 allows Brunswick County to regulate the use of jet skis in the Atlantic Ocean and other waterways in its territory.

CURRENT LAW:

Chapter 160A provides a number of named municipalities the authority to regulate the operation of personal watercraft (pwc's) in the Atlantic Ocean and other waterways within their boundaries or within their extraterritorial jurisdiction. G.S. 160A-176.2. The municipalities within Brunswick County have specific authority to regulate swimming, surfing and littering, but not the operation of pwc's. G.S. 160A-176.1.

BILL ANALYSIS:

House Bill 650 would allow Brunswick County to regulate the operation of personal watercraft. It would also allow municipalities within the County to permit any county ordinance regulating pwc's to be applicable within the municipality.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 650
Committee Substitute Favorable 4/22/99

Short Title: Brunswick Personal Watercraft. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW BRUNSWICK COUNTY TO REGULATE THE OPERATION OF PERSONAL WATERCRAFT.

The General Assembly of North Carolina enacts:

Section 1. A county may adopt ordinances to regulate the operation of personal watercraft in the Atlantic Ocean and other waterways within its territorial jurisdiction. The governing board of a municipality within the county may by resolution permit a county ordinance adopted pursuant to this act to be applicable within the municipality consistent with the provisions of G.S. 153A-122.

Section 2. This act applies only to Brunswick County.

Section 3. This act is effective when it becomes law.

HB 772:
Lee's Cut No Wake Zone

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Wright
Date:	May 18, 1999	**Summary by:**	Barbara Riley
Version:	3rd Edition		Committee Counsel

SUMMARY:

House Bill 772 establishes a no-wake zone in the waters of Lee's Cut in New Hanover County. No-wake speed is idle speed or a slow speed creating no appreciable wake. The municipality or county with jurisdiction over Lee's Cut may place and maintain the markers in accordance with the Uniform Waterway Marking system and any supplemental standards adopted by the Wildlife Resources Commission.

The act is enforceable as though it were a part of the Boating Safety Act, Chapter 75 A of the General Statutes. Violation of the act is a Class 3 Misdemeanor.

The actis effective when it becomes law and is enforceable after markers are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 772
Committee Substitute Reported Without Prejudice 4/13/99
Committee Substitute #2 Favorable 4/28/99

Short Title: Lee's Cut No-Wake Zone. (Local)

Sponsors:

Referred to:

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A NO-WAKE ZONE IN THE WATERS OF LEE'S CUT.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in the waters of Lee's Cut in New Hanover County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. The municipality or county with jurisdiction over the area of Lee's Cut may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be in sufficient number and size to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

Section 3. Violation of this act is a Class 3 misdemeanor.

Section 4. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 5. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water to mark the no-wake zone.

H951:
Tenants on Housing Authority

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Edwards
Date:	May 19,1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 951 amends the laws relating to tenant representation on housing authority boards. It brings these laws into compliance with federal law by:

- ***Requiring that at least one commissioner on the housing authority board be directly assisted by the housing authority.***
- ***Providing an exemption from the tenant /commissioner requirement where: (1) the authority operates less than 300 units; (2) The authority has provided the resident advisory board with reasonable notice that an opportunity exists for a tenant to serve as a commissioner; and (3) the authority has not been notified by the resident advisory board, within a reasonable time, that a tenant wishes to serve as a commissioner.***

CURRENT LAW: The Housing Authorities Law is found in Article 1 of Chapter 157 of the General Statutes. This Article addresses housing authorities both at the level of cities and towns and at the regional level.

The federal government governs much of the law surrounding the operation of these authorities, and of public housing in general. Its jurisdiction is tied to the spending of federal dollars by way of Housing and Urban Development grants. In 1998, the federal government amended the laws relating to composition of the membership on housing authority boards.[1] Where the law had once provided that, "[n]o person should be barred form serving on the board of directors...because of his tenancy in a low-income housing project, after the amendments the law now provided that, "...membership on the board of directors...of each public housing agency shall contain not less than 1 member...who is directly assisted by the public housing agency.[2] An exemption was created from these requirements where:

1. A state requires that members of the board be salaried and serve on a full time basis.
2. The public housing agency operates less than 300 units and has provided reasonable notice of this requirement to the resident advisory board and within a reasonable time of the advisory board's receipt of this notice, the agency has not been notified of the intention of any resident to participate on the board of directors.[3]

BILL ANALYSIS: House bill 951 amends the state laws relating to membership on the boards of directors of municipal and regional housing authorities to make these laws comply with newly enacted federal requirements.

---

[1] See 42 U.S.C. § 1437.
[2] Id.
[3] Id.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 951

Short Title: Tenants on Housing Authority. (Public)

Sponsors: Representatives Edwards; and Luebke.

Referred to: Ways and Means.

April 8, 1999

A BILL TO BE ENTITLED

AN ACT REQUIRING THAT AT LEAST ONE PERSON WHO IS DIRECTLY ASSISTED BY A PUBLIC HOUSING AUTHORITY BE APPOINTED TO EACH HOUSING AUTHORITY COMMISSION AND REGIONAL HOUSING AUTHORITY COMMISSION IN THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-5 reads as rewritten:

"**§ 157-5. Appointment, qualifications and tenure of commissioners.**

(a) An authority shall consist of not less than five nor more than nine commissioners appointed by the mayor and ~~he~~ the mayor shall designate the first ~~chairman.~~ chair. No commissioner may be a city official. ~~Notwithstanding G.S. 157-7, 14-234, or any other provision of law, no person shall be barred from serving as a commissioner of any housing authority created under this Chapter because such person is a tenant of the authority or a recipient of housing assistance through any program operated by the authority; provided, that no such~~ At least one of the commissioners appointed shall be a person who is directly assisted by the public housing authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to the resident advisory board of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory board, has not been notified of the intention of any such person to serve. The mayor shall appoint the person directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are directly assisted by the

authority. If the commissioner directly assisted by the public housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the public housing authority shall be appointed by the mayor.

(b) No commissioner who is also a person directly assisted by the public housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in ~~general; and further provided, that no~~ general. No more than one third of the members of any housing authority commission shall be tenants of the authority or recipients of housing assistance through any program operated by the authority. ~~Avery, Beaufort, Bertie, Burke, Caldwell, Camden, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Graham, Halifax, Haywood, Henderson, Hertford, Hoke, Hyde, Jackson, Jones, Lenoir, Macon, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Pitt, Polk, Robeson, Rowan, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Watauga, Wilkes, Wilson and Yadkin Counties are exempted from any provision of law allowing a person who is a tenant of the authority to serve as a commissioner of a housing authority.~~

(c) The council may at any time by resolution or ordinance increase or decrease the membership of an authority, within the limitations herein prescribed.

(d) The mayor shall designate overlapping terms of not less than one nor more than five years for the commissioners first appointed. Thereafter, the term of office shall be five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services but he or she shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his or her duties.

(e) When the office of the first ~~chairman~~ chair of the authority becomes vacant, the authority shall select a ~~chairman~~ chair from among its members. An authority shall select from among its members a ~~vice-chairman,~~ vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, ~~agents~~ agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, ~~duties~~ duties, and compensation. An authority may call upon the corporation counsel or chief law officer of the city for such legal services as it may require or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper."

Section 2. G.S. 157-36 reads as rewritten:

"**§ 157-36. Commissioners of regional housing authority.**

(a) The board of county commissioners of each county included in a regional housing authority shall appoint one person as a commissioner of such authority, and

each such commissioner to be first appointed by the board of county commissioners of a county may be appointed at or after the time of the adoption of the resolution declaring the need for such regional housing authority or declaring the need for the inclusion of such county in the area of operation of such regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided in this Article, the board of county commissioners of each such county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The board of county commissioners of each county shall appoint the successor of the commissioner appointed by it.

(b) The commissioners of the regional housing authority shall appoint as a commissioner at least one person who is directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are assisted by the authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to all resident advisory boards within the authority's area of operation of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory boards, has not been notified of the intention of any such person to serve. The commissioners of the regional housing authority shall appoint successors of the commissioner appointed by them and shall fill any vacancies. A certificate of the appointment signed by the chair of the commissioners of the regional housing authority shall be conclusive evidence of the due and proper selection of the commissioner. If the commissioner directly assisted by the regional housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the regional housing authority shall be appointed by the commissioners of the regional housing authority.

(c) No commissioner who is also a person directly assisted by the regional housing authority shall be qualified to vote on matters affecting his or her official conduct or matters affecting his or her own individual tenancy, as distinguished from matters affecting tenants in general.

(d) If any county is excluded from the area of operation of a regional housing authority, the office of the commissioner of such regional housing authority appointed by the board of county commissioners of such county shall be thereupon abolished. If the person appointed as a commissioner under subsection (b) of this section resides in a county that is excluded from the authority's area of operation, the office of that commissioner shall be abolished and another person residing within the authority's area of operation shall be appointed.

(e) A certificate of the appointment of any ~~such~~ commissioner signed by the ~~chairman~~ chair of the board of county commissioners (or the appointing officer) shall be conclusive evidence of the due and proper appointment of such commissioner.

(f) If the area of operation of a regional housing authority consists at any time of an even number of counties, except as provided in subsection (g) of this section, the Governor ~~of North Carolina~~ shall appoint one additional commissioner to such regional housing authority whose term of office shall be as herein provided for a

commissioner of a regional housing authority, except that such term shall end at any earlier time that the area of operation of the regional housing authority shall be changed to consist of an odd number of counties. The Governor shall likewise appoint each person to succeed such additional commissioner. A certificate of the appointment of any such additional commissioner shall be signed by the Governor and filed with the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be conclusive evidence of the due and proper appointment of such additional commissioner.

(g) If the membership of the board of commissioners consists of an even number as a result of the appointment of a person who is directly assisted by the regional housing authority, the Governor shall appoint one additional commissioner to the authority whose term of office shall be as herein provided for a commissioner of an authority, except that such term shall end at any earlier time that the area of operation of the authority shall be changed to consist of an even number of counties. A certificate of the appointment shall be signed and filed as provided in subsection (f) of this section. The Governor shall appoint successors to the additional commissioner and shall fill any vacancies.

(h) The commissioners of a regional housing authority shall be appointed for terms of five years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his or her successor has been appointed and has qualified.

(i) For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the appointing authority. ~~board of county commissioners appointing him, or in the case of the commissioner appointed by the Governor, by the Governor: Provided, that such~~ The commissioner shall have been given a copy of the charges against him or her at least 10 days prior to the hearing thereon ~~and: Provided, that such commissioner~~ and shall have had an opportunity to be heard in person or by counsel.

(j) The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

(k) The commissioners of a regional housing authority shall elect a ~~chairman~~ chair from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes."

Section 3. This act is effective when it becomes law.

HB 440:
Extend Beaufort/Hyde Hunting

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Edwards
Date:	May 19, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY:

House Bill 440 extends to June 1, 2001 the sunset on S.L. 1997-132 which provide for the hunting and trapping of foxes and racoons without bag limits in Beaufort and Hyde Counties. S.L. 1997-132 also allows the use of certain leghold traps in taking foxes and racoons and the use of snares in trapping fur-bearing animals during the seasons established by the Wildlife Resources Commission.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 440
Committee Substitute Favorable 4/23/99

Short Title: Extend Beaufort/Hyde Hunting. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE LAW PROVIDING FOR THE HUNTING AND TRAPPING OF FOXES AND RACCOONS IN HYDE AND BEAUFORT COUNTIES AND ALLOWING THE USE OF SNARES WHEN TRAPPING FUR-BEARING ANIMALS IN THOSE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of S.L. 1997-132 reads as rewritten:

"Section 9. This act becomes effective October 1, 1997, and expires ~~June 1, 1999.~~ June 1, 2001."

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 19, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Wm G. Collier Jr.	Washington Housing Authority
Elizabeth Clements	Easter Seals / Hertford - Pegquimans County
Sammy Inge	Easter Seals / Camden NC
Estelle Wiley	Easter Seals Hertford N.C.
Bernard Allen	SOS
Stephen Travis	aide to Senator Kinnaird
Melissa Spencer	intern to Senator Kinnaird
Janet Manning	observing
Sarah Bowman	observing
Santana Hiatt	Observing
Linnsay Owens	Observing

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — MAY 19, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Maya Bennett	observing
Vanessa Danley	observing
Nicole Sapp	observing
Britty Smith	observing
Stephanie L. Hall	observing
Tony Reddick	Observing
Marlava Wood	observing
Amber Nash	observing
Jennifer Garner	observing
Kimberly M. Yeatal	observing
Chris Smith	observing
George Reed	NC Council of Churches

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 19, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dana Mitchell	observing
Felicia Tyree	observing
Andy Romanet	NCCM

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 26,1999

11:00 AM

ROOM 1124 LB

Bills

• HB 615	Elizabeth City Watercraft Reg.	Rep. Owens
• HB 841	Carrboro Affordable Housing	Rep. Verla Insko
• HB 842	Carrboro Aldermen Name Change	Rep. Verla Insko
• HB 843	Orange/Chapel Hill Local Act	Rep. Verla Insko
• HB 868	Chapel Hill Omnibus Act	Rep. Verla Insko
• HB 972	Transp. Costs/Invol. Commitment	Rep. Verla Insko
• HB 426	High Point Red Light Cameras	Rep. Mary Jarrell
• HB 437	Jones Subdivision Definition	Rep Russell Tucker
• HB 474	Bertie ABC Commission Change	Rep. Richard Rogers
• HB 520	Flat Rock/Hendersonville Prop.	Rep. Larry Justus
• HB 811	Havelock Charter Revision	Rep. Scott Thomas
• HB 820	Voluntary Shared Leave	Rep. Robert Hensley

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 26, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 26, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 615, Elizabeth City Watercraft Reg., was explained by Rep. Ownes. Sen. Albertson moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Horton moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 437, Jones Subdivision Definition was explained by Rep. Tucker. Sen. Albertson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 474, Bertie ABC Board Change, was explained by Rep. Rogers.
Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously.
Favorable Report.

HB 520, Flat Rock/Hendersonville Prop. was explained by Sen. Justus. Sen. Robinson moved to adopt the amendment. The motion carried unanimously. Gerry Cohen spoke to the bill and answered questions the legal issues staff raised. Sen. Webster moved a favorable report of the bill as amended. The motion carried unanimously. **Favorable Report as Amended.**

HB 811, Havelock Charter Revision, was explained by Sen. Rep. Thomas. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously.
Favorable Report.

HB 820, Voluntary Shared Leave, was explained by Rep. Hensley. Carl Goodwin, Office of State Personnel reported that State Personnel supported the bill. Sen. Albertson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 728, Greenville Fraternity Housing, was explained by Rep. Tolson. Sen. Dalton moved a favorable report of the bill. Andy Romanet, NC League of Municipalities answered questions. The bill was displaced.

HB 426, High Point Red Light Cameras, was explained by Rep. Jarrell. Sen. Dalton moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Albertson moved to give the Proposed Committee Substitute a favorable report. Fred Baggett, City Attorney for High Point stated that the city of High Point supported the bill. Sen. Kinnaird displaced the bill until the next meeting.

HB 972,Transp. Costs/Invol. Commitment, was explained by Rep. Insko. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 841, Carrboro Affordable Housing, was explained by Rep. Insko. Sen. Ballance moved to adopt a Proposed Committee Substitute. Sen. Webster said the committee had not had the Proposed Committee Substitute for twenty-four hours. Sen. Kinnaird agreed to displace the bill until the June 2, 1999 meeting.

Senator Ellie Kinnaird, Chair

Kathie Young
Kathie Young/Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 26, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **437** Jones Subdivision Definition.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1)**474** Bertie ABC Board Change.
Sequential Referral: None
Recommended Referral: None

H.B. **811** Havelock Chapter Revision.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1)**820** Voluntary Shared Leave.
Sequential Referral: None
Recommended Referral: None

H.B. **972** Transp. Costs/Invol. Commitment.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED:5

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, May 27, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

H.B.(CS) **520** Flat Rock/Hendersonville Prop.
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. **615** Elizabeth City Watercraft Reg.
- Draft Number: PCS 8138
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: Yes

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 615
Senate State and Local Government Committee Substitute Adopted 5/27/99

Short Title: Elizabeth City Watercraft Reg. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE SPEED OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. If the City of Elizabeth City adopts ordinances to regulate and control the speed of vessels as authorized in Section 1 of this act, the City of Elizabeth City, or its designee, shall place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers regulating and controlling the speed of vessels shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the speed limit to the vessels approaching from various directions.

Section 3. This act applies only to the City of Elizabeth City.

Section 4. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 615
Proposed Committee Substitute H615-PCSRF-002
25-MAY-99 16:57:36
LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Elizabeth City Watercraft Reg. (Local)

Sponsors:

Referred to: Local Government II.

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE SPEED OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. If the City of Elizabeth City adopts ordinances to regulate and control the speed of vessels as authorized in Section 1 of this act, the City of Elizabeth City, or its designee, shall place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for such system adopted by the Wildlife Resources Commission. All markers regulating and controlling the speed of vessels shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the speed limit to the vessels approaching from various directions.

Section 3. This act applies only to the City of Elizabeth City.

Section 4. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 615
Proposed Committee Substitute H615-PCSRF-002
11-MAY-99 15:06:35
LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Elizabeth City Watercraft Reg. (Local)

Sponsors:

Referred to: Local Government II.

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE SPEED OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. This act applies only to the City of Elizabeth City.

Section 3. This act is effective when it becomes law.

HOUSE BILL 615:
Elizabeth City Watercraft Reg.

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Representative Owens
Date:	May 4, 1999	**Summary by:**	Barbara Riley
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY:

The proposed committee substitute for House Bill 615 authorizes the Elizabeth City to adopt ordinances that would allow the city to regulate the speed of boats on waterways within the city limits and the limits of its extraterritorial jurisdiction. The original bill would have also allowed the City to regulate the operation of such vessels, an authority currently exercised by the Wildlife Resources Commission.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 615

Short Title: Elizabeth City Watercraft Reg. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ELIZABETH CITY TO REGULATE THE OPERATION OF VESSELS WITHIN THE CITY.

The General Assembly of North Carolina enacts:

Section 1. A city may adopt ordinances to regulate and control the speed and operation of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes.

Section 2. This act applies only to the City of Elizabeth City.

Section 3. This act is effective when it becomes law.

HOUSE BILL 615:
Elizabeth City Watercraft Reg.

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Representative Owens
Date:	May 4, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 615 authorizes the Elizabeth City to adopt ordinances that would allow the city to regulate the speed and operation of boats on waterways within the city limits and the limits of its extraterritorial jurisdiction.***

BILL ANALYSIS: Authority to regulate the operation of watercraft, including restrictions on speed and types of activity is expressly given to the Wildlife Resources Commission (WRC) in the Boating Safety Act. Chapter 75A of the General Statutes. The WRC has authority to adopt rules for local waters on these issues. G.S.75A-15(a). Subdivisions of the State may apply to the WRC for rules on waters within the subdivisions boundaries or extraterritorial limits. G.S. 75A-15(b). House Bill 615 would give Elizabeth City the right to directy control the operation of watercraft within its jurisdiction.

§ 75A-15. Rules on water safety; adoption of the Uniform Waterway Marking System.

(a) In accordance with subsection (b) of this section, the Wildlife Resources Commission is empowered to make rules, for the local water in question, as to:

(1) Operation of vessels, including restrictions concerning speed zones, and type of activity conducted.

(2) Promotion of boating and water safety generally by occupants of vessels, swimmers, fishermen, and others using the water.

(3) Placement and maintenance of navigation aids and markers, in conformity with governing provisions of law.

Prior to making any rules, the Commission shall investigate the water recreation and safety needs of the local water in question. In making such investigation, the Commission in its discretion may hold public hearings on the rules proposed and the general needs of the local water in question. After such investigation and application of standards, the Commission may in its discretion pass the rules requested, pass them in an amended form, or refuse to pass them. After passage, the Commission may amend or repeal the rules after first holding a public hearing.

(b) Any subdivision of this State may, but only after public notice, make formal application to the Wildlife Resources Commission for rules on waters within the subdivision's territorial limits as to the matters listed in subsection (a) of this section. The Wildlife Resources Commission may, adopt rules applicable to local areas of water defined by the Commission that are found to be heavily used for water recreation purposes by persons from other areas of the State and as to which there is not coordinated local interest in regulation.

The Wildlife Resources Commission may adopt rules prohibiting entry of vessels into public swimming areas and establishing speed zones at public boat launching ramps, marinas, or boat service areas and on other congested water areas where there are demonstrated water safety hazards. Enforcement of such rules shall be dependent upon placement and maintenance of regulatory markers in accordance with the

Uniform State Waterway Marking System by such agency or agencies as may be designated by the Wildlife Resources Commission.

(c) The Uniform State Waterway Marking System as approved by the Advisory Panel of State Officials to the Merchant Marine Council, United States Coast Guard, in October 1961 is hereby adopted for use on the waters of North Carolina. The Wildlife Resources Commission is authorized to pass rules implementing the marking system and may:

(1) Modify provisions as necessary to meet the special water recreational and safety needs of this State, provided that such modifications do not depart in any essential manner from the uniform standards being adopted in other states.

(2) Modify provisions as necessary to conform with amendments to the marking system that may be proposed for adoption by the states.

(3) Enact supplementary standards regarding design, construction, placement, and maintenance of markers.

(4) Enact clarifying rules as to matters not covered with precision in the report of the Advisory Panel of State Officials.

(5) Enact implementing rules as to matters left to State discretion in the report of the Advisory Panel of State Officials.

(6) Enact rules forbidding or restricting the placement of markers either throughout the State or in certain classes or areas of waters without prior permission having been obtained from the Commission or some agency or official designated by the Commission.

It is unlawful to place or maintain any marker of the sort covered by the marking system in the waters of North Carolina that does not conform to or is in violation of the marking system and the implementing rules of the Commission.

(d) Rules enacted under the authority of subsections (a) and (b) of this section shall supersede all local rules in conflict or incompatible with such rules. As used in this subsection, "local rules" shall include provisions relating to boating, water safety, or other recreational use of local waters in special local, or private acts, in ordinances or rules of local governing bodies, or in ordinances or rules of local water authorities. Except as may be authorized in subsections (a) and (b) of this section, no local rules may be made respecting the Uniform Waterway Marking System and its implementation or respecting supplemental safety equipment on vessels.

(e) The Wildlife Resources Commission may adopt rules prohibiting entry or use by vessels or swimmers of waters of the State immediately surrounding impoundment structures and powerhouses associated with electric generating facilities that are found to pose a hazard to water safety. This subsection shall not apply to the Person-Caswell Lake Authority, Carolina Power and Light Company Lake (Hyco).

DISBARRED

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H841-CSRF-01
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 841
THIS IS A DRAFT 26-MAY-99 10:32:23
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Carrboro/Chapel Hill Local Act. (Local)

Sponsors:

Referred to: Local Government I

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORADABLE HOUSING UNITS AND TO CHANGE THE NAME OF THE CARRBORO BOARD OF ALDERMEN, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION AND TO AMEND THE CHAPEL HILL CHARTER TO ALLOW THE TOWN COUNCIL TO REQUIRE CANDIDATES FOR ELECTIVE TOWN OFFICE TO DISCLOSE THE NAMES OF CAMPAIGN CONTRIBUTORS AND TO LIMIT BY ORDINANCE THE AMOUNT THAT A PERSON MAY CONTRIBUTE TO A CANDIDATE OR THEIR POLITICAL COMMITTEE AND TO ALLOW THE REGULATION OF OPEN BURNING, AND TO ALLOW HALF DAY SHIFTS FOR ELECTION JUDGES IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of

Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

Section 2. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

Section 3. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 4. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaign. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaign.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 5. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 6.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until

they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county board of elections may allow judges of election to serve for half-day shifts."

Section 6.(b) This act applies to Orange County only.

Section 7. This act is effective when it becomes law.

Section 8. Section 3 of this act applies only to the Town of Chapel Hill.

Section 9. This act is effective when it becomes law.

HB 841:
Chapel Hill/Carrboro Local Act

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Insko
Date:	May 26, 1999	**Summary by:**	Barbara Riley
Version:	Prop. Committee Sub		Committee Counsel

SUMMARY:

The proposed committee substitute for House Bill 841 combines the provisions of 4 local bills affecting Chapel Hill, Carrboro, and Orange County as noted below.

BILL ANALYSIS:

Section 1 of House Bill 841 allows the Town of Carrboro to provide, by ordinance, for incentives to encourage residential developments to contain affordable housing for low and moderate income persons.

Section 2 of House Bill 841 allow the Town of Carrboro to determine by resolution whether to call its governing board the Board of Aldermen, Town Council, or Board of Commissioners.

Section 3 of House Bill 841 allows the Town of Chapel Hill to require enhanced sedimentation protection when there is concurrent construction of two or more projects in a watershed.

Section 4 of House Bill 841 allows the Town of Chapel Hill to require political candidates and their political committees to disclose the names of campaign contributors. The bill would also allow the town to limit the amount of contributions to a canditate for town office made by any individual, person, or political committee.

Section 5 of the bill would allow the Town of Chapel Hill to regulate open burning. Open burning is currently regulated on a statewide basis pursuant to Article 4C of Chapter 113. The open burning statutes address protection of the public from the hazards of forest fires and air pollution. There may be a constitutional question of whether this provision of House Bill 841 would violate Article II, Sec. 24 of the North Carolina Constitution prohibiting local legislation relating to the health, sanitation, and the abatement of nuisances.

Section 6 of the bill, allows half day shift for election judges in Orange County.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 841
Committee Substitute Favorable 4/28/99

Short Title: Carrboro Affordable Housing. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORDABLE HOUSING UNITS.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 842
Committee Substitute Favorable 4/19/99

Short Title: Carrboro Aldermen Name Change. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO CHANGE THE NAME OF THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99

Short Title: Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 2. Section 1 of this act applies to the Town of Chapel Hill only.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 868*
Committee Substitute Favorable 4/28/99

Short Title: Chapel Hill Omnibus Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS AMENDMENTS CONCERNING THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective Town office of the names of all contributors to their campaign. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaign.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Section 2.6 of this Charter."

Section 2. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

. "Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 3.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county board of elections may allow judges of election to serve for half-day shifts."

Section 3.(b) This act applies to Orange County only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 972*
Second Edition Engrossed 4/22/99

Short Title: Transp. Costs/Invol. Commitment. (Public)

Sponsors: Representatives Insko and Hackney.

Referred to: Mental Health.

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE COST AND EXPENSES OF TRANSPORTING A RESPONDENT IN AN INVOLUNTARY COMMITMENT PROCEEDING MAY BE RECOVERED FROM THE RESPONDENT'S COUNTY OF RESIDENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-251(h) reads as rewritten:

"(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. The State (when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from ~~either (i) the respondent or some other individual liable for his support and maintenance, if there is property sufficient to pay the cost; or (ii) the county of residence of an indigent respondent.~~ the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. The county of residence of the respondent may recover that cost from:

(1) The respondent, if the respondent is not indigent;

(2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;

(3) Any person or entity that is contractually responsible for the cost; or

(4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

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

HB 972:
Transportation Costs/Invol.Commitment

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Insko
Date:	May 26, 1999	**Summary by:**	Barbara Riley
Version:	2d Edition		Committee Counsel

SUMMARY:

House Bill 972 allows the State, Counties and Cities to recover the reasonable costs and expenses of transporting respondents in involuntary commitment proceedings from the county of residence and the county of residence to recover the cost from:

1. The respondent, if he is not indigent.

2. A person or entity legally liable for the repondent's support,if there is sufficient property to pay the cost.

3. A person or entity contractually liable for the cost.

4. A person or entity otherwise liable under federal, state or local law for the cost.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H426-CSRF-01
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 426
THIS IS A DRAFT 26-MAY-99 09:16:24
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Local Red Light Cameras. (Local)

Sponsors:

Referred to: Local Government II

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF GREENSBORO, HIGH POINT AND ROCKY MOUNT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'**§ 160A-300.1. Use of traffic control photographic systems.**

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic

control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address

given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by Chapter 17 of the 1999 Session Laws, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greenboro, High Point, and Rocky Mount only."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 426

Short Title: High Point Red Light Cameras. (Local)

Sponsors: Representatives Jarrell; and Adams.

Referred to: Local Government II.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF HIGH POINT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216 reads as rewritten:

"Section 2. This act applies to the City of Charlotte and the City of High Point only."

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

REP. MARY L. JARRELL

RESOLUTION

WHEREAS, vehicle accidents involving traffic violations at intersections are a growing problem in the City; and

WHEREAS, a system of using photographs of vehicles violating traffic laws at intersections, and enforcing such violations with a system of civil penalties, will be a cost-effective method of enhancing traffic safety in the City,

WHEREAS, the City of Charlotte has a local legislative act (Ch. 216, S.L.1997) which authorizes such a system;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of High Point, North Carolina that it requests the introduction and passage of a local act in the North Carolina General Assembly, similar to the Charlotte local act, to authorize the City of High Point to use photographic images as prima facie evidence of a traffic violation.

Adopted this 4 day of March, 1999.

Patricia Paris Simmons, City Clerk

CITY OF HIGH POINT NORTH CAROLINA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 437

Short Title: Jones Subdivision Definition. (Local)

Sponsors: Representatives Tucker and Wainwright.

Referred to: Local Government I.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATUTORY DEFINITION OF "SUBDIVISION" FOR THE PURPOSE OF SUBDIVISION REGULATION IN JONES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335 reads as rewritten:

"**§ 153A-335. 'Subdivision' defined.**

For purposes of this Part, 'subdivision' means all divisions of a tract or parcel of land into ~~two~~ five or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than ~~10~~ five acres if no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets; and

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots

are equal to or exceed the standards of the county as shown by its subdivision regulations."

Section 2. This act applies to Jones County only.

Section 3. This act is effective when it becomes law.

HOUSE BILL 437:
Jones Subdivision Definition

BILL ANALYSIS

Committee:	House Local Government I	**Introduced by:**	Reps. Tucker and Wainwright
Date:	March 23, 1999	**Summary by:**	Giles S. Perry
Version:	First Edition		Committee Counsel

SUMMARY:

House Bill 437 changes the statutory definition of "subdivision" that applies in Jones County.

Under current law, the general law definition of "subdivision" is applicable to subdivision regulation in Jones County. That definition provides that a "subdivision" includes a division of land into two or more lots, and does not include a division of land into parcels greater than ten acres, if no street right-of-way is involved.

House Bill 437 changes the definition of "subdivision" as it applies in Jones County to increase the required divisions of land from two to five lots, and reduces from ten to five the number of acres required per parcel for the exclusion of divisions of land with no street rights-of-way involved.

Effective date: when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 474
Committee Substitute Favorable 4/13/99

Short Title: Bertie ABC Board Change. (Local)

Sponsors:

Referred to:

March 17, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE MEMBERSHIP OF THE BERTIE COUNTY ABC BOARD FROM FIVE TO THREE MEMBERS AND TO ALLOW THE APPOINTMENT OF A NEW BERTIE COUNTY ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. The terms of the current members of the Bertie County ABC Board shall terminate on June 30, 1999.

Section 2. Section 1 of Chapter 888 of the 1987 Session Laws is repealed.

Section 3. Section 2 of this act applies only to Bertie County.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 520
Committee Substitute Reported Without Prejudice 4/23/99

Short Title: Flat Rock/Hendersonville Prop. (Local)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF FLAT ROCK TO BUILD A FACILITY FOR A PUBLIC ENTERPRISE AND THEN CONVEY IT TO THE TOWN OF HENDERSONVILLE WITHOUT OPERATING IT.

The General Assembly of North Carolina enacts:

Section 1. The Village of Flat Rock may construct a facility for a public enterprise as defined by G.S. 160A-311 and convey it to the Town of Hendersonville without operating it.

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 520 DATE 5/26/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Dan Robinson
)
Sen.)

1 moves to amend the bill on page 1, line 3
2 (WHICH CHANGES THE TITLE
3 by deleting the word "TOWN" and substituting
4 in its place The word "CITY"
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED Dan Robinson
ADOPTED BY THE STATE/LOCAL GOV COMM.

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

H520:
Flat Rock/Hendersonville Prop.

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Justus
Date:	May 26, 1999	**Summary by:**	Ed Rossi
Version:	2nd. Ed.		Committee Co-Counsel

SUMMARY: House bill 820 allows the Village of Flat Rock to construct a public enterprise facility as defined in G.S. § 160A-311 and then convey that property to the town of Hendersonville.

Because 820 is a local bill and the proposed facility is a sewer line, the bill may be constitutionally suspect in light of Article II Sec. 24 of the North Carolina Constitution.

CURRENT LAW:

Public Enterprises -- Article 16 of Chapter 160A of the General Statutes authorizes cities and towns to build a number of public enterprises. Those enterprises include airports, cable systems, and sewage treatment plants and are defined in G.S. § 160A-311.

Corporate Powers -- Article 2 of Chapter 160A gives municipalities broad corporate powers. In general, they may enter into contracts, hold real property, sell real property, and exercise the general corporate powers granted by the state.[1]

Constitutional Prohibition on Local Acts --Article II Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local legislation relating to health and sanitation. Any act enacted in violation of this provision is "void." [2] In Lamb v. Board of Education, 235 N.C. 377 (1952), the North Carolina Supreme Court was asked to consider the constitutionality of a local act who's sole purpose was to prescribe provisions with respect to sewer and water service for local school children in Randolph County. The court held that the act was unconstitutional because it violated the constitutional prohibition against enacting local legislation relating to health and sanitation.

BACKGROUND: The Village of Flat Rock seeks this legislation to build a sewer line and then convey that line to the Town of Hendersonville.

BILL ANALYSIS: On its face, the bill appears to grant the Village of Flat Rock powers that it may already posses under Chapter 160A of the General Statutes. No mention is made in the bill of what the contemplated public enterprise will be. However, given the underlying facts and the Supreme Court's decision in Lamb, if enacted and subsequently challenged, it is conceivable that a court could find that the bill violates Article II Section 24 of the North Carolina Constitution.

[1] G.S. § 160A-11
[2] Article II Section 24 (3)

Kathie Young (Sen. Kinnaird)

From: Ebher "Ed" Rossi (Reseach)
Sent: Wednesday, May 26, 1999 10:00 AM
To: Gerry Cohen (Bill Drafting, Director)
Cc: Sen. Ellie Kinnaird; Rep. Larry Justus; Kathie Young (Sen. Kinnaird)
Subject: RE: HB 520

Gerry,

I appreciate your comments. My question however is whether a North Carolina court could find that the bill "relates" to health and sanitation in light of the fact that:

- 160A-311 contemplates, amongst other things, sewage treatment.
- The underlying purpose of the bill is to allow the City of Flat Rock to sell a sewer line.

Do you know whether there is a case out there that deals with the issue of whether when examining the constitutionality of a local bill under Article II Sec. 24 a court will look at the underlying facts to determine whether a bill relates to a constitutionally prohibited subject or defines the word "relates" in this context? My reading of the cases suggests a case by case approach. Thus, it may be hard to predict how a court will rule. However my concern is the Supreme Court's decision in Lamb v. Board of Education, 235 N.C. 377 (1952) which makes clear that sewer and water service relate to health and sanitation and thus cannot be directly addressed by local legislation.

Please let me know your thoughts, as this issue keeps popping up.

Thanks

Ed

-----Original Message-----
From: Gerry Cohen (Bill Drafting, Director)
Sent: Wednesday, May 26, 1999 9:25 AM
To: Ebher "Ed" Rossi (Reseach)
Cc: Sen. Ellie Kinnaird; Rep. Larry Justus; Kathie Young (Sen. Kinnaird)
Subject: HB520

Rep. Justus came by to talk to me about Ed Rosi's concerns about HB520, Flat Rock/Hendersonville property.

I understand Ed's concerns that the constitutional provision on no local acts relating to health and sanitation be followed.

However, HB520 on its face has nothing to do with health or sanitation. It allows the Village of Flat Rock to construct a public enterprise and then convey it to the Town of Hendersonville. Public enterprises under G.S. 160A-311 can include electricity, natural gas, water, sewer, cable television, and airports.

The fact that Flat Rock will be using the bill to convey a sewer system under the bill does not make the bill a local bill relating to health.

I would have even been willing to say that if the bill mentioned water and sewer that it still did not relate to health, but to property disposition, but that fallback argument is not necessary because the bill never mentions water and sewer and in fact applies to a broad range of municipal utility services.

In my opinion the bill is constitutional.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 811

Short Title: Havelock Charter Revision. (Local)

Sponsors: Representatives Thomas and Wainwright.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF HAVELOCK TO INCREASE THE TERM OF THE MAYOR FROM TWO YEARS TO FOUR YEARS BEGINNING WITH THE REGULAR MUNICIPAL ELECTION IN 2001.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of the Charter of the City of Havelock, being Chapter 952 of the 1959 Session Laws, as amended by Chapter 152 of the 1977 Session Laws, reads as rewritten:

"(a) The Government of the City of Havelock shall be vested in a mayor and a board of commissioners made up of five members. Regular elections shall be held biennially to ~~elect a mayor for a term of two years and,~~ elect, as their terms expire, commissioners for terms of four ~~years.~~ years and, until the regular election in 2001, a mayor for a term of two years. Beginning with the regular election in 2001, a mayor shall be elected for a term of four years. In the regular election in 1977, and quadrennially thereafter, there shall be elected two commissioners; and in the regular election in 1979, and quadrennially thereafter, there shall be elected three commissioners. Voters in each regular election shall be entitled to ~~one vote for the office of mayor and~~ as many votes for the offices of commissioner as there are full terms for commissioner to be filled pursuant to this ~~subparagraph.~~ subparagraph, and to one vote for the office of mayor in the year in which the term of the mayor expires. The candidate for mayor who receives the highest number of votes shall be declared elected; and candidates for commissioner, equal in number to the number of offices to be filled, who receive the highest number of votes, shall be declared elected."

Section 2. All existing ordinances, resolutions, and other provisions of the City of Havelock not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 3. This act is effective when it becomes law.

HOUSE BILL 811:
Havelock Chapter Revisions

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Reps. Thomas and Wainwright
Date:	May 25, 1999	**Summary by:**	Ed Rossi
Version:	First Edition		Committee Co-Counsel

SUMMARY: ***House bill 811 amends the City of Havelock's charter by changing the mayor's term of of office from two to four years. This change becomes effective in 20001.***

CURRENT LAW: G.S. §160A-101 allows cities and towns to adopt optional forms of government without the need for local legislation by the General Assembly. This section also allows a city or town to select the mayor's term of office for a period of not less than two years and not more than four years.

BILL ANALYSIS: House bill 811 appears to do through local legislation what the city could perhaps have accomplished pursuant to the authority granted by G.S. § 160A-101.

BACKGROUND: The City of Havelock is situated in Craven County. It has a land area of approximately 27.5 square miles and a population of approximately 22,000 people.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 820
Committee Substitute Favorable 4/22/99

Short Title: Voluntary Shared Leave. (Public)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES MAY SHARE LEAVE VOLUNTARILY.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-8.3. Voluntary shared leave.**

The State Personnel Commission, in cooperation with the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency or public school. For the purposes of this section, the term 'immediate family member' means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

Section 2. Article 2 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-12.2. Voluntary shared leave.**

The State Board of Education, in cooperation with the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school or State agency. For the purposes of this section, the term 'immediate family member' means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 728

Short Title: Greenville Fraternity Houses. (Local)

Sponsors: Representatives Tolson; McLawhorn, Rogers, and Warren.

Referred to: Local Government I.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF GREENVILLE TO REQUIRE FIRE ALARM SYSTEMS IN FRATERNITY AND SORORITY HOUSES WITHIN THE CITY AND THE CITY'S EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including Chapter 143 of the General Statutes, the City of Greenville may require by ordinance the installation of a fire alarm system in all fraternity and sorority houses within the corporate limits of the City or within the City's extraterritorial planning jurisdiction, the installation to be completed as provided in the ordinance within a reasonable period of time, to be determined at the adoption of the ordinance, following the effective date of the ordinance. A fire alarm system shall include a fire alarm control panel, manual fire alarm pull boxes at each required exit, smoke detectors in all sleep areas, heat detectors in unoccupied areas, audible devices that can be heard throughout the houses, a central monitoring station, and a power source.

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

HOUSE BILL 728:
Greenville Fraternity/Sorority Houses

BILL ANALYSIS

Committee:	House LocalGovernment I	**Introduced by:**	Reps. Tolson; and others
Date:	April 6, 1999	**Summary by:**	Ed Rossi
Version:	First Edition		Committee Co-Counsel

SUMMARY:

House Bill 728 authorizes the Town of Greenville to require by ordinance the installation of fire alarm systems, including smoke detectors, in all fraternity and sorority houses within the City and its extraterritorial planning and zoning jurisdiction area.

CURENT LAW: Article II Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local legislation relating to health and sanitation. Any act enacted in violation of this provision is "void." [1]

Under North Carolina law, inspections pursuant to the State Building Code affect health and sanitation, thus implicate Article II Section 24. See New Bern v. New Bern-Craven County Bd. of Educ., 338 N.C. 430, 450 S.E.2d 735 (1994).

BILL ANALYSIS: In light of the decision in New Bern, house bill 728 is constitutionally suspect.

[1] Article II Section 24 (3)

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 26, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gerry Cohen	Bill Drafting
Bill Rowe	NC Justice Center
R. Paul Wilms	NCMBA
Mike Carnett	NCCBA
Skyler Traino	legislative intern for Sen Kinnaird
Jim Blackburn	NC Assoc. County Commrs
Patrice Roesler	" " " "
Carl Goodwin	OSP
Florence Yung	NCDW
Sarah Richards	guest
Elizabeth Cox	STARS Charter, Dem. Women N.C.

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 2,1999

11:00 AM

ROOM 1124 LB

Bills

• HB 841	Carrboro Affordable Housing	Rep. Verla Insko
• HB 842	Carrboro Aldermen Name Change	Rep. Verla Insko
• HB 843	Orange/Chapel Hill Local Act	Rep. Verla Insko
• HB 868	Chapel Hill Transit	Rep. Verla Insko
• HB 426	High Point Red Light Cameras	Rep. Mary Jarrell
• HB 728	Greenville Fraternity/Sorority Houses	Rep. Joe Tolson
• HB 514	Huntersville Photo Enforcement	Rep. Drew Saunders

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 02, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 2, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eleven members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 841,Carrboro Affordable Housing, was explained by Rep. Insko. Sen. Clodfelter moved to adopt a Proposed Committee Substitute. The motion carried unanimously Sen. Kinnaird offered an amendment. Sen. Jordan moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

HB 426, High Point Red Light Cameras, was explained by Rep. Jarrell. Sen. Clodfelter moved to give the Proposed Committee Substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 514, Huntersville Photo Enforcement, was explained by Rep. Saunders. Sen. Clodfelter moved to adopt a Proposed Committee Substitute. The motion carried. Sen. Clodfelter moved to give the Proposed Committee Substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

HB 728, Greenville Fraternity/Sorority Houses, was explained by Rep. Tolson. Sen. Soles moved to give the bill a favorable report. David Holec, City Attorney for Greenville explained that the City of Greenville supports the bill. The motion carried. **Favorable Report**.

Senator Ellie Kinnaird, Chair

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, June 03, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **728** Greenville Fraternity Houses.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. **426** Local Red Light Cameras.
Draft Number: PCS 7247
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

H.B. **514** Huntersville Photo Enforcement.
Draft Number: PCS 8141
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 09, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.(CS)**841** Carrboro Affordable Housing

Draft Number:	PCS 1279
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 841
Committee Substitute Favorable 4/28/99
Senate State and Local Government Committee Substitute Adopted 6/9/99

Short Title: Carrboro/Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORDABLE HOUSING UNITS AND TO CHANGE THE NAME OF THE CARRBORO BOARD OF ALDERMEN, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION AND TO AMEND THE CHAPEL HILL CHARTER TO ALLOW THE TOWN COUNCIL TO REQUIRE CANDIDATES FOR ELECTIVE TOWN OFFICE TO DISCLOSE THE NAMES OF CAMPAIGN CONTRIBUTORS AND TO LIMIT BY ORDINANCE THE AMOUNT THAT PERSONS MAY CONTRIBUTE TO A CANDIDATE OR THEIR POLITICAL COMMITTEE AND TO ALLOW THE REGULATION OF OPEN BURNING, AND TO ALLOW HALF-DAY SHIFTS FOR ELECTION JUDGES IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General

Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

Section 2. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, councillors, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro."

Section 3. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 4. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaigns. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions, not to exceed the limitations on contributions contained in G.S. 163-278.13(a) and (b), which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 5. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 6.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county boards of elections may allow judges of election to serve for half-day shifts."

Section 6.(b) This act applies to Orange County only.

Section 7. Section 3 of this act applies only to the Town of Chapel Hill.

Section 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H841-CSRF-01
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 841
THIS IS A DRAFT 26-MAY-99 10:32:23
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Carrboro/Chapel Hill Local Act. (Local)

Sponsors:

Referred to: Local Government I

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORADABLE HOUSING UNITS AND TO CHANGE THE NAME OF THE CARRBORO BOARD OF ALDERMEN, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION AND TO AMEND THE CHAPEL HILL CHARTER TO ALLOW THE TOWN COUNCIL TO REQUIRE CANDIDATES FOR ELECTIVE TOWN OFFICE TO DISCLOSE THE NAMES OF CAMPAIGN CONTRIBUTORS AND TO LIMIT BY ORDINANCE THE AMOUNT THAT A PERSON MAY CONTRIBUTE TO A CANDIDATE OR THEIR POLITICAL COMMITTEE AND TO ALLOW THE REGULATION OF OPEN BURNING, AND TO ALLOW HALF DAY SHIFTS FOR ELECTION JUDGES IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of

Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

Section 2. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

Section 3. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 4. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaign. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaign.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 5. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 6.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until

they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county board of elections may allow judges of election to serve for half-day shifts."

Section 6.(b) This act applies to Orange County only.

~~Section 7. This act is effective when it becomes law.~~

Section 7. Section 3 of this act applies only to the Town of Chapel Hill.

Section 8. This act is effective when it becomes law.

HB 841:
Chapel Hill/Carrboro Local Act

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Rep. Insko
Date:	May 26, 1999	**Summary by:**	Barbara Riley
Version:	Prop. Committee Sub		Committee Counsel

SUMMARY:

The proposed committee substitute for House Bill 841 combines the provisions of 4 local bills affecting Chapel Hill, Carrboro, and Orange County as noted below.

BILL ANALYSIS:

Section 1 of House Bill 841 allows the Town of Carrboro to provide, by ordinance, for incentives to encourage residential developments to contain affordable housing for low and moderate income persons.

Section 2 of House Bill 841 allow the Town of Carrboro to determine by resolution whether to call its governing board the Board of Aldermen, Town Council, or Board of Commissioners.

Section 3 of House Bill 841 allows the Town of Chapel Hill to require enhanced sedimentation protection when there is concurrent construction of two or more projects in a watershed.

Section 4 of House Bill 841 allows the Town of Chapel Hill to require political candidates and their political committees to disclose the names of campaign contributors. The bill would also allow the town to limit the amount of contributions to a canditate for town office made by any individual, person, or political committee.

Section 5 of the bill would allow the Town of Chapel Hill to regulate open burning. Open burning is currently regulated on a statewide basis pursuant to Article 4C of Chapter 113. The open burning statutes address protection of the public from the hazards of forest fires and air pollution. There may be a constitutional question of whether this provision of House Bill 841 would violate Article II, Sec. 24 of the North Carolina Constitution prohibiting local legislation relating to the health, sanitation, and the abatement of nuisances.

Section 6 of the bill, allows half day shift for election judges in Orange County.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 841
Committee Substitute Favorable 4/28/99

Short Title: Carrboro Affordable Housing. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORDABLE HOUSING UNITS.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 841 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page ~~18~~ 3, line 18
2 ( ) WHICH CHANGES THE TITLE
3 by _____
4 after the word "contributions"
5
6 the phrase
7
8 "not to exceed the limitations on
9 contributions contained in G.S. 163-278.13(a)(1)(b)"
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 842
Committee Substitute Favorable 4/19/99

Short Title: Carrboro Aldermen Name Change. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO CHANGE THE NAME OF THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99

Short Title: Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 2. Section 1 of this act applies to the Town of Chapel Hill only.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 868*
Committee Substitute Favorable 4/28/99

Short Title: Chapel Hill Omnibus Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS AMENDMENTS CONCERNING THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective Town office of the names of all contributors to their campaign. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaign.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Section 2.6 of this Charter."

Section 2. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 3.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county board of elections may allow judges of election to serve for half-day shifts."

Section 3.(b) This act applies to Orange County only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 426

Short Title: High Point Red Light Cameras. (Local)

Sponsors: Representatives Jarrell; and Adams.

Referred to: Local Government II.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF HIGH POINT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216 reads as rewritten:

"Section 2. This act applies to the City of Charlotte and the City of High Point only."

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

HB 426:
Local Red Light Cameras

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	REp. Jarrell
Date:	May 26, 1999	**Summary by:**	Barbara Riley
Version:	Proposed Committee Sub		Committee Counsel

SUMMARY:

House Bill 426 adds the cities of Greensboro, High Point, and Rocky Mount to those cities that may use photos as prima facie evidence of a traffic violation.

CURRENT LAW:

Chapter 216 of the 1997 session laws provides for the use of traffic control camera systems. Authorized municipalities may adopt ordinances for the enforcement of G.S> 20-158,Vehicle control signs and signals. Under Chapter 216, the owner of the vehicle is responsible for a violation unless they can furnish evidence that the vehicle was in the care, custody or control of another. Violations are deemed noncriminal and carry a $50 civil penalty but no license points. Failure to pay the penalty or to respond to the citation results in a waiver of the right to contest responsibility for the violation and is subject to a civil penalty of $100.

BILL ANALYSIS:

The proposed committee substitue for HB 426 adds the cities of Greensboro, High Point, and Rocky Mount to Chapter 216 of the 1997 Session Laws. Fayetteville was added earlier this session. The bill also amends Chapter 216 to provide that a violation detected by traffic camera shall not result in the assessment of insurance points against the owner or driver of the vehicle.

The act is effective when it becomes law.

REP. MARY L. JARRELL

RESOLUTION

WHEREAS, vehicle accidents involving traffic violations at intersections are a growing problem in the City; and

WHEREAS, a system of using photographs of vehicles violating traffic laws at intersections, and enforcing such violations with a system of civil penalties, will be a cost-effective method of enhancing traffic safety in the City,

WHEREAS, the City of Charlotte has a local legislative act (Ch. 216, S.L.1997) which authorizes such a system;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of High Point, North Carolina that it requests the introduction and passage of a local act in the North Carolina General Assembly, similar to the Charlotte local act, to authorize the City of High Point to use photographic images as prima facie evidence of a traffic violation.

Adopted this 4 day of March, 1999.

Patricia Paris Simmons, City Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H426-CSRF-01
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 426
THIS IS A DRAFT 26-MAY-99 09:16:24
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Local Red Light Cameras. (Local)

Sponsors:

Referred to: Local Government II

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF GREENSBORO, HIGH POINT AND ROCKY MOUNT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'**§ 160A-300.1. Use of traffic control photographic systems.**

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic

control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address

given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by Chapter 17 of the 1999 Session Laws, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greenboro, High Point, and Rocky Mount only."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 426
Proposed Senate Committee Substitute H426-PCS7247-RF

Short Title: Local Red Light Cameras. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF GREENSBORO, HIGH POINT, AND ROCKY MOUNT TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'**§ 160A-300.1. Use of traffic control photographic systems.**

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of

this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by S.L. 1999-17, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greensboro, High Point, and Rocky Mount only."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 728

Short Title: Greenville Fraternity Houses. (Local)

Sponsors: Representatives Tolson; McLawhorn, Rogers, and Warren.

Referred to: Local Government I.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF GREENVILLE TO REQUIRE FIRE ALARM SYSTEMS IN FRATERNITY AND SORORITY HOUSES WITHIN THE CITY AND THE CITY'S EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including Chapter 143 of the General Statutes, the City of Greenville may require by ordinance the installation of a fire alarm system in all fraternity and sorority houses within the corporate limits of the City or within the City's extraterritorial planning jurisdiction, the installation to be completed as provided in the ordinance within a reasonable period of time, to be determined at the adoption of the ordinance, following the effective date of the ordinance. A fire alarm system shall include a fire alarm control panel, manual fire alarm pull boxes at each required exit, smoke detectors in all sleep areas, heat detectors in unoccupied areas, audible devices that can be heard throughout the houses, a central monitoring station, and a power source.

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

HOUSE BILL 728:
Greenville Fraternity/Sorority Houses

BILL ANALYSIS

Committee:	House LocalGovernment I	**Introduced by:**	Reps. Tolson; and others
Date:	April 6, 1999	**Summary by:**	Ed Rossi
Version:	First Edition		Committee Co-Counsel

SUMMARY:

House Bill 728 authorizes the Town of Greenville to require by ordinance the installation of fire alarm systems, including smoke detectors, in all fraternity and sorority houses within the City and its extraterritorial planning and zoning jurisdiction area.

CURENT LAW: Article II Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local legislation relating to health and sanitation. Any act enacted in violation of this provision is "void." [1]

Under North Carolina law, inspections pursuant to the State Building Code affect health and sanitation, thus implicate Article II Section 24. See New Bern v. New Bern-Craven County Bd. of Educ., 338 N.C. 430, 450 S.E.2d 735 (1994).

BILL ANALYSIS: In light of the decision in New Bern, house bill 728 is constitutionally suspect.

[1] Article II Section 24 (3)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 514

Short Title: Huntersville Photo Enforcement. (Local)

Sponsors: Representative Saunders.

Referred to: Judiciary IV.

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216 reads as rewritten:

"Section 2. This act applies to the City of Charlotte and the Town of Huntersville only."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 514
Senate Proposed Committee Substitute for H514-SPCSRF-001
1-JUN-99 14:23:53
THIS IS A DRAFT: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Huntersville Photo Enforcement. (Local)

Sponsors:

Referred to: Judiciary IV.

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF WILMINGTON, GREENVILLE, AND GREENSBORO, AND THE TOWNS OF HUNTERSVILLE, MATTHEWS, AND CORNELIUS TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION, AND TO PREVENT INSURANCE POINTS FROM BEING ASSESSED.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'**§ 160A-300.1. Use of traffic control photographic systems.**

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established

by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by

personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by Chapter 17 of the 1999 Session Laws, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greenville, Wilmington, and Greensboro, and the Towns of Huntersville, Matthews, and Cornelius only."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 514
Proposed Senate Committee Substitute H514-PCS8141-RF

Short Title: Huntersville Photo Enforcement. (Local)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITIES OF WILMINGTON, GREENVILLE, AND GREENSBORO, AND THE TOWNS OF HUNTERSVILLE, MATTHEWS, AND CORNELIUS TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION, AND TO PREVENT INSURANCE POINTS FROM BEING ASSESSED.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 216 of the 1997 Session Laws reads as rewritten:

"Section 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

'**§ 160A-300.1. Use of traffic control photographic systems.**

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

(1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:

a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or

b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the ~~vehicle.~~ vehicle nor insurance points as authorized by G.S. 58-36-65.

(3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars ($100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

(4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.'"

Section 2. Section 2 of Chapter 216 of the 1997 Session Laws, as amended by Chapter 17 of the 1999 Session Laws, reads as rewritten:

"Section 2. This act applies to the Cities of ~~Charlotte and Fayetteville only.~~ Charlotte, Fayetteville, Greenville, Wilmington, and Greensboro, and the Towns of Huntersville, Matthews, and Cornelius only."

Section 3. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 2, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MICHAEL BRANCH	CITY OF GREENVILLE
DAVE HOLEC	City of Greenville
Allen Everette	City of Greenville
Ann Bailie	Town of Pleasant Garden
JAMES D. AYRES	TOWN of PLEASANT GARDEN
Bill Wright	Town of Pleasant Gorden
John Rusti	NCFPC
Stephanie Mansor	NCAR
William Monty	Kingstown N.C.
Linda Monty	Kingstown 2030-B Kingstown Rd.
Ruth Summ	Mayor Magnolia

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — JUNE 2, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Austin Bunch	East Carolina University
Clyde L. Hall	Town of Shallotte
Buddy Kelly	Town of Shallotte
Keith A. Hartsell	Alex. Co. Chamber of Commerce
George Holleman	Town of Taylorsville
Steve Woodson	NC Farm Bureau Federation
Natalie English	NC Agribusiness Council
John Cyrus	NC-State Grange
Bob Stebbins	Mayor — Lewisville
John A Whitson	Town of Lewisville
M. K. Moody	Sylva, N.C.

VISITOR REGISTRATION SHEET

State & Local Government — June 2, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Brenda Oliver	Town of Lylva, Lylva NC
Jim Bradley	NC DOT
Wilbur Penny	NCDA&CS
Maurice Weaver	NCDA&CS
David McLeod	NCDA&CS
John Twomey	Town of Shallotte
Carson H Durham III	Town of Shallotte
Chad Howell	Town of Shallotte
Catherine Davis	Electricities
Lavington Lewis	Town of Bladenboro
K. D. Stephenson	Town of Bladenboro
Joel Ferrell	aide to Sen. Kinnaird
Ken Chears	Town of Shallotte
JAMES E. ROACH	TOWN OF SHALLOTTE
ELLIS HANKINS	NCLM

VISITOR REGISTRATION SHEET

State and Local Government — June 2, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
LUCIUS JONES	NCLM
Andy Romanet	N.C.L.M.
Mayor MARTHA Thompson	NCLM
Emily Newsome	UNC-CH
Alexander Graves, Jr.	N.C.L.M.
Mayor HORACE H. JOHNSON SR	N.C. L. M Hillsborough N.C.
LISA REYES	THE INSIDER
Mike Carpenter	NCHBA
Paul Wilms	NCHBA
Ron W. Kiser	City of High Point Council
Glenn R. Jernigan	Agricultural Alliance of N.C.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 2, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cam Cover	BPMHL
Robert Partin	Town of Scotland Neck
Sadie Richbourg	" " Leland
Jane Gilbert	Town of Leland
David Hewett	Town of Leland
Leslie Atkinson	Town of Elm City
Vicki Mercer	Town of Elm City
Valerie Durham	Town of Elm City
Cathy Cox	Town of North Wilkesboro
Gail Harris	Town of North Wilkesboro
Faye Cox	Town of North Wilkesboro

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 9,1999

11:00 AM

ROOM 1124 LB

Bills

•	HB 841	Carrboro/Chapel Hill Local Act	Rep. Insko
•	HB 228	State Employees Combined Campaign	Rep. Mosley and Rep. Hensley
•	HB 684	Municipalities' Tree Ordinances	Rep. Mosley
•	HB 800	Durham County Trust Fund Investme	Rep. Michaux
•	HB 803	Durham County Zoning Notice	Rep. Michaux
•	HB 821	Relocate NC Govt. Competition	Rep. Hensley
•	HB 1104	Exempt Position Clarification	Rep. Gibson

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 09, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 9, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eleven members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 841,Carrboro Affordable Housing, was removed.

HB 840, Bid Law Exemption/Onslow Courthouse, was explained by Rep. Grady. Sen. Clodfelter moved to adopt a Proposed Committee Substitute. The motion carried. Sen. Clodfelter offered an amendment to the committee substitute. Sen. Clodfelter moved to give the Proposed Committee Substitute a favorable report. Jonathan P. Carr, attorney and lobbyist for NC Assoc. of Plumbing-Heating-Cooling Contractors, Carolinas Electrical Contractors Assoc., and Associated Builders & Contractors, Inc. spoke against the bill. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 1104, Exempt Position Clarification, was explained by Rep. Gibson. Carl Goodwin of OSP explained the technical change. The bill was displaced.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, June 10, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. **840** Bid Law Exemption/Onslow Courthouse.

Draft Number:	PCS A149
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 841
Committee Substitute Favorable 4/28/99
Proposed Senate Committee Substitute H841-PCS1279-RF

Short Title: Carrboro/Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CARRBORO TOWN CHARTER TO AUTHORIZE THE GOVERNING BODY TO OFFER INCENTIVES TO ENCOURAGE MORE AFFORDABLE HOUSING UNITS AND TO CHANGE THE NAME OF THE CARRBORO BOARD OF ALDERMEN, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION AND TO AMEND THE CHAPEL HILL CHARTER TO ALLOW THE TOWN COUNCIL TO REQUIRE CANDIDATES FOR ELECTIVE TOWN OFFICE TO DISCLOSE THE NAMES OF CAMPAIGN CONTRIBUTORS AND TO LIMIT BY ORDINANCE THE AMOUNT THAT PERSONS MAY CONTRIBUTE TO A CANDIDATE OR THEIR POLITICAL COMMITTEE AND TO ALLOW THE REGULATION OF OPEN BURNING, AND TO ALLOW HALF-DAY SHIFTS FOR ELECTION JUDGES IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 9-2 of the Carrboro Town Charter, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 9-2. Unified Development Ordinance. The board of aldermen may combine into a single ordinance or unified land use code any of the ordinances that it is permitted to adopt pursuant to the authority granted in Article 19 of Chapter 160A of the General Statutes or any local act applicable to the Town of Carrboro that deals with the subject matters contained in Article 19 of Chapter 160A of the General

Statutes. In a unified development ordinance the board may provide that subdivision preliminary plat approval be granted in the same manner as any other conditional use permit is issued, including the attachment of reasonable conditions to such approval. The Town may provide by ordinance for appropriate incentives to encourage that residential developments contain housing units that are affordable to low- or moderate-income persons."

Section 2. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, councillors, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, Board of Councillors, or Town Council, as determined by resolution of the Town of Carrboro."

Section 3. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 4. Chapter II of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new sections to read:

"Sec. 2.6. Disclosure of contributors.

(a) The Town Council may by ordinance require the disclosure by candidates (and their political committees) for elective town office of the names of all contributors to their campaigns. The ordinance may exempt from disclosure contributions below a monetary amount set in the ordinance.

(b) The ordinance shall apply regardless of the total amount of contributions, loans, or expenditures by the campaigns.

(c) G.S. 163-278.10A does not apply to municipal elections in the Town of Chapel Hill.

"Sec. 2.7. Limitation on contributions.

Except as provided by G.S. 163-278.13(c), the Town Council may by ordinance limit the amount of contributions, not to exceed the limitations on contributions contained in G.S. 163-278.13(a) and (b), which any individual, person, or political committee may contribute to any candidate for town office or to any political committee of that candidate.

"Sec. 2.8. Definitions. The definitions in Article 22A of Chapter 163 of the General Statutes apply to Sections 2.6 and 2.7 of this Charter."

Section 5. Chapter V of the Charter of the Town of Chapel Hill, being Chapter 473 of the 1975 Session Laws, as amended, is amended by adding the following new Article to read:

"Article 9. Regulation of Open Burning.

"Sec. 5.50. After conducting a public hearing, the Town may adopt ordinances to regulate and prohibit the open burning of trees, limbs, stumps, and construction debris within the Town or the Town's extraterritorial jurisdiction.

The Town may, as a condition of approval for any permit for a subdivision, clearing and development of land, or construction of buildings within the Town or the Town's extraterritorial jurisdiction, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

Section 6.(a) G.S. 163-47(a) reads as rewritten:

"(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting. On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity. Notwithstanding the requirement in the previous sentence, the county boards of elections may allow judges of election to serve for half-day shifts."

Section 6.(b) This act applies to Orange County only.

Section 7. Section 3 of this act applies only to the Town of Chapel Hill.

Section 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

SENATE
COMMITTEE SUBSTITUTE
JUN 10 1999
ADOPTED

H D

HOUSE BILL 840
Proposed Senate Committee Substitute H840-PCS~~A149-RE~~

Short Title: Bid Law Exemption/Onslow Courthouse. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR COURTHOUSE AND TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR CHARLOTTE/MECKLENBURG SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. -- Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. -- If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to

control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. -- The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. -- All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. Prequalified bidders; solicited bid list. -- Notwithstanding G.S. 143-129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The five-bid solicitation target and the three-proposal rule apply to each subdivision of work specified in G.S. 143-128(a) if the project is bid under the separate-prime or dual bidding systems authorized under G.S. 143-128(b), (d), and (d1).

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The Board must notify a disqualified bidder at least seven days prior to the opening of bids.

This section applies only to renovation, repair, and rebuilding projects.

Section 3. Construction management. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

Section 4. Design-build. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

(1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

(2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

Section 5. Other methods. -- Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

Section 6. Project bundling. -- The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

Section 7. Sections 2 through 6 apply to the Charlotte/Mecklenburg Board of Education only.

Section 8. This act is effective when it becomes law and expires July 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 840

Short Title: Bid Law Exemption/Onslow Courthouse. (Local)

Sponsors: Representatives Grady, Preston, Smith, Tucker, and Warwick.

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR COURTHOUSE.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. -- Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. -- If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. -- The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. -- All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. This act is effective when it becomes law and expires July 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 840
Senate State and Local Government Committee Substitute Adopted 6/10/99

Short Title: Bid Law Exemption/Onslow Courthouse. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLEBill 1D

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR COURTHOUSE ANBILL D TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR CHARLOTTE/MECKLENBURG SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. -- Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. -- If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to

control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. -- The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. -- All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. Prequalified bidders; solicited bid list. -- Notwithstanding G.S. 143-129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The five-bid solicitation target and the three-proposal rule apply to each subdivision of work specified in G.S. 143-128(a) if the project is bid under the separate-prime or dual bidding systems authorized under G.S. 143-128(b), (d), and (d1).

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The Board must notify a disqualified bidder at least seven days prior to the opening of bids.

This section applies only to renovation, repair, and rebuilding projects.

Section 3. Construction management. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

Section 4. Design-build. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

(1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

(2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

Section 5. Other methods. -- Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

Section 6. Project bundling. -- The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

Section 7. Sections 2 through 6 apply to the Charlotte/Mecklenburg Board of Education only.

Section 8. This act is effective when it becomes law and expires July 1, 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 840
Proposed Senate Committee Substitute H840-PSCSRF-001
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Bid Law Exemption/Onslow Courthouse. (Local)

Sponsors:

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR COURTHOUSE AND TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND REPAIR CONTRACTS FOR CHARLOTTE/MECKLENBURG SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. -- Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. -- If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime

system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. -- The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. -- All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. Prequalified bidders; solicited bid list. -- Notwithstanding G.S. 143-129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited number of

contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The five-bid solicitation target and the three-proposal rule apply to each subdivision of work specified in G.S. 143-128(a) if the project is bid under the separate prime or dual bidding systems authorized under G.S. 143-128(b), (d), and (d1).

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The Board must notify a disqualified bidder at least seven days prior to the opening of bids.

This section applies only to renovation, repair, and rebuilding projects.

Section 3. Construction management. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

Section 4. Design-build. -- Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

(1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

(2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

Section 5. Other methods. -- Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

Section 6. Project bundling. -- The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

Section 7. This act is effective when it becomes law and expires July 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 840 DATE 6/9/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Clodfelter
Sen.)

1 moves to amend the bill on page 4, line 29 30 ~~28 29~~

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting these lines

4

5 "Section 7. Sections 2-6 apply to

6 the Charlotte-Mecklenburg Board of Education

7 only."

8

9 Section 8. This act is effective when

10 it becomes law and expires July 1, 2002."

11

12

13

14

15

16

17

18

19

SIGNED Daniel G. Clodfelter

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 228
Committee Substitute Favorable 4/29/99

Short Title: State Employees Combined Campaign. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE STATE EMPLOYEES COMBINED CAMPAIGN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340 is amended by adding a new subdivision to read:

"(26) To establish the State Employees Combined Campaign in the Department of Administration to allow State employees the opportunity to contribute to charitable nonpartisan organizations in an orderly and uniform process, with the authority to adopt all rules necessary to implement the campaign."

Section 2.(a) Any rule pertaining to the State Employees Combined Campaign adopted prior to the effective date of this act is ratified and affirmed.

Section 2.(b) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Administration may adopt temporary rules to implement the provisions of G.S. 143-340(26), as amended by Section 1 of this act.

Section 3. This act is effective when it becomes law and applies to any rule-making proceeding initiated by the Department of Administration for the State Employees Combined Campaign before that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 684
Committee Substitute Favorable 4/15/99

Short Title: Municipalities' Tree Ordinances. (Local)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWNS OF APEX, CARY, GARNER, AND MORRISVILLE TO ADOPT ORDINANCES REGULATING REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES AND SHRUBS WITHIN THE TOWNS AND THE TOWNS' EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In order to preserve and enhance one of the most valuable natural resources of the community and to protect the health, safety, and welfare of its citizens, a municipality may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipality. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses, and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared by a forester registered pursuant to Chapter 89B of the General Statutes.

Section 2. Prior to adopting an ordinance authorized by Section 1 of this act, a public hearing shall be held before the municipality's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364.

Section 3. This act shall apply only to the Towns of Apex, Cary, Garner, and Morrisville and to the areas within those towns' extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

Section 4. This act is effective when it becomes law.

HOUSE BILL 800:
Durham County Trust Fund Investments

BILL ANALYSIS

Committee:	Senate Local State & Local Gov.	**Introduced by:**	Reps. Michaux; Mosley and Leubke
Date:	April 27, 1999		
Version:	First Edition	**Summary by:**	Giles S. Perry & Ed Rossi Committee Counsel

SUMMARY: House Bill 800 authorizes Durham County or its designee to invest the funds of the Community Health Trust Fund in any investment authorized for the State Treasurer in G.S. 147-69.2.

Under current law, the funds of the Community Trust Fund can invested as authorized under G.S. 159-30.

BACKGROUND: Staff reports that the State Treasurer's Office is recommending that bills of this type also subject municipalities to the same investment restrictions (portfolio percentages, etc) that are imposed on the State Treasurer.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 800

Short Title: Durham County Trust Fund Investments. (Local)

Sponsors: Representatives Michaux; Mosley and Luebke.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO INVESTMENT OF HEALTH TRUST FUND MONIES BY THE COUNTY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. The County of Durham, or any governing body, agency, person, or other corporation that contracts with Durham County for the investment, care, or administration of monies held by the County in its Community Health Trust Fund may invest and reinvest monies constituting the Fund 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.

Section 2. This act shall apply only to monies constituting the Community Health Trust Fund. Limitations on investment and reinvestment of Fund assets may be enacted by the Durham County Board of Commissioners.

Section 3. This act, insofar as it authorizes certain investments, amends G.S. 159-30 with regard to the investment of the Durham County Community Health Trust Fund only.

Section 4. This act is effective when it becomes law.

H803:
Durham Zoning Notices

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Michaux
Date:	June 9,1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 803 requires that a notice of violation be served on property owners in Durham County when their property violates a county zoning ordinance. This service may be accomplished in one of three ways:

- ***Personal service of the notice of violation.***
- ***Service of the notice by certified or registered mail.***
- ***Service by publication in a newspaper of general circulation, provided that the owner's whereabouts are unknown and cannot be ascertained by exercising reasonable diligence or that the owner refuses to accept service by registered or certified mail.***

CURRENT LAW: Article 18 of Chapter 153A of the General Statutes grants counties the authority to regulate land use.[1] Prior to adopting or amending a land use regulation (ordinance) a county is required to hold a public hearing.[2] Ordinances adopted pursuant to this grant of power can be enforced by way of civil penalties, injunctions, or orders of abatement.[3] Unless a county ordinance provides otherwise, violation of a county ordinance is a misdemeanor or infraction.[4]

There is no current provision in Article 18 of Chapter 153A that requires a county to serve a notice of violation.

ANALYSIS: House bill 803 needs a technical correction on line 6 so that the reference to General Statute citation refers to Chapter 153A (which governs counties) and not Chapter 160A (which governs cities and towns).

[1] G.S. § 153A-340
[2] See G.S. §§ 153A-323 & 343
[3] See G.S. §§ 153A-123 & 324
[4] G.S. § 153A –123(b)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 803

Short Title: Durham County Zoning Notices. (Local)

Sponsors: Representatives Michaux; and Luebke.

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE DURHAM COUNTY WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1.(a) Notice of violation of an ordinance adopted under Parts 1, 2, and 3 of Article 18 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 1.(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the county. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 2. This act applies to Durham County only.

Section 3. This act is effective when it becomes law.

HOUSE BILL 821:
RELOCATE NC GOV COMPETITION COM.

BILL ANALYSIS

Committee: Senate State & Local Gov.
Date: April 15, 1999
Version: 1st Edition

Introduced by: Representative Hensley
Summary by: Theresa Matula & Ed Rossi

SUMMARY:

House Bill 821 relocates the North Carolina Government Competition Commission from the Department of Commerce to the Office of State Budget and Management.

CURRENT LAW:

Session Law 1998-212 created the North Carolina Government Competition Commission ("Commission") within the Department of Commerce. The Commission exercises its power independent of the Secretary of Commerce and is governed by a nine member board appointed by the Speaker of the House, President Pro-Tem of the Senate and the Governor.

G.S. § 143-703 requires the Commission to:

1. Develop an institutional framework for a statewide competition initiative to encourage innovation and competition within State government.
2. Establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without adversely affecting essential services.
3. Monitor the activities, products, and services of State agencies to bring an element of competition, innovation and entrepreneurship to compete with the private sector.
4. Identify any barriers to competition in State government and recommend actions to overcome.
5. Promote acceptance of competition by State government officials and State employees.
6. Advocate, develop and accelerate implementation of a competitive program for State agencies.
7. Establish approval, planning, and reporting processes.
8. Determine the competition potential of a State program or activity, perform cost and benefit analyses, and conduct public and private competition analyses.
9. Devise evaluation criteria to be used in conducting performance reviews of any State program or activity subject to a competition recommendation.
10. Assess the short-term and long-term results of State government competition efforts.
11. Appoint, as needed, ad hoc committees relating to specific matters within the Commission's purview.

Under the current law, the Office of State Budget and Management is involved only to determine and report the amount of an existing appropriation that would no longer be needed by a State agency as a result of savings realize through competition.

BILL ANALYSIS:

Section 1

House Bill 821 relocates the North Carolina Government Competition Commission from the Department of Commerce to the Office of State Budget and Management. The Bill amends all references to the Department of Commerce so the Commission will exercise its powers independently of the State Budget Officer and will be subject to the direction and supervision of the State Budget Officer only with respect to the management functions of coordination and reporting.

Section 2

House Bill 821 amends Section 15.2C(b) of S.L 1998-212 so that the funds are appropriated to the Office of State Budget and Management.

Section 3

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 821*

Short Title: Relocate NC Gov'ment Competition Comm. (Public)

Sponsors: Representative Hensley.

Referred to: Ways and Means.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO RELOCATE THE NORTH CAROLINA GOVERNMENT COMPETITION COMMISSION FROM THE DEPARTMENT OF COMMERCE TO THE OFFICE OF STATE BUDGET AND MANAGEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143C-3(a) reads as rewritten:

"(a) The North Carolina Government Competition Commission is created within the ~~Department of Commerce.~~ Office of State Budget and Management. The Commission shall exercise its powers independently of the ~~Secretary of Commerce~~ State Budget Officer and shall be subject to the direction and supervision of the ~~Secretary of Commerce~~ State Budget Officer only with respect to the management functions of coordination and reporting. The purpose of the Commission is to be the catalyst for the use of competition to improve the delivery of State government services, to make State government more effective and more efficient, and to reduce the costs of government to taxpayers."

Section 2. Section 15.2C(b) of S.L. 1998-212 reads as rewritten:

"(b) Funds appropriated in this act to the ~~Department of Commerce~~ Office of State Budget and Management for the Competitive Government Initiative shall be used by the Department to implement this section."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1104

Short Title: Exempt Position Clarification. (Public)

Sponsors: Representatives Gibson; and Mosley.

Referred to: State Personnel.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT CLARIFYING THE DESIGNATION OF EXEMPT POSITIONS IN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-5(d)(5) reads as rewritten:

"(5) Creation, Transfer, or Reorganization. -- The Governor, elected department head, or State Board of Education may designate as exempt a ~~policymaking~~ position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after May 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred."

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

HOUSE BILL 1104:
Exempt Position Clarification

BILL ANALYSIS

Committee:	State and Local Governemnt	**Introduced by:**	Representative Gibson
Date:	April 22, 1999	**Summary by:**	Theresa Matula
Version:	1st Edition		Committee Staff

SUMMARY:

House Bill 1104 clarifies the designation of exempt State Government positions with regard to positions that are created, transferred, or reorganized.

CURRENT LAW:

Chapter 126, of the General Statutes covers the State Personnel System, Section 5 defines those employees that are subject and those that are exempt from the Chapter. G.S. 126-5(d) specifies those positions that are exempt from the Chapter. Sub-subsection (1) outlines the exempt positions in Cabinet Departments; sub-subsection (2) outlines exempt positions in Council of State Departments and Offices; sub-subsection (3) specifies the designation shall be in a letter to the State Personnel Director, the Speaker of the House of Representative, and the President of the Senate; sub-subsection (4) covers vacancies; and sub-subsection (5) covers creation, transfer or reorganization and the designation of exempt status.

G.S. 126-5(d)(5) requires that after May 1 of the year in which the oath of office is administered to the Governor, the Governor, elected department head, or State Board of Education may designate as exempt a *policymaking* position that is created or transferred to a different department or is located in the department in which reorganization has occurred. Designation is made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days.

BILL ANALYSIS:

House Bill 1104 eliminates the requirement that positions be "policymaking" with regard to the exempt designation under G.S. 126-5(d)(5).

Definitions under G.S. 126-5 (b)(1):

- **"Exempt position"** means an exempt managerial position or an exempt policymaking position.
- **"Exempt managerial position"** means a position delegated with significant managerial or programmatic responsibility that is essential to the successful operation of a State department, agency or division.
- **"Exempt policymaking position"** means a position delegated with the authority to impose the final decision as to a settled course of action to be followed within a department, agency, or division so that a loyalty to the Governor or other elected department head in their respective offices is reasonably necessary to implement the policies of their offices.

This act becomes effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 9, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glen Peterson	DOA, Administration Bldg
Cam Cover	BPMHL
Wendy Mills	SEANC
Carl Goodwin	OSP
Stephanie Mansun	NC Assoc. of Realtors
Michelle Cook	Weyerhaeuser
Dianne Beasley	Forest Resources Division
Doug Duncan	NC Forestry Assoc.
Andy Romanet	N.C.L.M.
B L Scarboro	GNNC
[illegible]	NCAHA

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 9, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Troy Green	SEANC
Dana Ahmed	SEANC
Jan Ramsey	NCDPI

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 16,1999

11:00 AM and 1:00 PM

ROOM 1124 LB

Bills

•	HB 228	State Employees Combined Campaign	Rep. Mosley and Rep. Hensley
•	HB 684	Municipalities' Tree Ordinance	Rep. Mosley
•	HB 800	Durham County Trust Fund Investme	Rep. Michaux
•	HB 803	Durham County Zoning Notice	Rep. Michaux
•	HB 1104	Exempt Position Clarification	Rep. Gibson
•	HB 570	Carolina Shores 201	Rep. Redwine
•	HB 447	Asheville Antidiscrimination Act	Rep. Nesbitt
•	HB 707	Broadway Form of Govt.	Rep. Cox
•	HB 531	Lee Hunting Bill	Rep. Cox

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 16, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 16, 1999 at 1:00 p. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 228,State Employees Combined Campaign, was explained by Rep. Hensley. Glen Peterson, DOA, answered questions. Sen. Albertson moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

HB 684, Municipalities' Tree Ordinance, was explained by Rep. Hensley. Sen. Soles moved to adopt a Proposed Committee Substitute. The motion carried. Sen. Soles moved to give the Proposed Committee Substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 447, Asheville Antidiscrimination Act, was explained by Rep. Nesbitt. Sen. Balance moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

Senator Kinnaird turned the meeting over to Sen. Dalton.

HB 570, was explained by Sen. Soles. Sen. Ballance moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

HB 1104, Exempt Position Clarification, was re-explained by Sen. Dalton. Sen. Miller moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

CORRECTED REPORT

Wednesday, June 16, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS#1)**228** State Employees Combined Campaign.
Sequential Referral: None
Recommended Referral: None

H.B. **447** Asheville Antidiscrimination Act.
Sequential Referral: None
Recommended Referral: None

H.B. **570** Carolina Shores 201.
Sequential Referral: None
Recommended Referral: None

H.B. **1104** Exempt Position Clarification.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL #1, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.(CS#1)**684** Municipalities' Tree Ordinances.
Draft Number: PCS 3432
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED:5

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 228
Committee Substitute Favorable 4/29/99

Short Title: State Employees Combined Campaign. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE STATE EMPLOYEES COMBINED CAMPAIGN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340 is amended by adding a new subdivision to read:

"(26) To establish the State Employees Combined Campaign in the Department of Administration to allow State employees the opportunity to contribute to charitable nonpartisan organizations in an orderly and uniform process, with the authority to adopt all rules necessary to implement the campaign."

Section 2.(a) Any rule pertaining to the State Employees Combined Campaign adopted prior to the effective date of this act is ratified and affirmed.

Section 2.(b) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Administration may adopt temporary rules to implement the provisions of G.S. 143-340(26), as amended by Section 1 of this act.

Section 3. This act is effective when it becomes law and applies to any rule-making proceeding initiated by the Department of Administration for the State Employees Combined Campaign before that date.

HB 228:
State Employees Combined Campaign

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	
Date:	June 9, 1999	**Summary by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 228 provides the Secretary of Administration with the express authority to establish the State Employees Combined Campaign and ratifies existing rules pertaining to the SECC.***

CURRENT LAW: The State Employees Combined Campaign was developed for the purpose of providing state employees the "opportunity to contribute to charitable nonpartisan organizations in an orderly and uniform process." 1 NCAC 35.0102. The Department of Administration has adopted comprehensive rules governing the State Employees Combined Campaign citing G.S. 143-3.3 (allowing for payroll deductions) and G.S. 143B-10 (powers and duties of heads of principal departments) as the underlying authority for the program.

BILL ANALYSIS: House Bill 228 adds a new subsection to G.S> 143-340, powers and duties of the Secretary, to provide specific authority to establish the SECC. The bill also ratifies the existing rules for the SECC and allows the Secretary to adopt temporary rules to implement the program.

The act is effective when it becomes law and applies to any rule making procedure initiated for the SECC by the Department of Administration prior to that date.

FACT SHEET

HB 228
STATE EMPLOYEES COMBINED CAMPAIGN

1. HB 228 clarifies rule-making authority for the SECC, by formally establishing the organization in the Department of Administration and giving rulemaking authority to the Secretary of Administration.

2. The SECC establishes an orderly and uniform method for State employees to contribute to charitable nonpartisan organizations through payroll deduction. [The payroll deduction is authorized by G.S. § 143-3.3(h), but no mention is made of the campaign organization.]

3. 14th year of SECC (established originally by Executive Order).

4. Total cost of campaign is paid from receipts of the drive; no appropriations needed.

5. In 1998 (the last campaign),

-- $3,875,000 raised, the most ever, and 12% increase over 1997. This is the 5th consecutive year of double digit percentage increases from the previous year.

-- 40% of State employees contributed to the campaign, the highest level ever. This is approximately 42,000 State employees and does NOT include community college and public school employees.

-- 1,200 charitable organizations benefited, pursuant to directions from each State employee as to what charities to which they wished to contribute.

-- Average gift in 1997 was $90 per employee per year.

-- 83% of the pledges are received through payroll deduction, the remainder by check.

-- Expenses were 13% of receipts, including state office and local managers' expenses. This is well below the national charitable fundraising recommendation level of 25%.

6. From its inception, the rules for the SECC organization have been in Title 1 of the N.C. Administrative Code, that being the title for the rules of the Department of Administration ("DOA"). It has been assumed that the Secretary of Administration has the rule-making authority for the SECC; however, nothing is said in the General Statutes about rule-making for the campaign organization itself. (There is a mention of the State Controller adopting rules for payroll deduction, but this does not authorize the Controller to adopt rules for the actual working of the SECC.)

7. When rule amendments were needed, a review of the statute as to the rule-making authority for the SECC was done and the issue was sufficiently uncertain so that the need for this clarifying provision became clear. (This conclusion was supported by the Rules Review Commission staff in an informal review of the statute.)

8. Passage of this provision will place the SECC in DOA conclusively and give the Secretary the rule-making authority for it. In addition, it insures that the campaign's current rules are ratified by the General Assembly, if there were any question, and that any current rule-making proceeding is covered by this clarification. Of course, the legislature will be able to review the rule changes and determine if they are objectionable or not as with any other rules that will come before the 2000 short session of the General Assembly.

R. Glen Peterson
General Counsel
N.C. Department of Administration
116 West Jones Street, Suite 5106
Raleigh, North Carolina 27603-8003
(919) 733-7232

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 684
Committee Substitute Favorable 4/15/99

Short Title: Municipalities' Tree Ordinances. (Local)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWNS OF APEX, CARY, GARNER, AND MORRISVILLE TO ADOPT ORDINANCES REGULATING REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES AND SHRUBS WITHIN THE TOWNS AND THE TOWNS' EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In order to preserve and enhance one of the most valuable natural resources of the community and to protect the health, safety, and welfare of its citizens, a municipality may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipality. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses, and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared by a forester registered pursuant to Chapter 89B of the General Statutes.

Section 2. Prior to adopting an ordinance authorized by Section 1 of this act, a public hearing shall be held before the municipality's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364.

Section 3. This act shall apply only to the Towns of Apex, Cary, Garner, and Morrisville and to the areas within those towns' extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 684
Committee Substitute Favorable 4/15/99
Proposed Senate Committee Substitute H684-PCS3432-RF

Short Title: Municipalities' Tree Ordinances. (Local)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF KINSTON AND THE TOWNS OF APEX, CARY, GARNER, AND MORRISVILLE TO ADOPT ORDINANCES REGULATING REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES AND SHRUBS WITHIN THE TOWNS AND THE TOWNS' EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, a municipality may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipality. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes.

Section 2. Prior to adopting an ordinance authorized by Section 1 of this act, a public hearing shall be held before the municipality's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364.

Section 3. This act shall apply only to the City of Kinston and the Towns of Apex, Cary, Garner, and Morrisville and to the areas within those towns' extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

Section 4. This act is effective when it becomes law.

HB 684:
Municipal Tree Ordinances

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep. Mosley
Date:	June 8, 1999	**Summary by:**	Barbara Riley
Version:	Proposed Committee Substitute		Committee Counsel

BILL ANALYSIS:

House Bill 684 is a local bill that would allow the towns of Apex, Cary, Garner, and Morrisville to adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipality and the municipality's extraterritorial planning jurisdiction. Ordinances must exclude:

1. Property to be developed for single-family or duplex residential uses.
2. Normal forestry activities conducted under a forestry management plan.

A public hearing is required prior to the adoption of an ordinance.

The proposed committee substitute adds the City of Kinston to the bill.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 447*

Short Title: Asheville Antidiscrimination Act. (Local)

Sponsors: Representative Nesbitt.

Referred to: Local Government I.

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF ASHEVILLE TO PROHIBIT ACTS OF DISCRIMINATION IN EMPLOYMENT BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR AGE.

The General Assembly of North Carolina enacts:

Section 1. Definition. -- As used in this act, "person" means one or more individuals, governments, governmental agencies, political subdivisions, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees-in-bankruptcy, or receivers. Person does not include a bona fide private membership club other than a labor organization that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954.

Section 2. Authority to adopt ordinances. -- (a) The City of Asheville ("City") may adopt ordinances to prohibit discrimination in employment based on race, color, national origin, religion, sex, disability, or having attained the age of 40 or more years. To assist in the enforcement of these ordinances, the City may, in these ordinances, adopt procedures and delegate powers to the Asheville-Buncombe Community Relations Council ("Council") that are necessary and proper for carrying out and enforcing these ordinances. The Council may:

(1) Receive, initiate, and review complaints that allege a violation of the ordinance has occurred.

(2) Conduct investigations into the basis of complaints.

(3) Apply to the superior court for mandatory or prohibitory injunctive relief, or both, pursuant to Rule 65 of the North Carolina Rules of Civil Procedure if it determines, after a

preliminary investigation, that prompt judicial action is necessary to carry out the purposes of the ordinance.

(4) Make a determination of whether or not there is reasonable cause to believe that an unlawful discriminatory practice has occurred.

(5) Dismiss complaints in these cases when the Council determines that reasonable cause does not exist.

(6) Issue a right-to-sue letter to any complainant in those instances where the Council has failed to make a determination of reasonable cause in a timely manner, determines that reasonable cause does not exist, or where conciliation efforts have failed.

(7) Attempt to conciliate a resolution of the complaint between the parties.

(8) Enter into conciliation agreements in instances where conciliation efforts have been successful.

Section 2.(b) When conducting investigations pursuant to subdivision (2) of subsection (a) of this section, the Council may:

(1) Subpoena witnesses, administer oaths, and compel the production of evidence.

(2) Take depositions and serve interrogatories in accordance with Chapter 1A of the General Statutes, the Rules of Civil Procedure.

Section 2.(c) In the event any person refuses to comply with a subpoena or discovery request under subsection (b) of this section, the Council may apply to the Buncombe County Superior Court for an order to compel compliance with the subpoena or discovery request. No testimony of any witness before the Council pursuant to a subpoena issued under this section may be used against the witness in the trial of any criminal action other than a prosecution for false swearing committed on the examination.

Section 2.(d) The General Assembly does not intend to expand the authority or powers of the Council beyond those prescribed by federal laws or regulations with respect to a specific employer. The Council may, as part of an enforcing order, require any person to cease and desist from unlawful practices and to engage in all of the following additional remedial actions as may be appropriate, including, but not limited to, requiring the person to:

(1) Hire, reinstate, or upgrade aggrieved individuals, with or without back pay.

(2) Admit aggrieved individuals to or to allow aggrieved individuals to participate in guidance programs, apprenticeship training programs, on-the-job training programs, or other occupational training programs; and to use objective criteria in the admission of any individual to these programs.

(3) Submit to the Council, for approval or disapproval, plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex, disability, or age.

(4) Provide technical assistance to aggrieved individuals.

(5) Report as to the manner of compliance with this act.
(6) Post notices in conspicuous places in the form prescribed by the Council.

Section 3. Judicial review of Council order. -- (a) Except as provided in subsection (b) of this section, judicial review of Council orders shall be in accordance with Article 4 of Chapter 150B of the General Statutes.

Section 3.(b) Notwithstanding the provisions of G.S. 150B-45, petitions for judicial review shall be filed in the Buncombe County Superior Court.

Section 3.(c) For purposes of this section, the term "agency", whenever used in Article 4 of Chapter 150B of the General Statutes, shall have the same meaning as "Council" under this act.

Section 4. Enforcement of Council orders. -- (a) If within 60 days after entry of an order of the Council, a respondent has neither complied with nor sought review of that order, any aggrieved person or the Council may apply to the Buncombe County Superior Court for an order of the court to enforce the order of the Council. The application to superior court must be filed not later than 120 days after entry of the order of the Council.

Section 4.(b) Within 30 days after the court's receipt of the petition for enforcement of the Council's order or within such additional time as the court may allow, the Council shall transmit to the court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the court, the record may be shortened by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for any additional costs as may be occasioned by the refusal. The court, in its discretion, may require or permit subsequent corrections or additions to the record.

Section 4.(c) Subject to subsection (d) of this section, the hearing on the petition for enforcement of the Council's order shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall not take evidence that was not offered at the Council hearing.

Section 4.(d) In cases of alleged irregularities in procedure before the Council not shown in the record, testimony may be taken by the court regarding the alleged irregularities. The judge in his or her discretion may hear all or part of the matter de novo where no record was made of the proceeding or where the record is inadequate.

Section 4.(e) The court shall issue the order requiring compliance with the Council's order unless the court finds that enforcement of the Council's order would prejudice substantial rights of the party against whom the order is sought to be enforced. The Council's order would prejudice substantial rights of the party against whom the order is sought if the Council's findings, inferences, conclusions, or decisions do any of the following:

(1) Are in violation of constitutional provisions.
(2) Are in excess of the statutory authority or jurisdiction of the Council.
(3) Are made upon unlawful procedure.

(4) Are affected by other error of law.
(5) Are unsupported by substantial evidence in view of the entire record as submitted.
(6) Are arbitrary or capricious.

Section 4.(f) If the court declines to require compliance with the Council's order, the court shall do one of the following:

(1) Dismiss the petition.
(2) Modify the Council's order and enforce it as modified.
(3) Remand the case to the Council for further proceedings.

Section 4.(g) Any party to the hearing on the petition for enforcement of the Council's order may appeal the court's decision to the appellate division pursuant to the North Carolina Rules of Appellate Procedure.

Section 5. Civil action for unlawful employment practice. -- (a) An ordinance adopted pursuant to this act may permit any complainant dissatisfied with the Council's final disposition of a matter to bring a civil action in the Buncombe County Superior Court against the person allegedly engaging in the unlawful practice. A civil action for an unlawful employment practice shall not be brought more than one year after a charge of discrimination was filed with the Council or more than 60 days after the complainant's receipt of notification of the Council's final disposition of the matter, whichever is later.

Section 5.(b) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in an unlawful employment practice and order any action as may be appropriate, which may include, but is not limited to: reinstatement or hiring of employees, with or without back pay by the person, firm, corporation, or association responsible for the unlawful practice; or any other equitable relief as the court deems appropriate. Back pay shall not accrue from a date more than two years prior to the filing of a charge with the Council. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require any remedies under this act, if the individual was refused employment or advancement or was suspended or discharged for any reason other than discrimination based on race, color, religion, sex, national origin, disability, or age in violation of an ordinance adopted pursuant to this act.

Section 5.(c) In any action or proceeding under an ordinance adopted pursuant to this act, the court, in its discretion, may award the prevailing party reasonable attorneys' fees as part of the costs.

Section 6. Discrimination based on opposition to unlawful practices or participation in an investigation, proceeding, or hearing. -- It shall be an unlawful employment practice for any employer to discriminate against any employees or applicants for employment or to discriminate against any individual, or for a union labor organization to discriminate against any member of its union or applicant for membership, because the individual opposed an unlawful employment practice adopted by ordinance pursuant to this act or because the individual has made a

charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under such an ordinance.

Section 7. Cases deferred by Equal Employment Opportunity Commission. -- The City may authorize the Council to serve as a deferral agency for cases deferred by the Equal Employment Opportunity Commission as provided in section 706 of the Civil Rights Act of 1964, 42 U.S.C. § 20000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq., and the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

Section 8. Access to records. -- The Council, at all reasonable times, shall have access to and the right to copy any evidence of any person being investigated that relates to an unlawful employment practice under an ordinance adopted pursuant to the act and relevant to the charge under investigation. Information discovered during such an investigation shall not be made public by the Council until offered into evidence in an administrative hearing or judicial proceeding.

Section 9. Public records. -- The provisions of G.S. 132-6 and G.S. 132-9 shall not apply to records concerning the investigation, conciliation, or mediation of alleged violations of an ordinance enacted pursuant to this act.

Section 10. This act applies only to the City of Asheville.

Section 11. This act is effective when it becomes law.

HB 447:
Asheville Antidiscrimination Act

BILL ANALYSIS

Committee:	Senate State and Local Gov't	**Introduced by:**	Representative Nesbitt
Date:	March 24, 1999	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 447 authorizes the City of Asheville to adopt ordinances prohibiting discrimination in employment based on race, color, national origin, religion, sex, disability, or age.***

CURRENT LAW:

(1) N.C. Const. Art. II, Sec. 24(1)(j) prohibits local acts regulating labor, trade, mining or manufacturing.

(2) A number of other localities, notably Wilmington and Durham, have local antidiscrimination acts. Apparently the constitutional issue has not been raised heretofore.

BILL ANALYSIS: House Bill 447 authorizes Asheville to adopt ordinances prohibiting discrimination in employment. The provisions of the bill are constitutionally suspect as local acts regulating labor are prohibited under Article II, Sec. 24 (1)(j) of the North Carolina Constitution.

Ordinances adopted pursuant to the act would apply to all persons except a bona fide private membership club. To enforce the provisions of any ordinance adopted, the City may delegate power to the Asheville-Buncombe Community Relations Council. The Council may receive and initiate complaints,. conduct investigations, apply to the Superior Court for injunctive relief, determine whether there is reasonable cause to believe that discrimination has occurred, issue a right to sue letter, attempt conciliation and enter into conciliation agreements.

The bill states that the General Assembly does not intend to expand the authority of the City beyond those powers prescribed by Federal law with respect to a specific employer. The Council may require, as part of its enforcement powers, a number of remedial actions including ordering a person to hire or reinstate an employee, with or without back pay, requiring the submission of plans to eliminate or reduce imbalance with respect to the stated classes, providing technical assistance, and providing training assistance, such as admission to training programs, to aggrieved persons.

Judicial review of Council orders shall be in accordance with Article 4 of Chapter 150B of the General Statutes. All actions are to be filed in the Buncombe County Superior Court.

The bill also contains provisions that would allow a dissatified complainant to file suit in the Buncombe County Superior Court. It makes discrimination based on opposition to unlawful practices or participation in an investigation an unlawful employment practice. The City may also authorize the Council to serve as a deferral agency for EEOC cases.

Finally, G.S. 132-6 and G.S.132-9, concerning inspection and access to public records, shall not apply to record concerning the investigation, conciliation, or mediation of alleged violations.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 570

Short Title: Carolina Shores 201. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Local Government I.

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE TOWN OF CAROLINA SHORES FROM THE 201 PLANNING AREA IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Carolina Shores is removed from the 201 Planning Area in Brunswick County.

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

H570:
Carolina Shores 201

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Redwine
Date:	May 17, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 570 seeks to remove the Town of Carolina Shores from a wastewater planning area in Brunswick County.

This bill is constitutionally suspect because it is a local bill that deals with issues relating to health and sanitation.

CURRENT LAW: Article II Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local legislation relating to health and sanitation. Any act enacted in violation of this provision is "void." [1]

In Lamb v. Board of Education, 235 N.C. 377 (1952), the North Carolina Supreme Court was asked to consider the constitutionality of a local act who's sole purpose was to prescribe provisions with respect to sewer and water service for local school children in Randolph County. The court held that the act was unconstitutional because it violated the constitutional prohibition against enacting local legislation relating to health and sanitation.

This principal was again revisited by the North Carolina Supreme Court Gaskill v. Costlow, 270 NC 686 (1967), where the court agreed with a lower court that a local act relating to the extension of sewage outfalls was unconstitutional.

BACKGROUND: According to DENR, the South Brunswick Sewer Authority ("SBWASA"), and counsel for the community Carolina Shores, the phrase "201 planning area" refers to section 201 of the federal Clean Water Act. Section 201 of the Clean Water Act deals with wastewater treatment *i.e.*, the water that s discharged by a sewage treatment plant after it treats sewage.

A 201 planning area represents points on a map that are used by DENR and federal authorities as part of the permitting process for sewage treatment facilities. Available information suggests that SBWASA has not yet obtained the necessary permits to operate a sewage treatment facility.

SBWASA and the community of Carolina Shores have been involved in a dispute that, in part, centers around storm-water run off and SBWASA's collection of storm-water fees. This dispute has led to the institution of two lawsuits – the latest was filed in federal court in May of this year.

ANALYSIS: House bill 570 is a local bill that addresses a "201 planning area" in Brunswick County. "201 planning areas" are used in the permitting process for sewage treatment facilities. If the bill is enacted, and challenged it could be held to be unconstitutional.

[1] Article II Section 24

If the bill is intended to resolve the current dispute over SBWSA's collection of storm-water fees in the community of Carolina Shores, it may not accomplish its goal. The reason for this is twofold. First, SBWASA is a creature of statute and its authority to collect fees is derived directly from the general statutes. Since this bill does not address the general statutes, it is questionable whether it would have any impact on SBWASA's ability to collect these fees. Second, even without an operating permit, which is what the 201 planning area is being used for, SBWASA has been able to collect these fees. Thus, its ability to collect the fees, without a permit, suggests that taking SBWASA out of a 201 area would have no effect on its ability to collect fees.

The available information suggests SBWASA's ability to collect storm-water fees is the result of a contract between SBWASA and another utility or drainage area plus the authority granted to sewer and treatment authorities under the general statutes.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 1104

Short Title: Exempt Position Clarification. (Public)

Sponsors: Representatives Gibson; and Mosley.

Referred to: State Personnel.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT CLARIFYING THE DESIGNATION OF EXEMPT POSITIONS IN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-5(d)(5) reads as rewritten:

"(5) Creation, Transfer, or Reorganization. -- The Governor, elected department head, or State Board of Education may designate as exempt a ~~policymaking~~ position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after May 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred."

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

HOUSE BILL 800:
Durham County Trust Fund Investments

BILL ANALYSIS

Committee:	Senate Local State & Local Gov.	**Introduced by:**	Reps. Michaux; Mosley and Leubke
Date:	April 27, 1999		
Version:	First Edition	**Summary by:**	Giles S. Perry & Ed Rossi Committee Counsel

SUMMARY: House Bill 800 authorizes Durham County or its designee to invest the funds of the Community Health Trust Fund in any investment authorized for the State Treasurer in G.S. 147-69.2.

Under current law, the funds of the Community Trust Fund can invested as authorized under G.S. 159-30.

BACKGROUND: Staff reports that the State Treasurer's Office is recommending that bills of this type also subject municipalities to the same investment restrictions (portfolio percentages, etc) that are imposed on the State Treasurer.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 800

Short Title: Durham County Trust Fund Investments. (Local)

Sponsors: Representatives Michaux; Mosley and Luebke.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO INVESTMENT OF HEALTH TRUST FUND MONIES BY THE COUNTY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. The County of Durham, or any governing body, agency, person, or other corporation that contracts with Durham County for the investment, care, or administration of monies held by the County in its Community Health Trust Fund may invest and reinvest monies constituting the Fund 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.

Section 2. This act shall apply only to monies constituting the Community Health Trust Fund. Limitations on investment and reinvestment of Fund assets may be enacted by the Durham County Board of Commissioners.

Section 3. This act, insofar as it authorizes certain investments, amends G.S. 159-30 with regard to the investment of the Durham County Community Health Trust Fund only.

Section 4. This act is effective when it becomes law.

H803:
Durham Zoning Notices

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Michaux
Date:	June 9,1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 803 requires that a notice of violation be served on property owners in Durham County when their property violates a county zoning ordinance. This service may be accomplished in one of three ways:

- ***Personal service of the notice of violation.***
- ***Service of the notice by certified or registered mail.***
- ***Service by publication in a newspaper of general circulation, provided that the owner's whereabouts are unknown and cannot be ascertained by exercising reasonable diligence or that the owner refuses to accept service by registered or certified mail.***

CURRENT LAW: Article 18 of Chapter 153A of the General Statutes grants counties the authority to regulate land use.[1] Prior to adopting or amending a land use regulation (ordinance) a county is required to hold a public hearing.[2] Ordinances adopted pursuant to this grant of power can be enforced by way of civil penalties, injunctions, or orders of abatement.[3] Unless a county ordinance provides otherwise, violation of a county ordinance is a misdemeanor or infraction.[4]

There is no current provision in Article 18 of Chapter 153A that requires a county to serve a notice of violation.

ANALYSIS: House bill 803 needs a technical correction on line 6 so that the reference to General Statute citation refers to Chapter 153A (which governs counties) and not Chapter 160A (which governs cities and towns).

[1] G.S. § 153A-340
[2] See G.S. §§ 153A-323 & 343
[3] See G.S. §§ 153A-123 & 324
[4] G.S. § 153A –123(b)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 803

Short Title: Durham County Zoning Notices. (Local)

Sponsors: Representatives Michaux; and Luebke.

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE DURHAM COUNTY WITH ADDITIONAL OPTIONS FOR SERVICE OF PROCESS IN ZONING CODE CASES.

The General Assembly of North Carolina enacts:

Section 1.(a) Notice of violation of an ordinance adopted under Parts 1, 2, and 3 of Article 18 of Chapter 160A of the General Statutes shall be served upon violators either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice of violation may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 1.(b) If the identities or the whereabouts of violators are unknown and cannot be ascertained after the exercise of reasonable diligence, or if the violators are known but refuse to accept service by registered or certified mail and an affidavit is made to that effect, then the serving of the notice of violation upon the violators may be made by publication at least once in a newspaper having general circulation in the county. When service is made by publication, a notice of violation shall be posted in a conspicuous place on the premises affected.

Section 2. This act applies to Durham County only.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 707

Short Title: Broadway Form of Government. (Local)

Sponsors: Representative Cox.

Referred to: Local Government II.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE TOWN TO OPERATE UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, is amended by adding a new section to read:

"Sec. 4A. The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes. The town manager shall have all the powers and duties conferred by general law and the additional powers and duties conferred by the council so far as authorized by general law."

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

H707:
Broadway Form of Government

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Cox
Date:	May 11, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 707 requires the Town of Broadway to adopt a council-manager form of government.

CURRENT LAW: G.S. §160A-101 allows cities and towns to adopt a council-manager form of government without the need for local legislation by the General Assembly.

BILL ANALYSIS: House bill 707 appears to do through local legislation what the town could have accomplished on its own initiative pursuant to the authority granted by G.S. § 160A-101.

BACKGROUND: The Town of Broadway is situated in Lee County. It has a land area of approximately 1.3 square miles and a population of approximately 1,000 people.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 531*
Committee Substitute Favorable 4/7/99

Short Title: Lee Hunting Regulation. (Local)

Sponsors:

Referred to:

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow or crossbow, or other deadly weapon while on the land of another unless the person is a spouse, child, or grandchild of the landowner or has on his person a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare. This

section shall not apply to law enforcement officers who discharge their firearms in the lawful discharge of their duties.

Section 4. Violation of the provisions of Sections 1 through 3 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Lee County.

Section 7. This act becomes effective October 1, 1999.

VISITOR REGISTRATION SHEET

State & Local Gov. 6-16-99

Name of Committee Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Mike Carpenter	NCCBSA
Stephanie Manson	NCAR
Starla McKenney	NC DOI
Patrick McCarey	NC OSP
Sandra Johnson	SECC
Glen Peterson	DOA
Dianne Beasley	Forest Resources
Bob Sturgeon	NC Forestry Association
R. Paul Wilms	NCMBA
John Rusher	NCFPC
John Phelps	NCLM

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 23,1999

11:00 AM

ROOM 1124 LB

Bills

• HB 843	Chapel Hill Local Act	Rep. Insko
• HB 707	Broadway Form of Govt	Rep. Cox
• HB 800	Durham County Trust Fund Investmen	Rep. Michaux
• HB 801	Durham Antidiscrimination	Rep. Michaux
• HB 842	Carrboro Aldermen Name Change	Rep. Insko

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 23, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 23, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 843,Chapel Hill Local Act, was explained by Sen. Lee. Sen. Ballance moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Clodfelter offered an amendment. Sen. Miller moved to adopt the amendment. The motion carried unanimously. Sen. Lee requested that the bill not be voted on today. Sen. Kinnaird explained one speaker, supporting each view of the bill, from the audience would be allowed to speak for three minutes each. Sen. Kinnaird was excused from the meeting and Sen. Miller presided. Mike Holden, chairmen of the Moore County Commissioner spoke against the bill. Walker Morris, chair of the Moore County Democratic Party, spoke in favor of the bill. Elizabeth Kelly, resident of Moore County spoke against the bill. Jesse Wimberly, Piedmont Peace Project, presented a petition containing 500 signatures of residents from Moore County supporting the bill.

HB 707, Broadway Form of Government, was explained by Rep. Cox. Sen. Horton moved to give the bill a favorable report. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 23, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **707** Broadway Form of Government.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99

Short Title: Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 2. Section 1 of this act applies to the Town of Chapel Hill only.

Section 3. This act is effective when it becomes law.

H843-PCS7257-LB:
Moore Commisioners Districts

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	
Date:	June 23,1999	**Summary by:**	Ed Rossi
Version:	H843-PCS7257-LB		Committee Co-Counsel

SUMMARY: The proposed committee substitute to House bill 843 changes the way that county commissioners in Moore County are elected from a residency district system to an electoral district system. In addition, the bill also requires the current board of county commissioners to redefine 4 out of the existing 5 electoral districts by August 15th so that all 5 of the county commissioner districts fall into an overall range of population deviation of 10%.

CURRENT LAW: Under current law,[1] Moore County has 5 county commissioners and 5 districts for the nomination and election of county commissioners. These districts are residency districts – meaning that only persons who reside in a particular district can run for office as a representative of that district, but votes that decide who gets to represent the district are county-wide.

BILL ANALYSIS: The proposed committee substitute to House bill 843 would require Moore County to elect its county commissioners using a system of electoral districts. Under an electoral district system of elections, only persons who reside in a particular district can run for office as a representative of that district, but votes that decide who gets to represent the district are those of the voters residing in the particular district.

BACKGROUND: The Moore County Commissioners oppose the proposed change in electoral systems.

[1] Chapter 153 of the 1965 Session Laws.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 843 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCS

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 1, line 17

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "August", and substituting "September"

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED Daniel G Clodfelter

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

RESOLUTION
IN OPPOSITION TO THE PROPOSED INTRODUCTION OF A BILL BY HOWARD LEE (D) REPRESENTATIVE OF THE 16th DISTRICT FOR CONSIDERATION BY THE NORTH CAROLINA GENERAL ASEMBLY TO AMEND THE METHOD OF ELECTING COUNTY COMMISSIONERS IN MOORE COUNTY FROM DISTRICT AT-LARGE TO PURE DISTRICT FORM

Whereas, Moore County Voters have elected their County Commissioners at-large, both Democrat and Republican for many years; and

Whereas, County Commissioners must reside within area districts during their term of office; and

Whereas,Currently every voter may vote for all five Commissioner seats on the Moore County Board; a change to district voting will deprive all voters of the opportunity to vote for four of the County Commissioners; and

Whereas, Redistricting voting to specific districts will encourage partisan politics in Moore County government and compel Commissioners to favor the narrow special interests of districts rather than work for and benefit the consensus and common goals of the entire County; and

Whereas, At-large and district at-large election processes encourage all candidates to appeal to the voters throughout Moore County and not just their residential district; and

Whereas, Sixty-four counties within North Carolina use the at-large or district at-large system for local Commissioner elections, while only twelve counties conduct pure district form elections as advocated by Senator Howard Lee; and

Whereas, While Senator Lee's home county of Orange elects their County Commissioners by the at-large system, Senator Lee is compelled by politics to change the election process in Moore County; and

Whereas, There is little support within Moore County for this amendment.

Now, Therefore Be It Resolved, The members of Moore County Republican Men's Club believe the current district at-large election process has successfully served the citizens of Moore County in election of Commissioners for many years, and provides the opportunity for each citizen to vote for all County Commissioners, and for each County Commissioner to serve the interest of the entire County; and

Be It Futher Resolved, The Moore Republican Men formally and vigorously oppose the efforts of Senator Howard Lee of Orange County to change the fair and impartial system of electing County Commissioners in Moore County

Adopted this the tenth Day of June, 1999

John Reburn, President

32 Thunderbird Circle
Pinehurst, N. C. 28374
June 23, 1999

My name is Mary Williams. I have lived in Moore County for 3 years and have been active in Republican political affairs. I came from Frederick County, Md. after living there for 25 years. Though I am not as long time resident of this county, I do have some county government experience. I was appointed to the Frederick County Planning and Zoning Board and served on it for almost 5 years. Following that I ran for the office of County Commissioner. I was elected and served as Chairman of the Board, which called for full time management of county affairs.

I'll start out by saying I am opposed to an election system wherein voters vote only for candidates living within their district of the county rather than the county at large. If the proposed new system is adopted, the public will only vote for 1 commissioner and not the whole Board. Yet all 5 commissioners affect each district. Since the voting public will only have 1 commissioner that is directly answerable to them, how much influence will a citizen have with those commissioners that know you can't vote for them?

The cost of running our county government under the proposed new system where commissioners represent only a fraction of the county will be inflated by political bickering and bargaining - the "I'll vote for the project in your district if you vote for the project in mine," syndrome. Political pork bargaining leads to higher spending, waste, and higher taxes and NO ONE needs to face higher taxes. Since each commissioner's vote affects all Moore county citizens, the whole Board should be elected by all the citizens in the county.

If Republicans or Democrats are dissatisfied with their commissioners, the answer to the problem is not to reduce the number of commissioners for whom the citizens can vote. The answer is to seriously search for good candidates to run and be elected. It is not difficult for a candidate to make himself or herself known in Moore County. I did not find it a problem in Frederick County and Moore County is about the same size.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 707

Short Title: Broadway Form of Government. (Local)

Sponsors: Representative Cox.

Referred to: Local Government II.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE TOWN TO OPERATE UNDER A COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, is amended by adding a new section to read:

"Sec. 4A. The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes. The town manager shall have all the powers and duties conferred by general law and the additional powers and duties conferred by the council so far as authorized by general law."

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

H707:
Broadway Form of Government

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Cox
Date:	May 11, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 707 requires the Town of Broadway to adopt a council-manager form of government.

CURRENT LAW: G.S. §160A-101 allows cities and towns to adopt a council-manager form of government without the need for local legislation by the General Assembly.

BILL ANALYSIS: House bill 707 appears to do through local legislation what the town could have accomplished on its own initiative pursuant to the authority granted by G.S. § 160A-101.

BACKGROUND: The Town of Broadway is situated in Lee County. It has a land area of approximately 1.3 square miles and a population of approximately 1,000 people.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 842
Committee Substitute Favorable 4/19/99

Short Title: Carrboro Aldermen Name Change. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO CHANGE THE NAME OF THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

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

HOUSE BILL 800:
Durham County Trust Fund Investments

BILL ANALYSIS

Committee:	Senate Local State & Local Gov.	**Introduced by:**	Reps. Michaux; Mosley and Leubke
Date:	April 27, 1999		
Version:	First Edition	**Summary by:**	Giles S. Perry & Ed Rossi Committee Counsel

SUMMARY: House Bill 800 authorizes Durham County or its designee to invest the funds of the Community Health Trust Fund in any investment authorized for the State Treasurer in G.S. 147-69.2.

Under current law, the funds of the Community Trust Fund can invested as authorized under G.S. 159-30.

BACKGROUND: Staff reports that the State Treasurer's Office is recommending that bills of this type also subject municipalities to the same investment restrictions (portfolio percentages, etc) that are imposed on the State Treasurer.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 800

Short Title: Durham County Trust Fund Investments. (Local)

Sponsors: Representatives Michaux; Mosley and Luebke.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO INVESTMENT OF HEALTH TRUST FUND MONIES BY THE COUNTY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. The County of Durham, or any governing body, agency, person, or other corporation that contracts with Durham County for the investment, care, or administration of monies held by the County in its Community Health Trust Fund may invest and reinvest monies constituting the Fund 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.

Section 2. This act shall apply only to monies constituting the Community Health Trust Fund. Limitations on investment and reinvestment of Fund assets may be enacted by the Durham County Board of Commissioners.

Section 3. This act, insofar as it authorizes certain investments, amends G.S. 159-30 with regard to the investment of the Durham County Community Health Trust Fund only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 801

Short Title: Durham City Antidiscrimination. (Local)

Sponsors: Representatives Michaux; Adams and Luebke.

Referred to: Local Government I.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND HOUSING BASED ON CRITERIA IN ADDITION TO RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, AND AGE, AND TO PRESCRIBE THE PROCEDURE FOR THE ADOPTION OF ANY SUCH ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. The full title of Chapter 227 of the 1993 Session Laws reads as rewritten:

"AN ACT TO AUTHORIZE THE CITY OF DURHAM AND DURHAM COUNTY TO PROHIBIT ACTS OF DISCRIMINATION IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR ~~AGE.~~ AGE AND TO AUTHORIZE THE CITY OF DURHAM TO PROHIBIT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND HOUSING BASED ON CRITERIA IN ADDITION TO RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, AND AGE, AND TO PRESCRIBE THE PROCEDURE FOR THE ADOPTION OF ANY SUCH ORDINANCE."

Section 2. Section 2 of Chapter 227 of the 1993 Session Laws, as amended by Chapter 537 of the 1995 Session Laws, reads as rewritten:

"Sec. 2. Authority to adopt ordinances. -- A city or county may adopt ordinances to prohibit discrimination in employment and public accommodations based on race, color, national origin, religion, sex, disability, ~~or~~ having attained the age of 40 or

more ~~years.~~ years, or any other criteria prescribed in an ordinance pursuant to Section 2.2 of this act. To assist in the enforcement of these ordinances, a city or county may create an agency or commission of the city or county ('the Agency') to take any actions and to have any powers as are appropriate and necessary to implement these ordinances including, but not limited to, the powers to: receive; initiate; investigate; seek to conciliate; hold hearings on and pass upon complaints; mediate alleged violations of these ordinances; issue orders against persons it finds, after notice and hearing, to have violated these ordinances; and to seek enforcement of the orders by a court.

The General Assembly does not intend to expand the authority or powers of the Agency beyond those prescribed by federal laws or regulations with respect to a specific employer or public accommodation. The Agency may, as part of an enforcing order, require any person to cease and desist from unlawful practices and to engage in additional remedial action as may be appropriate, including, but not limited to, require the person:

(1) To hire, reinstate, or upgrade aggrieved individuals, with or without back pay;

(2) To admit aggrieved individuals or to allow aggrieved individuals to participate in guidance programs, apprenticeship training programs, on-the-job training programs, or other occupational training or retraining programs; and to use objective criteria in the admission of any individual to these programs;

(3) To submit to the Agency, for approval or disapproval, plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex, disability, or age;

(4) To provide technical assistance to aggrieved individuals;

(5) To report as to the manner of compliance with this act;

(6) To post notices in conspicuous places in the form prescribed by the Agency;

(7) To admit or restore an aggrieved individual to a place of public accommodation.

When the Commission determines that a respondent has engaged in unlawful intentional discrimination in an employment practice (not an employment practice that is unlawful because of its disparate impact), the Commission may enforce an ordinance adopted pursuant to this act by applying to the superior court of the county in which the city is predominantly located for any appropriate legal and equitable remedies, including, but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, compensatory and punitive damages, and the court may grant such remedies. A complainant shall not recover punitive damages against a respondent unless the complainant demonstrates that the respondent engaged in a discriminatory practice with malice or with reckless indifference to the protected rights of an aggrieved individual under an ordinance adopted pursuant to this act.

No compensatory damages shall be awarded for back pay, interest on back pay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(g), as amended.

If a complainant seeks compensatory or punitive damages in an action brought under an ordinance adopted pursuant to this act, any party may demand a trial by jury."

Section 3. Chapter 227 of the 1993 Session Laws, as amended by Chapter 537 of the 1995 Session Laws, is further amended by adding a new section to read:

"Sec. 2.2. An ordinance adopted pursuant to Section 2 of this act may prohibit discrimination in employment and public accommodations based on any criteria in addition to race, color, national origin, religion, sex, disability, or having attained the age of 40 or more years, provided the following procedure is followed with respect to each additional criteria:

(1) The Agency, created pursuant to Section 2 of this act, shall compile a report in which the Agency documents the facts, events, or occurrences that, in the opinion of the Agency, indicate the need for the additional criteria upon which prohibition of discrimination shall be based.

(2) The Agency shall make the report available for public inspection and shall hold at least one public hearing at which persons who wish to comment on the report may do so.

(3) The report, together with any amendments to the report that the Agency may make based upon comments received at the public hearing, shall be transmitted to the city council of the city.

(4) The city council may consider the report and may cause a proposed ordinance to be prepared that prohibits discrimination based on the criteria specified in the report.

(5) The city council shall cause the report and the proposed ordinance to be made available for public inspection in the office of the city clerk at least 10 days prior to the date of the public hearing specified in subdivision (6) of this section.

(6) The city council shall hold at least one public hearing on the proposed ordinance. The public hearing shall be held no sooner than 10 days after the proposed ordinance is made available for public inspection pursuant to subdivision (5) of this section. A notice of the public hearing shall be given at least once in a newspaper having general circulation in the city. The notice shall be published no fewer than five and no more than 10 days before the date of the public hearing.

(7) If after considering the Agency's report, the proposed ordinance, and the comments made at the public hearing, the city council finds that it is in the public interest to adopt the proposed ordinance, or the proposed ordinance with such amendments as

the city council may deem advisable, then the city council may adopt the ordinance or the amended ordinance.

(8) An ordinance adopted pursuant to this section shall provide that the ordinance will terminate at a time no later than five years after adoption unless extended by further action of the city council. A termination of the ordinance pursuant to this subdivision shall not terminate any action or proceeding under the ordinance that was pending at the time the ordinance terminated. An ordinance extending the effectiveness of the first ordinance need not contain a further termination date and may be adopted without the necessity of following the procedure prescribed in this section."

Section 4. Section 121 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, added by Chapter 373 of the 1983 Session Laws and as rewritten by Section 1 of Chapter 379 of the 1991 Session Laws, reads as rewritten:

"Sec. 121. Equal Housing. The City Council may adopt ordinances prohibiting discrimination in real estate transactions on the basis of race, color, sex, religion, national origin, age, familial status, ~~or handicap in real estate transactions.~~ handicap, or any other criteria prescribed in an ordinance pursuant to Section 121.1 of this Charter. Such ordinances may regulate or prohibit any act, practice, activity or procedure related, directly or indirectly to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a misdemeanor, and shall be punishable under G.S. 14-4; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to the General Court of Justice, Superior Court Division, for appropriate legal and equitable remedies, including but not limited to, mandatory and prohibitory injunctions and orders of abatement, attorney's fees and not more than one thousand dollars ($1,000) punitive damages, and the court shall have jurisdiction to grant such remedies."

Section 5. The Charter of the City of Durham, enacted as Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"Sec. 121.1. An ordinance adopted pursuant to Section 121 of this Charter may prohibit discrimination in real estate transactions based on any criteria in addition to race, color, sex, religion, familial status, or handicap, provided the following procedure is followed with respect to each additional criteria:

(1) The Committee, created pursuant to Section 123 of this Charter, shall compile a report in which the Committee documents the facts, events, or occurrences that, in the opinion of the Committee, indicate the need for the additional criteria upon which prohibition of discrimination shall be heard.

(2) The Committee shall make the report available for public inspection and shall hold at least one public hearing at which persons who wish to comment on the report may do so.

(3) The report, together with any amendments to the report that the Committee may make based upon comments received at the public hearing, shall be transmitted to the city council.

(4) The city council may consider the report and may cause a proposed ordinance to be prepared that prohibits discrimination based on the criteria specified in the report.

(5) The city council shall cause the report and the proposed ordinance to be made available for public inspection in the office of the city clerk at least 10 days prior to the date of the public hearing specified in subdivision (6) of this section.

(6) The city council shall hold at least one public hearing on the proposed ordinance. The public hearing shall be held no fewer than 10 days after the proposed ordinance is made available for public inspection pursuant to subdivision (5) of this section. A notice of the public hearing shall be given at least once in a newspaper having general circulation in the city. The notice shall be published no fewer than five and no more than 10 days before the date of the public hearing.

(7) If after considering the Committee's report, the proposed ordinance, and the comments made at the public hearing, the city council finds that it is in the public interest to adopt the proposed ordinance, or the proposed ordinance with such amendments as the city council may deem advisable, then the city council may adopt the ordinance.

(8) An ordinance adopted pursuant to this section shall provide that the ordinance will terminate at a time no later than five years after adoption unless extended by further action of the council. A termination of the ordinance pursuant to this subdivision shall not terminate any action or proceeding under the ordinance that was pending at the time the ordinance terminated. An ordinance extending the effectiveness of the initial ordinance need not contain a further termination date and may be adopted without the necessity of following the procedure prescribed in this section."

Section 6. This act applies to the City of Durham only.

Section 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 842
Committee Substitute Favorable 4/19/99

Short Title: Carrboro Aldermen Name Change. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO CHANGE THE NAME OF THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

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

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — JUNE 23, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
O'Linda Williams	144 Leake St., Carthage, NC 28327
Jim Bilyak	Sandhills Area Chamber of Commerce
John Sledge	1573 W Penn Ave So. Pines NC 28387
Robert S. Ewing.	368 Soggy Bottom Lane, Carthage N.C. 28327
Jesse Wimberley	Piedmont Peace Project Southern Pines 161 E. New Hampshire Ave N.C. 28387
Amy McDonald	1385 Foxfire Rd Aberdeen NC 28315
Dina [illegible]	1035 Browns Chapel Rd Robbins, N.C. 27325
Colin W McKENZIE	Moore County Commissioner Pinehurst, N.C.
Mike Halcher	Chairman " " " So. Pines, N.C.
Kenneth Clark	On behalf of Co Chair —
Walker Morris	Chairman Moore County Democratic Party 110 Highland Rd. Southern Pines, NC

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — JUNE 23, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Seagon	State Emp. Credit Union 2nd Wade Ave Ral
Beverly Shebs	Moore Rep Women P.O. Box 3795 Pinehurst 28374
John Reburn	Moore Repub. Mens " " at Large Mbr 32 Thunderbird Circle Pinehurst, N.C 28374
Mary Williams	Moore County Republican Party
[illegible]	Moore County
Russ Myers	Moore Republican Women
Earl Lagon	Moore County + N.C. Executive Committee
Alice Epps	Leg. Assistant
Ruth C. Thom	Moore County Voter
Earl Ingram	325 Bourbon Rd. (P.O. Box 1665) Pinehurst, N.C. 28370
Mont Bullock	13278 Hiway 15-501 Aberdeen, N.C. 28315 Moore Co.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 23, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Cervetta	NCHSA
Sarah Lenn-Richardson	Equality NC PAC
Fay Powell	NC Retired School Personnel
Leigh H Hammond	N.C. Retired Govt Emp Assn
C. C. Dawson	N.C. Ret Sch Personnel

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 30,1999

9:00 AM

ROOM 1124 LB

Bills

- HB 843 Chapel Hill Local Act — Rep. Insko
- HB 842 Carrboro Aldermen Name Change — Rep. Insko

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 30, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 30, 1999 at 9:00 a. m. in Room 1124 of the Legislative Building. Five members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 843,Chapel Hill Local Act, was explained by Sen. Lee. Sen. Clodfelter moved to adopt an amendment. The motion carried unanimously. Sen. Balance moved to give the Proposed Senate Committee Substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 842, Carrboro Aldermen Name Change, was explained by Sen. Kinnaird. Sen. Ballance moved to adopt a Propose Committee Substitute. Sen. Soles moved to give the Senate Proposed Committee Substitute a favorable report. The motion carried. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 30, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.(CS #1)**842** Carrboro Aldermen Name Change

Draft Number:	PCS 3447
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

H.B.(CS #1)**843** Chapel Hill Local Act

Draft Number:	PCS 4274
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99
Proposed Senate Committee Substitute H843-PCS4274-LB

Short Title: Moore Commissioners Districts. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ELECTORAL DISTRICTS FOR THE BOARD OF COMMISSIONERS OF MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 153 of the 1965 Session Laws reads as rewritten:

"Sec. 4. The candidates in the primary from each respective district shall be voted on by ~~all of~~ the qualified voters of ~~Moore County,~~ that district, and the candidate from each respective district who receives the largest number of votes shall be declared the nominee of the party, duly nominated as the candidate from said district for the general election, and said ~~candidates~~ candidate shall be voted on in the general election by ~~all of~~ the qualified voters of ~~Moore County.~~ that district."

Section 2. G.S. 153A-22.1(f), as enacted by Chapter 215 of the 1995 Session Laws, and as amended by S.L. 1998-175, reads as rewritten:

"(f) This section applies to Henderson ~~and Moore Counties~~ County only."

Section 3. The Moore County Board of Commissioners shall, no later than September 15, 1999, by resolution redefine the county commissioner districts so that all five of the county commissioner districts fall within an overall range of population deviation of ten percent (10%).

Section 4. This act is effective when it becomes law and applies to elections for the Moore County Board of Commissioners beginning in 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99
Proposed Senate Committee Substitute H843-PCS7257-LB

Short Title: Moore Commissioners Districts. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ELECTORAL DISTRICTS FOR THE BOARD OF COMMISSIONERS OF MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 153 of the 1965 Session Laws reads as rewritten:

"Sec. 4. The candidates in the primary from each respective district shall be voted on by ~~all of~~ the qualified voters of ~~Moore County,~~ that district, and the candidate from each respective district who receives the largest number of votes shall be declared the nominee of the party, duly nominated as the candidate from said district for the general election, and said ~~candidates~~ candidate shall be voted on in the general election by ~~all of~~ the qualified voters of ~~Moore County.~~ that district."

Section 2. G.S. 153A-22.1(f), as enacted by Chapter 215 of the 1995 Session Laws, and as amended by S.L. 1998-175, reads as rewritten:

"(f) This section applies to Henderson ~~and Moore Counties~~ County only."

Section 3. The Moore County Board of Commissioners shall, no later than August 15, 1999, by resolution redefine County Commissioner Districts 2, 3, and 4 so that all five of the county commissioner districts fall within an overall range of population deviation of ten percent (10%).

Section 4. This act is effective when it becomes law and applies to elections for the Moore County Board of Commissioners beginning in 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 843*
Committee Substitute Favorable 4/27/99

Short Title: Chapel Hill Local Act. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENHANCE AND INCREASE SEDIMENTATION PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-60(a) reads as rewritten:

"(a) Any local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this ~~Article.~~ Article, and may require enhanced and increased sedimentation protection by reason of the concurrent construction of two or more projects in the same watershed. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission."

Section 2. Section 1 of this act applies to the Town of Chapel Hill only.

Section 3. This act is effective when it becomes law.

H843-PCS7257-LB:
Moore Commisioners Districts

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	
Date:	June 23,1999	**Summary by:**	Ed Rossi
Version:	H843-PCS7257-LB		Committee Co-Counsel

SUMMARY: The proposed committee substitute to House bill 843 changes the way that county commissioners in Moore County are elected from a residency district system to an electoral district system. In addition, the bill also requires the current board of county commissioners to redefine 4 out of the existing 5 electoral districts by August 15th so that all 5 of the county commissioner districts fall into an overall range of population deviation of 10%.

CURRENT LAW: Under current law,[1] Moore County has 5 county commissioners and 5 districts for the nomination and election of county commissioners. These districts are residency districts – meaning that only persons who reside in a particular district can run for office as a representative of that district, but votes that decide who gets to represent the district are county-wide.

BILL ANALYSIS: The proposed committee substitute to House bill 843 would require Moore County to elect its county commissioners using a system of electoral districts. Under an electoral district system of elections, only persons who reside in a particular district can run for office as a representative of that district, but votes that decide who gets to represent the district are those of the voters residing in the particular district.

BACKGROUND: The Moore County Commissioners oppose the proposed change in electoral systems.

[1] Chapter 153 of the 1965 Session Laws.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 842
Committee Substitute Favorable 4/19/99
Proposed Senate Committee Substitute H842-PCS3447-LB

Short Title: Randolph Commissioners Districts. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ELECTORAL DISTRICTS FOR THE BOARD OF COMMISSIONERS OF RANDOLPH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of Chapter 952, Session Laws of 1965, as enacted by Chapter 43 of the 1981 Session Laws, reads as rewritten:

"Sec. 1.1. Members of the Board of Commissioners of Randolph County shall reside in and represent the districts according to the apportionment plan provided in Section 1 of this act, ~~but~~ and the qualified voters of ~~the entire county~~ each district shall nominate all candidates for and elect ~~all members of the board.~~ the member of the board for that district."

Section 2. The Randolph County Board of Commissioners shall, no later than September 15, 1999, by resolution redefine the county commissioner districts provided in Section 1 of Chapter 952 of the 1965 Session Laws, as amended by Chapter 43 of the 1981 Session Laws, so that all five commissioner districts fall within an overall range of population deviation of ten percent (10%).

Section 3. This act is effective when it becomes law and applies to elections for the Randolph County Board of Commissioners beginning in 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 842
Committee Substitute Favorable 4/19/99
Proposed Senate Committee Substitute H842-CSLB-5A

Short Title: Randolph Commissioners Districts. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ELECTORAL DISTRICTS FOR THE BOARD OF COMMISSIONERS OF ~~MOORE~~ RANDOLPH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of Chapter 952, Session Laws of 1965, as enacted by Chapter 43 of the 1981 Session Laws, reads as rewritten:

"Sec. 1.1. Members of the Board of Commissioners of Randolph County shall reside in and represent the districts according to the apportionment plan provided in Section 1 of this act, ~~but~~ and the qualified voters of ~~the entire county~~ each district shall nominate all candidates for and elect ~~all members of the board.~~ the member of the board for that district.

Section 2. The Randolph County Board of Commissioners shall, no later than September 15, 1999, by resolution redefine the county commissioner districts provided in Section 1 of Chapter 952 of the 1965 Session Laws, as amended by Chapter 43 of the 1981 Session Laws so that all five commissioner districts fall within an overall range of population deviation of ten percent (10%).

Section 3. This act is effective when it becomes law and applies to elections for the Randolph County Board of Commissioners beginning in 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 842
Committee Substitute Favorable 4/19/99

Short Title: Carrboro Aldermen Name Change. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO CHANGE THE NAME OF THE BOARD OF ALDERMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1(a) of Article 2 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"(a) The governing body of the Town of Carrboro shall consist of a mayor and six ~~aldermen,~~ aldermen, commissioners, or council members, as determined by resolution of the Town of Carrboro, elected as provided in Section 2-2. The governing body shall be known as the ~~Board of Aldermen.~~ Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro. Whenever this Charter or any ordinance, resolution, or other document refers to the Carrboro Board of Aldermen, such reference shall be deemed to refer to the Carrboro Board of Aldermen, Board of Commissioners, or Town Council, as determined by resolution of the Town of Carrboro."

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — JUNE 30, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Rust	NCFPC
John Phelps	NCLM
Michael Holden	MooreCo Commissioners

AGENDA

STATE & LOCAL GOVERNMENT

WEDNESDAY, JULY 7,1999

11:00 AM

ROOM 1124 LB

Bills

HB 531 Lee Hunting Regulations Rep. Cox

Adjournment

STATE AND LOCAL GOVERNMENT

WEDNESDAY, JULY 7, 1999

MINUTES

The Senate State and Local Government Committee met on Wednesday, July 7, 1999 at 11:00 a. m. in Room 1124 of the Legislative Building. Nine members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bill:

HB 531, Lee Hunting Regulation, was explained by Rep. Cox. Sen. Soles moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Albertson moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to committee substitute # I, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

REVISED REPORT

Wednesday, July 7, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1)**531** Lee Hunting Regulations.

Draft Number:	PCS 7271
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 531*
Committee Substitute Favorable 4/7/99

Short Title: Lee Hunting Regulation. (Local)

Sponsors:

Referred to:

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN LEE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful for any person to hunt with a firearm, bow and arrow or crossbow, or other deadly weapon while on the land of another unless the person is a spouse, child, or grandchild of the landowner or has on his person a paper writing dated and signed by the owner or lessee of the land granting the person permission to hunt with a firearm, bow and arrow, crossbow, or other deadly weapon while on the land. If the land is owned by or leased to a club, the permission shall be signed by the club president or other chief executive. If the land is owned by or leased to a corporation, the permission shall be signed by the president or the vice-president of the corporation or the authorized designee of the president or vice-president. Permission shall not be valid for a period of more than one year, but may be valid for any shorter period stated in the permission. The written permission shall be displayed upon request to any law enforcement officer authorized to enforce this section.

Section 2. It is unlawful to hunt, take, or kill with a firearm, bow and arrow, crossbow, or other deadly weapon or to attempt to hunt, take, or kill with any such weapon any wild animal or wild bird on, from, or across the right-of-way of any public road, street, highway, or thoroughfare.

Section 3. It is unlawful to discharge a firearm from, onto, across, or down the right-of-way of any public road, street, highway, or thoroughfare. This

section shall not apply to law enforcement officers who discharge their firearms in the lawful discharge of their duties.

Section 4. Violation of the provisions of Sections 1 through 3 of this act is punishable as a Class 3 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, violation of those sections is punishable by a fine of up to three hundred dollars ($300.00).

Section 5. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 6. This act applies only to Lee County.

Section 7. This act becomes effective October 1, 1999.

HB 531:
Lee County Conveyance

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Cox
Date:	July 7, 1999	**Summary by:**	Barbara Riley
Version:	PCS7271-LB		Committee Counsel

SUMMARY: ***House Bill 531 authorizes Lee County to acquire property and convey it to the State for use as a facility for the Division of Motor Vehicles and the Highway Patrol.***

CURRENT LAW: G.S. 160A-274 authorizes local governments to exchange, lease, sell, or enter into agreements with other units of local government or the State regarding the joint use of any interest in property that it holds. G.S. 153A-158 allows a county to acquire property for use by the county. In the recent case of *Carter v. Stanly County,* 125 N.C. App. 628 (1997), the North Carolina Court of Appeals held that these statutes did not authorize a county to purchase property and convey it to the State as an economic incentive for the State to build a correctional facility on the site. The Court noted that under Dillon's Rule, a municipality can exercise only those powers expressly given to it, or those necessarily implied or incidental to the powers expressly granted. The Court found that both G.S. 160A-274 and G.S. 153A-158 contained limitations on what entities may use property acquired by the county. The transfer proposed by Stanly County did not fall within these limitations or other power expressly given. The property transfer challenged in *Carter v. Stanly County* was approved, however, because during the pendancy of the lawsuit the General Assembly passed legislation authorizing Stanly County to make the purchase and transfer.

BILL ANALYSIS: House Bill 531 expressly authorizes Lee County to purchase property and convey it to the State for use as a facility for the Highway Patrol and Division ofMotor Vehicles. The language of the bill is identical, except for purpose, to the legislation enacted for Stanly County. Chapter 600 of the 1995 Session Laws.

The act is effective when it becomes law.

STATE AND LOCAL GOVERNMENT

THURSDAY, JULY 8, 1999

MINUTES

The Senate State and Local Government Committee met on Thursday, July 8, 1999 immediately after Session around Sen. Kinnairds desk. Six members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bill:

HB 149, Reduce Pitt Co. Pistol Permit Fee, was explained by Sen. Kinnaird. Sen. Martin was present. Rolf Blizzard, from the President Pro Tem's Office answered questions. Sen. Webster moved a favorable report of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, July 12, 1999

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **149** Reduce Pitt Co. Pistol Permit Fee.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 149

Short Title: Reduce Pitt Co. Pistol Permit Fee. (Local)

Sponsors: Representatives Warren, McLawhorn, Tolson, Rogers, and Edwards.

Referred to: Local Government I.

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 205 of the 1993 Session Laws reads as rewritten:

"Sec. 2. This act applies ~~only to Martin County and Pitt County.~~ to Martin County only."

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

H149:
Reduce Pitt Co. Pistol Permit Fee

BILL ANALYSIS

Committee:	Senate State & Local Gov.	**Introduced by:**	Rep. Warren
Date:	July 8, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Counsel

Summary – Senate bill 184, introduced by Senator R.L. Martin, reduces the pistol permit fee in Pitt County from $20.00 to $5.00

Background – State law requires anyone wanting to purchase or receive a handgun to first obtain a permit for that handgun from the sheriff of the county that they reside in. After receiving the fee, the sheriff must perform a criminal background check, and generally satisfy herself as to the applicant's good moral character.

Permit Fees – The statewide fee for a handgun permit is $5.00. In 1993, Representative Rogers introduced House bill 715. That bill raised the pistol permit fees in Martin and Pitt counties to $20.00. It was ratified on June 23, 1993, as Chapter 205 of the 1993 Session Laws. Senator Martin's bill, Senate bill 184, repeals that law as it applies to Pitt County, thereby reducing the pistol permit fee in Pitt County to $5.00

TO: Eleanor Kinnaird, Chair, Senate State & Local Government Committee
FROM: Ed Rossi, Committee Co-Counsel
DATE: March 4, 1999
RE: Reduce Pitt Co. Pistol Permit Fee, Senate Bill 184 1st Ed.

Summary – Senate bill 184, introduced by Senator R.L. Martin, reduces the pistol permit fee in Pitt County from $20.00 to $5.00

Background – State law requires anyone wanting to purchase or receive a handgun to first obtain a permit for that handgun from the sheriff of the county that they reside in. After receiving the fee, the sheriff must perform a criminal background check, and generally satisfy herself as to the applicant's good moral character.

Permit Fees – The statewide fee for a handgun permit is $5.00. In 1993, Representative Rogers introduced House bill 715. That bill raised the pistol permit fees in Martin and Pitt counties to $20.00. It was ratified on June 23, 1993, as Chapter 205 of the 1993 Session Laws. Senator Martin's bill, Senate bill 184, repeals that law as it applies to Pitt County, thereby reducing the pistol permit fee in Pitt County to $5.00

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — July 7, 1999

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Southern	Mayor, Walkertown, NC
Donna Rosfield	DCR
Gary Cotten	Bill Drafting

2000

SENATE
STATE & LOCAL
GOVERNMENT
COMMITTEE

MINUTES

Members State and Local Government Committee

Wed--1124 LB--11:00 AM

	SENATOR	OFFICE	PHONE
Chairman	Senator Kinnaird	2115 LB	3-5804
Vice Chairman	Senator Dalton	409 LOB	5-3038
Vice Chairman	Senator Jordan	407 LOB	5-3034
Vice Chairman	Senator Miller	621 LOB	3-9349
Ranking Minority Member	Senator Webster	1101 LB	3-5665
Members	Senator Albertson	525 LOB	3-5705
	Senator Ballance	523 LOB	5-3032
	Senator Clodfelter	622 LOB	3-6275
	Senator Garwood	1118 LB	3-5742
	Senator Horton	1117 LB	3-7850
	Senator Robinson	2113 LB	3-5880
	Senator Soles	2022 LB	3-5963
Staff	Barbara Riley	545 LOB	3-2578
	Al Andrews	545 LOB	3-2578
Committee Assistant	Kathie Young	2115 LB	3-5804

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 31	DEDMON	SHELBY PRIVATE SALE	R -CH. SL 99-0005	03-02-99	03-17-99
H 37	BADDOUR	LENOIR/WAYNE CONDEMNATION CONSENT	R -CH. SL 99-0006	03-08-99	03-17-99
H 68=	MCCOMBS	TOWN OF CHINA GROVE	*R -CH. SL 99-0007	03-08-99	03-17-99
H 129=	WALEND	BREVARD PROPERTY CONVEYANCE	R -CH. SL 99-0008	03-10-99	03-17-99
H 145=	TOLSON	EDGECOMBE SCHOOL VACANCIES	R -CH. SL 99-0012	03-08-99	03-22-99
H 149=	WARREN EDITH	REDUCE PITT CO. PISTOL PERMIT FEE	R -CH. SL 99-0285	03-30-99	07-12-99
H 153	YONGUE	HOKE SCHOOL ELECTION FILING	R -CH. SL 99-0018	03-23-99	04-05-99
H 228	MOSLEY	STATE EMPLOYEES COMBINED CAMPAIGN	*R -CH. SL 99-0250	05-03-99	06-21-99
H 253	OWENS	SIPS NAME CHANGE/IRMC	*R -CH. SL 99-0347	04-01-99	05-05-99
H 319	GOODWIN	ADD'L DUTY OF SEC. OF STATE	R -CH. SL 99-0316	03-25-99	05-05-99
H 326	CULPEPPER	AQUARIUM EXHIBIT DISPOSAL	*R -CH. SL 99-0049	04-01-99	05-05-99
H 327	CULPEPPER	FOOD/VENDING AT NC AQUARIUMS	S -RE-REF COM ON APPROPR	04-05-99	05-05-99
H 332	GILLESPIE	YANCEY SCHOOL ELECTIONS	S -REF TO COM ON STLOCGVT	03-23-99	
H 371	CARPENTER J	REMOVAL OF ELECTRONIC COLLARS	*R -CH. SL 99-0051	03-30-99	05-12-99
H 378	CRAWFORD	ROANOKE RAPIDS REDEVELOPMENT	R -CH. SL 99-0067	03-23-99	05-12-99
H 426	JARRELL	LOCAL RED LIGHT CAMERAS	*R -CH. SL 99-0181	04-13-99	06-03-99
H 429=	HAIRE	MADISON COMMISSIONERS ELECTION	R -CH. SL 99-0037	03-30-99	05-05-99
H 437	TUCKER	JONES SUBDIVISION DEFINITION	R -CH. SL 99-0125	03-30-99	05-26-99
H 440	EDWARDS	EXTEND BEAUFORT/HYDE HUNTING	*R -CH. SL 99-0086	04-27-99	05-19-99
H 447=	NESBITT	ASHEVILLE ANTIDISCRIMINATION ACT	R -CH. SL 99-0206	04-01-99	06-21-99
H 471	DECKER	AG USES/ZONING	*R -CH. SL 99-0057	04-28-99	05-12-99
H 474	ROGERS	BERTIE ABC BOARD CHANGE	*R -CH. SL 99-0153	04-19-99	05-26-99
H 501	THOMAS	HOSPITAL AUTHORITY/CRAVEN	R -CH. SL 99-0015	03-25-99	03-31-99
H 514=	SAUNDERS	LOCAL PHOTO ENFORCEMENT	*R -CH. SL 99-0182	04-13-99	06-03-99
H 520	JUSTUS	FLAT ROCK/HENDERSONVILLE PROP.	*R -CH. SL 99-0173	04-29-99	05-27-99
H 529	CAPPS	DISPLAY OF AMERICAN FLAG	*S -REF TO COM ON STLOCGVT	04-29-99	
H 531=	COX	LEE COUNTY CONVEYANCE	*R -CH. SL 99-0282	04-14-99	07-07-99
H 570	REDWINE	CAROLINA SHORES 201	R -CH. SL 99-0240	04-12-99	06-21-99
H 587	BOWIE	INCREASE BID LIMIT/GREENSBORO	R -CH. SL 99-0052	04-14-99	05-12-99
H 615	OWENS	ELIZABETH CITY WATERCRAFT REG.	*R -CH. SL 99-0174	04-14-99	05-27-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 637	OWENS	COINJOCK CANAL NO-WAKE ZONE	R -CH. SL 99-0038	04-14-99	05-05-99
H 649	REDWINE	HOLDEN BEACH NO-WAKE ZONE	R -CH. SL 99-0092	04-12-99	05-19-99
H 650	REDWINE	BRUNSWICK PERSONAL WATERCRAFT	*R -CH. SL 99-0087	04-27-99	05-19-99
H 652	CULPEPPER	ROANOKE ISLAND HISTORICAL ASSOC.	*R -CH. SL 99-0032	04-07-99	04-15-99
H 684	MOSLEY	MUNIC. TREE ORD/HUNTERSVILLE TDR	*H -PLACED ON CAL FOR 07-07	04-21-99	06-21-99
H 694	MCLAWHORN	AYDEN LOCAL ACT - 1	*S -REF TO COM ON STLOCGVT	04-29-99	
H 707	COX	BROADWAY FORM OF GOVT.	R -CH. SL 99-0230	04-21-99	06-23-99
H 728	TOLSON	GREENVILLE FRATERNITY HOUSES	R -CH. SL 99-0156	04-12-99	06-03-99
H 749	RAYFIELD	BELMONT ABC PROFITS	S -REF TO COM ON STLOCGVT	04-21-99	
H 772	WRIGHT	LEE'S CUT NO-WAKE ZONE	*R -CH. SL 99-0095	04-29-99	05-19-99
H 800	MICHAUX	DURHAM COUNTY TRUST FUND INVESTMENTS	S -REF TO COM ON STLOCGVT	04-28-99	
H 802=	MICHAUX	DURHAM CITY DEVELOPMENT PLANS	S -REF TO COM ON STLOCGVT	04-21-99	
H 803	MICHAUX	DURHAM COUNTY ZONING NOTICES	S -REF TO COM ON STLOCGVT	04-21-99	
H 811	THOMAS	HAVELOCK CHARTER REVISION	R -CH. SL 99-0126	04-19-99	05-26-99
H 820=	HENSLEY	VOLUNTARY SHARED LEAVE	*R -CH. SL 99-0170	04-26-99	05-26-99
H 821=	HENSLEY	RELOCATE NC GOVT. COMPETITION COMM.	S -REF TO COM ON STLOCGVT	04-21-99	
H 829	WALEND	TRANSYLVANIA SCH. CONSTRUCTION FLEX.	R -CH. SL 99-0053	04-26-99	05-12-99
H 840	GRADY	ONSLOW BID EXEMP/CHAR-MECK SCH CONST	*R -CH. SL 99-0207	04-26-99	06-10-99
H 841	INSKO	CARRBORO/CHAPEL HILL LOCAL ACT	*R -CH. SL 99-0255	04-29-99	06-09-99
H 842	INSKO	RANDOLPH COMMISSIONERS DISTRICTS	*S -RE-REF COM ON STLOCGVT	04-22-99	06-30-99
H 842	INSKO	RANDOLPH COMMISSIONERS DISTRICTS	*S -RE-REF COM ON STLOCGVT	07-06-99	
H 843=	INSKO	MOORE COMMISSIONERS DISTRICTS	*H -RE-REF COM ON RULES	04-28-99	06-30-99
H 868=	INSKO	CHAPEL HILL OMNIBUS ACT	*S -REF TO COM ON STLOCGVT	04-29-99	
H 872	CULPEPPER	DARE COURTHOUSE CONSTRUCTION FLEX	R -CH. SL 99-0040	04-28-99	05-05-99
H 880	ALLRED	BID PROCESS/CAPITAL PROJ.	R -CH. SL 99-0093	04-28-99	05-12-99
H 923=	BADDOUR	LEAVE/STATE EMPLOYEES	*S -RE-REF COM ON APPROPR	00-06-21	00-06-28
H 951	EDWARDS	TENANTS ON HOUSING AUTHORITY	*R -CH. SL 99-0146	04-28-99	05-19-99
H 972=	INSKO	TRANSP. COSTS/INVOL. COMMITMENT	*R -CH. SL 99-0201	04-26-99	05-26-99
H1104	GIBSON	EXEMPT POSITION CLARIFICATION	R -CH. SL 99-0253	04-26-99	06-21-99
H1490=	MCCOMBS	CHINA GROVE CHARTER	S -REF TO COM ON STLOCGVT	00-05-30	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1504	CHURCH	VALDESE MAYORAL TERMS	R -CH. SL 00-0028	00-05-25	00-06-27
H1507=	TUCKER	DUPLIN/REPEAL TRAP PROHIBITION	R -CH. SL 00-0029	00-06-19	00-06-27
H1536	HAIRE	SYLVA ELECTIONS	R -CH. SL 00-0030	00-05-30	00-06-27
H1542	OWENS	CAMDEN/ELECTRONIC DOG COLLARS	R -CH. SL 00-0012	00-05-30	00-06-14
H1546=	HOLMES	LAND FOR CORR. FACILITY	*R -CH. SL 00-0031	00-06-06	00-06-14
H1553	YONGUE	LUMBERTON/PINEVILLE TRAFFIC VIOLATIO	*R -CH. SL 00-0037	00-06-05	00-06-27
H1555	BAREFOOT	GASTONIA OVERGROWN LOTS	R -CH. SL 00-0038	00-06-05	00-06-28
H1598	REDWINE	BRUNSWICK/ALAM./OAK ISLAND LOCAL BIL	*R -CH. SL 00-0060	00-06-05	00-06-28
H1606	JARRELL	HIGH POINT OVERGROWN LOTS	R -CH. SL 00-0033	00-06-01	00-06-27
H1648=	MCMAHAN	CHARLOTTE TRANSIT PROCUREMENTS	*R -CH. SL 00-0061	00-06-12	00-06-28
H1653=	COX	BROADWAY MAYORAL TERMS	R -CH. SL 00-0039	00-06-12	00-06-29
H1659	SMITH	CARTERET NO-WAKE ZONE	R -CH. SL 00-0041	00-06-12	00-06-27
H1660=	BAKER	ASHE SCHOOL BOARD	S -REF TO COM ON STLOCGVT	00-06-06	
H1670	MELTON	MARSHVILLE CHARTER AMENDMENT	*R -CH. SL 00-0062	00-06-12	00-06-28
H1675	SEXTON	MAYODAN TOWN MANAGER RESIDENCY	R -CH. SL 00-0034	00-06-06	00-06-27
H1688	OWENS	CURRITUCK PERSONAL WATERCRAFT REG.	R -CH. SL 00-0014	00-06-06	00-06-14
H1695	WAINWRIGHT	NEW BERN MAYOR	R -CH. SL 00-0042	00-06-12	00-06-28
H1732	REDWINE	OCEAN ISLE BEACH EROSION CONTROL	R -CH. SL 00-0043	00-06-22	00-06-28
H1739=	NESBITT	ASHEVILLE CHARTER AMENDMENTS	R -CH. SL 00-0044	00-06-06	00-06-28
H1744	BONNER	ROWLAND CHARTER AMENDMENT	*R -CH. SL 00-0045	00-06-12	00-06-29
H1753	ROGERS	MARTIN COUNTY PISTOL PERMIT FEE	R -CH. SL 00-0064	00-06-19	00-06-28
H1756	OWENS	PASQUOTANK FUNDING REPEAL	R -CH. SL 00-0046	00-06-13	00-06-29
H1767	WILSON C	MECKLENBURG PROPERTY DISPOSITION	R -CH. SL 00-0065	00-06-29	00-06-30
H1779	LUEBKE	DURHAM ANTI-SWEATSHOP REQUIREMENTS	*R -CH. SL 00-0047	00-06-22	00-06-28
H1783	REDWINE	OCEAN ISLE/KINSTON PROPERTY	*R -CH. SL 00-0048	00-06-22	00-06-28
H1784	ELLIS	SWIFT CREEK BOUNDARIES	R -CH. SL 00-0066	00-06-29	00-06-30
H1802	GARDNER	SALISBURY PROPERTY SALES	R -CH. SL 00-0049	00-06-22	00-06-28
S 18	LEE	CARTHAGE CHARTER CONSOL/ANNEX	R -CH. SL 99-0239	02-02-99	03-29-99
S 43=	DALTON	FOREST CITY/ALEXANDER MILLS	R -CH. SL 99-0009	02-08-99	02-17-99
S 47	JORDAN	MAPLE HILL INCORPORATION	S -RE-REF COM ON RULES &	02-08-99	02-15-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 69=	COCHRANE	TOWN OF CHINA GROVE	S -REF TO COM ON STLOCGVT	02-11-99	
S 108	MILLER B	SPECIAL OLYMPIC SCHOOL BUS USE	*R -CH. SL 99-0001	02-16-99	02-17-99
S 184=	MARTIN R	REDUCE PITT CO. PISTOL PERMIT FEE	S -RE-REF COM ON FINANCE	03-01-99	03-17-99
S 190=	MILLER B	RELOCATE NC GOVT. COMPETITION COMM.	S -REF TO COM ON STLOCGVT	03-01-99	
S 205=	ROBINSON	BREVARD PROPERTY CONVEYANCE	S -REF TO COM ON STLOCGVT	03-02-99	
S 299	HARTSELL	CABARRUS/CONCORD FORCE ACCT. INCR.	R -CH. SL 99-0034	03-09-99	03-17-99
S 300=	SOLES	TOWN OF CALABASH	R -CH. SL 99-0016	03-09-99	03-17-99
S 302=	KINNAIRD	LOCAL HUNTING	*R -CH. SL 99-0301	03-09-99	04-05-99
S 333=	PERDUE	EQUITY IN APPOINTMENTS	*R -CH. SL 99-0457	03-11-99	03-29-99
S 333=	PERDUE	EQUITY IN APPOINTMENTS	*R -CH. SL 99-0457	03-30-99	04-07-99
S 350	ODOM	CHARLOTTE PRIVATE PROP. DISPOSITION	*R -CH. SL 99-0088	03-15-99	04-15-99
S 369=	METCALF	ASHEVILLE ANTIDISCRIMINATION ACT	S -REF TO COM ON STLOCGVT	03-15-99	
S 385=	LEE	USE OF SCHOOL BUSES/US OPEN	*R -CH. SL 99-0176	03-16-99	04-19-99
S 388=	MARTIN R	EDGECOMBE SCHOOL VACANCIES	S -REF TO COM ON STLOCGVT	03-16-99	
S 391=	KINNAIRD	MOORE DEER HUNTING	H -RE-REF COM ON FINANCE	03-16-99	04-07-99
S 395	HARTSELL	CABARRUS COUNTY TOURISM	R -CH. SL 99-0097	04-26-99	04-29-99
S 474	ROBINSON	HENDERSONVILLE ABC PROFITS	*R -CH. SL 99-0177	03-23-99	04-05-99
S 531	CLODFELTER	CHARLOTTE/MECK BUILDINGS	S -REF TO COM ON STLOCGVT	03-25-99	
S 532	CARTER	ASHEVILLE CIVIL SERV. BD./ZONING REF	*R -CH. SL 99-0303	04-21-99	04-29-99
S 543	HORTON	FORSYTH AREA ZONING CHANGES	R -CH. SL 99-0098	04-21-99	04-29-99
S 573	CLODFELTER	CHARLOTTE DEVELOPMENT	R -CH. SL 99-0099	03-29-99	04-14-99
S 578	JORDAN	CONFERENCE OF CLERKS OF SUPERIOR CT.	*S -RE-REF COM ON APPROPR	03-29-99	04-12-99
S 582	HORTON	ELECTRONIC PAWN RECORDS	SF-POSTPONED INDEFINITELY	04-27-99	04-29-99
S 595	MARTIN R	MODIFY NE REGIONAL COMMISSION	*H -RE-REF COM ON RULES	03-29-99	04-12-99
S 597=	ROBINSON	TRIBAL BUILDING INSPECTION	S -REF TO COM ON STLOCGVT	03-29-99	
S 605=	METCALF	MADISON COMMISSIONERS ELECTION	S -REF TO COM ON STLOCGVT	03-29-99	
S 617=	PERDUE	SPA COLA CHANGES	S -REF TO COM ON STLOCGVT	03-29-99	
S 625	LUCAS	DURHAM PRIVILEGE LICENSE TECHNICAL	R -CH. SL 99-0256	03-30-99	04-14-99
S 626	LUCAS	DURHAM FIREWORKS	*R -CH. SL 99-0045	03-30-99	04-14-99
S 627	LUCAS	DURHAM CITY CONTRACT EXECUTION	R -CH. SL 99-0036	03-30-99	04-14-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — SENATE: STATE AND LOCAL GOVERNMENT — Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 652	GULLEY W	AMBULANCE SERVICE FRAUD/DURHAM	R -CH. SL 99-0064	04-07-99	04-14-99
S 659	CLODFELTER	MECK SCHOOL CONST. FLEXIBILITY	S -REF TO COM ON STLOCGVT	03-31-99	
S 676	WELLONS	WILSON HOUSING CODE ENFORCEMENT	S -REF TO COM ON STLOCGVT	04-01-99	
S 700	LUCAS	DURHAM CITY ZONING NOTICES	S -REF TO COM ON STLOCGVT	04-01-99	
S 701=	LUCAS	DURHAM CITY ANTIDISCRIMINATION	H -REF TO COM ON LOCGOVI	04-01-99	04-21-99
S 702	RUCHO	MATTHEWS ETJ	R -CH. SL 99-0069	04-01-99	04-21-99
S 703	BALLANTINE	HAMPSTEAD INCORPORATION	*S -RE-REF COM ON STLOCGVT	04-21-99	
S 705	WELLONS	EXPEDITE JOHNSTON SCH. CONSTRUCTION	R -CH. SL 99-0102	04-01-99	04-21-99
S 708=	ODOM	AFFORDABLE HOUSING	R -CH. SL 99-0366	04-01-99	04-28-99
S 709=	ODOM	MECKLENBURG SCHOOL ACQUISITION	R -CH. SL 99-0065	04-01-99	04-07-99
S 710	ODOM	HUNTERSVILLE DEVELOPMENT	H -RE-REF COM ON LOCGOVI	04-01-99	04-27-99
S 719=	GULLEY W	DURHAM DEVELOPMENT PLANS	R -CH. SL 99-0070	04-01-99	04-14-99
S 720	GULLEY W	DURHAM ZONING NOTICES	*R -CH. SL 99-0055	04-01-99	04-15-99
S 723=	KINNAIRD	CHAPEL HILL OMNIBUS ACT	S -REF TO COM ON STLOCGVT	04-01-99	
S 724=	KINNAIRD	ORANGE/CHAPEL HILL LOCAL ACT	S -REF TO COM ON STLOCGVT	04-01-99	
S 929	REEVES	ABATEMENT OF NUISANCES	*R -CH. SL 99-0371	04-27-99	04-29-99
S 966	CLODFELTER	BUILDING INSPECTION CONTRACTS	*R -CH. SL 99-0372	04-15-99	04-27-99
S 984	MILLER B	ACCOUNTANT/CPA AUDITS	*S -RE-REF COM ON FINANCE	04-27-99	04-29-99
S1013	FOXX	DELIVERY OF STATE FUNDS/CLARIFIED	S -REF TO COM ON STLOCGVT	04-15-99	
S1039	PLYLER	ANSON-UNION COMMUNITY COLLEGES	R -CH. SL 99-0060	04-27-99	04-28-99
S1140	EAST	SURRY BILLBOARD BAN	*R -CH. SL 99-0218	04-15-99	04-28-99
S1189=	HARTSELL	CHINA GROVE CHARTER	R -CH. SL 00-0010	00-05-10	00-05-17
S1214=	PLYLER	RICHMOND COUNTY SUBDIVISIONS	H -REF TO COM ON LOCGOVI	00-05-11	00-05-17
S1224=	ALBERTSON	DUPLIN/REPEAL TRAP PROHIBITION	*H -REF TO COM ON WILDLIFE	00-05-15	00-05-17
S1224=	ALBERTSON	DUPLIN/REPEAL TRAP PROHIBITION	*H -REF TO COM ON WILDLIFE	00-05-18	00-05-25
S1261=	**REEVES**	**STATE COMPENSATION PLAN CHANGES/FUND**	**S -RE-REF COM ON APPROPR**	**00-05-16**	**00-05-31**
S1263=	DANNELLY	CHARLOTTE WHEEL LOCKS ALLOWED	R -CH. SL 00-0059	00-05-16	00-05-25
S1263=	DANNELLY	CHARLOTTE WHEEL LOCKS ALLOWED	R -CH. SL 00-0059	00-06-29	00-06-30
S1264=	FORRESTER	MOUNT HOLLY ANNEXATION	R -CH. SL 00-0024	00-05-17	00-05-24
S1283=	EAST	ASHE SCHOOL BOARD	R -CH. SL 00-0006	00-05-17	00-05-24

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium SENATE: STATE AND LOCAL GOVERNMENT Valid Through 7-JUL-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S1286	KINNAIRD	RANDLEMAN RECALL	*S -PLACED ON CAL FOR 07-07	00-05-17	00-06-14
S1288	CLODFELTER	MECKLENBURG MUNICIPAL ZONING	*S -RATIFIED	00-06-05	00-06-07
S1289	CLODFELTER	MECKLENBURG COUNTY ZONING	*R -CH. SL 00-0077	00-06-05	00-06-07
S1291	HOYLE	INCREASE TAX POLICY COMM. MEMERSHIP	S -RE-REF COM ON RULES &	00-05-17	00-05-24
S1300=	HARTSELL	MIDLAND INCORPORATION	H -PASSED 3RD READING	00-05-18	00-06-26
S1301=	HARTSELL	CABARRUS ANNEXATION MORATORIUM	R -CH. SL 00-0007	00-05-18	00-05-31
S1302	HARTSELL	CABARRUS SCHOOL BIDS	S -RATIFIED	00-05-18	00-05-31
S1334	SOLES	TABOR CITY ANNEXATION	*R -CH. SL 00-0025	00-05-18	00-05-31
S1346=	RUCHO	CHARLOTTE TRANSIT PROCUREMENTS	S -REF TO COM ON STLOCGVT	00-05-22	
S1354	ODOM	INDEP. LIVING FUNDS/COUNTY MATCH	H -PLACED ON CAL FOR 07-07	00-05-22	00-06-07
S1359	HORTON	WINSTON-SALEM LOCAL ACT	*H -PLACED ON CAL FOR 07-07	00-06-14	00-06-26
S1362	FORRESTER	GASTON COUNTY PROPERTY SALES	H -PLACED ON CAL FOR 07-07	00-05-22	00-06-27
S1379=	HARRIS	BROADWAY MAYORAL TERMS	S -REF TO COM ON STLOCGVT	00-05-23	
S1382=	EAST	BIDDING LAW EXEMPTION/SURRY COUNTY	R -CH. SL 00-0079	00-05-23	00-06-07
S1391=	CLODFELTER	CHARLOTTE CHARTER CONSOLIDATION	S -REF TO COM ON STLOCGVT	00-05-23	
S1418	WEBSTER	YANCEYVILLE CHARTER AMENDMENTS-2	S -RATIFIED	00-05-24	00-06-14
S1428	LUCAS	DURHAM TRAFFIC VIOLATIONS	*H -REF TO COM ON JUDICIII	00-05-25	00-06-12
S1432=	DALTON	LAKE LURE FISHING REGULATIONS	S -REF TO COM ON STLOCGVT	00-05-25	
S1443	HARTSELL	CABARRUS SCHOOL BID PROCEDURES	S -RATIFIED	00-05-25	00-06-14
S1444	HARTSELL	CABARRUS CONVENTION CENTER	*S -RATIFIED	00-05-25	00-06-14
S1447=	KINNAIRD	CHAPEL HILL OMNIBUS NEWPORT PURCHASE	H -PASSED 3RD READING	00-05-25	00-06-14
S1449=	CLODFELTER	MECKLENBURG RAIL BANKING	S -REF TO COM ON STLOCGVT	00-05-25	
S1451=	ODOM	CHARLOTTE ECON. DEVEL.QUICKTAKE	S -RE-REF COM ON FINANCE	00-05-25	00-06-07
S1452	ODOM	JUVENILE DETENTION FUNDS	*S -RE-REF COM ON APPROPR	00-05-25	00-06-07
S1454=	ROBINSON	HAYWOOD/NO SPOTLIGHTING DEER	H -REF TO COM ON RULES	00-05-25	00-06-07
S1458	HARRIS	DUNN FRANCHISE REPORTS CONFIDENTIAL	S -REF TO COM ON STLOCGVT	00-05-25	
S1463	HOYLE	DARE UTILITY UNDERGROUNDING AMEND.	*H -PLACED ON CAL FOR 07-07	00-06-12	00-06-14
S1481	MILLER B	RESEARCH TRIANGLE PARK BOUNDARY	H -PASSED 3RD READING	00-05-25	00-06-07
S1481	MILLER B	RESEARCH TRIANGLE PARK BOUNDARY	H -PASSED 3RD READING	00-06-12	00-06-22

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 17, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 17, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Eleven members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1189, China Grove Charter was explained by Sen. Hartsell. Sen. Dalton moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1214, Richmond County Subdivision was explained by Sen. Soles. Sen. Soles moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1224, Duplin/Repeal Trap Prohibit, was explained by Sen. Albertson. Sen. Robinson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 17, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1189** China Grove Charter.
Sequential Referral: None
Recommended Referral: None

S.B. **1214** Richmond County Subdivision.
Sequential Referral: None
Recommended Referral: None

S.B. **1224** Duplin/Repeal Trap Prohibition.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1189

Short Title: China Grove Charter. (Local)

Sponsors: Senators Hartsell; Cochrane and Phillips.

Referred to: State and Local Government.

May 10, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CHINA GROVE TO ALLOW THE TOWN TO OPERATE UNDER THE COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of China Grove, being Chapter 309 of the Private Laws of 1903, is amended by adding a new section to read:

"Sec. 4A. Notwithstanding any other provision of this Charter, the town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes."

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

SENATE BILL 1189:
China Grove Charter

BILL ANALYSIS

Committee:	Senate State and Local Gov't	**Introduced by:**	Senator Hartsell
Date:	May 17, 2000	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 1189 amends the China Grove Charter, Chapter 309 of the 1903 Session Laws to allow the Town to operate under the council-manager form of government pursuant to Part 2, Article 7 of Chapter 160A of the General Statutes.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1214

Short Title: Richmond County Subdivisions. (Local)

Sponsors: Senators Plyler and Purcell.

Referred to: State and Local Government.

May 11, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATUTORY DEFINITION OF "SUBDIVISION" FOR THE PURPOSE OF SUBDIVISION REGULATION IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335 reads as rewritten:

"**§ 153A-335. "Subdivision" defined.**

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

(2) The division of land into parcels greater than ~~10~~ five acres if no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets; and

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots

are equal to or exceed the standards of the county as shown by its subdivision regulations."

Section 2. This act applies to Richmond County only.

Section 3. This act is effective when it becomes law.

SENATE BILL 1214:
Richmond County Subdivision

BILL ANALYSIS

Committee:	Senater State and Local Gov't	**Introduced by:**	Senator Plyler
Date:	May 17, 2000	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 1214 changes the statutory definition of subdivision for Richmond County.

G.S. 153A-335, sets forth the general law definitions of "subdivision" currently applicable in Richmond County. That definition provides in part that a subdivision includes a division of land into two or more lots, building sites , or other divisions for the purpose of sale or building development. The general law excludes from this definition the division into land of parcels greater than 10 acres where there is no street right of way dedication.

Senate Bill 1214 amends this exclusion for Richmond County reducing from 10 to 5 the number of acres per parcel required to be exempt from the definition of subdivision.

The act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 17, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joan Troy	NC WRC
Sona Shandilya	Anne Winner
David Pratt	Moore County Leadership Institute
Mack Timms	" " "
Charla Matthews	" " "
Rae Williams	" " " "
MAC GOODWIN	" " " "
JERRY HARDISTER	" " " "
Charles D. Schaeffer	" " " "
Katherine MacRae	" " " "
Marilyn Neely	" " " "

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 17, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha A Bergman	Sandhills Community College Pinehurst, NC 28374
GRANT MEACCI	THE HAYTER FIRM P O BOX 3083, PINEHURST, NC 28374
K.C. UNDERWOOD	HAYES/HOWELL, P.A., ARCHITECTS 135 W. CONNECTICUT AVE. SOUTHERN PINES, NC 28387
Gary VonCannon	Bank of America P.O. Box 1629 Pinehurst NC 28374
Jeff Casey	FirstHealth of the Carolinas P.O. Box 300 Pinehurst, NC 28374

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 24, 2000

11:00 AM

ROOM 422

Bills

SB 1263 Charlotte Wheel Locks	Sen. Dannelly
SB 1264 Mount Holly Annexation	Sen. Forrestor
SB 1283 Ashe School Board	Sen. East
SB 1291 Increase Tax Policy Comm. Membership	Sen. Hoyle
SB 1224 Duplin/Repeal Trap Prohibition	Sen. Albertson

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 24, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 24, 2000 at 11:00 a. m. in Room 422 of the Legislative Office Building. Seven members were present, including Senator Walter Dalton, who presided.

Action was taken on the following bills:

SB 1291, Increase Tax Policy Commission Membership was explained by Sen. Hoyle. Sen. Albertson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1263, Charlotte Wheel Locks Allowed was explained by Sen. Clodfelter. Sen. Horton moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Horton moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 1264, Mount Holly Annexation was explained by Sen. Forrestor. Sen. Horton moved to adopt a Proposed Committee Substitute. The motion carried unanimously. Sen. Albertson moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 1283, Ashe School Board was explained by Sen. East. Sen. Horton moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1224, Duplin/Repeal Trap Prohibit, was explained by Sen. Albertson. Sen. Jordan moved to reconsider the bill. The motion carried unanimously. Sen. Jordan moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 24, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1283** Ashe School Board
Sequential Referral: None
Recommended Referral: None

S.B. **1291** Increase Tax Policy Commission Membership
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1264** Mount Holly Annexation
Draft Number: PCS 7760
Sequential Referral: Finance
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED:3

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, May 25, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1224** Duplin/Repeal Trap Prohibition

Draft Number:	PCS 7766
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **1263** Charlotte Wheel Locks Allowed

Draft Number:	PCS 3951
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Committee Clerk Comment:

SENATE BILL 1291:
Increase Tax Policy Comm.

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Hoyle
Date:	May 23, 2000	**Summary by:**	Kristen Crosson
Version:	1st edition		Research Assistant

SUMMARY:

Senate Bill 1291 changes the number of members on the North Carolina Tax Policy Commission and the number of members appointed by the Speaker and President Pro Tempore. The bill also changes the date by which the vacancies must be filled.

S.L. 1999-35 set the number of Commission members and the number of members appointed by the Speaker, President Pro Tempore, and Governor.

Senate Bill 1291 changes:

- Commission membership from 15 to 17 members.
- Speaker's appointments from 5 to 6 members.
- President Pro Tempore's appointments from 5 to 6 members.
- Final date for appontments from August 31, 1999 to August 31, 2000.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1291*

Short Title: Increase Tax Policy Commission Membership. (Public)

Sponsors: Senators Hoyle, Clodfelter, and Kerr.

Referred to: State and Local Government.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE NORTH CAROLINA TAX POLICY COMMISSION TO INCREASE THE LEGISLATIVE MEMBERSHIP OF THE NORTH CAROLINA TAX POLICY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 3.2 of S.L. 1999-395 reads as rewritten:

"Section 3.2. Membership. -- The Commission shall consist of ~~15~~ 17 members who shall represent, insofar as practicable, the diverse interests and geographic regions of the State and shall include individuals with expertise in tax policy, tax administration, and professional tax practice.

The Speaker of the House of Representatives shall appoint ~~five~~ six members, as follows: ~~two~~ three members of the General Assembly, one individual nominated by the North Carolina League of Municipalities, one individual who represents business taxpayers, and one public member.

The President Pro Tempore of the Senate shall appoint ~~five~~ six members, as follows: ~~two~~ three members of the General Assembly, one individual nominated by the North Carolina Association of County Commissioners, one individual who represents nonbusiness taxpayers, and one public member.

The Governor shall appoint five members, as follows: one individual who represents tax practitioners, one individual who represents nonprofit, charitable organizations, one individual who has demonstrated leadership and expertise in tax policy, one individual who represents senior citizens and one individual who represents small business taxpayers.

Appointments to the Commission shall be made no later than August 31, ~~1999.~~ 2000. Vacancies shall be filled by the original appointing authority."

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

SENATE BILL 1263:
Charlotte Wheel Locks Allowed

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Dannelly
Date:	May 23, 2000	**Summary by:**	Kristen Crosson
Version:	PCS for 1st edition		Research Assistant

SUMMARY:

A Proposed Committee Substitute is presented because the 1st edition of Senate Bill 1263 used section numbers already used in the Charlotte City Charter.

The Proposed Committee Substitute for Senate Bill 1263 changes the 1st edition by:

- Changing "Section 6.26" on line 8 of the 1st edition to "Section 6.28"
- Changing "Section 6.27" on line 18 of the 1St edition to "Section 6.29"

Senate Bill 1263 amends S.L. 1965-713, the Charlotte City Charter, by adding two new sections.

This bill adds:

Section 6.28. Towing Penalties

- The city council, by ordinance, may hold any vehicle towed for a parking violation until the towing fees and penalties for all outstanding parking tickets and penalties are paid or a bond posted.
- Payment of the towing fee, parking tickets, and penalties does not constitute a waiver of a person's right to contest these fees, tickets, and penalties.

Section 6.29 Wheel Locks Permitted

- The city council, by ordinance, may use wheel locks on illegally parked vehicles which have 3 or more outstanding, unpaid, or overdue parking tickets for a period of 90 days.
- Ordinance must provide for a notice/warning affixed to vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee (not to exceed $50), and charges for towing and storage.
- City is not responsible for damages to an immobilized illegally parked vehicle that results from unauthorized attempts to free/move vehicle.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1263*

Short Title: Charlotte Wheel Locks Allowed. (Local)

Sponsors: Senators Dannelly; Albertson, Ballance, Clodfelter, Lee, Lucas, Martin of Guilford, Odom, Plyler, Rucho, Soles, Warren, and Weinstein.

Referred to: State and Local Government.

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.26. TOWING PENALTIES. The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the city are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties."

Section 2. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.27. WHEEL LOCKS PERMITTED. The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The city shall not

be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1263*
State and Local Government Committee Substitute Adopted 5/25/00

Short Title: Charlotte Wheel Locks Allowed. (Local)

Sponsors:

Referred to:

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.28. **Towing Penalties.** The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties."

Section 2. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.29. **Wheel Locks Permitted.** The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not

be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 3. This act is effective when it becomes law.

SENATE BILL 1264:
Mount Holly Annexation

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Forrester
Date:	May 24, 2000	**Summary by:**	Al Andrews
Version:	1st edition		Committee Counsel

SUMMARY:

Senate Bill 1264 gives the City of Mount Holly the power to voluntarily annex the property that is described as both the "Riverbend Stream Station Property" and the "Mountain Island Power House and Dam". All references to the "Mountain Island Power House and Dam" exclude such portion as may lie in Mecklenburg County.

Senate Bill 1264 states the following regarding the voluntary annexation agreement:

- Any agreement created under this bill will have an annexation effective date of June 30, 2014. The City of Mount Holly shall not seek the repeal of this act.
- Any agreement is binding and enforceable against the current and future members of the City Council.
- The parties, with mutual consent, may modify, amend, or extend the agreement without the approval of the General Assembly as long as the changes do not materially alter the agreement's concept.
- The City of Mount Holly may accept, as consideration for the agreement, monetary and nonmentary consideration.
- If provided under terms of agreement No portion of the properties can be involuntarily annexed, designated as an urban tax district, or subject to a municipal taxing authority ().

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1264*

Short Title: Mount Holly Annexation. (Local)

Sponsors: Senators Forrester; and Hoyle.

Referred to: State and Local Government.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any applicable provisions of the General Statutes or any other public or local law, the City of Mount Holly is granted certain contract powers as follows:

(1) The City of Mount Holly may, by agreement with the property owner, provide that certain property described in the agreement as the "Riverbend Steam Station Property" and as the "Mountain Island Power House and Dam" (excluding such portion of the dam as may lie in Mecklenburg County) may be voluntarily annexed by the City as set forth in the agreement, and the agreement may provide that, notwithstanding G.S. 160A-31(d) the effective date of such annexation is June 30, 2014. The City of Mount Holly shall not seek the repeal of this act.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this act to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City

Council of the City of Mount Holly during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section may modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

Section 2. The City of Mount Holly may accept, as consideration for such agreement, such monetary and nonmonetary consideration as may be set forth in said agreement.

Section 3. The agreement under Section 1 of this act allowing for the effective date of such annexation to be June 30, 2014, shall apply to the Riverbend Steam Station Property as described as follows:

Tract One: Commencing on NC grid station "45-EG-5", with NC values based on NAD 83 of North 179,784.43 (meters) and East 429,640.17 (meters), and runs thence North 82-13-49 East 1,017.26 feet to a #5 rebar found on the eastern margin of the right-of-way for NC Highway #16; thence North 62-21-20 East 88.42 feet to a #5 rebar found on the northern margin of the right-of-way for Horseshoe Bend Beach Road (S.R. 1912), thence with the northern margin of Horseshoe Bend Beach Road North 37-04-00 East 77.42 feet to an iron pin; thence, continuing with the northern margin of said road, North 40-00-27 East 174.20 feet to a mag. nail, on the north margin of S.R. 1911, thence North 40-01-19 East 39.92 feet to the POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT OF LAND; and running thence with the center of Steam Station Road (S.R. 1911.), North 49-53-46 West 900.22 feet to a railroad spike; thence, leaving said road and running thence, North 26-18 West 900.5 feet to an iron pin; thence North 48-24 East passing through an iron pin at a distance of 1,062.2 feet and continuing for a total distance of 1,165.2 feet to an iron pin; thence North 16-38 East passing through an iron pipe at a distance of 538 feet and continuing for a total distance of 708 feet to a point in the Catawba River; thence South 82-22 East 827.1 feet to a point; thence North 38-52 East 1,362.6 feet to a point in the Catawba River; thence North 62-21 East 605.5 feet to a point in the Catawba River; thence North 42-38 East 896.8 feet to a point on the southern edge of the Catawba River; thence with the southern edge of Mountain Island Lake and the boundary of Duke Power Company's Riverbend Steam Station project at contour elevation 647.5 feet in a northeasterly and then a southeasterly direction as it meanders 6,200 feet more or less to an iron pin on the corner of Crescent Land and Timber Corp. (now or formerly); thence

South 12-07 West 2,010.6 feet to a PK nail in the center of the right-of-way of Horseshoe Bend Beach Road (S. R. 1912); thence with the center of S. R. 1912 in a generally westerly direction the following bearings and distances: (1) North 67-12 West 100 feet; (2) North 70-35 West 180.4 feet; (3) North 71-53 West 217.8 feet; (4) North 74-40 West 100 feet; (5) North 81-40 West 100 feet; (6) North 86-20 West 109.5 feet; (7) North 87-08 West 364.4 feet; (8) North 87-37 West 820.5 feet; (9) South 86-57 west 201.4 feet; (10) South 79-42 West 322.8 feet to a point; thence leaving the center

of said road and running thence around the edge of Henderson Cemetery the following bearings and distances: (1) North 5-00 West 221.2 feet; (2) North 5-01 West 117 feet; (3) South 86-00 West 150 feet to an iron pin; (4) South 5-00 East passing through an iron at 192.5 feet and continuing for a total distance of 343.4 feet to a point in the center of the right-of-way of S. R. 1912; thence with the center of S. R. 1912 the following bearings and distances: (1) North 88-22 West 231.8 feet to a point; (2) with the centerline of said S. R. 1912 as it meanders in a westerly direction 1,950 feet to PK nail found being the corner of StoneWater Bay Properties, LLC(Deed Book 2920 at Page 296); thence leaving the centerline of said road North 59-38-41 East 38-86 feet to an iron pin set; thence with the northern edge of the right-of-way for Horseshoe Bend Beach Road (S. R. 1912) the following courses and distances: (1) North 80-17-32 West 177.48 feet to an iron pin set; (2) North 80-32-11 West 50.39 feet to an iron pin; (3) North 82-02-01 West 51.13 feet to an iron pin set; (4) North 86-02-08 West 52.3 feet to an iron pin set; (5) South 87-07-14 West 53.62 feet; (6) South 77-28-52 West 54.29 feet; (7) South 67-06-31 West 54.46 feet; (8) South 57-02-33 West 53.66 feet; (9) South 50-14-46 West 52.58 feet; (10) South 45-03-23 West 51.59 feet; (11) South 42-43-08 West 50.81 feet; (12) South 41-19-06 West 100.34 feet; (13) South 40-01-19 West 2,120.87 feet to the POINT OF BEGINNING. This description taken from a Duke Power Company plat of property entitled "Riverbend Steam Station" Gaston County, North Carolina, dated April 14, 1997, reference Mountain Island File No. 187. Further reference is made to the plat of StoneWater Bay Properties, LLC recorded in Plat Book 55 at Pages 51 and 52 of the Gaston County Registry and an unrecorded survey by CBS Surveying and Mapping dated April 26, 2000.

Tract Two: Mountain Island Power House and Dam (excluding such portion as may lie in Mecklenburg County)

That land upon which is located the Mountain Island Power House and the Mountain Island Dam Facility, excluding such portion of the same which may be located in Mecklenburg County.

Section 4. No portion of the Riverbend Steam Station Property as described in Section 3 of this act and no portion of the Mountain Island Power House and Dam described in Section 3 of this act shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority by the City of Mount Holly or any other town or municipality or consolidated government, if provided under the terms of said agreement as referred to in Section 1 of this act.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1264*
State and Local Government Committee Substitute Adopted 5/24/00

Short Title: Mount Holly Annexation. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any applicable provisions of the General Statutes or any other public or local law, the City of Mount Holly is granted certain contract powers as follows:

(1) The City of Mount Holly may, by agreement with the property owner, provide that certain property described in the agreement as the "Riverbend Steam Station Property" and as the "Mountain Island Power House and Dam" (excluding such portion of the dam as may lie in Mecklenburg County) may be voluntarily annexed by the City as set forth in the agreement, and the agreement may provide that, notwithstanding G.S. 160A-31(d) the effective date of such annexation is June 30, 2014. The City of Mount Holly shall not seek the repeal of this act.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this act to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City

Council of the City of Mount Holly during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section may modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

Section 2. The City of Mount Holly may accept, as consideration for such agreement, such monetary and nonmonetary consideration as may be set forth in said agreement.

Section 3. The agreement under Section 1 of this act allowing for the effective date of such annexation to be June 30, 2014, shall apply to the property as described as follows:

Tract One: Riverbend Steam Station Property. Commencing on NC grid station "45-EG-5", with NC values based on NAD 83 of North 179,784.43 (meters) and East 429,640.17 (meters), and runs thence North 82-13-49 East 1,017.26 feet to a #5 rebar found on the eastern margin of the right-of-way for NC Highway #16; thence North 62-21-20 East 88.42 feet to a #5 rebar found on the northern margin of the right-of-way for Horseshoe Bend Beach Road (S.R. 1912), thence with the northern margin of Horseshoe Bend Beach Road North 37-04-00 East 77.42 feet to an iron pin; thence, continuing with the northern margin of said road, North 40-00-27 East 174.20 feet to a mag. nail, on the north margin of S.R. 1911, thence North 40-01-19 East 39.92 feet to the POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT OF LAND; and running thence with the center of Steam Station Road (S.R. 1911.), North 49-53-46 West 900.22 feet to a railroad spike; thence, leaving said road and running thence, North 26-18 West 900.5 feet to an iron pin; thence North 48-24 East passing through an iron pin at a distance of 1,062.2 feet and continuing for a total distance of 1,165.2 feet to an iron pin; thence North 16-38 East passing through an iron pipe at a distance of 538 feet and continuing for a total distance of 708 feet to a point in the Catawba River; thence South 82-22 East 827.1 feet to a point; thence North 38-52 East 1,362.6 feet to a point in the Catawba River; thence North 62-21 East 605.5 feet to a point in the Catawba River; thence North 42-38 East 896.8 feet to a point on the southern edge of the Catawba River; thence with the southern edge of Mountain Island Lake and the boundary of Duke Power Company's Riverbend Steam Station project at contour elevation 647.5 feet in a northeasterly and then a southeasterly direction as it meanders 6,200 feet more or less to an iron pin on the corner of Crescent Land and Timber Corp. (now or formerly); thence South 12-07 West 2,010.6 feet to a PK nail in the center of the right-of-way of Horseshoe Bend Beach Road (S. R. 1912); thence with the center of S. R. 1912 in a generally westerly direction the following bearings and distances: (1) North 67-12 West 100 feet; (2) North 70-35 West 180.4 feet; (3) North 71-53 West 217.8 feet; (4) North 74-40 West 100 feet; (5) North 81-40 West 100 feet; (6) North 86-20 West 109.5 feet; (7) North 87-08 West 364.4 feet; (8) North 87-37 West 820.5 feet; (9) South 86-57 west 201.4 feet; (10) South 79-42 West 322.8 feet to a point; thence leaving the center of said road

and running thence around the edge of Henderson Cemetery the following bearings and distances: (1) North 5-00 West 221.2 feet; (2) North 5-01 West 117 feet; (3) South 86-00 West 150 feet to an iron pin; (4) South 5-00 East passing through an iron at 192.5 feet and continuing for a total distance of 343.4 feet to a point in the center of the right-of-way of S. R. 1912; thence with the center of S. R. 1912 the following bearings and distances: (1) North 88-22 West 231.8 feet to a point; (2) with the centerline of said S. R. 1912 as it meanders in a westerly direction 1,950 feet to PK nail found being the corner of StoneWater Bay Properties, LLC(Deed Book 2920 at Page 296); thence leaving the centerline of said road North 59-38-41 East 38-86 feet to an iron pin set; thence with the northern edge of the right-of-way for Horseshoe Bend Beach Road (S. R. 1912) the following courses and distances: (1) North 80-17-32 West 177.48 feet to an iron pin set; (2) North 80-32-11 West 50.39 feet to an iron pin; (3) North 82-02-01 West 51.13 feet to an iron pin set; (4) North 86-02-08 West 52.3 feet to an iron pin set; (5) South 87-07-14 West 53.62 feet; (6) South 77-28-52 West 54.29 feet; (7) South 67-06-31 West 54.46 feet; (8) South 57-02-33 West 53.66 feet; (9) South 50-14-46 West 52.58 feet; (10) South 45-03-23 West 51.59 feet; (11) South 42-43-08 West 50.81 feet; (12) South 41-19-06 West 100.34 feet; (13) South 40-01-19 West 2,120.87 feet to the POINT OF BEGINNING. This description taken from a Duke Power Company plat of property entitled "Riverbend Steam Station" Gaston County, North Carolina, dated April 14, 1997, reference Mountain Island File No. 187. Further reference is made to the plat of StoneWater Bay Properties, LLC recorded in Plat Book 55 at Pages 51 and 52 of the Gaston County Registry and an unrecorded survey by CBS Surveying and Mapping dated April 26, 2000.

Tract Two: Mountain Island Power House and Dam (excluding such portion as may lie in Mecklenburg County)

That land upon which is located the Mountain Island Power House and the Mountain Island Dam Facility, excluding such portion of the same which may be located in Mecklenburg County further described as follows:

TO LOCATE THE POINT OF BEGINNING commence at NCGS Grid Coordinates N = 582154.3333 and E = 1409384.3310; said grid coordinates being also located on the easterly bank of the Catawba River in a southwest boundary of the property owned (now or formerly) by Crescent Resources, Inc. as described in Deed Book 1598 at Page 489 and Deed Book 3146 at Page 175 (Mecklenburg County Registry); thence crossing the River S. 71-19-34 W. 656.97 feet to a point on the westerly bank of the Catawba River at NCGS Grid Coordinates N = 581374.9684 and E = 1410492.3466; thence along the westerly bank of the Catawba River the following two (2) courses and distances: (1) N. 34-32-43 W. 476.50 feet to a point; and (2) N. 51-54-56 W. 533.39 feet to the POINT OR PLACE OF BEGINNING; thence from said point of Beginning N. 40-10-36 E. 356.33 feet to a point lying within the Catawba River in the Gaston-Mecklenburg County line; thence with the Gaston-Mecklenburg County line N. 61-29-02 W. 281.16 feet to a point in said County line; thence S. 65-19-02 W 1,577.62 feet to a point in the westerly boundary of Mountain Island Lake; thence S. 23-52-18 W. 360.47 feet to a concrete monument; thence S. 73-36-39 E. 547.44 feet to a point; thence N. 71-01-21 E. 534.95 feet to a concrete monument;

thence N. 79-46-34 E. 284.00 feet to a concrete monument; thence N. 25-31-06 E. 441.61 feet to a concrete monument; thence N. 40-10-36 E. 148.88 feet to the POINT OR PLACE OF BEGINNING containing 22.77 acres, more or less, as shown on that map entitled "Duke Power Company Addition to Mountain Island Steam Station" prepared by the Duke Power Real Estate Department and dated January 9, 1991, last revised June 10, 1993, reference to which survey is hereby made.

Section 4. No portion of the Riverbend Steam Station Property as described in Section 3 of this act and no portion of the Mountain Island Power House and Dam described in Section 3 of this act shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority by the City of Mount Holly or any other town or municipality or consolidated government, if provided under the terms of said agreement as referred to in Section 1 of this act.

Section 5. This act is effective when it becomes law.

SB 1283:
Ashe School Board

BILL ANALYSIS

Committee:	Senate State & Local Gov't	**Introduced by:**	Senator East
Date:	May 24, 2000	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 1283 amends Section 1 of Chapter 128 of the 1995 Session Laws providing for elections on a nonpartisan basis to the Ashe County School Board. The bill shifts the last day for filing notices of candidacy from the last Friday in July to the first Friday in July.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1283

Short Title: Ashe School Board. (Local)

Sponsors: Senators East; Carrington and Foxx.

Referred to: State and Local Government.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO CORRECT THE CANDIDATE FILING DEADLINE FOR THE ASHE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 128 of the 1995 Session Laws reads as rewritten:

"Section 1. Notwithstanding the provisions of G.S. 115C-37, the Ashe County Board of Education shall be elected on a nonpartisan basis at the time set by G.S. 163-1 for the general election in each even-numbered year as terms expire. The election shall be conducted on a nonpartisan plurality basis, with the results determined in accordance with G.S. 163-292. Candidates shall file notices of candidacy not earlier than noon on the first Monday in June and not later than noon on the ~~last~~ first Friday in July. The names of the candidates shall be printed on the ballot without reference to any party affiliations. Except as provided by this act, the election shall be conducted in accordance with the applicable provisions of Chapters 115C and 163 of the General Statutes."

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

SB1224:
Duplin/Repeal Trap Prohibition

BILL ANALYSIS

Committee:	Senate State & Local Gov't	**Introduced by:**	Senator Albertson
Date:	May 24, 2000	**Summary by:**	Barbara Riley
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY:

Senate Bill 1224 as introduced and given a favorable report in this Committee repealed Duplin County's prohibition on the use of leghold traps. The use of leghold traps in Duplin County would have been governed by State law. G.S. 113-291.6.

The proposed committee substitute for Senate Bill 1224 provides for a limited exception to the ban against leghold traps in Duplin County. The traps would be allowed for beaver and would be required to be set so that they were covered by water, thus reducing the risk of trapping other species such as fox and raccoon.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1224*

Short Title: Duplin/Repeal Trap Prohibition. (Local)

Sponsors: Senator Albertson.

Referred to: State and Local Government.

May 15, 2000

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PROHIBITION ON LEG-GRIPPING TRAPS IN DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1266 of the 1973 Session Laws is repealed.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1224*
State and Local Government Committee Substitute Adopted 5/25/00

Short Title: Duplin/Repeal Trap Prohibition. (Local)

Sponsors:

Referred to:

May 15, 2000

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PROHIBITION ON LEG-GRIPPING TRAPS IN DUPLIN COUNTY AS TO BEAVER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1266 of the 1973 Session Laws is amended by adding a new section to read:

"Section 1.1. Notwithstanding the provisions of Section 1 of this act, leg-gripping traps may be set and used in Duplin County for the taking of beaver. Any leg-gripping trap set in accordance with this section shall meet the requirements for traps set forth in G.S. 113-291.6 and shall be set in water of sufficient depth to cover the trap."

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 24, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Natalie English	Charlotte Chamber
Katherine Joyce	SEANC
Leanne Winner	NCSBA
Boyd Cauble	City of Charlotte
John McAlister	Duke Energy
[illegible]	CP&L
[illegible]	[illegible]

STATE & LOCAL GOVERNMENT

WEDNESDAY, MAY 31, 2000

11:00 AM

ROOM 1124

Bills

SB 1334 Tabor City Annexation	Sen. Soles
SB 1261 State Compensation Plan Changes /F	Sen. Reeves
SB 1300 Midland Incorporation	Sen. Hartsell
SB 1301 Cabarrus Annexation Moratorium	Sen. Hartsell
SB 1302 Cabarrus School Bids	Sen. Hartsell

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, MAY 31, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, May 31, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1334, Increase Tabor City Annexation, was explained by Sen. Soles. Sen. Soles moved to adopt a Proposed Committee Substitute. Sen. Horton moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

SB 1300, Midland Incorporation, Sen. Hartsell requested that SB 1300 not be considered at this time.

SB 1301, Cabarrus Annexation Moratorium, was explained by Sen. Hartsell. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1302, Cabarrus School Bids, explained by Sen. Hartsell. David Simpson, Association of General Contractors, spoke against the bill. Henry Jones, of the NC Association of Plumbing-Heating-Cooling Contractors, Inc., spoke against the bill. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1261, State Compensation Plan Changes/F, was explained by Sen. Reeves. Theresa Matula, Legislative Analyst answered questions about longevity pay. Sen. Soles moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, May 31, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1261** State Compensation Plan Changes/Funds
Sequential Referral: Approp/Base Bud
Recommended Referral: None

S.B. **1301** Cabarrus Annexation Moratorium
Sequential Referral: None
Recommended Referral: None

S.B. **1302** Cabarrus School Bids
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1334** Tabor City Annexation
Draft Number: PCS 1334
Sequential Referral: Finance
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1334*

Short Title: Tabor City Annexation. (Local)

Sponsors: Senator Soles.

Referred to: State and Local Government.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Tabor City:

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1334*
Proposed Committee Substitute S1334-PCS7774-LM1

Short Title: Tabor City Annexation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Tabor City:

Being those tracts or parcels of land located in South Williams Township, Columbus County, North Carolina, and being contained within the following more particular description:

Beginning at a point in the existing northern city limits line near the Southeast corner of Myrtle Green Cemetery and being within the right-of-way of SR 1367, said point being further located South 82 degrees 49 minutes 50 seconds West 961.91 feet from the Northeast corner of the existing city limits. Proceeds from said beginning point with the existing city limit line South 82 degrees 49 minutes 50 seconds West 4600.97 feet to a point on the northern right-of-way (allowing 80 feet for right-of-way) of SR 1377, thence with said right-of-way North 71 degrees 15 minutes 30 seconds East 477.67 feet, thence with a northern line of lands of the Town of Tabor City North 9 degrees 54 minutes 30 seconds East 130.40 feet, thence with the West line of said Town tract North 13 degrees 07 minutes 50 seconds West 401.49 feet, thence with another line of said Town tract North 45 degrees 36 minutes 20 seconds East 213.69 feet, thence with the western lines of Joshua Soles (see DB 179, P 73) and Howard

Soles, et ux (see DB 221, P 184 and DB 211, P 453) North 13 degrees 39 minutes 00 seconds East 763.50 feet, thence continuing with line of said Howard Soles, et ux North 4 degrees 19 minutes 30 seconds East 84.00 feet, thence with the western line of Anniebell S. Beck and Wilson Beck (see DB 179, P 71 and DB 201, P 578) North 3 degrees 28 minutes 30 seconds East 511.83 feet, thence with a western line of Joshua Soles (see DB 179, P 73) North 2 degrees 58 minutes 10 seconds East 462.88 feet, thence with the northern line of said Soles and beyond South 78 degrees 07 minutes 40 seconds East 1336.92 feet to the centerline of CSX Railroad, thence to and with the northern line of tract of H. B. Buffkin, Jr. South 78 degrees 07 minutes 40 seconds East 389.40 feet, thence continuing with said Buffkin line South 85 degrees 22 minutes 30 seconds East 82.03 feet, thence with the eastern line of said Buffkin tract South 3 degrees 47 minutes 00 seconds East 626.93 feet, thence with the northern lines of tract of Earl McDaniels, et al. (see DB 314, P 112) the following three (3) courses: North 81 degrees 21 minutes 00 seconds East 721.36 feet; North 3 degrees 25 minutes 20 seconds West 26.85 feet; North 84 degrees 25 minutes 50 seconds East 118.77 feet, thence with the northern line of Terry Lee Phipps (see DB 537, P 406) North 84 degrees 27 minutes 30 seconds East 439.50 feet to the centerline of SR 1300 thence with said centerline the following three (3) courses: South 17 degrees 51 minutes 30 seconds East 219.48 feet; South 16 degrees 39 minutes 50 seconds East 330.01 feet; South 8 degrees 48 minutes 50 seconds East 32.92 feet, thence to and with the northern boundary of Myrtle Green Cemetery tract North 81 degrees 06 minutes 20 seconds East 393.90 feet, thence with the eastern line of said cemetery South 4 degrees 23 minutes 20 seconds East 670.63 feet to the beginning and contains 143 acres, more or less.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1334*
State and Local Government Committee Substitute Adopted 5/31/00

Short Title: Tabor City Annexation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Tabor City:

Being those tracts or parcels of land located in South Williams Township, Columbus County, North Carolina, and being contained within the following more particular description:

Beginning at a point in the existing northern city limits line near the Southeast corner of Myrtle Green Cemetery and being within the right-of-way of SR 1367, said point being further located South 82 degrees 49 minutes 50 seconds West 961.91 feet from the Northeast corner of the existing city limits. Proceeds from said beginning point with the existing city limit line South 82 degrees 49 minutes 50 seconds West 4600.97 feet to a point on the northern right-of-way (allowing 80 feet for right-of-way) of SR 1377, thence with said right-of-way North 71 degrees 15 minutes 30 seconds East 477.67 feet, thence with a northern line of lands of the Town of Tabor City North 9 degrees 54 minutes 30 seconds East 130.40 feet, thence with the West line of said Town tract North 13 degrees 07 minutes 50 seconds West 401.49 feet, thence with another line of said Town tract North 45 degrees 36 minutes 20 seconds East 213.69 feet, thence with the western lines of Joshua Soles (see DB 179, P 73) and Howard

Soles, et ux (see DB 221, P 184 and DB 211, P 453) North 13 degrees 39 minutes 00 seconds East 763.50 feet, thence continuing with line of said Howard Soles, et ux North 4 degrees 19 minutes 30 seconds East 84.00 feet, thence with the western line of Anniebell S. Beck and Wilson Beck (see DB 179, P 71 and DB 201, P 578) North 3 degrees 28 minutes 30 seconds East 511.83 feet, thence with a western line of Joshua Soles (see DB 179, P 73) North 2 degrees 58 minutes 10 seconds East 462.88 feet, thence with the northern line of said Soles and beyond South 78 degrees 07 minutes 40 seconds East 1336.92 feet to the centerline of CSX Railroad, thence to and with the northern line of tract of H. B. Buffkin, Jr. South 78 degrees 07 minutes 40 seconds East 389.40 feet, thence continuing with said Buffkin line South 85 degrees 22 minutes 30 seconds East 82.03 feet, thence with the eastern line of said Buffkin tract South 3 degrees 47 minutes 00 seconds East 626.93 feet, thence with the northern lines of tract of Earl McDaniels, et al. (see DB 314, P 112) the following three (3) courses: North 81 degrees 21 minutes 00 seconds East 721.36 feet; North 3 degrees 25 minutes 20 seconds West 26.85 feet; North 84 degrees 25 minutes 50 seconds East 118.77 feet, thence with the northern line of Terry Lee Phipps (see DB 537, P 406) North 84 degrees 27 minutes 30 seconds East 439.50 feet to the centerline of SR 1300 thence with said centerline the following three (3) courses: South 17 degrees 51 minutes 30 seconds East 219.48 feet; South 16 degrees 39 minutes 50 seconds East 330.01 feet; South 8 degrees 48 minutes 50 seconds East 32.92 feet, thence to and with the northern boundary of Myrtle Green Cemetery tract North 81 degrees 06 minutes 20 seconds East 393.90 feet, thence with the eastern line of said cemetery South 4 degrees 23 minutes 20 seconds East 670.63 feet to the beginning and contains 143 acres, more or less.

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

SENATE BILL 1301:
Cabarrus Annexation Moratorium

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Hartsell
Date:	May 31, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill is designed to stop annexations of, and prohibit incorporation in, a designated area of Cabarrus County for a ten year period.***

RELEVANT LAW: General Statutes Chapter 160A, Article 4A, Parts 2 and 3, covers annexations by cities of less than 5,000 in population (Part 2) and cities of more than 5,000 in population (Part 3).

BILL ANALYSIS: This bill prevents the adoption of annexation ordinances by cities or incorporation acts by the General Assembly in a designated and defined area of Cabarrus County until June 30, 2010. The designated area is set out by metes and bounds as described in the bill. This bill would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1301

Short Title: Cabarrus Annexation Moratorium. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PLACE A MORATORIUM ON ANNEXATIONS AND INCORPORATION IN A DESIGNATED AREA OF CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. No annexation ordinance shall be adopted under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes nor any incorporation act shall be enacted by the General Assembly as to any or all of the following described territory prior to June 30, 2010:

Beginning at a nail and cap in the intersection of centerlines for US Highway #601 and NC State Road #1119 (Wallace Road), a corner of the Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235), said beginning point being located N33°-13'-32"E-3,864.92' from NCGS Monument "Kiser"(Grid Coordinates: N536,271.92 feet; El,546,207.01 feet) (Combined Grid Factor = 0.999851569); thence from the point of the beginning and with the property line of Midland Industrial Park and the centerline of US Highway #601 the following (4) courses and distances, (1) S33°-31'-36"W - 23.13' to a railroad spike, (2) S32°-35'-59"W - 29.95' to a nail and cap, (3) S32°-44'-27"W - 574.41' to a point, (4) S32°-58'-24"W - 1719.80' to a point in the centerline of US Highway #601, the northeast corner of Corning Incorporated (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the Corning Incorporated Property Line the following (9) courses and distances, (1) S32°-58'-24"W - 229.80' to a nail and cap, (2) N66°-03'-45"W - 50.23' to a 5/8" rebar, (3) S32°-56'-23"W - 1,628.41' to a concrete monument, (4) S32°-21'-17"W -

35.84' to a concrete monument, (5) S32°-55'-31"W - 591.41' to a concrete monument, (6) S64°-25'-16"E - 49.59' to a 5/8" rebar, (7) with the arc of a circular curve to the left, having a radius of 3,127.0' a distance of 551.05', and a chord distance and bearing S27°-59'-25"W - 550.34' to a point, (8) S21°-55'-46"W - 215.04' to a point, (9) S21°-35'-34"W - 369.74' to a point in the centerline of US Highway #601, the northeast corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the centerline of US HIghway #601 and the property line of the Midland Industrial Park the following (2) courses and distances (1) S21°-34'-23"W - 233.73' to a point, (2) S21°-27'-48"W - 700.05' to a point in the centerline of US Highway #601; thence N71°-52'-10"W(passing irons at 50.22' and 436.37') for a total of 823.33' to an iron pin, said iron pin being the northeast corner of the property owned by Midland Industrial Park (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1686 Page 313); thence with the property line of Midland Industrial Park the following (6) courses and distances (1) S21°-33'-31"W - 17.42' to an iron pin, (2) S27°-16'-50"W - 1134.60' to iron pin, (3) N72°-14'-53"W - 154.76' to an iron pin, (4) N 52°-37'-30"W 1021.85' to a railroad iron, (5) N45°-59'-15"W - 228.96' to an iron pin, (6) N36°-35'-34"E - 739.91' to a nail, said nail being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the property line of Midland Industrial Park N16°-09'-42"E - 1,126.41' to a 1 1/2" OT Iron Pipe, said 1 1/2" OT Iron Pipe being the southwest corner of the property owned by Corning Incorporated (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the property line of Corning Incorporated the following (8) courses and distances (1) N16°-32'-58"E - 1,166.94' to an iron pin, (2) N06°-09'-53"E - 154.65' to an iron pin, (3) S78°-05'-55"E - 918.49' to an iron pin, (4) N03°-11'-46"W - 606.49' to a concrete monument, (5) N03°-11'-50"W - 455.25' to a concrete monument, (6) S75°-17'-59"E - 698.98' to concrete monument, (7) N28°-19'-00"E - 839.70' to a concrete monument, (8) N28°-26'-05"E - 182.50' to an iron pin, said iron pin being the southwest corner of the property owned by the BOC Group, Inc. (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2476 Page 13); thence with the property line of The BOC Group, Inc. property the following (2) courses and distances (1) N28°-43'-57"E - 21.15' to an iron pipe, (2) N30°-08'-05"E - 1,107.12' to an iron pin, said iron pin being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235; thence with the property line of Midland Industrial Park N30°-08'-05"E - 498.50' to a railroad spike in the centerline of NC State Road #1119 (Wallace Road), said railroad spike being a point in the southern property line of McGee Brothers, Inc., (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2097 Page 237) thence with the McGee Brothers, Inc. Property line and the centerline of Wallace Road S74°-55'-16"W - 28.98' to a nail and cap in the centerline of Wallace Road, said nail and cap being the southeast corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1845 Page 30) thence

with the property line of McGee Brothers, Inc. the following (2) courses and distances (1) S75°-55'-53"W - 116.87' to a nail and cap in the centerline of Wallace Road, (2) N01°-59'-43"W - 580.41' to an iron, said iron being the southwest corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 281) thence with the following (2) courses and distances (1) N01°-59'-43"W - 907.00' to an iron, (2) N01°-59'-43"W - 569.70' to an iron, said iron being a corner in the southern property line of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 277) thence with the property line of McGee Brothers, Inc. the following (4) courses and distances (1)S82°-37'-48"W - 537.64' to an iron pin, (2) N64°-33'-35"W - 261.87' to an iron Pipe, (3) N62°-37'-54"E - 332.08' to an iron pipe, (4) N49°-08'-49"W - 526.15' to a pk nail in the centerline of the Norfolk Southern Railroad, said pk being located 930.00 feet west of Mile Post 369 as measured along said Railroad centerline and being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 498 Page 7) thence with the property line of Midland Industrial Park the following (6) courses and distances (1) N49°-08'-49"W - 169.61' to an iron pin, (2) N32°E - 1254' to a stone, (3) N22°E 1683' to a large Black Oak, (4) S58°E - 511.5' to a stone, (5) S30°W - 66' to a stone, (6) S33°E - 1864' to an iron stake, said iron stake being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) N51°-38'E - 427.3' to an iron stake on the south bank of the north fork of Muddy Creek, (2) S72°-28'E - 360.2' to an iron stake located 25" north from the channel of Muddy Creek, (3) S21°-52'W - 272.8" to an axle on the bank of Muddy Creek, said axle being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 563 Page 52) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) S73°-14'-10"E - 1245.10' to an iron pin, (2) S19°-31'-28"W - 247.88' to a pk nail in the centerline of a paved drive, (3) N73°-15'-32"W - 637.28' to a point in the centerline of Muddy Creek (passing an iron pin at 622.51'), said point being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence down the centerline of Muddy Creek and the property line of Midland Industrial Park the following (11) courses and distances (1) S07°-56'-54"E - 85.40' to a point, (2) S11°-54'-39"E - 54.25' to a point, (3) S19°-40'-09"E - 59.15' to a point, (4) S38°-30'-32"E - 105.00' to a point, (5) S01°-50'-11"W - 67.10' to a point, (6) S07°-27'-46"E - 133.88' to a point, (7) S01°-14'-09"E - 97.95' to a point, (8) S25°-18'-49"W - 129.28' to a point, (9) S08°-39'-17"W - 60.00' to a point, (10) S11°-23'-11"W - 187.54' to a point, (11) S39°-54'-47"E - 75.37' to a pk nail in the centerline of the Norfolk Southern Railway track and the centerline of Muddy Creek, said pk nail being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 531 Page 338) thence down the centerline of Muddy Creek and with the property line of the Midland Industrial Park

to the intersection of the centerline of US Highway #601; thence with the centerline of US Highway #601 to the point of beginning, containing 608.63 acres plus or minus.

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

SENATE BILL 1302:
Cabarrus School Bids

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Hartsell
Date:	May 31, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill is designed to assist Cabarrus County with expediting construction of school facilities.***

BACKGROUND: Cabarrus County's school-age population growth has made its school facilities inadequate to accommodate the numbers. The Cabarrus County Board of Education and Board of Commissioners have jointly approved and funded a School Facilities 2000 building program to quickly get facilities built. The Boards want to speed up the usual bidding and contracting process so that schools construction can begin as soon as possible.

BILL ANALYSIS: This bill seeks to allow the Cabarrus County Board of Commissioners and Board of Edcation to jointly select and negotiate with separate-prime contractors to build school buildings using the repetitive design approach. This selection process would only happen if both Boards jointly determine tha using the selection and negotiations process instead of competitive bidding would expedite the project, create an effective construction tea, and control costs, quality, and schedule. This process would avoid the public contracting rules General Statutes Chapter 143, Article 8.

The bill applies to the construction of up to five schools.

This bill would become effective when it become law and has a June 30, 2005 sunset.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1302

Short Title: Cabarrus School Bids. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ASSIST CABARRUS COUNTY WITH THE EXPEDITING OF PUBLIC SCHOOL FACILITIES.

Whereas, Cabarrus County is faced with the critical need for school facilities created by an unusual growth in student population; and

Whereas, the Cabarrus County Board of Education and the Board of Commissioners of Cabarrus County have jointly approved and funded a School Facilities 2000 building program; and

Whereas, the Cabarrus County Board of Education, faced with the critical need for school facilities, has implemented a model facilities plan using a repetitive design approach to design school facilities that are educationally effective and economically efficient; and

Whereas, the Cabarrus County Board of Education desires to explore alternative approaches to expedite the construction of school facilities that could assist in meeting the critical need for school facilities; and

Whereas, the General Assembly reaffirms its commitment to enhance public education and to encourage innovation by public officials in meeting the critical need for school facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Board of Commissioners of Cabarrus County and the Cabarrus County Board of Education may jointly select and negotiate with separate-prime contractors to build school buildings using the repetitive design approach if the Board of Commissioners of Cabarrus County and the Cabarrus County Board of

Education jointly determine that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Section 2. This act shall apply to construction of up to five schools.

Section 3. This act is effective when it becomes law and expires on June 30, 2005.

SB 1261:
State Compensation Plan Changes/Funds

BILL ANALYSIS

Committee:
Date: May 24, 2000
Version: SB 1261

Introduced by: Senators Reeves, Lucas, Garwood, Metcalf
Summary by: Theresa Matula
Phyllis Pickett

SUMMARY: ***Senate Bill 1261 amends Section 7 of Chapter 126 regarding the compensation and performance evaluation of State employees subject to this section and appropriates funds for full implementation.***

CURRENT LAW:

G.S. 126-7 covers the compensation of State employees and specifically outlines the Comprehensive Compensation System. The Comprehensive Compensation System applies only to employees subject to Chapter 126 and features three components: Career Growth Recognition Award, Cost-of-Living Adjustment, and Performance Bonus. The components are defined as follows:

> "Career growth recognition award" means an annual salary increase awarded to a State employee whose final annual performance appraisal indicates job performance that meets or exceeds management's expectations and performance requirements;
>
> "Cost-of-living adjustment" means a general salary increase given to State employees in response to inflation and labor market factors;
>
> "Performance bonus" means a salary increase that is awarded in a lump sum to a State employee whose final annual performance appraisal indicates job performance that exceeds management's expectations and performance requirements.

Current law links the award of each of these components to an employee's annual performance appraisal rating. The performance appraisal system of each department, agency, or institution shall be within the guidelines of the State Personnel Commission and shall use a rating scale of five levels, with level four or better qualifying for performance bonuses, level three or better qualifying for career growth recognition awards, and level two or better qualifying for cost-of-living adjustments.

BILL ANALYSIS:

The following is an outline of the sections in SB 1261.

Section 1 (Changes to G.S. 126-7)

- Changes the name from Comprehensive Compensation System to State Compensation Plan.
- Links the cost-of-living adjustment to the Consumer Price Index of the previous calendar year.
- Specifies that the annual career growth recognition award be part of the continuation budget for each fiscal year and that the cost-of-living adjustment and the performance bonus be part of the annual expansion budget.

- Eliminates the requirement that a cost-of-living award be based on a performance appraisal rating and state that each employee shall receive a cost-of-living increase.
- Eliminates the requirement of a five level performance appraisal rating scale and requires that any performance appraisal system adopted meet the standards established by the State Personnel Commission and define specific parameters for employees whose performance is deemed unsatisfactory by management or whose performance meets or exceeds management's expectations. Conforming changes are made to the rating levels specified under the career growth recognition award and the performance bonus.

Section 2 and Section 3.

- Sections 2 and 3 contain the approriations from the General Fund and the Highway fund required for full implementation of the bill.

Section 4 (Effective Dates)

Sections 2 and 3 become effective July 1, 2000. The remainder of the act becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1261*

Short Title: State Compensation Plan Changes/Funds. (Public)

Sponsors: Senators Reeves, Lucas, Garwood, Metcalf; Carter, Kerr, Miller, and Wellons.

Referred to: State and Local Government.

May 16, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE EMPLOYEE COMPENSATION AND PERFORMANCE EVALUATION PROVISIONS OF THE STATE PERSONNEL ACT, CHAPTER 126 OF THE GENERAL STATUTES, AND APPROPRIATING FUNDS FOR FULL IMPLEMENTATION OF THE STATE COMPENSATION PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7 reads as rewritten:

"**§ 126-7. Compensation of State employees.**

(a) It is the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, salary increases to State employees shall be implemented through the ~~Comprehensive Compensation System~~ State Compensation Plan based upon the individual performance of each State employee. The ~~Comprehensive Compensation System~~ State Compensation Plan shall combine salary increases and awards into an interrelated system of compensation that furthers the recruitment, retention, career service, and outstanding performance of State employees.

(a1) Repealed by Session Laws 1993, c. 388, s. 1.

(a2) For the purpose of this section, unless the context indicates otherwise:

(1) 'Career growth recognition award' means an annual salary increase awarded to a State employee whose final annual performance appraisal indicates job performance that meets or exceeds

management's expectations and performance ~~requirements;~~ requirements.

(2) 'Cost-of-living adjustment' means a general salary increase given to State employees in response to inflation and labor market ~~factors;~~ factors to reflect the annual percentage increase in the Consumer Price Index of the previous calendar year.

(3) 'Performance bonus' means a salary increase that is awarded in a lump sum to a State employee whose final annual performance appraisal indicates job performance that exceeds management's expectations and performance requirements.

(a3) It is the intent of the General Assembly that the annual career growth recognition award shall be part of the continuation budget for each fiscal year and that the cost-of-living adjustment and the performance bonus shall be part of the annual expansion budget.

(b) To guide the Governor and the General Assembly in making appropriations to fund the ~~Comprehensive Compensation System,~~ State Compensation Plan, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years.

(b1) The ~~Comprehensive Compensation System~~ State Compensation Plan shall consist of the following components: (i) the career growth recognition award, (ii) the cost-of-living adjustment, and (iii) the performance bonus. The career growth recognition award shall be the primary method by which an employee progresses through his or her salary range and shall be awarded annually to employees who qualify for the award. An employee may receive, within a 12-month period, the career growth recognition award, the cost-of-living adjustment, and the performance bonus, if the employee's job performance equals or exceeds the level of performance set forth in subdivisions (4), (4a), and (4b) of subsection (c) of this section. No employee shall be eligible to receive during a 12-month period a performance bonus greater than the maximum amount or less than the minimum amount established by the Commission. Nothing in this section shall affect the system of longevity payments established by the Commission.

(c) Career growth recognition ~~awards, cost-of-living adjustments,~~ awards and performance bonuses shall be based on annual performance appraisals of all employees conducted by each department, agency, and institution. The State Personnel Commission, under the authority of G.S. 126-4(8), shall adopt policy and regulations for performance appraisal. The policy and regulations shall include the following:

(1) The performance appraisal system of each department, agency, or institution shall be designed and administered to ensure that career growth recognition ~~awards, cost-of-living adjustments,~~ awards and performance bonuses are distributed fairly.

(2) To be eligible to distribute career growth recognition ~~awards, cost-of-living adjustments,~~ awards and performance bonuses, a department, agency, or institution shall have an operative performance appraisal system which has been approved by the Commission. ~~The~~ Any performance appraisal system adopted ~~shall use a rating scale of five levels, with level four or better qualifying for performance bonuses, level three or better qualifying for career growth recognition awards, and level two or better qualifying for cost-of-living adjustments.~~ by an agency, department, or institution shall meet the standards established by the Commission and shall define the specific parameters for employees whose performance is deemed unsatisfactory by management or whose performance meets or exceeds management's expectations. The performance appraisal system adopted shall adhere to modern personnel management techniques and practices in common use in the public and private sectors.

(3) The State Personnel Director shall help departments, agencies, and institutions to establish and administer their performance appraisal systems and shall provide initial and ongoing training in performance appraisal and performance system administration.

(4) An employee whose performance ~~is rated at or above level four of the rating scale~~ exceeds management's expectations and performance requirements shall be eligible to receive, subject to the rules and regulations of the Commission, a performance bonus unless the employee's supervisor justifies in writing to the employee the decision not to award the performance bonus. Other than the Commission, no department, agency, or institution shall set limits so as to preclude an employee whose performance exceeds management's expectations and performance requirements from consideration for a performance bonus.

(4a) An employee whose performance ~~is rated at or above level three of the rating scale~~ meets or exceeds management's expectations and performance requirements shall receive a career growth recognition award unless the employee's supervisor justifies in writing to the employee the decision not to give the career growth recognition award. The career growth recognition award shall represent a two percent (2%) increase within the employee's assigned pay grade. In no event shall any award increase an employee's compensation above the maximum of the ~~range.~~ range, except that an employee who has reached the maximum of the range shall receive a one-time bonus equal to a two percent (2%) increase in the employee's assigned pay grade if the employee's performance meets or exceeds management's expectations and performance requirements. Other than the Commission, no agency,

department, or institution shall set limits so as to preclude an employee whose performance meets or exceeds management's expectations and performance requirements from receiving a career growth recognition award.

(4b) ~~An employee whose performance is rated at or above level two of the rating scale and who has not received a suspension without pay or demotion that has not been resolved~~ Each employee shall receive a cost-of-living ~~increase.~~ increase to accommodate inflation and labor market factors. Other than the Commission, no agency, department, or institution shall set limits ~~or initiate written disciplinary procedures for the purpose of precluding~~ to preclude an eligible employee from receiving a cost-of-living adjustment.

(5) Repealed by Session Laws 1993, c. 388, s. 1.

(5a) Repealed by Session Laws 1993, c. 388, s. 1.

(6) The State Personnel Director may rescind any career growth recognition award or performance bonus that does not appear to meet the intent of the provisions of the performance appraisal system and require the originating department, agency, or institution to reconsider or justify the increase.

(7) An employee who disputes the fairness of his or her performance appraisal or the amount of a performance bonus awarded or who believes that he or she was unfairly denied a career growth recognition award or performance bonus shall first discuss the problem with his or her supervisor. Appeals of the supervisor's decision shall be made only to the grievance committee or internal performance review board of the department, agency, or institution which shall make a recommendation to the head of the department, agency, or institution for final decision, or when consented to by both the agency and the employee, the supervisor's decision may be appealed by following the alternative dispute resolution process adopted by the State Personnel Commission. The State Personnel Director shall help a department, agency, or institution establish an internal performance review board or, if it includes employee members, to use its existing grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-34, performance pay disputes, including disputes about individual performance appraisals, shall not be considered contested case issues.

(7a) Each department, agency, and institution shall establish a performance management and pay advisory committee as part of the performance appraisal system. The purpose of the committee is to ensure that salary increases and awards are made in an equitable manner. The committee shall be responsible for reviewing:

a. Agency salary increase and award policies to determine whether this section and any guidelines promulgated by the State Personnel Commission have been adhered to;
b. Agency training and education programs to determine whether all employees receive appropriate information; and
c. Performance appraisal ratings within the department, agency, or institution to determine whether an equitable distribution has been made.

The committee must have a minimum of five members. The head of each department, agency, and institution shall appoint the members of the committee with equal representation of nonsupervisory, supervisory, and management employees. The committee shall elect its own chair.

The performance management and pay advisory committee shall meet at least two times each year. The committee shall submit a written report following each meeting to the head of the department, agency, or institution. The report shall include recommendations for changes and corrections in the administration of the performance management system. The recommendations of the committee shall be advisory only. The head of the department, agency, or institution shall respond to the committee within three months. Copies of the report shall be included in the report to the Office of State Personnel that is required of that agency, department, or institution. Summaries of the report shall be included in the annual reports that are mandated by this subsection.

(8) The State Personnel Director shall monitor the performance appraisal system and the distribution of salary increases and awards within each department, agency, and institution. Each department, agency, and institution shall submit to the Director annual reports which shall include data on the demographics of performance ratings, the frequency of evaluations, the distribution of salary increases and awards, and the implementation schedule for salary increases and awards. The Director shall analyze the data to ensure that salary increases and awards are distributed fairly within each department, agency, and institution and across all departments, agencies, and institutions of State government and shall report back to each department, agency, and institution on its appraisal and distribution performance.

(9) The State Personnel Director shall report annually on the ~~Comprehensive Compensation System~~ State Compensation Plan to the Commission. The report shall evaluate the performance of each department, agency, and institution in the administration of its appraisal system and the distribution of salary increases and awards

within each department, agency, and institution and across State government. The report shall include recommendations for improving the performance appraisal system and alleviating inequities. Copies of the report, as adopted by the State Personnel Commission, shall be sent to the Governor, Lieutenant Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, the standing personnel committees of the House of Representatives and the Senate, and the State Auditor. The State Personnel Director shall recommend to the General Assembly for its approval sanctions to be levied against departments, agencies, and institutions that have deficient performance appraisal systems or that do not link salary increases and awards to employee job performance. These sanctions may include withholding salary increases and awards from the managers and supervisors of individual employing units of departments, agencies, and institutions in which discrepancies exist.

(10) Repealed by Session Laws 1993, c. 388, s. 1.

(d) Repealed by Session Laws 1993, c. 388, s. 1.

(e) The Governor and the General Assembly, subject to availability of funds, shall advance the ~~State's Comprehensive Compensation System~~ State Compensation Plan by recommending and making annual appropriations to the ~~Comprehensive Compensation System~~ State Compensation Plan in the following manner:

(1) The career growth recognition award component shall be funded each fiscal year from the continuation budget at the level required for full implementation as provided by this section.

(2) To the extent that expansion funds are available, the ~~Comprehensive Compensation System~~ State Compensation Plan shall receive an additional appropriation to fund cost-of-living adjustments. Any remaining available funds shall next be allocated to provide for performance bonuses. ~~The level of the performance bonus allocation shall not exceed two percent (2%) of the total employee payroll.~~"

Section 2.(a) There is appropriated from the General Fund to the Reserve for Compensation Increase the sum of eighty-eight million two hundred thousand dollars ($88,200,000) for the 2000-2001 fiscal year to be used as follows:

(1) $42,000,000 to fund the Career Growth Component of the State Compensation Plan at a minimum two percent (2%) increase.

(2) $46,200,000 to tie the cost-of-living adjustment of the State Compensation Plan to the Consumer Price Index (CPI) for the previous calendar year. For calendar year 1999, the assumed average CPI rate is equal to two and two-tenths percent (2.2%).

Section 2.(b) There is appropriated from the General Fund to the Reserve for Compensation Bonus the sum of forty-two million dollars ($42,000,000)

for the 2000-2001 fiscal year to fund the Performance Bonus under the State Compensation Plan at a minimum of two percent (2%) of payroll.

Section 2.(c) There is appropriated from the General Fund to the Reserve for Compensation Increase the sum of one hundred five million dollars ($105,000,000) for the 2000-2001 fiscal year to fund a five percent (5%) salary increase under the State Compensation Plan to account for prior increases in the cost of living adjustment that did not match the CPI.

Section 3.(a) There is appropriated from the Highway Fund to the Reserve for Compensation Increase the sum of eighteen million sixty thousand dollars ($18,060,000) for the 2000-2001 fiscal year to be used as follows:

(1) $8,600,000 to fund the Career Growth Component of the State Compensation Plan at a minimum two percent (2%) increase.

(2) $9,460,000 to tie the cost of living adjustment of the State Compensation Plan to the Consumer Price Index (CPI) for the previous calendar year. For calendar year 1999, the assumed average CPI rate is equal to two and two-tenths percent (2.2%).

Section 3.(b) There is appropriated from the Highway Fund to the Reserve for Compensation Bonus the sum of eight million six hundred thousand dollars ($8,600,000) for the 2000-2001 fiscal year to fund the Performance Bonus under the State Compensation Plan at a minimum of two percent (2%) of payroll.

Section 3.(c) There is appropriated from the Highway Fund to the Reserve for Compensation Increase the sum of twenty-one million five hundred thousand dollars ($21,500,000) for the 2000-2001 fiscal year to fund a five percent (5%) salary increase under the State Compensation Plan to account for prior increases in the cost-of-living adjustment that did not match the CPI.

Section 4. Sections 2 and 3 of this act become effective July 1, 2000. The remainder of this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — MAY 31, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lynn Wilson	SEANC
Ronnie Coudray	DOI
Carl Goodwin	DSP
Frank Lewis	OSBM
Butch Gunnells	NCSDA
Hunt Ely	Canning
[illegible]	Moore & Van Allen
Wendy Mills	SEANC
Kathy Joyce	SEANC
Mel Crocker	DHHS - DHR
Mark Dedrmon	NC State Univ

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — MAY 31, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Darlene Jacobs	500 Garner Trace Garner; SEANC
E B Hunt	DOR
Dave Zane	DCR
Dennis Mecum	DOC / SEANC
Karen Davis	DPI / SEANC
Joan Page	DPI / SEANC
Charles R. Allen	DPI / SEANC
Shirley A Bell	DHHS / SEANC
Roger L. Brown	DHHS / SEANC
Tim KENT	American Institute of Architects
Katherine Peek	American Institute of Architects

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 7 2000

11:00 AM

ROOM 1124

Bills

- The following bills or resolutions will be considered:

SB 1354	Indep. Living Funds/County Match	Sen. Odom
SB 1451	Charlotte Econ. Devel. Quicktake	Sen. Odom
SB 1452	Juvenile Detention Funds	Sen. Odom
SB 1428	Durham Traffic Violations	Sen. Lucas
SB 1382	Bidding Law Exemption/Surry County	Sen. East
SB 1432	Lake Lure Fishing Regulations	Sen. Dalton
SB 1454	Haywood/No Spotlighting Deer	Sen. Robinson
SB1481	Research Triangle Park Boundary	Sen. Miller
SB 1288	Charlotte Zoning	Sen. Clodfelter
SB 1289	Mecklenberg Zoning	Sen. Clodfelter

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, June 07, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 7, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1354, Independent Living Funds/County Match, was explained by Sen. Odom. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report**

SB 1452,Juvenile Detention Funds was explained by Sen. Odom. . Sen. Soles moved to adopt a Proposed Committee Substitute. Sen. Soles moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

SB 1451, Charlotte Economic Development Quicktake was explained by Sen. Odom. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report**

SB 1382, Bidding Law Exemption/Surry County, was explained by Sen. East. Sen. Webster moved a favorable vote of the bill. John Carr and Henry Jones, of NC Association of plumbing-Heating-Cooling Contractors, Inc. spoke against the bill. The motion carried. **Favorable Report.**

SB 1454, Haywood/No Spotlighting Deer, was explained by Sen. Robinson. Sen. Albertson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1481, Research Triangle Park Boundary, was explained by Sen. Miller. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1288, Charlotte Zoning, was explained by Clodfelter. Sen. Soles moved to adopt a Proposed Committee Substitute. Sen. Soles moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 1289, Mecklenburg Zoning, was explained by Sen. Clodfelter. Sen. Horton moved to adopt a Proposed Committee Substitute. Sen. Clodfelter moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee**

SB 1428,Durham Traffic Violations, was explained by Sen. Lucas. Sen. Soles moved to adopt a Proposed Committee Substitute. Sen. Miller moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee**

Senator Ellie Kinnaird, Chair

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 07, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1354** Indep. Living Funds/Country Match
Sequential Referral: None
Recommended Referral: None

S.B. **1382** Bidding Law Exemption/Surry County
Sequential Referral: None
Recommended Referral: None

S.B. **1451** Charlotte Economic Development Quicktake
Sequential Referral: Finance
Recommended Referral: None

S.B. **1454** Haywood/No Sporlighting Deer
Sequential Referral: None
Recommended Referral: None

S.B. **1481** Research Triangle Park Boundary
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1288** Charlotte Zoning
Draft Number: PCS 7778
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

S.B. **1289** Mecklenburg zoning
Draft Number: PSC 6787
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

S.B. **1452** Juvenile Detention Funds

Draft Number:	PCS 8663
Sequential Referral:	Appro/Base Bud.
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED:8

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, June 12, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1428** Durham Traffic Violations

Draft Number:	PCS 8664
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

James D. Johnson, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Tony C. Goldman, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 7, 2000

TO: Senate State and Local Government Committee

FROM: Barbara Riley, Committee Counsel

RE: Senate Bills 1354, 1382, and 1452.

SENATE BILL 1354
Independent Living Funds/County

Senate Bill 1354, introduced by Senator Odum, authorizes Mecklenburg County to use county funds to match federal funds for the Independent Living Program should the State not provide State funds for the required match.

The act is effective when it becomes law.

SENATE BILL 1382
Bidding Law Exemption/Surry Co.

Senate Bill 1382, introduced by Senator East, would allow Surry County to rennovate and expand a building for use as a multipurpose facility without meeting the statutory competitive bidding requirements.

The act is effective when it becomes law and expires December 31, 2002.

SENATE BILL 1452 (Proposed Committee Substitute)
Juvenile Detention Funds

The proposed committee substitute for Senate Bill 1452, introduced by Senator Odum, would allow funds appropriated to the Office of Juvenile Justice to build an 8 bed secure home for female offenders in Mecklenburg County and to upgrade the Gatling Detention Center to be used instead to build two 8 bed multipurpose group homes to house juvenile offenders. A maximum of 2 beds per home would be designated for secure detention and the facilities could be used to house male offenders until the population of female offenders grows to the extent that both homes are needed for the female offender population. The Office of Juvenile Justice may contract with Mecklenburg County to implement the act.

The act becomes effective July 1, 2000.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1354

Short Title: Indep. Living Funds/County Match. (Local)

Sponsors: Senators Odom; Clodfelter, Dannelly, and Rucho.

Referred to: State and Local Government.

May 22, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO MATCH FEDERAL INDEPENDENT LIVING FUNDS IN THE EVENT THE STATE DOES NOT PROVIDE MATCHING FUNDS.

The General Assembly of North Carolina enacts:

Section 1. If the State does not provide State funds to match federal funds for the Independent Living Program, then a county board of commissioners may use county funds to match federal funds for the Independent Living Program.

Section 2. This act applies only to Mecklenburg County.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1452
State and Local Government Committee Substitute Adopted 6/7/00

Short Title: Juvenile Detention Funds. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW FUNDS APPROPRIATED FOR A DETENTION HOME FOR FEMALE JUVENILE OFFENDERS IN MECKLENBURG COUNTY TO BE USED FOR TWO MULTIPURPOSE GROUP HOMES FOR BOTH MALE AND FEMALE OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. The funds appropriated in S.L. 1998-212 and reallocated in S.L. 1999-237 to the Office of Juvenile Justice to construct an eight-bed secure group home for female offenders in Mecklenburg County and to upgrade the Gatling Detention Center to meet fire marshal standards may be used to construct two eight-bed multipurpose group homes to house juvenile offenders. A maximum of two beds per home may be designated for secure detention. The homes may be used to house male juvenile offenders until the population of female juvenile offenders in the area served by the facilities increases such that both homes are needed to house female offenders. The Office of Juvenile Justice may contract with Mecklenburg County to implement this act and to assure that the multipurpose group homes authorized pursuant to this act are consistent with similar facilities in this State.

Section 2. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1452

Short Title: Juvenile Detention Funds. (Public)

Sponsors: Senator Odom.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW FUNDS APPROPRIATED FOR A DETENTION HOME FOR FEMALE JUVENILE OFFENDERS IN MECKLENBURG COUNTY TO BE USED FOR TWO DETENTION FACILITIES TO HOUSE BOTH MALE AND FEMALE OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. The funds appropriated in S.L. 1998-212 and reallocated in S.L. 1999-237 to the Office of Juvenile Justice to construct an eight-bed secure group home for female offenders in Mecklenburg County and to upgrade the Gatling Detention Center to meet fire marshal standards may be used to construct two eight-bed facilities to house juvenile offenders in both secure and nonsecure detention. Mecklenburg County may use one of the facilities authorized pursuant to this section to house male juvenile offenders until the population of female juvenile offenders in the area served by the facilities increases such that both facilities are needed to house female offenders.

Section 2. This act becomes effective July 1, 2000.

SB 1451:
Charlotte Econ Development Quicktake

BILL ANALYSIS

Committee:	Senate State and Local Gov't	**Introduced by:**	Senator Odum
Date:	June 7, 2000	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1451 allows Charlotte to use the quicktake procedures of Chapter 136 of the General Statutes for condemnation for economic development purposes within a defined area.***

CURRENT LAW: Chapter 40A sets out the exclusive provisions for private and public condemnors to acquire property pursuant to eminent domain. These procedures provide for notice to the landowner and require the filing of a civil action to condemn the property. In certain circumstances, title to the property may vest with the condemnor immediately upon the filing of the complaint and the making of the required deposit, unless a petition for injunctive relief has been filed. G.S. 40A-42.

Under Article 9 of Chapter 136, which are the condemnation provisions applicable to the Department of Transportation, upon the filing of the complaint, declaration of taking, and deposit with the court of the estimated amount of compensation due, the court is to declare DOT in possession, and the land deemed condemned. The right to just compensation vests in the owner of the property.

BILL ANALYSIS: Senate Bill 1451 would allow Charlotte the same authority granted the Department of Transportation in condemning property for economic development purposes in the area defined in the bill. The City currently has this authority for streets, water supply systems, and sewage collection and disposal systems.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1451*

Short Title: Charlotte Economic Development Quicktake. (Local)

Sponsors: Senator Odom.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81 of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965, as amended by Chapter 216, Session Laws of 1967, Chapter 384, Session Laws of 1969, and Chapters 432 and 1046, Session Laws of 1973, as rewritten by Chapter 437, Session Laws of 1983, and as amended by Chapter 31 of the 1989 Session Laws, reads as rewritten:

"Sec. 7.81. (a) The City of Charlotte shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water or improvements, either within or without the city limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the city is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Charlotte, and the city shall follow the procedures now or hereafter prescribed by said laws; provided that, notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, economic development purposes authorized by law within the territory described in subsection (b) of this section, and airports, the City of Charlotte is hereby authorized to use the procedure

and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'City Manager'; provided further that nothing herein shall be construed to enlarge the power of the City of Charlotte to condemn property already devoted to public use. The City of Charlotte is also vested with the authority to condemn for public library purposes, property, rights, privileges, easements and restrictive covenants and conditions, including any restrictive covenants and conditions applicable to real estate now or hereafter owned, restricting the use of same in any manner whatsoever.

The City of Charlotte shall have the power of eminent domain to acquire property to provide housing for low- and moderate-income persons, but only to acquire: (i) vacant structures boarded up as a result of housing code violations; (ii) structures that have been found to contain housing code violations that the property owner has failed or refused to correct within a reasonable time; and (iii) vacant properties rendered vacant as a result of a housing code enforcement demolition order. Provided, that in the exercise of its authority of eminent domain to acquire property to provide housing for low- and moderate-income persons, the city shall follow the procedures prescribed in Chapter 40A of the General Statutes. Vesting of title to the property taken under this paragraph and right to possession shall occur pursuant to the provisions of G.S. 40A-42(b). The City may not file an eminent domain action to acquire property described in clauses (i) or (ii) of this paragraph until the property owner has had 150 days from the date of the order finding violations of the City Housing Code to correct the violations. The city council must adopt a plan to use condemned property for low or moderate income housing prior to exercising the powers under this paragraph.

(b) The area within which the City of Charlotte is authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes by subsection (a) of this section is as follows: an area bounded on the east by Berryhill and West Morehead at Wilkinson Boulevard, on the south by the Norfolk Southern Railroad from Berryhill to the Billy Graham Parkway, on the north by Greenland Avenue, Ashley Road, Dublin Road, Cartwright, Carlyle Drive, Denver, Mulberry Church and Withrow, and on the west by Billy Graham Parkway."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1382

Short Title: Bidding Law Exemption/Surry County. (Local)

Sponsors: Senator East.

Referred to: State and Local Government.

May 23, 2000

A BILL TO BE ENTITLED

AN ACT TO EXEMPT SURRY COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION AND EXPANSION OF A BUILDING TO BE USED AS A MULTIPURPOSE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The County of Surry may renovate and expand a building for use as a multipurpose facility without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132.

Section 2. This act is effective when it becomes law and expires December 31, 2002.

SENATE BILL 1454:
Haywood/No Spotlighting Deer

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Robinson
Date:	June 7, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***Shining bright lights into the eyes of deer at night (commonly referred to as "spotlighting") tends to cause the deer to remain still rather than run away. This makes the deer an easy target for paoching hunters. This bill seeks to prohibit the spotlighting of Deer in Haywood County.***

BILL ANALYSIS:

This bill prohibits spotlighting deer or sweeping a light in search of deer from between 30 minutes after sunset to 30 minutes before sunrise in Haywood County. This bill is not intended to prevent the lawful use of lights in raccoon and opossum hunting; a landowners necessary use of lightng on his property; the normal use of vehicle headlights while traveling on raods or highways; the legitimate use of lighting by campers.

Violations will be punishable as Class 3 misdemeanors. This law would be enforced by Wildlife Resources Commisioner officers, sheriffs and deputy sheriffs, and other sworn peace officers with general subject matter juridiction.

This bill applies only to Haywod County, North Carolina, and becomes effective October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1454*

Short Title: Haywood/No Spotlighting Deer. (Local)

Sponsors: Senator Robinson.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE SHINING OF LIGHTS IN DEER AREAS IN HAYWOOD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to shine a light intentionally upon a deer or to sweep a light in search of deer between the hours of one-half hour after sunset and one-half hour before sunrise in Haywood County.

Section 2. Section 1 of this act shall not be construed to prevent:

(1) The lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;

(2) The necessary shining of lights by landholders on their own lands;

(3) The shining of lights necessary to normal travel by motor vehicles on roads or highways; or

(4) The use of lights by campers and others who are legitimately in these areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

Section 3. Violation of this act is a Class 3 misdemeanor.

Section 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 5. This act applies only to Haywood County.

Section 6. This act becomes effective October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1481*

Short Title: Research Triangle Park Boundary. (Local)

Sponsors: Senators Miller; Gulley, Lucas, and Reeves.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LEGAL DESCRIPTION OF THE REAL PROPERTY LOCATED WITHIN THE COUNTIES OF DURHAM AND WAKE, AS SET FORTH IN SECTION 2, CHAPTER 435, SESSION LAWS OF 1985, AND AS AMENDED BY SECTION 4, CHAPTER 841, SESSION LAWS OF 1989.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 435 of the Session Laws of 1985 (as amended by Section 4 of Chapter 841 of the Session Laws of 1989) is amended by changing the phrase "the following described territory" to the phrase "either of the following described territories" and adding at the end of the section the following:

"As shown on a survey entitled "Survey for Biogen Inc.," dated April 11, 1995, prepared by Greenhorne & O'Mara, Inc., and recorded in Plat Book 138, Page 167, Durham County Registry and Book of Maps 1997, Page 1316, Wake County Registry, and being that property described in that deed recorded in Book 1741, Page 937, Durham County Registry, and in Book 5209, page 771, Wake County Registry, and more particularly described as follows: Beginning at an iron pipe set in the southern right-of-way of Davis Drive, said iron pipe being located South 82__30'21" East 676.43 feet from an existing angle iron, the original northwest corner of W.R. O'Briant Property as shown on a plat recorded in Book of Maps 1960, Page 64 of the Wake County Registry, and in Plat Book 40, Page 80 of the Durham County Registry; running thence from said beginning point South 82__30'21" East 988.66 feet to an existing iron pipe, said pipe being located in the southeastern property line of the Research Triangle Foundation of North Carolina property described in Book 148, Page 331, Durham County Registry, and in the western property line of The Davis

Park Associates, Ltd. property as shown on Plat Book 116, Page 116, Durham County Registry; thence along The Davis Park Associates, Ltd. western property line South 07__02'02" West 579.40 feet to an existing iron pipe located in the northern property line of the Davis Drive Associates No. 2 property as shown on Plat Book 116, Page 115, Durham County Registry; thence along the Davis Drive Associates No. 2 northern and western property lines the following two calls: North 78__07'33" West 331.59 feet to an existing 4-inch channel iron; thence South 09__05'35" West 721.58 feet to an existing iron pipe located in the northwest corner of the property owned now or formerly by Richard J. Thompson, et al as described in Book 2750, Page 748, Wake County Registry; thence along the Thompson, et al, western property line South 09__02'51" West 1,355.84 feet to an existing 4-inch channel iron located in the northern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the northern line of the Research Triangle Foundation of North Carolina property North 78__10'21" West 1,087.20 feet to an existing ½ inch steel rod located in the northeast corner of the Biogen Inc. property as shown on Book of Maps 1994, Page 1560, Wake County Registry; thence along the Biogen Inc. northern property line the following two calls: North 78__10'21" West 56.35 feet to an existing angle iron; thence North 80__01'56" West 156.55 feet to an existing iron pipe located in the eastern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the eastern line of the Research Triangle Foundation of North Carolina property North 07__49'13" East 770.98 feet to a new iron pipe; thence North 55__22'58" West 496.22 feet to a new iron pipe located in the southern right-of-way of Davis Drive; thence along the southern right-of-way of Davis Drive North 34__37'02" East 902.55 feet to an existing rebar and cap North Carolina Department of Transportation right-of-way marker; thence North 33__12'21" East 84.07 feet to an iron pipe set; thence North 33__12'21" East 207.08 feet to an iron pipe set; thence North 46__18'46" East 265.38 feet to an iron pipe set; thence North 59__54'40" East 270.77 feet to an iron pipe set; thence North 71__20'59" East 233.29 feet to an iron pipe set, the point and place of BEGINNING, containing 84.654 acres.

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

SENATE BILL 1288:
Charlotte Zoning

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Clodfelter
Date:	June 7, 2000	**Summary by:**	Al Andrews
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: This bill will permit the City of Charlotte to engage in conditional zoning..

BILL ANALYSIS: Section 1(a) of the bill will allow the Charlotte City Council to provide for the establishment of conditional zoning districts and parallel conditional zoning districts. This section defines both terms and provides that, in contrast to conditional use or special use district zoning, conditional zoning shall not require a conditional use or special use permit to be issued. Conditional zoning does not require uniform rules, regulations, or applicable conditions for all properties within the same conditional zoning district classification.

Section 1(b) of the bill provides that property may be rezoned to a conditional zoning district only upon the affected property owner's petition. The petition must includes a site plan and supporting information that specifies the actual or intended property uses and include any applicable governing rules, regulations, conditions and predetermined ordinance requirements. If the petition is approved, all the above listed information will constitute the newly approved conditional zoning district's regulations.

Section 1(c) of the bill provides that an area's relevant adopted land-use plans and policies shall be considered when making conditional zoning decisions.

Section 1(d), (e), and (f) of the bill states that the petitioner must provide a written report of at least one community meeting to the city clerk before a public hearing may held on whether to adopt conditional zoning. This section contains detailed requirements for the petitioner's report and indicates that the decision regarding the report's adequacy is within the City Council's sole and final discretion. However, conditional zoning decisions are subject to judicial review using the same procedures and standard of review applicable to general use district zoning decisions. The City Council must follow the same procedures applicable to general use district zoning petitions when reviewing conditional zoning petitions. Those procedures are found in General Statutes Chapter 160A, Article 19.

Section 1(g) of the bill provides rezoning vote restrictions for the City Council and the rules for handling protest petitions.

Section 2 of the bill limits the bill's applicability to conditional zoning petitions filed on or before August 31, 2001. The bill will not affect pending litigation or the City Council's conditional zoning decisions made prior to April 17, 2000. Pending conditional district rezoning or conditional use district rezoning petitions, not decided upon as of April 17,2000 may all be treated as conditional zoning petitions.

Sections 3 and 4 provide that this bill applies only to Charlotte and would become effective when it become law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1288*
State and Local Government Committee Substitute Adopted 6/7/00

Short Title: Charlotte Zoning. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 160A-382, the City Council may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the City Clerk a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by city policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the City Council but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the City Council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 19 of Chapter 160A of the General Statutes.

Section 1.(g) The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period

beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to conditional zoning petitions that were approved or denied by the City Council prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Notwithstanding the foregoing, petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the city as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 3. This act applies to the City of Charlotte only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

SENATE COMMITTEE SUBSTITUTE
JUN 7 2000 D
ADOPTED

S

SENATE BILL 1288*
Proposed Committee Substitute S1288-PCS7778-LB1

Short Title: Charlotte Zoning. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 160A-382, the City Council may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the City Clerk a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by city policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the City Council but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the City Council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 19 of Chapter 160A of the General Statutes.

Section 1.(g) The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period

beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to conditional zoning petitions that were approved or denied by the City Council prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Notwithstanding the foregoing, petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the city as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 3. This act applies to the City of Charlotte only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1288*

Short Title: Charlotte Zoning. (Local)

Sponsors: Senators Clodfelter; Dannelly, Odom, and Rucho.

Referred to: Rules and Operations of the Senate.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY AND CLARIFY THE PERMITTED PROCESS TO BE USED BY THE CITY OF CHARLOTTE IN CONNECTION WITH CERTAIN ZONING PETITIONS AND PERMITS.

The General Assembly of North Carolina enacts:

Section 1. This act applies to the City of Charlotte only.

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

SENATE BILL 1289: Mecklenburg Zoning

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Clodfelter
Date:	June 7, 2000	**Summary by:**	Al Andrews
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***This bill will permit Mecklenburg County to engage in conditional zoning..***

BILL ANALYSIS: Section 1(a) of the bill will allow the Mecklenburg County Board of Commissioners to provide for the establishment of conditional zoning districts and parallel conditional zoning districts. This section defines both terms and provides that, in contrast to conditional use or special use district zoning, conditional zoning shall not require a conditional use or special use permit to be issued. Conditional zoning does not require uniform rules, regulations, or applicable conditions for all properties within the same conditional zoning district classification.

Section 1(b) of the bill provides that property may be rezoned to a conditional zoning district only upon the affected property owner's petition. The petition must includes a site plan and supporting information that specifies the actual or intended property uses and include any applicable governing rules, regulations, conditions and predetermined ordinance requirements. If the petition is approved, all the above listed information will constitute the newly approved conditional zoning district's regulations.

Section 1(c) of the bill provides that an area's relevant adopted land-use plans and policies shall be considered when making conditional zoning decisions.

Section 1(d), (e), and (f) of the bill states that the petitioner must provide a written report of at least one community meeting to the clerk of the Board before a public hearing may held on whether to adopt conditional zoning. This section contains detailed requirements for the petitioner's report and indicates that the decision regarding the report's adequacy is within the Board of Commissioners' sole and final discretion. However, conditional zoning decisions are subject to judicial review using the same procedures and standard of review applicable to general use district zoning decisions. The Board of Commissioners must follow the same procedures applicable to general use district zoning petitions when reviewing conditional zoning petitions. Those procedures are found in General Statutes Chapter 153A, Article 18.

Section 1(g) of the bill provides rezoning vote restrictions for the Board of Commissioners and the rules for handling protest petitions.

Section 2 of the bill limits the bill's applicability to conditional zoning petitions filed on or before August 31, 2001. The bill will not affect pending litigation or the Board of Commissioners' conditional zoning decisions made prior to April 17, 2000. Pending conditional district rezoning or conditional use district rezoning petitions, not decided upon as of April 17,2000 may all be treated as conditional zoning petitions.

Sections 3 and 4 provide that this bill applies only to Mecklenburg County and would become effective when it become law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1289*
State and Local Government Committee Substitute Adopted 6/7/00

Short Title: Mecklenburg Zoning. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT MECKLENBURG COUNTY TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 153A-342, the Board of Commissioners may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the Clerk to the Board, a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the Board of Commissioners but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the Board of Commissioners in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 18 of Chapter 153A of the General Statutes.

Section 1.(g) The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of the general election and concluding on the Tuesday after the first Monday in December immediately following the general election unless no person spoke against the rezoning at the public hearing.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to

conditional zoning petitions that were approved or denied by the Board of Commissioners prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the county as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 3. This act applies to Mecklenburg County only.

Section 4. This act is effective when it becomes law.

SENATE
COMMITTEE SUBSTITUTE

GENERAL ASSEMBLY OF NORTH CAROLINA JUN 7 2000

SESSION 1999

S

ADOPTED D

SENATE BILL 1289*
Proposed Committee Substitute S1289-PCS6787-LB1

Short Title: Mecklenburg Zoning. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT MECKLENBURG COUNTY TO ENGAGE IN CONDITIONAL ZONING.

The General Assembly of North Carolina enacts:

Section 1.(a) In addition to other types of zoning districts permitted by G.S. 153A-342, the Board of Commissioners may provide for the establishment of conditional zoning districts, including parallel conditional zoning districts. For purposes of this act, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. "Parallel conditional zoning district" shall mean a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. In contrast to conditional use district or special use district zoning, conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties. Rules, regulations, and conditions applicable to any conditional zoning district need not be uniform in all respects for all properties within the same classification of conditional zoning district but may differ based on the unique aspects of each conditional zoning district development, site, and surrounding area.

Section 1.(b) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district.

Section 1.(c) Conditional zoning decisions shall be made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

Section 1.(d) Before a public hearing may be held on a petition for conditional zoning, the petitioner must file in the Office of the Clerk to the Board, a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the Board of Commissioners but shall not be subject to judicial review.

Section 1.(e) Conditional zoning decisions under this act are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

Section 1.(f) Except as specifically modified by this act, the procedures to be followed by the Board of Commissioners in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under Article 18 of Chapter 153A of the General Statutes.

Section 1.(g) The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of the general election and concluding on the Tuesday after the first Monday in December immediately following the general election unless no person spoke against the rezoning at the public hearing.

Section 2. This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this act shall not apply to

conditional zoning petitions that were approved or denied by the Board of Commissioners prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the county as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions.

Section 3. This act applies to Mecklenburg County only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1289*

Short Title: Mecklenburg Zoning. (Local)

Sponsors: Senators Clodfelter; Dannelly, Odom, and Rucho.

Referred to: Rules and Operations of the Senate.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY AND CLARIFY THE PERMITTED PROCESS TO BE USED BY MECKLENBURG COUNTY IN CONNECTION WITH CERTAIN ZONING PETITIONS AND PERMITS.

The General Assembly of North Carolina enacts:

Section 1. This act applies to the County of Mecklenburg only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1428
State and Local Government Committee Substitute Adopted 6/12/00

Short Title: Durham Admin. Search Warrants. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO AUTHORIZE ADMINISTRATIVE SEARCH WARRANTS TO BE SERVED AT HOURS OTHER THAN BETWEEN 8:00 A.M. AND 8:00 P.M. WHEN THERE IS PROBABLE CAUSE TO BELIEVE THAT THE ACTIVITY THAT JUSTIFIES THE ADMINISTRATIVE SEARCH WARRANT WILL OCCUR AT OTHER HOURS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-27.2(e) reads as rewritten:

"(e) Any warrant issued under this section for a search or inspection shall be valid for only 24 hours after its issuance, must be personally served upon the owner or possessor of the property between the hours of 8:00 A.M. and 8:00 P.M. and must be returned within 48 hours. However, if there is probable cause to believe that the condition, object, activity, or circumstance that legally justifies the search or inspection is occurring or will occur while there is business being conducted on the premises at times other than between the hours of 8:00 A.M. and 8:00 P.M., then the warrant, if issued at the request of a local government, or an officer of that local government, may authorize the search or inspection to be made during times in addition to the hours between 8:00 A.M. and 8:00 P.M., in which case the times during which the search or inspection may occur shall be specifically set out on the face of the warrant. If the warrant, however, was procured pursuant to an investigation authorized by G.S. 58-79-1, the warrant may be executed at any hour, is valid for 48 hours after its issuance, and must be returned without unnecessary delay

after its execution or after the expiration of the 48 hour period if it is not executed. If the owner or possessor of the property is not present on the property at the time of the search or inspection and reasonable efforts to locate the owner or possessor have been made and have failed, the warrant or a copy thereof may be affixed to the property and shall have the same effect as if served personally upon the owner or possessor."

Section 2. This act applies to the City of Durham only.

Section 3. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1428

Short Title: Durham Traffic Violations. (Local)

Sponsors: Senator Lucas.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Durham, Fayetteville, Greensboro, High Point, Rocky Mount, and Wilmington, and the Towns of Cornelius, Huntersville, and Matthews only."

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — June 7, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sona Shandilya	NCCADV
Whitney Oberg	OSBM
Hal Price	Biogen
Dan Hall	DLCV/C
Amy Fulbright	Hunton & Wms.
Charles Case	" "
Amanda Abrams	Covenant w/ NC's children
Paula L. Wolf	" " "
Deb Ross	ACLU
Patricia Cowden	NCACC
Connie R. Watson	Sheriff of Surry County Dobson, N.C. 27017

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — June 7, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
S Dwayne Livengood	Surry Co. Sheriff's Office
Andy Romeiet	NCLM
Dick Hamilton	Wildlife Com.
Mary Carnilia	REBIC
Bob Hagemann	City of Charlotte
Boyd Cauble	"
Natalie English	Charlotte Chamber
Helen Lipine	Meck Co.
Alicia Greenstein	YAIO
Kim Hibbard	NCLM
Glenn Tait	WRC

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 14 2000

11:00 AM

ROOM 1124

Bills

- The following bills or resolutions will be considered:

SB 1463	Dare Utility Undergrounding Amend	Sen. Hoyle
HB 1542	Camden/Electronic Dog Collars	Rep. Owens
HB 1668	Currituck Personal Watercraft Regulations	Rep. Owens
SB 1286	Randleman Recall	Sen. Kinnaird
SB 1447	Chapel Hill Omnibus	Sen. Kinnaird
SB 1458	Dunn Franchise Report Confidenti	Sen. Harris
SB 1362	Gaston County Property Sales	Sen. Forrestor
SB 1449	Mecklenburg Rail Banking	Sen. Clodfelter
SB 1418	Yanceyville Charter Amendments-2	Sen. Webster
SB 1443	Carbarrus School Bid Procedures	Sen. Hartsell
SB 1444	Cabarrus Convention Center	Sen. Hartsell

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, June 14, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 14, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1463, Dare Utility Undergrounding Amend, was explained by Sen. Hoyle. Sen. Ballance moved to adopt a Proposed Committee Substitute. Sen. Ballance moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

HB 1542, Camden/Electronic Dog Collars, was explained Rep. Owens. . Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1668, Currituck Personal Watercraft Regulations, was explained by Rep. Owens. Sen. Ballance moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Miller presided while Sen. Kinnaird explained her bills.

SB 1286, Randleman Recall, explained by Sen. Kinnaird. Sen. Kinnaird moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1447, Chapel Hill Omnibus, was explained by Sen. Kinnaird. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1418, Yanceyville Charter Amendments, was explained by Sen. Webster. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1458, Dunn Franchise Reports Confidential, was explained by Sen. Harris. Sen. Harris requested that the bill be displaced.

SB 1443, Cabarrus School Bid Procedures, was explained by Sen. Hartsell. Henry Jones of the NC Association of Plumbing, Heating, Cooling Contractors, Inc. spoke against the bill. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

SB 1444, Cabarrus Convention Center, was explained by Sen. Hartsell. Sen. Kinnaird moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report**.

HB 1546, Land for Corr. Facilities, was explained by Sen. Garwood. Sen. Garwood offered an amendment Sen. Horton moved to adopt the amendment. Sen. Albertson moved favorable to amendment. Sen. Horton moved favorable as amendment. The motion carried unanimously. **Favorable as Amended**

Senator Ellie Kinnaird, Chair

Kathie Young, Legislative Asst.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 14, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **1542** Camden/Electronic Dog Collars
Sequential Referral: None
Recommended Referral: None

H.B. **1688** Currituck Personal Watercraft Regulation
Sequential Referral: None
Recommended Referral: None

S.B. **1286** Randleman Recall
Sequential Referral: None
Recommended Referral: None

S.B. **1418** Yanceyville Charter Amendments
Sequential Referral: None
Recommended Referral: None

S.B. **1443** Cabarrus School Bid Procedures
Sequential Referral: None
Recommended Referral: None

S.B. **1444** Cabarrus Convention Center
Sequential Referral: None
Recommended Referral: None

S.B. **1447** Chapel Hill Omnibus
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS # 1)**1546** Land for Corr. Facilities
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1463** Dare Utility Undergrounding Amendments
Draft Number: PCS 8666
Sequential Referral: None
Recommended Referral: Finance
Long Title Amended: No

TOTAL REPORTED: 9

Committee Clerk Comment:

SB1465:
Dare Utility Undergrounding Amendments

BILL ANALYSIS

Committee:	Sen. State & Local Government	**Introduced by:**	
Date:	June 14, 2000	**Summary by:**	Barbara Riley
Version:	PCS		Committee Counsel

SUMMARY:

In 1999, the General Assembly authorized Dare County to establish utility districts to raise and expend funds for the undergrounding of electric utility lines. S.L. 99-127. That law allowed Dare County to levy a tax of up to $1.00 per month on the electric power service bills for customers in the district and up to $5.00 per month on commercial and industrial accounts.

Senate Bill 1465 amends S.L. 99-127 to allow Dare County to create special utility districts for undergrounding telephone lines. The county may levy a tax of up to $1.00 per month on each residential telephone line and $5.00 on each commercial or industrial telephone line.

The bill also contains provisions that:

Require the budget of the Utility District to include funding for the installation o of conduit for underground telephone cable where necessary.

Provide that a utility does not have an obligation to take legal action to enforce the collection of taxes under the act. The County or tax district has the discretion to initiate a collection action in its name.

Exempt from payment of the tax persons for whom the payment would work an unreasonable financial hardship.

Allows the County Commissioners to order cable TV lines undergrounded when any electric or telephone line on the same pole is undergrounded.

Provides that State, local government or other entity carrying out the provisions of the act are fully liable for any damages to utility company property.

Adds to the governing board of the Utility District one nonvoting member appointed by the commissioners that has been recommended by each local telephone carriers licensed in North Carolina and providing service in the county and one nonvoting member appointed by the commissioners who has been recommended by each electric utility provider in the county.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1463
State and Local Government Committee Substitute Adopted 6/14/00

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO EXPAND THE PURPOSE OF SPECIAL TAX DISTRICTS TO UNDERGROUND ELECTRIC UTILITY LINES SO AS TO ALLOW UNDERGROUNDING OF TELEPHONE AND CABLE TELEVISION LINES.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of S.L. 1999-127 reads as rewritten:

"Section 1.1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground ~~electric~~ electric and telephone utility lines in the district."

Section 2. Section 5.(a) of S.L. 1999-127 reads as rewritten:

"Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy a tax of up ~~to one~~ to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer line for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer line within the district."

Section 3. Section 6 of S.L. 1999-127 reads as rewritten:

"Section 6. Use of Funds. The taxes levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of ~~electric~~ electric and telephone utility lines within the district. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required."

Section 4. Section 9.(b) of S.L. 1999-127 reads as rewritten:

"Section 9.(b) Collection. Every ~~electric~~ utility subject to a tax authorized by this act shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing ~~electric power.~~ service. The tax shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the tax. A utility who collects a tax authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing ~~electric~~ service, a cooperative, and any other ~~electric~~ utility. A utility shall have the same right to suspend or terminate service for nonpayment of the tax that it has to suspend or terminate service for payment of any other part of the utility bill. ~~The obligation of the utility to pay the tax if the customer has not paid the bill is the same as its liability under G.S. 105-164.4(a)(4a).~~ A utility has no obligation to take any legal action to enforce the collection of taxes under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff."

Section 5. Section 5 of S.L. 1999-127 is amended by adding a new subsection to read:

"Section 5.(d) The board of commissioners may exempt from payment of the tax any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board of commissioners."

Section 6. Section 5 of S.L. 1999-127 is amended by adding a new subsection to read:

"Section 5.(e) The commission may order any cable television lines (or other utility lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded."

Section 7. S.L. 1999-127 is amended to add new sections to read:

"Section 13.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable."

Section 13.(b) The undergrounding required by this act shall be a coordinated effort between the utility district, and the affected electric, telephone, and cable television utilities.

Section 14. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the utility district are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the utility district."

Section 8. Section 5(c) of S.L. 1999-127 reads as rewritten:

"Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting utilities pursuant to the terms of this act shall remain fully liable for any damages to utility company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each utility whose facilities will be affected and must carry sufficient insurance to cover any damages caused."

Section 9. Section 4(a) of S.L. 1999-127 reads as rewritten:

"Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carries licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1463
Proposed Committee Substitute S1463-PCS8666-LB2

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO EXPAND THE PURPOSE OF SPECIAL TAX DISTRICTS TO UNDERGROUND ELECTRIC UTILITY LINES SO AS TO ALLOW UNDERGROUNDING OF TELEPHONE AND CABLE TELEVISION LINES.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of S.L. 1999-127 reads as rewritten:

"Section 1.1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground ~~electric~~ electric and telephone utility lines in the district."

Section 2. Section 5.(a) of S.L. 1999-127 reads as rewritten:

"Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy a tax of up ~~to one~~ to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer line for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer line within the district."

Section 3. Section 6 of S.L. 1999-127 reads as rewritten:

"Section 6. Use of Funds. The taxes levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of ~~electric~~ electric and telephone utility lines within the district. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required."

Section 4. Section 9.(b) of S.L. 1999-127 reads as rewritten:

"Section 9.(b) Collection. Every ~~electric~~ utility subject to a tax authorized by this act shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing ~~electric power.~~ service. The tax shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the tax. A utility who collects a tax authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing ~~electric~~ service, a cooperative, and any other ~~electric~~ utility. A utility shall have the same right to suspend or terminate service for nonpayment of the tax that it has to suspend or terminate service for payment of any other part of the utility bill. ~~The obligation of the utility to pay the tax if the customer has not paid the bill is the same as its liability under G.S. 105-164.4(a)(4a).~~ A utility has no obligation to take any legal action to enforce the collection of taxes under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff."

Section 5. Section 5 of S.L. 1999-127 is amended by adding a new subsection to read:

"Section 5.(d) The board of commissioners may exempt from payment of the tax any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board of commissioners."

Section 6. Section 5 of S.L. 1999-127 is amended by adding a new subsection to read:

"Section 5.(e) The commission may order any cable television lines (or other utility lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded."

Section 7. S.L. 1999-127 is amended to add new sections to read:

"Section 13.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable."

Section 13.(b) The undergrounding required by this act shall be a coordinated effort between the utility district, and the affected electric, telephone, and cable television utilities.

Section 14. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the utility district are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the utility district."

Section 8. Section 5(c) of S.L. 1999-127 reads as rewritten:

"Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting utilities pursuant to the terms of this act shall remain fully liable for any damages to utility company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each utility whose facilities will be affected and must carry sufficient insurance to cover any damages caused."

Section 9. Section 4(a) of S.L. 1999-127 reads as rewritten:

"Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1463

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors: Senator Hoyle.

Referred to: Finance.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO EXPAND THE PURPOSE OF SPECIAL TAX DISTRICTS TO UNDERGROUND ELECTRIC UTILITY LINES SO AS TO ALLOW UNDERGROUNDING OF TELEPHONE AND CABLE TELEVISION LINES.

The General Assembly of North Carolina enacts:

Section 1. This act is effective when it becomes law.

HOUSE BILL 1542:
Camden/Electronic Dog Collars

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Representative Owens
Date:	June 14, 2000	**Summary by:**	Kristen Crosson
Version:	1st edition		Research Assistant

SUMMARY:

This bill adds Camden County to the list of 35 counties that make it a criminal offense to intentionally remove or destroy an electronic dog collar or other electronic dog control device placed on a dog. A first conviction is a Class 3 misdemeanor, and any subsequent conviction is a Class 2 misdemeanor.

This act becomes effective December 1, 2000, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1542

Short Title: Camden/Electronic Dog Collars. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO ADD CAMDEN COUNTY TO THOSE COUNTIES IN WHICH IT IS UNLAWFUL TO REMOVE OR DESTROY ELECTRONIC COLLARS ON DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.17 reads as rewritten:

"**§ 14-401.17. Unlawful removal or destruction of electronic dog collars.**

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, Transylvania, Union, Wilkes, and Yancey Counties."

Section 2. This act becomes effective December 1, 2000, and applies to offenses committed on or after that date.

HOUSE BILL 1688:
Currituck Personal Watercraft Reg.

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Representative Owens
Date:	June 14, 2000	**Summary by:**	Kristen Crosson
Version:	1st edition		Research Assistant

SUMMARY:

This bill allows Currituck County to adopt ordinances regulating personal watercraft in the ocean and other waterways in and adjacent to the County. Cities within Currituck may adopt a resolution permitting the County ordinance to be applicable within the city.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1688

Short Title: Currituck Personal Watercraft Regulation. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

May 24, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW CURRITUCK COUNTY TO REGULATE PERSONAL WATERCRAFT OPERATION.

The General Assembly of North Carolina enacts:

Section 1. A county may adopt ordinances to regulate personal watercraft operation in the Atlantic Ocean and other waterways in and adjacent to the county. The governing board of a municipality within the county may by resolution permit a county ordinance adopted pursuant to this act to be applicable within the municipality consistent with the provisions of G.S. 153A-122.

Section 2. This act applies only to Currituck County.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1286

Short Title: Randleman Recall. (Local)

Sponsors: Senators Kinnaird; and Lee.

Referred to: State and Local Government.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW RECALL ELECTIONS IN THE CITY OF RANDLEMAN.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Randleman, being Chapter 209 of the Private Laws of 1905, is amended by adding a new section to read:

"Section 3.1. **Recall of Officials by the People.**

(a) The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent.

(b) Prior to circulating any petition under this section, it must be registered with the City Clerk, and the petition with signatures must be submitted to the City Clerk within 30 days of that date in order to be considered.

(c) The procedure to effect the removal of an incumbent of an elective office shall be as follows: a petition shall be filed with the City Clerk signed by registered voters of the city equal in number to at least thirty percent (30%) of the total number of registered voters in the City demanding an election of a successor of the person sought to be removed. In order to be effective, the petition when filed shall list both the name of the officer to be removed and the cause for removal. The cause for removal must relate to the misfeasance, malfeasance, or nonfeasance of the officer, or for personal conduct that brings the office into disrepute. The superior court shall have jurisdiction of issues relating to whether cause is sufficient.

(d) The signatures to the petition need not be on one petition paper, but each signer shall add to the signature that person's residence address. One or more of the signers of the petition shall make oath before an officer competent to administer oaths that the statements therein made are true, as that person believes, and that each

signature to the paper appended is the genuine signature of the person whose name it purports to be.

(e) Within 10 days from the date of filing such a petition, the City Clerk shall examine and from the records of the board of elections determine whether the petition is signed by the required number of qualified electors, and the Clerk shall attach to the petition a certificate showing the results of such examination. If by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Clerk shall, within 10 days after such amendment, examine the amended petition in the same fashion. If the Clerk's certificate shows the petition to be insufficient, it shall be returned to the person filing the same, but such return shall not prevent the filing of a new petition if it is otherwise allowed by this section. If the petition shall be deemed to be sufficient, the Clerk shall without delay submit the same to the board of elections which conducts elections for the City.

(f) If the petition shall be found to be sufficient, the board of elections which conducts elections for the City shall set a date for holding an election for the remainder of the unexpired term in the same manner as provided in this Charter and in Chapter 163 of the General Statutes of North Carolina for regular municipal elections, such election to be held not greater than 90 days from the date of the Clerk's certificate to the board of elections that a sufficient petition is filed. Candidates' names shall be placed on the ballot, the election held, and the results canvassed, under the same rules, conditions, and regulations as are prescribed for municipal elections under this Charter and Chapter 163 of the General Statutes of North Carolina. Opening and closing dates for candidate filing shall be set by the board of elections, and notice of the election shall be published at least three days prior to the opening of candidate filing.

(g) The successor of any officer so removed shall hold office for the unexpired term of the predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless that incumbent requests otherwise in writing, the board of elections shall place the incumbents' name on the official ballot without filing. At the election, if some other person than the incumbent is elected, the incumbent shall thereupon be deemed removed from the office upon the taking of the oath of office of the successor.

(h) In case the person elected should fail to take the oath of office within 10 days after certification of the election returns, the office shall be deemed vacant, and in that event, the office shall be filled for the remainder of the unexpired term by the Board of Aldermen, but the officer removed shall not be eligible to election by the board, and the person chosen by the Council shall be subject to recall as other elected officials. If the incumbent receives the most votes in the election, the incumbent shall continue his office.

(i) Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled, the elected successor shall be subject to recall in the same manner as the originally elected officer.

(j) Time limitation. No person shall be subject to recall if the petition is filed within six months of the person having taken office, within six months of a recall election, or within six months of the expiration of the term."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1447*

Short Title: Chapel Hill Omnibus. (Local)

Sponsors: Senators Kinnaird and Lee.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO MAKE SUNDRY AMENDMENTS CONCERNING THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 143-135 reads as rewritten:

"**§ 143-135. Limitation of application of Article.**

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000)~~ one hundred seventy-five thousand dollars ($175,000) or the total cost of labor on the project does not exceed ~~fifty thousand dollars ($50,000).~~ seventy-five thousand dollars ($75,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair

work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

Section 1.(b) This section applies to the Town of Chapel Hill only.

Section 2. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. (a) This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, and Wilmington, and the Towns of Chapel Hill, Cornelius, Huntersville, and Matthews only.

(b) The Town of Chapel Hill may only use the authority granted by this section for violation of statutes or ordinances related to traffic signals."

Section 3.(a) G.S. 160A-301(d) reads as rewritten:

"(d) The governing body of any city may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area, as well as any private lot used for residential purposes whether or not demarcated as a vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. The owner of a vehicle parked in violation of an ordinance adopted pursuant to this subsection shall be deemed to have appointed any appropriate law-enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle."

Section 3.(b) This section applies to the Town of Chapel Hill only.

Section 4. This act is effective when it becomes law.

SB 1418:
Yanceyville Charter Amendments

BILL ANALYSIS

Committee:	Sen. State & Local Government	**Introduced by:**	Senator Webster
Date:	June 13, 2000	**Summary by:**	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

Senate Bill 1418 makes several changes to the charter of the Town of Yanceyville.

- The mayor, currently elected by and from the membership of the Town Council, is to be elected by the the qualified voters of the Town.
- The Town Council is reduced in size from 5 to 4 members. In 2003, the two (instead of three) candidates receiving the highest number of votes shall be elected to the council for 4 year terms.
- The form of government is changed from mayor-council pursuat to Part 3, Article 7 of Chapter 160A to council manager undet Part 2, Chapter 7 of Chapter 160A.
- The act does not affect the existing terms of office of either the mayor or members of the Town Council. However, if a member of the Town Council with a term expiring in 2003 is elected Mayor in 2001, then the council seat being vacated shall be abolished. If the person elected Mayor in 2001 is not a member of the Council with a term expiring in 2003, then the Town Council will continue to consist of 5 members fro after the organizational meeting in 2001 until the organizational meeting in 2003.

The act is effective when it becomes law.

CURRENT LAW:

BILL ANALYSIS:

BACKGROUND:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1418

Short Title: Yanceyville Charter Amendments. (Local)

Sponsors: Senator Webster.

Referred to: State and Local Government.

May 24, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR OF YANCEYVILLE AND FOR THE TOWN MANAGER FORM OF GOVERNMENT FOR THAT TOWN.

The General Assembly of North Carolina enacts:

Section 1. Section 3.4 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.4. **Selection of Mayor; term of office.** The Mayor shall be ~~appointed by the Town Council from among its own membership~~ elected by the qualified voters of the Town in 2001 and biennially thereafter for a two-year term. The Mayor shall have the right to vote on all questions that come before the Council, but shall have no right to break a tie vote in which he participated."

Section 2. Effective with the organizational meeting after the 2001 municipal election, Section 3.1 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.1. **Structure of governing body; number of members.** The governing body of the Town of Yanceyville is the Town Council, which has ~~five~~ four members."

Section 3. Section 3.3 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 3.3. **Term of office of Council members.** ~~Until members are elected in accordance with this section, the Town Council shall consist of the three members of the Yanceyville Sanitary District Board, and two other persons appointed by those three members at the Town Council's first meeting in July, 1986. The two persons on the Yanceyville Sanitary District Board whose terms expire in 1986 shall serve~~

~~until the 1987 municipal election. The person on the Yanceyville Sanitary District Board whose term expires in 1988 shall serve until the 1989 municipal election. One of the two persons appointed to the Town Council by the three members of the Yanceyville Sanitary District Board shall serve until the 1987 municipal election, and the other shall serve until the 1989 municipal election. The three members of the Yanceyville Sanitary District Board shall designate whom shall serve which term.~~ In the ~~1987~~ 2003 municipal election and quadrennially thereafter, the ~~three~~ two persons receiving the highest numbers of votes shall be elected for four-year terms on the Town Council. In the ~~1989~~ 2001 municipal election and quadrennially thereafter, the two persons receiving the highest numbers of votes shall be elected for four-year terms on the Town Council."

Section 4. Section 5.1 of the Charter of the Town of Yanceyville, being Chapter 501 of the 1985 Session Laws, reads as rewritten:

"Sec. 5.1. ~~**Mayor-council**~~ **Council-manager plan.** The Town of Yanceyville operates under the ~~mayor-council~~ council-manager plan as provided by ~~Part 3~~ Part 2 of Article 7 of Chapter 160A of the General ~~Statues.~~ Statutes."

Section 5. This act does not affect the term of office of the current Mayor or members of the Town Council of the Town of Yanceyville, except that if in 2001 a member of the Town Council with a term expiring in 2003 is elected Mayor, then effective upon that person taking the oath of office as Mayor, the seat on the Town Council that the Mayor is vacating is abolished so that the size of the council will be four members. If a person who is not a member of the Town Council with a term expiring in 2003 is elected Mayor in 2001, then notwithstanding Section 2 of this act, from the organizational meeting after the 2001 election until the organizational meeting after the 2003 election, the Town Council consists of five members.

Section 6. This act is effective when it becomes law.

SENATE BILL 1458:
Dunn Franchise Reports Confidential

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Harris
Date:	June 14, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill will provide that gross receipts reports filed by commercial solid waste franchisees with the City of Dunn are confidential.***

CURRENT LAW: General Statutes Chapter 132 contains the law regarding public records. This chapter has many sections which govern what records are public and what records can or must be given to the public.

BILL ANALYSIS: This bill would exempt commercial solid waste franchisees gross receipt reports from public disclosure.

This bill becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1458

Short Title: Dunn Franchise Reports Confidential. (Local)

Sponsors: Senator Harris.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT GROSS RECEIPTS REPORTS FILED BY COMMERCIAL SOLID WASTE FRANCHISEES TO THE CITY OF DUNN ARE CONFIDENTIAL.

The General Assembly of North Carolina enacts:

Section 1. Reports of gross receipts filed with the City of Dunn by persons holding solid waste collection franchises from that city are confidential and not subject to the provisions of Chapter 132 of the General Statutes.

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

SENATE BILL 1443:
Cabarrus School Bid Procedures

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Hartsell
Date:	June 13, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill will allow a negotiated offer and upset bid process for the sale of the Cabarrus County Schools central office and allow for a design-build construction method for a new Cabarrus Schools central ofice and bus facility.***

CURRENT LAW: General Statutes Chapter 115C covers elementrary and secondary education. Chapter 143, Article 8, contains the law regarding State public contracts.

BILL ANALYSIS: Section 1 of the bill will allow the Cabarrus County Board of Education, with the approval of the Cabarrus County Board of Commissioners, to (1) dispose of the current central office by a negotiated offer and upset bid method method, and (2) to construct a new school central office and bus facility by the design-build method.

Section 2 of the bill will allow the actions listed above to occur together or separately.

The bill would become effective when its becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1443

Short Title: Cabarrus School Bid Procedures. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW A NEGOTIATED OFFER AND UPSET BID PROCESS FOR SALE OF THE CURRENT CABARRUS COUNTY SCHOOLS CENTRAL OFFICE AND FOR A DESIGN-BUILD CONSTRUCTION METHOD FOR THE CABARRUS SCHOOL CENTRAL OFFICE AND BUS FACILITY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C or Chapter 143 of the General Statutes, the Cabarrus County Board of Education, with the approval of the Board of Commissioners of Cabarrus County, may do either or both of the following:

(1) Dispose of the current school central office property by a negotiated offer and upset bid method.

(2) Construct a new school central office and bus facility by the design-build method.

Section 2. The actions under Section 1 of this act may be taken either separately or together in one proposal.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1546
Committee Substitute Favorable 5/31/00

Short Title: Land for Corr. Facilities. (Local)

Sponsors:

Referred to:

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ALEXANDER AND ANSON COUNTIES MAY PURCHASE AND CONVEY PROPERTY TO THE STATE OF NORTH CAROLINA FOR USE AS CORRECTIONAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 600 of the 1995 Session Laws reads as rewritten:

"Section 1. The ~~County~~ Counties of Alexander, Anson, and Stanly ~~has~~ have power under general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as ~~a~~ correctional ~~facility.~~ facilities."

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2d

H. B. No. 1546 DATE 6/14/00

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Garwood
Sen.)

1 moves to amend the bill on page 1, line 8
2 ( ) WHICH CHANGES THE TITLE
3 by adding after the word "Anson,"
4
5 the word "Scotland,"
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED Sen. John Garwood

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 1444:
Cabarrus Convention Center

BILL ANALYSIS

Committee:	State and Local Government	**Introduced by:**	Senator Hartsell
Date:	June 13, 2000	**Summary by:**	Al Andrews
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill will allow a design-build construction method a convention center in Cabarrus County and will allow the lease of property for a hotel.***

CURRENT LAW: G.S. 160A-272 (lease or rental of property) sets forth the law that city-owned property may be leased or rented for a period of not longer than 10 years and only if the city council determines that the property will not be needed by the city for the term of the lease. Currently, leases for terms of more than 10 years are treated as a sale of property which are executed by following any of the procedures authorized for sale of real property found in General Statutes Chapter 160A, Article 12.

BILL ANALYSIS: Section 1 of this bill will allow the City of Concord or Cabarrus County or both to construct a convention center using the design build or request for proposal method.

Section 2 of this bill will allow the City of Concord to lease property adjacent to or adjoining the convention center property for placement of a hotel or for auxiliary purposes for a period of 49 years.

This bill will become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1444

Short Title: Cabarrus Convention Center. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW A DESIGN-BUILD CONSTRUCTION METHOD FOR A CONVENTION CENTER IN CABARRUS COUNTY, AND TO ALLOW LEASE OF PROPERTY FOR A HOTEL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 143 of the General Statutes, the City of Concord, the County of Cabarrus, or both, may construct a convention center using the design-build or request for proposal method.

Section 2. In leasing property adjacent to or on the convention center property for a hotel and auxiliary purposes, as to the City of Concord, G.S. 160A-272 shall be applied by deleting "10 years" and substituting "49 years".

Section 3. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — June 14, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Benson	Capital Group
Tom Moore	Sprint
Pam Wescott	Sprint
Cam Cover	BPM HC
Michael Thompson	Dominion North Carolina Power
Jim Layton	Kilpatrick Stockton LLP

STATE AND LOCAL GOVERNMENT
Thursday, June 22, 2000

MINUTES

The Senate State and Local Government Committee met on Thursday, June 22, 2000 after session around Sen. Kinnaird's chamber desk. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1300, Midland Incorporation, was explained by Sen. Hartsell. Sen. Soles moved to adopt a Proposed Committee Substitute. Sen. Soles moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

SB 1359, Winston-Salem Local Act, was explained by Sen. Horton, Sen. Horton moved to adopt a Proposed Committee Substitute. Sen. Horton moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

Senator Ellie Kinnaird, Chair

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Monday, June 26, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1300** Midland Incorporation

Draft Number:	PCS 8668
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

S.B. **1359** Winston-Salem Local Act

Draft Number:	PCS A689-LM1
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1300
State and Local Government Committee Substitute Adopted 6/26/00

Short Title: Midland Incorporation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Midland is enacted to read:

"CHARTER OF THE TOWN OF MIDLAND.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Midland are a body corporate and politic under the name 'Town of Midland'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Midland are as follows:

BEGINNING at a point of the northernmost corner of the property described by the Cabarrus County Tax Maps as Map/PIN 5556-12-4009. Thence in a southwesterly direction along the western boundaries of properties Map/PIN 5556-12-4009, 5556-11-1569, and 5556-01-7367. Continuing directly across Highway 601 to the Highway 601 right-of-way on the northwest property line of the property Map/PIN 5556-00-4725. Continuing in a southeastern direction along the right-of-way that borders Highway 601 to the right-of-way of Sossoman Road near northeast corner of the property.

Continuing southwest along the right-of-way to the point of intersection with the property Map/PIN 5556-00-5380. Thence moving west along the southeast property line of Map/PIN 5556-00-4725 to the point of intersection with the property Map/PIN 5546-90-9409. Thence moving northwest along the southwesternmost boundaries of Map/PIN 5556-00-4725, and Map/PIN 5546-91-7410 to the point where it intersects with the easterly corner of the property Map/PIN 5546-90-2819. Thence west and south along the north and west perimeter of said parcel to the point of intersection with Spring Drive. Continuing directly across Spring Drive to the northeast corner of Map/PIN 5546-80-8682. Thence west along the north boundary and south along the west boundary of said property to its southwest corner. Turn west and go to the southeast corner of Map/PIN 5545-80-5613. Turn south along the westerly property line of Map/PIN 5546-80-6239 and go to its intersection with the northernmost corner of Map/PIN 5545-89-4183. Continuing in a southwestern direction along the westernmost property line of Map/PIN 5545-89-4183 to the intersection of the property Map/PIN 5545-78-6238.

Thence moving in a northwestern direction along the northeastern property lines to the northernmost point of the property Map/PIN 5545-78-6238. Thence southwesterly along the southeast property lines of Map/PINs 5545-78-3569, 5545-78-1244, 5545-78-0052, and 5545-67-8748 to the south corner of Map/PIN 5545-67-8748. Thence northwest to the southeast corner of Map/PIN 5545-67-6519 and continuing west along the southeast property line to the south corner of said parcel. Turn southwest and go to the northernmost corner of Map/PIN 5545-67-3175. Continue southeast along the northeasterly property line of Map/PINs 5545-67-3175, 5545-67-3051, and 5545-66-3858 to the east corner of Map/PIN 5545-66-3858. Turn southwest and follow the northwest property line of Map/PIN 5545-66-4715 to the northwest corner of said parcel. Turn south and follow the west property line of Map/PINs 5545-66-4715, 5545-66-5602, and 5545-66-4494 to the intersection with the northerly property line of Map/PIN 5545-66-2067. Turn southwesterly along the northwesterly property line of Map/PIN 5545-66-2067 to the southeast corner of parcel Map/PIN 5545-56-8171. Thence continue north and then west along said parcel to the northwest corner of Map/PIN 5545-56-8171. Thence northwest across Snowcrest Drive to the north corner of Map/PIN 5545-56-6098. Turn southwest and continue along the east and south property lines of Map/PINs 5545-56-5300, 5545-56-3032, 5545-56-1145 to the east corner of Map/PIN 5545-56-0025. Thence southwest along the east property line of Map/PINs 5545-56-0025, 5545-45-9992, and 5545-45-9642 to the southeast corner of Map/PIN 5545-45-9642. Turn west and continue along the Map/PIN 5545-45-9642 property line to the intersection with the property line of Map/PIN 5545-45-6701.

Thence continuing southwest along the easternmost property lines of Map/PINs 5545-45-6701, and 5545-45-1648 to the southeasternmost corner of the property. Thence continuing southwest along the west property lines of Map/PINs 5545-45-4280 and 5545-35-7453. Thence continuing southwest 65 feet thence in a western direction across Troutman Road to the northeastern corner of Map/PIN 5545-34-9832. Thence continuing in a northwest direction to the northwest corner of the property. From that corner of the property continue southwest along the northwest property lines of

Map/PIN 5545-34-9832 and 5545-34-8782 to the southwest corner of Map/PIN 5545-34-8782.

Thence continue southeast to the northwestern corner of property Map/PIN 5545-34-8423. Thence continue southwest along the property line to the southwest corner of the property. Thence continue westerly and southerly along Map/PIN 5545-34-6124 to the intersection with Map/PIN 5545-34-2199. Thence continue westerly along the southerly property line of Map/PINs 5545-34-3410 and 5545-24-9440 to the northwest corner of property Map/PIN 5545-24-8197.

Thence continuing in a southwestern direction to the southwesternmost corner of Map/PIN 5545-24-8197. From that corner continue in a southeast direction to a point where the property line intersects the property line of property Map/PIN 5545-33-0983. At that point continue in a western direction to the westernmost corner of Map/PIN 5545-33-0983.

From that point continuing in a northwestern direction along the southern property line of Map/PIN 5545-24-5291 to its southwest corner. Then turn southwest and continue along the easterly and then northwest along the southeasterly property line of Map/PIN 5545-23-1979 to the northernmost corner of Map/PIN 5545-13-9685. Turn southwest and go to the westernmost corner of said property. Cross directly over an unnamed private road to the southernmost corner of Map/PIN 5545-13-6890. Proceed southwest along the southeast property line of Map/PINs 5545-13-3599 and 5545-13-0296 to the point of intersection with the east property line of Map/PIN 5545-02-7867. Go north on the east property line of said parcel to the southeast corner of property Map/PIN 5545-03-6194.

Turn southwest and proceed along the south and west property line of said parcel to the northernmost corner of Map/PIN 5545-02-5755. Thence southwest along the southeast property line of Map/PIN 5545-02-2876 to the northernmost corner of Map/PIN 5545-02-1533. Proceed along the northeast property line to the southeast corner of said parcel. Turn southwest and proceed along the southeast property line of Map/PINs 5545-02-1533 and 5535-92-8388 to the south corner of Map/PIN 5535-92-8388. Cross directly over Bethel Church Road to the east corner of Map/PIN 5535-92-5207. Continue along the southeast property line of Map/PIN 5535-92-5207 to the westernmost corner of Map/PIN 5535-91-6926. Turn southeast following the property line of Map/PIN 5535-91-6926 to the south corner of property Map/PIN 5545-02-6926. Continue southeast from that corner to the southwest corner of Map/PIN 5545-02-5551 and then east along said property line to the western right-of-way of Bethel Church Road.

Thence continue southeast along the western right-of-way of Bethel Church Road to the north property line of Map/PIN 5545-00-3369. Thence continue southwest to the northerly northwest corner of said property. Thence continue southeast along the property line to the northeastern corner of property Map/PIN 5545-00-3704. Thence continue west-southwest along the north property lines of Map/PINs 5545-00-3704 and 5535-90-9617 to the northwest corner of Map/PIN 5535-90-9617. From that corner continue south along the property line to the southwest corner of the property. Thence continue northeast to the point of intersection with the westerly property line

of Map/PIN 5545-00-3369. From that point continue south along said property line to the southerly southwest corner of the property Map/PIN 5545-00-3369. Thence continue southwest along the northerly property lines of Map/PINs 5534-99-8401, 5534-99-3460, 5534-99-2451, 5534-99-1410, and 5534-89-9430 to the northwest corner of the property Map/PIN 5534-89-9430. Thence move south to the northerly right-of-way for NC Highway 24/27. Thence continue west to the intersection with the property line of Map/PIN 5535-80-5534. Thence continue north then northwest to the northwest corner of the property. Thence continue southwest along the northerly property lines of the properties Map/PINs 5535-80-1414 and 5535-70-5934 to the northwest corner of Map/PIN 5535-70-5934.

Thence continue southeast to the northern corner of property Map/PIN 5535-70-1627. From that point continue southwest along the property line to the southeastern corner of property Map/PIN 5535-60-8678. Thence continue north and west along said property line around to the west corner of Map/PIN 5535-60-8678 and then southwest across Sam Black Road to the southeast corner of Map/PIN 5535-60-3559. From that point continue north along the property line to the north corner of Map/PIN 5535-50-3559. Thence proceed southwest along the easterly property line of Map/PIN 5535-50-4455 to its point of intersection with the northerly right-of-way for NC Highway 24/27.

Turn west along the NC Highway 24/27 right-of-way to its point of intersection with the property line of Map/PIN 5534-49-5492. Continue northwest to the north corner of said property. Cross directly over property Map/PIN 5535-50-4455 to the southerly northeast corner of Map/PIN 5534-49-4506. Proceed northwest along the northeast property lines of Map/PINs 5534-49-4506 and 5534-49-3677 to the northernmost corner of Map/Pin 5534-49-3677. Thence turn southwest and thence southeast to the southwest corner of said parcel. Continue southeast along the property line of Map/PINs 5534-49-4506 and 5534-49-4415 to a point of intersection with the northerly right-of-way for NC Highway 24/27.

From that point continue west along the northerly NC Highway 24/27 right-of-way to the western right-of-way of Flowes Store Road. Thence continue southeast along the west right-of-way of Flowes Store Road and Old Camden Road to the point of intersection with the southeasterly property line of property Map/PIN 5524-97-8018. Thence go northeast along the property line to the southeast corner of said parcel. Thence continue southeast across Old Camden Road to the southwestern corner of property Map/PIN 5534-07-8047. Continuing southeast along the southern property line of the said property and the property line of Map/PIN 5534-07-9085 to the southeastern corner of Map/PIN 5534-07-9085. Thence continue northeast along the northwesterly property line of Map/PIN 5534-17-6044 to the northernmost corner of the property. Thence north along the westerly property line of Map/PIN 5534-27-4832 to the westerly northwest corner of said property. Thence northeast along property lines to the northwest corner of Map/PIN 5534-28-2266. Thence southeast and northeast along the property line to the southeast corner of said parcel.

Thence continue along the northeasterly property lines of Map/PINs 5534-28-2266, 5534-28-1414, and 5534-28-1507 to the northeast corner of Map/PIN 5534-28-1507.

Thence cross Ritchie Road to the northwestern corner of property Map/PIN 5534-28-8371. Thence continue east along the said property line to the northerly northeast corner. Thence continue northwest along the westerly property line of property Map/PIN 5534-37-8848 to the westernmost corner of the property then northeast along the property line to the point of intersection with the southerly right-of-way for NC Highway 24/27. Thence continue along the right-of-way to the west property line of Map/PIN 5534-38-6988.

From that intersection continue south to the southwestern corner of the property. Thence continue southeast to the southeastern corner and then north to the right-of-way on the southern side of NC Highway 24/27. Thence continue east along the right-of-way to the west property line of Map/PIN 5534-49-0076. Continue south to the southwest corner of the parcel, thence continue southeasterly along the southerly property lines of Map/PINs 5534-49-0076 and 5534-49-4044 to the southernmost corner of Map/PIN 5534-49-4044. Thence continue northeast along the property line to the southwestern corner of Map/PIN 5534-49-8018. From that corner continue east to the southeastern corner of the said property and thence north to the right-of-way on the south side of NC Highway 24/27. Thence continue east along the right-of-way to the east property line of property Map/PIN 5534-68-1909. Thence continue southwest along the property line to the southeastern corner of Map/PIN 5534-68-1909. Thence continuing northeast along the south boundaries of Map/PINs 5534-69-4031, 5534-69-7102, and 5534-69-7183 to the southeast corner of Map/PIN 5534-69-7183 and thence north along the property line to the right-of-way along the south side of NC Highway 24/27. From that point continue east along the right-of-way to the intersection with the west right-of-way of Sam Black Road. Thence continue southeast along the right-of-way on the west side of Sam Black Road to the point of intersection with the northeast property line of property Map/PIN 5534-78-8739. Thence continue northwest to the northwestern corner of the property then southwest to the southwestern corner of the property.

Thence continue southeast along the property line to the southeastern corner of the property. Then cross Sam Black Road to the southwest corner of Map/PIN 5534-88-3986. Continue along the southerly property line of Map/PIN 5534-88-3986 to the southernmost corner of the property. Thence continue southeast along the southwest property line of Map/PIN 5534-97-1831 to the southern corner of the said property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-1653 to the southeastern corner of the property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-2168 to the southeast corner of said property. Thence continue southwest along the property line to the southwest corner of Map/PIN 5534-96-2168. Turn southeast and follow the southwest property lines of Map/PINs 5534-85-8783 and 5534-85-6566 to the south corner of Map/PIN 5534-85-6566. Cross directly over Ben Black Road to the northernmost corner of property Map/PIN 5534-85-4281. Thence continue southwest along the northwest property line to the southwest corner of the property. From that corner of the property continue southeast across the Norfolk Southern Railway right-of-way to the northwest corner of Map/PIN 5534-84-6486. Follow the Norfolk Southern Railway right-of-way to its

point of intersection with the northerly east line of the property Map/PIN 5534-84-6486. Thence continue along the eastern property lines of Map/PIN 5534-84-6486 to the southerly southeast corner of the property. Thence continue west-northwest along the southern property line to the westernmost corner of said property. From that corner continue southwest along the southeast property line of Map/PIN 5534-75-7521 to the southernmost corner of the property. Thence continue southwest to the southernmost corner of the property Map/PIN 5534-64-2431. From that point continue northwest along the southwest property line of said property and continue along the northeast property line of Map/PIN 5534-54-4074 to the northernmost corner of property Map/PIN 5534-54-4074.

Thence south along the property line of property Map/PIN 5534-54-1462 to the southeastern corner of the property. Thence continue along the southern property line to the southwestern corner of the property. From that point continue scuthwest along the west side of Map/Pin 5543-43-8793 to the right-of-way of Sleepy Hollow Road on the northern side. Thence continue northwest along the right-of-way to its intersection with the west side of property Map/PIN 5534-44-7569. Continue along the southwesterly property lines of Map/PIN 5534-44-7569 to the north corner of Map/Pin 5534-44-3371. From that point continue southwest along the northwest property line of Map/Pin 5534-44-3371 to the right-of-way of Sleepy Hollow Road along the northern side of the road. Thence continue west-northwest along the right-of-way to the point of intersection with Map/PIN 5534-34-3396. Turn north-northwest and follow said property line to the northerly southwest corner of that parcel. Follow the west and south property lines of property Map/PIN 5534-35-6533 to its point of intersection with the Norfolk Southern Railway right-of-way. From that intersection continue across the Norfolk Southern track to the Norfolk Southern Railway right-of-way along the northern side of the rail line. Thence continue westerly along the right-of-way to its intersection with the easterly property line of Map/PIN 5534-15-4291. Thence continue north to the northeast corner of said property. Thence continue west along the property line to the northwest corner of Map/PIN 5534-15-4291. Turn south and follow the westerly property lines of Map/PINs 5534-15-4291, 5534-14-4946, 5534-14-4842, 5534-14-4781, 5534-14-5548, 5534-14-5471, 5534-14-5268, 5534-14-5146, and 5534-13-6874 to the southwest corner of property Map/PIN 5534-13-6874. Thence continue southeast to the southeast corner of said property. From that corner continue north to the northeast corner of the property. Thence continue east along the northern property line of property Map/PINs 5534-23-2783 and 5534-33-1831 to the northern northeast corner of property Map/PIN 5534-33-1831. Thence, proceed south-southwest along the west property line of property Map/PIN 5534-33-3879 to the southwest corner of Map/PIN 5534-33-3879, then travel east-southeast along the southern property line of said parcel to the intersection with property Map/PIN 5534-33-4522. From here turn southwest and proceed along the northwest property line of Map/PIN 5534-33-4522 to the southwest corner of the property.

Thence proceed southeast along the northeastern boundary of property Map/PIN 5534-32-1232 to its easternmost corner. Turn west and follow the boundary of Map/PIN 5534-32-3086 to its westernmost intersection with Map/PIN 5534-31-3478.

Follow the northern border of Map/PIN 5534-31-3478 east to the intersection with Map/PIN 5534-31-5848. Turn south and follow the property line of property Map/PIN 5534-31-5848 to its southeast corner. Turn southeast and follow the northeastern border of the property Map/PIN 5534-41-0295 to its intersection with the west right-of-way of Cabarrus Station Road. Turn southwest and follow the right-of-way to its intersection with the northeasterly property line of Map/PIN 5534-40-2825. Turn northwest and follow said property line to its northern corner, thence southwest to its western corner. Now follow the property line for property Map/PIN 5534-40-2825 back to the westerly right-of-way for Cabarrus Station Road.

Continue southwest along said right-of-way until you meet the northeastern property line of Map/PIN 5534-30-8212. From here, turn northwest and go to the north corner of said parcel. Turn southwest and follow the property line to its western corner. Turn southeast and go to the north corner of Map/PIN 5533-39-6802. Turn southwest and follow the property lines of Map/PINs 5533-39-6802 and 5533-39-4605 respectively. Turn southeast at the westernmost corner of Map/PIN 5533-39-4605 and go to the north corner of property Map/PIN 5533-39-1416. Turn southwest and follow the property line of Map/PIN 5533-39-1416 west then south to the Cabarrus Station Road right-of-way.

Follow the northwesterly right-of-way of Cabarrus Station Road southwest until you come to its intersection with the property line of Map/PIN 5533-18-9661. Turn northwest and follow this line until you reach the northeast corner of the parcel. Turn southwest and travel along the westernmost southeast property line of Map/Pin 5533-29-4326 to the northwest corner of Map/PIN 5533-18-3388. From here, turn southeast and follow the property line for Map/PIN 5533-18-3388 until you reach the southwest corner of the property.

Cross directly over Cabarrus Station Road to the northwest corner of Map/PIN 5533-17-8801. Then go southeast along the property line to the point of intersection with the southwesterly right-of-way of Cabarrus Station Road. Travel northeast along the right-of-way until you reach the northeast property line of Map/PIN 5533-17-9887. Turn southeast and go to the intersection of Map/PIN 5533-27-2838 and the Cabarrus County Boundary. Continue southeast along the Cabarrus County Boundary to its intersection with the southeast property line of said property. From here, turn northeast and go along the northwest property line of Map/PIN 5533-27-8192 to the northeast corner of Map/PIN 5533-27-8192. Continue traveling northeast along the northwest property lines of Map/PINs 5533-37-3408 and 5533-48-0035 until you reach the northern corner of Map/PIN 5533-48-0035. Turn southeast and follow this property line to the intersection with Map/PIN 5533-47-7785. From here, turn northeast and follow the property line of Map/PIN 5533-47-7785 until you reach the northwest corner of Map/PIN 5533-57-4817. Turn southeast and follow this property line until you reach the right-of-way for the cul-de-sac on Forestbluff Drive. Continue following around the west side of the right-of-way until reaching Map/PIN 5533-57-5427. Turn southwest and follow the property line to the intersection with Map/PIN 5533-57-1174. Turn east and follow the property line of Map/PINs 5533-57-5427 and

5533-57-7516 to the intersection with Map/PIN 5533-57-7151. Turn south and follow this property line to the intersection with the Ben Black Road right-of-way.
From here, turn southwest and travel along the northerly Ben Black Road right-of-way for 727 feet. Turn southeast to the northwest corner of Map/PIN 5533-55-4997. Turn south and follow the property line of Map/PIN 5533-55-4997 until you meet Map/PIN 5533-55-7467. Now turn northeast and follow the Map/PIN 5533-55-7467 northwest property line until you meet Map/PIN 5533-66-0296. Turn southeast and travel along the property lines of Map/PINs 5533-66-0296 and 5533-66-2076 to the southern corner of Map/PIN 5533-66-2076. Turn northeast and follow the northwesterly property lines of Map/PIN 5533-76-5268 around to the north corner of Map/PIN 5533-76-2656. Cross directly over Ben Black Road to the south property line of Map/PIN 5533-77-2327.
Turn northeast and go to the southeast corner of Map/PIN 5533-77-2327. Turn northwest and go to the north corner of said property. From here, go north-northeast along the eastern borders of Map/PINs 5533-78-1051 and 5533-78-1271. At the northeast corner of 5533-78-1271 turn northwest and follow the southern boundary of Map/PIN 5533-68-6765 until you reach the Forestbluff Dr. right-of-way. Turn southwest and follow the Forestbluff Dr. right-of-way to its intersection with Map/PIN 5533-68-0070. From here, turn northwest and travel to the border of Map/PIN 5533-58-3389. Turn northeast and go to the southern corner of Map/PIN 5533-58-9936. Turn northwest and follow the property line of Map/PIN 5533-58-3389 to the end of Waterbury Road. From here, go northeast until you reach the northerly right-of-way for Waterbury Road. Turn west and go until you meet Map/PIN 5533-49-7149. Turn northeast and follow this property line until it intersects with Map/PIN 5533-49-5850. Turn southwest and go to the southern corner of said property. Turn northwest and go until you meet Map/PIN 5533-49-0935, then turn northeast and go to the easternmost corner of the property. From here, turn northwest and go to the Cabarrus Station Road right-of-way. Turn northeast and travel to the southwest property line of Map/PIN 5534-40-1154. From here, turn southeast and go to the southern corner of said property. Turn northeast and go along the southeast property lines of Map/PINs 5534-40-1154 and 5534-40-2371 to the eastern corner of Map/PIN 5534-40-2371. Turn southeast and go along the southwest property line of Map/PIN 5534-40-5408 to the south corner of Map/PIN 5534-40-5408. Turn northeast and go along the property line to the eastern corner of said property. Turn northeast and follow the northern property line for Map/PIN 5534-50-3474 up to its northern corner. Turn north-northwest and follow the eastern border of Map/PIN 5534-51-2593 until you reach the southwest corner of Map/PIN 5534-52-6179. Turn northeast and follow the border of said property until you reach the southerly right of way for Cabarrus Station Road.
Follow the Cabarrus Station Road right-of-way east to the west property line of Map/PIN 5534-72-3682. Turn southeast and follow the boundary of said property around until you meet the Cabarrus Station Road right-of-way again. Continue east on the right-of-way to the southwest edge of Map/PIN 5534-72-6774. Turn southeast and travel along the northeast edge of Map/PINs 5534-71-9823 and 5534-80-9905 to

the southern corner of Map/PIN 5534-91-5983. Turn north and go along the property line to the Bethel Avenue Extension right-of-way. Follow the westerly Bethel Avenue Extension right-of-way south to the point of intersection with Map/PIN 5534-91-6180. Turn due north to the point of intersection with the southwest property line of Map/PIN 5544-01-7629. Turn southeast and go to the southwest corner of said property. Turn southwest and follow the west property lines of Map/PINs 5543-29-0546 and 5543-09-5170 to the southwest corner of Map/PIN 5543-29-0546. Turn east and follow the south property line of Map/PIN 5543-29-0546, 5543-29-6374, 5543-29-8440, 5543-39-0670, 5543-39-4530, and 5543-39-4936 to the southeast corner of Map/PIN 5543-39-4936. Cross directly over Map/PIN 5543-37-3491 to the southwest corner of Map/PIN 5543-44-4681. Continue along the south property line of Map/PINs 5543-49-4681, 5544-40-9609 and 5544-50-5735 to the southwest corner of Map/PIN 5544-50-8763.

Follow the western boundary of 5544-50-8763 north to the northwest corner of said property. Turn west and go along the north property lines of Map/PINs 5544-50-5735 and 5544-40-9609 to the northernmost corner of Map/PIN 5544-40-9609. Turn northeast and go to the easternmost corner of Map/PIN 5544-51-3808. Turn northwest and go to the northerly northeast corner of said parcel. Turn north to the easternmost corner of Map/PIN 5544-42-8481. Go to the westernmost corner of Map/PIN 5544-63-6383. Follow the northwest perimeter of Map/PIN 5544-63-6383 north to the north corner and then southeast until you reach the property's easternmost corner. From here follow the southern border of Map/PIN 5544-83-4451 to the western corner of Map/PIN 5544-83-7180. Turn southwest along the west property line of Map/PINs 5544-92-1669 and 5544-92-0588 to the northwest corner of Map/PIN 5544-92-2309. Turn southeast and follow around the north, east, and south borders of said property until you reach its southwest corner. Turn south and follow the western border of Map/PIN 5544-91-2911 until you reach the centerline of the Norfolk Southern Railway tracks.

From here, cross to the south side of the railroad track to the northwest corner of Map/PIN 5544-91-6017. Follow the southwest border of said property until you reach the centerline of Highway 601. Follow the centerline of Highway 601 south for approximately 2364 feet until you reach a point directly opposite the southwest property line of Map/PIN 5543-89-3040. Turn southeast and go along the southwest property lines of Map/PINs 5543-89-3040 and 5543-88-7716 to the southernmost corner of Map/PIN 5543-88-7716. Turn northeast and follow the boundary of said property to its easternmost corner. Turn northwest and follow the same boundary and the northeast boundary of Map/PIN 5543-89-3040 to the southernmost corner of Map/PIN 5543-89-5201. Turn northeast and follow the boundary of Map/PIN 5543-88-8145 around to the intersection with the northwest corner of Map/PIN 5553-08-6749. Continue east along the northern border of Map/PIN 5553-08-6749 until you reach the Hopewell Church Road westerly right-of-way. Turn southeast and continue following the right-of-way to the northern perimeter of Map/PIN 5553-18-1552. From here, turn southwest and follow the boundary of Map/PINs 5553-08-6749 and 5543-88-8145 until you reach the westernmost corner of Map/PIN 5543-97-0017. Turn

southeast and follow the border of Map/PIN 5543-97-0017 to the intersection with Map/PIN 5543-97-6556. At this point, turn northeast and follow the southern boundary of said property to the intersection with Map/PIN 5553-06-9822. From here, follow the eastern border of Map/PIN 5543-96-6459 south to the southwest corner of Map/PIN 5553-06-6441. Turn southeast and follow the south boundary of Map/PIN 5553-06-6441 to its southeast corner. Cross directly over Map/PIN 5553-15-8474 and Hopewell Church Road to the southwest corner of Map/PIN 5553-15-4576. Continue southeast along the property lines of Map/PINs 5553-15-4576 and 5553-15-8474 to the southernmost corner of Map/PIN 5553-15-8474. Turn northeast and follow the perimeter of said property until you reach the easterly Hopewell Church Road right-of-way. Turn northeast and follow the right-of-way to the southwest border of Map/PIN 5553-16-9800. Turn southeast and follow the northeast border of Map/PIN 5553-24-9675 to the southernmost corner of Map/PIN 5553-26-8196. Turn northeast and follow the northwest boundary of Map/PIN 5553-35-9990 to its northernmost corner. Continue northeast, following the eastern boundary of Map/PIN 5553-38-6833. Continue along the perimeter of said property until you reach the southernmost corner of Map/PIN 5553-29-5443.

From here, turn northwest and follow the northeast border of Map/PIN 5553-18-6976 to the southern corner of Map/PIN 5553-19-6599. Turn northeast and follow the west boundary of Map/PIN 5553-29-5443 to its northernmost corner. Continue north along the northwest border of Map/PIN 5554-20-2483 until you reach Garmon Mill Road. Cross Garmon Mill Road to a point 27 feet west of the southeast corner of Map/PIN 5554-21-2045 on the south property line of said parcel. Turn east and go to the southeast corner of Map/PIN 5554-21-2045, cross over Oak St., and follow the Chaney Road northern right-of-way to the southeast corner of Map/PIN 5554-21-4046. Turn north and follow the western boundary of Map/PIN 5554-31-1263, directly across the Norfolk Southern Railway right-of-way to the west edge of Map/PIN 5554-31-0864, and continue along the west property line of said property and Map/PIN 5554-32-0922 to the west corner of Map/PIN 5554-32-0922. At the intersection with Map/PIN 5554-23-1707, continue northwest along said property's southwest boundary until you reach the northeast corner of Map/PIN 5554-13-6172. Turn west-southwest and follow the south and west boundaries of Map/PIN 5554-13-3760 around until you reach the property's northeasternmost corner. At this point, turn northeast and follow the western boundary of Map/PIN 5554-24-2721 to its northerly northwest corner. Turn northwest and follow the northern border of Map/PIN 5554-16-5399 until you reach the easterly right-of-way of US Highway 601.

Thence continue northeast along the right-of-way on the southeast side of US Highway 601 to its intersection with the southwest border of property Map/PIN 5554-17-6858. Thence continue southeast along the property line to the southeastern corner of said property. From that corner continue northeast along the property line of said property and property Map/PIN 5554-18-6075 to the northeastern corner of Map/PIN 5554-18-6075. Thence continue southeast along the property line of Map/PIN 5554-18-7280 to the southeast corner of said property. From that corner continue northeast along the eastern property line of the property and the property Map/PIN 5554-18-

8327 to the northeast corner of 5554-18-8327. Thence continue southeast to the southeast corner of Map/PIN 5554-18-7567.

Thence continue to the southernmost corner of property Map/PIN 5554-29-4168. Turn northeast and follow the northerly property line of Map/PIN 5554-38-7270 around to the southwest corner of Map/PIN 5554-49-7745. Thence continue east along the Map/PIN 5554-49-7745 property line and the property line of Map/PIN 5554-49-8595 to the southeast corner of the property. Thence continue east along the southern right-of-way of Loving Road to the property line of Map/PIN 5554-58-7874. From that point continue south along the property lines of said property and property Map/PIN 5554-58-2939 for approximately 723 feet to a point directly opposite the southwest corner of Map/PIN 5554-58-3931.

From that point continue east to the southwest corner and then to the southeast corner of property Map/PIN 5554-58-3931. Thence continue north along said property line to the northerly northeast corner of the property. From that corner of the property continue northeast directly across the property of Map/PIN 5554-58-7874 to the southern property line of Map/PIN 5554-59-4334. Thence continue east along the property line to the easterly northeast corner of the property. From that point continue directly across the property Map/PIN 5554-58-7874 to the property line of Map/PIN 5554-59-8365. Thence continue southeast to the southerly southwest corner of Map/PIN 5554-59-8365. Thence continue south to the northwest corner of Map/PIN 5554-69-0079. Thence continue southeast along the property line to the southernmost corner of Map/PIN 5554-69-2254. From that corner continue northeast along the property line to the southwestern corner of property Map/PIN 5554-69-5056. Thence continue southeast along the property lines of said property and property Map/PIN 5554-68-8951 to the southernmost corner of the property Map/PIN 5554-68-8951. Thence continue northeast along the eastern side of the property to the point of intersection with McManus Road. Turn and go east to the intersection with the McManus Road right-of-way.

Thence continue northeast along the right-of-way of McManus Road on the eastern side of the road to the intersection with the south border of property Map/PIN 5555-70-2167. Thence continue east to the southeastern corner of Map/PIN 5555-70-2167 then northeast to the northeasternmost corner and then northwest to the point of intersection with the McManus Road right-of-way. Thence continue northeast along the right-of-way on the eastern side of the road to the southwest property line of property Map/PIN 5555-70-4703. Thence continue southeast along the property line to the southernmost corner of said property and then northerly along the eastern property line to the point of intersection with NC Highway 24/27 southerly right of way. Thence continue directly across the Highway to the southeast corner of property Map/PIN 5555-72-5202. Continue along the southerly property lines of Map/PIN 5555-71-7706 and 5555-71-8321 to the southeast corner of Map/PIN 5555-71-8321.

Thence continue northwest along the eastern boundary to the northeast corner of the property. Thence continuing northwest along the property line of Map/PIN 5555-71-7706 to the northernmost corner of the property Map/PIN 5555-71-7706. Thence continue southwest along the westerly property line of said property and property

Map/PIN 5555-71-5202 to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right-of-way of NC Highway 24/27 to the point of intersection with the east property line of Map/PIN 5555-61-8154. Thence continue northerly along the property line of said property to the northernmost corner. From that corner continue southwest along the northwest property line to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way to the point of intersection with the east property line of property Map/PIN 5555-50-3891.

From that point continue northwest along the eastern property line of Map/PIN 5555-50-3891 to the northernmost corner of the property. Thence continue northeast along the southeast property line of property Map/PIN 5555-51-3993 to the northeastern corner of the property. Thence continue northwest along the northern property line to the northwestern corner of the property and continue southwest along the western property line of the property to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right of way to the point of intersection with the property Map/PIN 5555-30-9401. Thence continue northeast along said property line to the northeast corner of the property and then southwest along the property line to the northwestern corner of the property. Thence continue northeast along the east property lines of Map/PINs 5555-30-6464 and 5555-30-8813 to the northeast corner of Map/PIN 5555-30-8813. Thence continue around the perimeter of Map/PIN 5555-30-8813 to the northwest corner of Map/PIN 5555-30-6464.

Cross over Widenhouse Road to the northeast corner of property Map/PIN 5555-30-3368. Thence continue northwest along the northern property line of Map/PIN 5555-30-3368 to the northwestern corner of the property. Thence continue northeast along the southeast property line of Map/PIN 5555-20-7506 to the northeastern corner of the property. From that corner continue northwest along the northern property line to the point of intersection with property Map/PIN 5555-21-3274. Thence continue northeast along the property line of said property to the northeastern corner of the property. From that corner continue west to the northwest corner of the property and continue south to the southwest corner. Cross directly over US Highway 601 to the northeast corner of property Map/PIN 5555-11-2213. Thence continue northwest along the northern property line of said property to the northernmost corner of the property.

Thence continue southwest along the northwest property line of property Map/PIN 5555-01-2134 to the west corner of the property. From that corner continue southwest along the property line of the property Map/PIN 5545-90-6414 to the point of intersection with the property Map/PIN 5545-90-1280. Thence continue northwest to the northwestern corner of said property. From that corner continue southwest along the property line to the southwest corner of Map/PIN 5545-90-1280 then southeast to the point of intersection with property Map/PIN 5544-99-4865. Thence continue southwest along the property line of Map/PIN 5544-99-4865 to the intersection with Map/PIN 5544-99-0543. Thence continue west along the northern boundary of said

property and property Map/PIN 5544-89-8583 to the northwestern corner of Map/PIN 5544-89-8583.

Thence continue south to the intersection with the northerly NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way of NC Highway 24/27 to the point of intersection with the property Map/PIN 5544-79-6696. Turn north, and follow the western border of Map/PIN 5545-80-6865 to the northeast corner of Map/PIN 5545-71-6954. Turn west and follow the northern border of said property and Map/PIN 5545-71-2774 until you reach the northwest corner of Map/PIN 5545-71-2774. Turn southwest and follow the boundaries of Map/PINs 5545-71-2774, 5545-71-0151, and 5545-60-9722 to the southeast corner of Map/PIN 5545-61-1127. Turn northwest and travel to the southwest corner of Map/PIN 5545-61-1127. Turn northeast and follow the western border of said property to its northwestern corner.

Turn northwest and follow the northern border of Map/PIN 5545-41-9555 until you reach the Jim Sossoman Road right-of-way. Turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-62-3629. Turn southeast and follow the southern boundary of Map/PIN 5545-62-3629 to its southeast corner. Turn north and follow the eastern bounds of Map/PINs 5545-62-3629, 5545-62-4814, 5545-62-4978, 5545-63-5135, 5545-53-8663, 5545-63-6465, 5545-63-7640, and 5545-64-1035 to the northeast corner of Map/PIN 5545-64-1035. Turn northwest and follow the border of said property to the Jim Sossoman Road eastern right-of-way.

Turn northeast and follow the eastern right-of-way to the intersection with Map/PIN 5545-74-8667. Turn southeast and follow the southern border of Map/PIN 5545-74-8667 to its easternmost corner. Continue northeast along the southeast border of Map/PIN 5545-84-6783 to its easternmost corner. Turn northwest and follow the east border of Map/PIN 5545-84-6783 to the northeast corner crossing over an unnamed right-of-way to the southeast corner of Map/PIN 5545-85-7344. Continue along the eastern and northern borders of said property until you reach the property's northwest corner. Continue northwest along the northern border of Map/PIN 5545-85-3576 to its northern corner. Turn southwest and go to the southwest corner of said property. When you reach an unnamed right-of-way, turn northwest and follow the right-of-way to the Jim Sossoman Road eastern right-of-way. When you reach the right-of-way for Jim Sossoman Road, turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-98-7291.

From this point, travel east along the southern border of Map/PIN 5545-98-7291 until you reach its southeast corner. Turn south and follow the eastern border of Map/PIN 5545-97-7724 and 5555-06-6822 to the southeast corner of 5555-06-6822. Turn southeast and follow the border of Map/PIN 5545-87-4111 southeast and then southwest to the southeast corner. From here, turn east and follow the northeast perimeter of Map/PIN 5555-03-7435 until you reach the southeast corner of Map/PIN 5555-12-6854. Turn north and follow the easterly property line of Map/PINs 5555-12-6854, 5555-12-6938, 5555-13-5302, 5555-13-4567, 5555-13-4840, 5555-14-4080, 5555-14-4158, 5555-14-4356, 5555-14-1498, 5555-14-4651, 5555-14-3932, and 5555-15-5279 to the northeast corner of Map/PIN 5555-15-5279. Turn southeast, cross the road to the southwest corner of Map/PIN 5555-25-0668, and continue to the southeast corner of

Map/PIN 5555-25-0668. Turn northeast and follow the western boundary of Map/PIN 5555-35-9827 to the northernmost corner of Map/PIN 5555-26-7559. Cross Mt. Pleasant Road to the southeast corner of Map/PIN 5555-27-5019. Proceed north along the easterly property line of said parcel and Map/PINs 5555-27-5383 and 5555-27-6647 to the southeast corner of Map/PIN 5555-28-5511.

Continue west along the southern boundary of Map/PIN 5555-28-5511 to its southwest corner. Cross Highway 601 to the southeast corner of Map/PIN 5555-17-6979. Proceed northerly along the easterly property lines of Map/PINs 5555-17-6979, 5555-18-6156, 5555-18-5472, 5555-18-4955, and 5555-19-2451 to the southeast corner of Map/PIN 5555-19-3854. Cross Highway 601 to the northwest corner of Map/PIN 5555-29-0676. Proceed along the west and south borders of the parcel to the southeast corner of said property. Follow the northeast property line of said parcel to the south corner of Map/PIN 5555-29-2721. Continue north on the east property line of Map/PIN 5555-29-2721 to the northeastern corner of said parcel. Turn northwest and follow the border of said property to its northwest corner. Turn northeast and follow the western border of Map/PIN 5555-29-9552 to its northwest corner. Turn west and follow the southern border of Map/PIN 5556-21-3259 back to the easterly US Highway 601 right-of-way. Staying on the east side right-of-way, continuing along Map/Pin 5556-21-3259 northwest then northeast to the intersection of Map/PIN 5556-23-1563. Turn west and follow the southern border of Map/PIN 5556-23-1563 to the Point of Beginning.

This area excludes any area described in Section 1 of S.L. 2000-7.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Midland shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2003 and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of three members. Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Midland shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Midland shall be subject to municipal taxes levied for the year beginning July 1, 2000. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2000. The Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2000-2001, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 7, 2000, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Midland the question of whether or not the area shall be incorporated as the Town of Midland. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Midland."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Midland", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1300
Proposed Committee Substitute S1300-PCS8668

Short Title: Midland Incorporation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Midland is enacted to read:

"CHARTER OF THE TOWN OF MIDLAND.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Midland are a body corporate and politic under the name 'Town of Midland'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Midland are as follows:

BEGINNING at a point of the northernmost corner of the property described by the Cabarrus County Tax Maps as Map/PIN 5556-12-4009. Thence in a southwesterly direction along the western boundaries of properties Map/PIN 5556-12-4009, 5556-11-1569, and 5556-01-7367. Continuing directly across Highway 601 to the Highway 601 right-of-way on the northwest property line of the property Map/PIN 5556-00-4725. Continuing in a southeastern direction along the right-of-way that borders Highway 601 to the right-of-way of Sossoman Road near northeast corner of the property.

Continuing southwest along the right-of-way to the point of intersection with the property Map/PIN 5556-00-5380. Thence moving west along the southeast property line of Map/PIN 5556-00-4725 to the point of intersection with the property Map/PIN 5546-90-9409. Thence moving northwest along the southwesternmost boundaries of Map/PIN 5556-00-4725, and Map/PIN 5546-91-7410 to the point where it intersects with the easterly corner of the property Map/PIN 5546-90-2819. Thence west and south along the north and west perimeter of said parcel to the point of intersection with Spring Drive. Continuing directly across Spring Drive to the northeast corner of Map/PIN 5546-80-8682. Thence west along the north boundary and south along the west boundary of said property to its southwest corner. Turn west and go to the southeast corner of Map/PIN 5545-80-5613. Turn south along the westerly property line of Map/PIN 5546-80-6239 and go to its intersection with the northernmost corner of Map/PIN 5545-89-4183. Continuing in a southwestern direction along the westernmost property line of Map/PIN 5545-89-4183 to the intersection of the property Map/PIN 5545-78-6238.

Thence moving in a northwestern direction along the northeastern property lines to the northernmost point of the property Map/PIN 5545-78-6238. Thence southwesterly along the southeast property lines of Map/PINs 5545-78-3569, 5545-78-1244, 5545-78-0052, and 5545-67-8748 to the south corner of Map/PIN 5545-67-8748. Thence northwest to the southeast corner of Map/PIN 5545-67-6519 and continuing west along the southeast property line to the south corner of said parcel. Turn southwest and go to the northernmost corner of Map/PIN 5545-67-3175. Continue southeast along the northeasterly property line of Map/PINs 5545-67-3175, 5545-67-3051, and 5545-66-3858 to the east corner of Map/PIN 5545-66-3858. Turn southwest and follow the northwest property line of Map/PIN 5545-66-4715 to the northwest corner of said parcel. Turn south and follow the west property line of Map/PINs 5545-66-4715, 5545-66-5602, and 5545-66-4494 to the intersection with the northerly property line of Map/PIN 5545-66-2067. Turn southwesterly along the northwesterly property line of Map/PIN 5545-66-2067 to the southeast corner of parcel Map/PIN 5545-56-8171. Thence continue north and then west along said parcel to the northwest corner of Map/PIN 5545-56-8171. Thence northwest across Snowcrest Drive to the north corner of Map/PIN 5545-56-6098. Turn southwest and continue along the east and south property lines of Map/PINs 5545-56-5300, 5545-56-3032, 5545-56-1145 to the east corner of Map/PIN 5545-56-0025. Thence southwest along the east property line of Map/PINs 5545-56-0025, 5545-45-9992, and 5545-45-9642 to the southeast corner of Map/PIN 5545-45-9642. Turn west and continue along the Map/PIN 5545-45-9642 property line to the intersection with the property line of Map/PIN 5545-45-6701.

Thence continuing southwest along the easternmost property lines of Map/PINs 5545-45-6701, and 5545-45-1648 to the southeasternmost corner of the property. Thence continuing southwest along the west property lines of Map/PINs 5545-45-4280 and 5545-35-7453. Thence continuing southwest 65 feet thence in a western direction across Troutman Road to the northeastern corner of Map/PIN 5545-34-9832. Thence continuing in a northwest direction to the northwest corner of the property. From that corner of the property continue southwest along the northwest property lines of

Map/PIN 5545-34-9832 and 5545-34-8782 to the southwest corner of Map/PIN 5545-34-8782.

Thence continue southeast to the northwestern corner of property Map/PIN 5545-34-8423. Thence continue southwest along the property line to the southwest corner of the property. Thence continue westerly and southerly along Map/PIN 5545-34-6124 to the intersection with Map/PIN 5545-34-2199. Thence continue westerly along the southerly property line of Map/PINs 5545-34-3410 and 5545-24-9440 to the northwest corner of property Map/PIN 5545-24-8197.

Thence continuing in a southwestern direction to the southwesternmost corner of Map/PIN 5545-24-8197. From that corner continue in a southeast direction to a point where the property line intersects the property line of property Map/PIN 5545-33-0983. At that point continue in a western direction to the westernmost corner of Map/PIN 5545-33-0983.

From that point continuing in a northwestern direction along the southern property line of Map/PIN 5545-24-5291 to its southwest corner. Then turn southwest and continue along the easterly and then northwest along the southeasterly property line of Map/PIN 5545-23-1979 to the northernmost corner of Map/PIN 5545-13-9685. Turn southwest and go to the westernmost corner of said property. Cross directly over an unnamed private road to the southernmost corner of Map/PIN 5545-13-6890. Proceed southwest along the southeast property line of Map/PINs 5545-13-3599 and 5545-13-0296 to the point of intersection with the east property line of Map/PIN 5545-02-7867. Go north on the east property line of said parcel to the southeast corner of property Map/PIN 5545-03-6194.

Turn southwest and proceed along the south and west property line of said parcel to the northernmost corner of Map/PIN 5545-02-5755. Thence southwest along the southeast property line of Map/PIN 5545-02-2876 to the northernmost corner of Map/PIN 5545-02-1533. Proceed along the northeast property line to the southeast corner of said parcel. Turn southwest and proceed along the southeast property line of Map/PINs 5545-02-1533 and 5535-92-8388 to the south corner of Map/PIN 5535-92-8388. Cross directly over Bethel Church Road to the east corner of Map/PIN 5535-92-5207. Continue along the southeast property line of Map/PIN 5535-92-5207 to the westernmost corner of Map/PIN 5535-91-6926. Turn southeast following the property line of Map/PIN 5535-91-6926 to the south corner of property Map/PIN 5545-02-6926. Continue southeast from that corner to the southwest corner of Map/PIN 5545-02-5551 and then east along said property line to the western right-of-way of Bethel Church Road.

Thence continue southeast along the western right-of-way of Bethel Church Road to the north property line of Map/PIN 5545-00-3369. Thence continue southwest to the northerly northwest corner of said property. Thence continue southeast along the property line to the northeastern corner of property Map/PIN 5545-00-3704. Thence continue west-southwest along the north property lines of Map/PINs 5545-00-3704 and 5535-90-9617 to the northwest corner of Map/PIN 5535-90-9617. From that corner continue south along the property line to the southwest corner of the property. Thence continue northeast to the point of intersection with the westerly property line

of Map/PIN 5545-00-3369. From that point continue south along said property line to the southerly southwest corner of the property Map/PIN 5545-00-3369. Thence continue southwest along the northerly property lines of Map/PINs 5534-99-8401, 5534-99-3460, 5534-99-2451, 5534-99-1410, and 5534-89-9430 to the northwest corner of the property Map/PIN 5534-89-9430. Thence move south to the northerly right-of-way for NC Highway 24/27. Thence continue west to the intersection with the property line of Map/PIN 5535-80-5534. Thence continue north then northwest to the northwest corner of the property. Thence continue southwest along the northerly property lines of the properties Map/PINs 5535-80-1414 and 5535-70-5934 to the northwest corner of Map/PIN 5535-70-5934.

Thence continue southeast to the northern corner of property Map/PIN 5535-70-1627. From that point continue southwest along the property line to the southeastern corner of property Map/PIN 5535-60-8678. Thence continue north and west along said property line around to the west corner of Map/PIN 5535-60-8678 and then southwest across Sam Black Road to the southeast corner of Map/PIN 5535-60-3559. From that point continue north along the property line to the north corner of Map/PIN 5535-50-3559. Thence proceed southwest along the easterly property line of Map/PIN 5535-50-4455 to its point of intersection with the northerly right-of-way for NC Highway 24/27.

Turn west along the NC Highway 24/27 right-of-way to its point of intersection with the property line of Map/PIN 5534-49-5492. Continue northwest to the north corner of said property. Cross directly over property Map/PIN 5535-50-4455 to the southerly northeast corner of Map/PIN 5534-49-4506. Proceed northwest along the northeast property lines of Map/PINs 5534-49-4506 and 5534-49-3677 to the northernmost corner of Map/Pin 5534-49-3677. Thence turn southwest and thence southeast to the southwest corner of said parcel. Continue southeast along the property line of Map/PINs 5534-49-4506 and 5534-49-4415 to a point of intersection with the northerly right-of-way for NC Highway 24/27.

From that point continue west along the northerly NC Highway 24/27 right-of-way to the western right-of-way of Flowes Store Road. Thence continue southeast along the west right-of-way of Flowes Store Road and Old Camden Road to the point of intersection with the southeasterly property line of property Map/PIN 5524-97-8018. Thence go northeast along the property line to the southeast corner of said parcel. Thence continue southeast across Old Camden Road to the southwestern corner of property Map/PIN 5534-07-8047. Continuing southeast along the southern property line of the said property and the property line of Map/PIN 5534-07-9085 to the southeastern corner of Map/PIN 5534-07-9085. Thence continue northeast along the northwesterly property line of Map/PIN 5534-17-6044 to the northernmost corner of the property. Thence north along the westerly property line of Map/PIN 5534-27-4832 to the westerly northwest corner of said property. Thence northeast along property lines to the northwest corner of Map/PIN 5534-28-2266. Thence southeast and northeast along the property line to the southeast corner of said parcel.

Thence continue along the northeasterly property lines of Map/PINs 5534-28-2266, 5534-28-1414, and 5534-28-1507 to the northeast corner of Map/PIN 5534-28-1507.

Thence cross Ritchie Road to the northwestern corner of property Map/PIN 5534-28-8371. Thence continue east along the said property line to the northerly northeast corner. Thence continue northwest along the westerly property line of property Map/PIN 5534-37-8848 to the westernmost corner of the property then northeast along the property line to the point of intersection with the southerly right-of-way for NC Highway 24/27. Thence continue along the right-of-way to the west property line of Map/PIN 5534-38-6988.

From that intersection continue south to the southwestern corner of the property. Thence continue southeast to the southeastern corner and then north to the right-of-way on the southern side of NC Highway 24/27. Thence continue east along the right-of-way to the west property line of Map/PIN 5534-49-0076. Continue south to the southwest corner of the parcel, thence continue southeasterly along the southerly property lines of Map/PINs 5534-49-0076 and 5534-49-4044 to the southernmost corner of Map/PIN 5534-49-4044. Thence continue northeast along the property line to the southwestern corner of Map/PIN 5534-49-8018. From that corner continue east to the southeastern corner of the said property and thence north to the right-of-way on the south side of NC Highway 24/27. Thence continue east along the right-of-way to the east property line of property Map/PIN 5534-68-1909. Thence continue southwest along the property line to the southeastern corner of Map/PIN 5534-68-1909. Thence continuing northeast along the south boundaries of Map/PINs 5534-69-4031, 5534-69-7102, and 5534-69-7183 to the southeast corner of Map/PIN 5534-69-7183 and thence north along the property line to the right-of-way along the south side of NC Highway 24/27. From that point continue east along the right-of-way to the intersection with the west right-of-way of Sam Black Road. Thence continue southeast along the right-of-way on the west side of Sam Black Road to the point of intersection with the northeast property line of property Map/PIN 5534-78-8739. Thence continue northwest to the northwestern corner of the property then southwest to the southwestern corner of the property.

Thence continue southeast along the property line to the southeastern corner of the property. Then cross Sam Black Road to the southwest corner of Map/PIN 5534-88-3986. Continue along the southerly property line of Map/PIN 5534-88-3986 to the southernmost corner of the property. Thence continue southeast along the southwest property line of Map/PIN 5534-97-1831 to the southern corner of the said property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-1653 to the southeastern corner of the property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-2168 to the southeast corner of said property. Thence continue southwest along the property line to the southwest corner of Map/PIN 5534-96-2168. Turn southeast and follow the southwest property lines of Map/PINs 5534-85-8783 and 5534-85-6566 to the south corner of Map/PIN 5534-85-6566. Cross directly over Ben Black Road to the northernmost corner of property Map/PIN 5534-85-4281. Thence continue southwest along the northwest property line to the southwest corner of the property. From that corner of the property continue southeast across the Norfolk Southern Railway right-of-way to the northwest corner of Map/PIN 5534-84-6486. Follow the Norfolk Southern Railway right-of-way to its

point of intersection with the northerly east line of the property Map/PIN 5534-84-6486. Thence continue along the eastern property lines of Map/PIN 5534-84-6486 to the southerly southeast corner of the property. Thence continue west-northwest along the southern property line to the westernmost corner of said property. From that corner continue southwest along the southeast property line of Map/PIN 5534-75-7521 to the southernmost corner of the property. Thence continue southwest to the southernmost corner of the property Map/PIN 5534-64-2431. From that point continue northwest along the southwest property line of said property and continue along the northeast property line of Map/PIN 5534-54-4074 to the northernmost corner of property Map/PIN 5534-54-4074.

Thence south along the property line of property Map/PIN 5534-54-1462 to the southeastern corner of the property. Thence continue along the southern property line to the southwestern corner of the property. From that point continue southwest along the west side of Map/Pin 5543-43-8793 to the right-of-way of Sleepy Hollow Road on the northern side. Thence continue northwest along the right-of-way to its intersection with the west side of property Map/PIN 5534-44-7569. Continue along the southwesterly property lines of Map/PIN 5534-44-7569 to the north corner of Map/Pin 5534-44-3371. From that point continue southwest along the northwest property line of Map/Pin 5534-44-3371 to the right-of-way of Sleepy Hollow Road along the northern side of the road. Thence continue west-northwest along the right-of-way to the point of intersection with Map/PIN 5534-34-3396. Turn north-northwest and follow said property line to the northerly southwest corner of that parcel. Follow the west and south property lines of property Map/PIN 5534-35-6533 to its point of intersection with the Norfolk Southern Railway right-of-way. From that intersection continue across the Norfolk Southern track to the Norfolk Southern Railway right-of-way along the northern side of the rail line. Thence continue westerly along the right-of-way to its intersection with the easterly property line of Map/PIN 5534-15-4291. Thence continue north to the northeast corner of said property. Thence continue west along the property line to the northwest corner of Map/PIN 5534-15-4291. Turn south and follow the westerly property lines of Map/PINs 5534-15-4291, 5534-14-4946, 5534-14-4842, 5534-14-4781, 5534-14-5548, 5534-14-5471, 5534-14-5268, 5534-14-5146, and 5534-13-6874 to the southwest corner of property Map/PIN 5534-13-6874. Thence continue southeast to the southeast corner of said property. From that corner continue north to the northeast corner of the property. Thence continue east along the northern property line of property Map/PINs 5534-23-2783 and 5534-33-1831 to the northern northeast corner of property Map/PIN 5534-33-1831. Thence, proceed south-southwest along the west property line of property Map/PIN 5534-33-3879 to the southwest corner of Map/PIN 5534-33-3879, then travel east-southeast along the southern property line of said parcel to the intersection with property Map/PIN 5534-33-4522. From here turn southwest and proceed along the northwest property line of Map/PIN 5534-33-4522 to the southwest corner of the property.

Thence proceed southeast along the northeastern boundary of property Map/PIN 5534-32-1232 to its easternmost corner. Turn west and follow the boundary of Map/PIN 5534-32-3086 to its westernmost intersection with Map/PIN 5534-31-3478.

Follow the northern border of Map/PIN 5534-31-3478 east to the intersection with Map/PIN 5534-31-5848. Turn south and follow the property line of property Map/PIN 5534-31-5848 to its southeast corner. Turn southeast and follow the northeastern border of the property Map/PIN 5534-41-0295 to its intersection with the west right-of-way of Cabarrus Station Road. Turn southwest and follow the right-of-way to its intersection with the northeasterly property line of Map/PIN 5534-40-2825. Turn northwest and follow said property line to its northern corner, thence southwest to its western corner. Now follow the property line for property Map/PIN 5534-40-2825 back to the westerly right-of-way for Cabarrus Station Road.

Continue southwest along said right-of-way until you meet the northeastern property line of Map/PIN 5534-30-8212. From here, turn northwest and go to the north corner of said parcel. Turn southwest and follow the property line to its western corner. Turn southeast and go to the north corner of Map/PIN 5533-39-6802. Turn southwest and follow the property lines of Map/PINs 5533-39-6802 and 5533-39-4605 respectively. Turn southeast at the westernmost corner of Map/PIN 5533-39-4605 and go to the north corner of property Map/PIN 5533-39-1416. Turn southwest and follow the property line of Map/PIN 5533-39-1416 west then south to the Cabarrus Station Road right-of-way.

Follow the northwesterly right-of-way of Cabarrus Station Road southwest until you come to its intersection with the property line of Map/PIN 5533-18-9661. Turn northwest and follow this line until you reach the northeast corner of the parcel. Turn southwest and travel along the westernmost southeast property line of Map/Pin 5533-29-4326 to the northwest corner of Map/PIN 5533-18-3388. From here, turn southeast and follow the property line for Map/PIN 5533-18-3388 until you reach the southwest corner of the property.

Cross directly over Cabarrus Station Road to the northwest corner of Map/PIN 5533-17-8801. Then go southeast along the property line to the point of intersection with the southwesterly right-of-way of Cabarrus Station Road. Travel northeast along the right-of-way until you reach the northeast property line of Map/PIN 5533-17-9887. Turn southeast and go to the intersection of Map/PIN 5533-27-2838 and the Cabarrus County Boundary. Continue southeast along the Cabarrus County Boundary to its intersection with the southeast property line of said property. From here, turn northeast and go along the northwest property line of Map/PIN 5533-27-8192 to the northeast corner of Map/PIN 5533-27-8192. Continue traveling northeast along the northwest property lines of Map/PINs 5533-37-3408 and 5533-48-0035 until you reach the northern corner of Map/PIN 5533-48-0035. Turn southeast and follow this property line to the intersection with Map/PIN 5533-47-7785. From here, turn northeast and follow the property line of Map/PIN 5533-47-7785 until you reach the northwest corner of Map/PIN 5533-57-4817. Turn southeast and follow this property line until you reach the right-of-way for the cul-de-sac on Forestbluff Drive. Continue following around the west side of the right-of-way until reaching Map/PIN 5533-57-5427. Turn southwest and follow the property line to the intersection with Map/PIN 5533-57-1174. Turn east and follow the property line of Map/PINs 5533-57-5427 and

5533-57-7516 to the intersection with Map/PIN 5533-57-7151. Turn south and follow this property line to the intersection with the Ben Black Road right-of-way.

From here, turn southwest and travel along the northerly Ben Black Road right-of-way for 727 feet. Turn southeast to the northwest corner of Map/PIN 5533-55-4997. Turn south and follow the property line of Map/PIN 5533-55-4997 until you meet Map/PIN 5533-55-7467. Now turn northeast and follow the Map/PIN 5533-55-7467 northwest property line until you meet Map/PIN 5533-66-0296. Turn southeast and travel along the property lines of Map/PINs 5533-66-0296 and 5533-66-2076 to the southern corner of Map/PIN 5533-66-2076. Turn northeast and follow the northwesterly property lines of Map/PIN 5533-76-5268 around to the north corner of Map/PIN 5533-76-2656. Cross directly over Ben Black Road to the south property line of Map/PIN 5533-77-2327.

Turn northeast and go to the southeast corner of Map/PIN 5533-77-2327. Turn northwest and go to the north corner of said property. From here, go north-northeast along the eastern borders of Map/PINs 5533-78-1051 and 5533-78-1271. At the northeast corner of 5533-78-1271 turn northwest and follow the southern boundary of Map/PIN 5533-68-6765 until you reach the Forestbluff Dr. right-of-way. Turn southwest and follow the Forestbluff Dr. right-of-way to its intersection with Map/PIN 5533-68-0070. From here, turn northwest and travel to the border of Map/PIN 5533-58-3389. Turn northeast and go to the southern corner of Map/PIN 5533-58-9936. Turn northwest and follow the property line of Map/PIN 5533-58-3389 to the end of Waterbury Road. From here, go northeast until you reach the northerly right-of-way for Waterbury Road. Turn west and go until you meet Map/PIN 5533-49-7149. Turn northeast and follow this property line until it intersects with Map/PIN 5533-49-5850. Turn southwest and go to the southern corner of said property. Turn northwest and go until you meet Map/PIN 5533-49-0935, then turn northeast and go to the easternmost corner of the property. From here, turn northwest and go to the Cabarrus Station Road right-of-way. Turn northeast and travel to the southwest property line of Map/PIN 5534-40-1154. From here, turn southeast and go to the southern corner of said property. Turn northeast and go along the southeast property lines of Map/PINs 5534-40-1154 and 5534-40-2371 to the eastern corner of Map/PIN 5534-40-2371. Turn southeast and go along the southwest property line of Map/PIN 5534-40-5408 to the south corner of Map/PIN 5534-40-5408. Turn northeast and go along the property line to the eastern corner of said property. Turn northeast and follow the northern property line for Map/PIN 5534-50-3474 up to its northern corner. Turn north-northwest and follow the eastern border of Map/PIN 5534-51-2593 until you reach the southwest corner of Map/PIN 5534-52-6179. Turn northeast and follow the border of said property until you reach the southerly right of way for Cabarrus Station Road.

Follow the Cabarrus Station Road right-of-way east to the west property line of Map/PIN 5534-72-3682. Turn southeast and follow the boundary of said property around until you meet the Cabarrus Station Road right-of-way again. Continue east on the right-of-way to the southwest edge of Map/PIN 5534-72-6774. Turn southeast and travel along the northeast edge of Map/PINs 5534-71-9823 and 5534-80-9905 to

the southern corner of Map/PIN 5534-91-5983. Turn north and go along the property line to the Bethel Avenue Extension right-of-way. Follow the westerly Bethel Avenue Extension right-of-way south to the point of intersection with Map/PIN 5534-91-6180. Turn due north to the point of intersection with the southwest property line of Map/PIN 5544-01-7629. Turn southeast and go to the southwest corner of said property. Turn southwest and follow the west property lines of Map/PINs 5543-29-0546 and 5543-09-5170 to the southwest corner of Map/PIN 5543-29-0546. Turn east and follow the south property line of Map/PIN 5543-29-0546, 5543-29-6374, 5543-29-8440, 5543-39-0670, 5543-39-4530, and 5543-39-4936 to the southeast corner of Map/PIN 5543-39-4936. Cross directly over Map/PIN 5543-37-3491 to the southwest corner of Map/PIN 5543-44-4681. Continue along the south property line of Map/PINs 5543-49-4681, 5544-40-9609 and 5544-50-5735 to the southwest corner of Map/PIN 5544-50-8763.

Follow the western boundary of 5544-50-8763 north to the northwest corner of said property. Turn west and go along the north property lines of Map/PINs 5544-50-5735 and 5544-40-9609 to the northernmost corner of Map/PIN 5544-40-9609. Turn northeast and go to the easternmost corner of Map/PIN 5544-51-3808. Turn northwest and go to the northerly northeast corner of said parcel. Turn north to the easternmost corner of Map/PIN 5544-42-8481. Go to the westernmost corner of Map/PIN 5544-63-6383. Follow the northwest perimeter of Map/PIN 5544-63-6383 north to the north corner and then southeast until you reach the property's easternmost corner. From here follow the southern border of Map/PIN 5544-83-4451 to the western corner of Map/PIN 5544-83-7180. Turn southwest along the west property line of Map/PINs 5544-92-1669 and 5544-92-0588 to the northwest corner of Map/PIN 5544-92-2309. Turn southeast and follow around the north, east, and south borders of said property until you reach its southwest corner. Turn south and follow the western border of Map/PIN 5544-91-2911 until you reach the centerline of the Norfolk Southern Railway tracks.

From here, cross to the south side of the railroad track to the northwest corner of Map/PIN 5544-91-6017. Follow the southwest border of said property until you reach the centerline of Highway 601. Follow the centerline of Highway 601 south for approximately 2364 feet until you reach a point directly opposite the southwest property line of Map/PIN 5543-89-3040. Turn southeast and go along the southwest property lines of Map/PINs 5543-89-3040 and 5543-88-7716 to the southernmost corner of Map/PIN 5543-88-7716. Turn northeast and follow the boundary of said property to its easternmost corner. Turn northwest and follow the same boundary and the northeast boundary of Map/PIN 5543-89-3040 to the southernmost corner of Map/PIN 5543-89-5201. Turn northeast and follow the boundary of Map/PIN 5543-88-8145 around to the intersection with the northwest corner of Map/PIN 5553-08-6749. Continue east along the northern border of Map/PIN 5553-08-6749 until you reach the Hopewell Church Road westerly right-of-way. Turn southeast and continue following the right-of-way to the northern perimeter of Map/PIN 5553-18-1552. From here, turn southwest and follow the boundary of Map/PINs 5553-08-6749 and 5543-88-8145 until you reach the westernmost corner of Map/PIN 5543-97-0017. Turn

southeast and follow the border of Map/PIN 5543-97-0017 to the intersection with Map/PIN 5543-97-6556. At this point, turn northeast and follow the southern boundary of said property to the intersection with Map/PIN 5553-06-9822. From here, follow the eastern border of Map/PIN 5543-96-6459 south to the southwest corner of Map/PIN 5553-06-6441. Turn southeast and follow the south boundary of Map/PIN 5553-06-6441 to its southeast corner. Cross directly over Map/PIN 5553-15-8474 and Hopewell Church Road to the southwest corner of Map/PIN 5553-15-4576. Continue southeast along the property lines of Map/PINs 5553-15-4576 and 5553-15-8474 to the southernmost corner of Map/PIN 5553-15-8474. Turn northeast and follow the perimeter of said property until you reach the easterly Hopewell Church Road right-of-way. Turn northeast and follow the right-of-way to the southwest border of Map/PIN 5553-16-9800. Turn southeast and follow the northeast border of Map/PIN 5553-24-9675 to the southernmost corner of Map/PIN 5553-26-8196. Turn northeast and follow the northwest boundary of Map/PIN 5553-35-9990 to its northernmost corner. Continue northeast, following the eastern boundary of Map/PIN 5553-38-6833. Continue along the perimeter of said property until you reach the southernmost corner of Map/PIN 5553-29-5443.

From here, turn northwest and follow the northeast border of Map/PIN 5553-18-6976 to the southern corner of Map/PIN 5553-19-6599. Turn northeast and follow the west boundary of Map/PIN 5553-29-5443 to its northernmost corner. Continue north along the northwest border of Map/PIN 5554-20-2483 until you reach Garmon Mill Road. Cross Garmon Mill Road to a point 27 feet west of the southeast corner of Map/PIN 5554-21-2045 on the south property line of said parcel. Turn east and go to the southeast corner of Map/PIN 5554-21-2045, cross over Oak St., and follow the Chaney Road northern right-of-way to the southeast corner of Map/PIN 5554-21-4046. Turn north and follow the western boundary of Map/PIN 5554-31-1263, directly across the Norfolk Southern Railway right-of-way to the west edge of Map/PIN 5554-31-0864, and continue along the west property line of said property and Map/PIN 5554-32-0922 to the west corner of Map/PIN 5554-32-0922. At the intersection with Map/PIN 5554-23-1707, continue northwest along said property's southwest boundary until you reach the northeast corner of Map/PIN 5554-13-6172. Turn west-southwest and follow the south and west boundaries of Map/PIN 5554-13-3760 around until you reach the property's northeasternmost corner. At this point, turn northeast and follow the western boundary of Map/PIN 5554-24-2721 to its northerly northwest corner. Turn northwest and follow the northern border of Map/PIN 5554-16-5399 until you reach the easterly right-of-way of US Highway 601.

Thence continue northeast along the right-of-way on the southeast side of US Highway 601 to its intersection with the southwest border of property Map/PIN 5554-17-6858. Thence continue southeast along the property line to the southeastern corner of said property. From that corner continue northeast along the property line of said property and property Map/PIN 5554-18-6075 to the northeastern corner of Map/PIN 5554-18-6075. Thence continue southeast along the property line of Map/PIN 5554-18-7280 to the southeast corner of said property. From that corner continue northeast along the eastern property line of the property and the property Map/PIN 5554-18-

8327 to the northeast corner of 5554-18-8327. Thence continue southeast to the southeast corner of Map/PIN 5554-18-7567.
Thence continue to the southernmost corner of property Map/PIN 5554-29-4168. Turn northeast and follow the northerly property line of Map/PIN 5554-38-7270 around to the southwest corner of Map/PIN 5554-49-7745. Thence continue east along the Map/PIN 5554-49-7745 property line and the property line of Map/PIN 5554-49-8595 to the southeast corner of the property. Thence continue east along the southern right-of-way of Loving Road to the property line of Map/PIN 5554-58-7874. From that point continue south along the property lines of said property and property Map/PIN 5554-58-2939 for approximately 723 feet to a point directly opposite the southwest corner of Map/PIN 5554-58-3931.
From that point continue east to the southwest corner and then to the southeast corner of property Map/PIN 5554-58-3931. Thence continue north along said property line to the northerly northeast corner of the property. From that corner of the property continue northeast directly across the property of Map/PIN 5554-58-7874 to the southern property line of Map/PIN 5554-59-4334. Thence continue east along the property line to the easterly northeast corner of the property. From that point continue directly across the property Map/PIN 5554-58-7874 to the property line of Map/PIN 5554-59-8365. Thence continue southeast to the southerly southwest corner of Map/PIN 5554-59-8365. Thence continue south to the northwest corner of Map/PIN 5554-69-0079. Thence continue southeast along the property line to the southernmost corner of Map/PIN 5554-69-2254. From that corner continue northeast along the property line to the southwestern corner of property Map/PIN 5554-69-5056. Thence continue southeast along the property lines of said property and property Map/PIN 5554-68-8951 to the southernmost corner of the property Map/PIN 5554-68-8951. Thence continue northeast along the eastern side of the property to the point of intersection with McManus Road. Turn and go east to the intersection with the McManus Road right-of-way.
Thence continue northeast along the right-of-way of McManus Road on the eastern side of the road to the intersection with the south border of property Map/PIN 5555-70-2167. Thence continue east to the southeastern corner of Map/PIN 5555-70-2167 then northeast to the northeasternmost corner and then northwest to the point of intersection with the McManus Road right-of-way. Thence continue northeast along the right-of-way on the eastern side of the road to the southwest property line of property Map/PIN 5555-70-4703. Thence continue southeast along the property line to the southernmost corner of said property and then northerly along the eastern property line to the point of intersection with NC Highway 24/27 southerly right of way. Thence continue directly across the Highway to the southeast corner of property Map/PIN 5555-72-5202. Continue along the southerly property lines of Map/PIN 5555-71-7706 and 5555-71-8321 to the southeast corner of Map/PIN 5555-71-8321.
Thence continue northwest along the eastern boundary to the northeast corner of the property. Thence continuing northwest along the property line of Map/PIN 5555-71-7706 to the northernmost corner of the property Map/PIN 5555-71-7706. Thence continue southwest along the westerly property line of said property and property

Map/PIN 5555-71-5202 to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right-of-way of NC Highway 24/27 to the point of intersection with the east property line of Map/PIN 5555-61-8154. Thence continue northerly along the property line of said property to the northernmost corner. From that corner continue southwest along the northwest property line to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way to the point of intersection with the east property line of property Map/PIN 5555-50-3891.

From that point continue northwest along the eastern property line of Map/PIN 5555-50-3891 to the northernmost corner of the property. Thence continue northeast along the southeast property line of property Map/PIN 5555-51-3993 to the northeastern corner of the property. Thence continue northwest along the northern property line to the northwestern corner of the property and continue southwest along the western property line of the property to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right of way to the point of intersection with the property Map/PIN 5555-30-9401. Thence continue northeast along said property line to the northeast corner of the property and then southwest along the property line to the northwestern corner of the property. Thence continue northeast along the east property lines of Map/PINs 5555-30-6464 and 5555-30-8813 to the northeast corner of Map/PIN 5555-30-8813. Thence continue around the perimeter of Map/PIN 5555-30-8813 to the northwest corner of Map/PIN 5555-30-6464.

Cross over Widenhouse Road to the northeast corner of property Map/PIN 5555-30-3368. Thence continue northwest along the northern property line of Map/PIN 5555-30-3368 to the northwestern corner of the property. Thence continue northeast along the southeast property line of Map/PIN 5555-20-7506 to the northeastern corner of the property. From that corner continue northwest along the northern property line to the point of intersection with property Map/PIN 5555-21-3274. Thence continue northeast along the property line of said property to the northeastern corner of the property. From that corner continue west to the northwest corner of the property and continue south to the southwest corner. Cross directly over US Highway 601 to the northeast corner of property Map/PIN 5555-11-2213. Thence continue northwest along the northern property line of said property to the northernmost corner of the property.

Thence continue southwest along the northwest property line of property Map/PIN 5555-01-2134 to the west corner of the property. From that corner continue southwest along the property line of the property Map/PIN 5545-90-6414 to the point of intersection with the property Map/PIN 5545-90-1280. Thence continue northwest to the northwestern corner of said property. From that corner continue southwest along the property line to the southwest corner of Map/PIN 5545-90-1280 then southeast to the point of intersection with property Map/PIN 5544-99-4865. Thence continue southwest along the property line of Map/PIN 5544-99-4865 to the intersection with Map/PIN 5544-99-0543. Thence continue west along the northern boundary of said

property and property Map/PIN 5544-89-8583 to the northwestern corner of Map/PIN 5544-89-8583.

Thence continue south to the intersection with the northerly NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way of NC Highway 24/27 to the point of intersection with the property Map/PIN 5544-79-6696. Turn north, and follow the western border of Map/PIN 5545-80-6865 to the northeast corner of Map/PIN 5545-71-6954. Turn west and follow the northern border of said property and Map/PIN 5545-71-2774 until you reach the northwest corner of Map/PIN 5545-71-2774. Turn southwest and follow the boundaries of Map/PINs 5545-71-2774, 5545-71-0151, and 5545-60-9722 to the southeast corner of Map/PIN 5545-61-1127. Turn northwest and travel to the southwest corner of Map/PIN 5545-61-1127. Turn northeast and follow the western border of said property to its northwestern corner.

Turn northwest and follow the northern border of Map/PIN 5545-41-9555 until you reach the Jim Sossoman Road right-of-way. Turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-62-3629. Turn southeast and follow the southern boundary of Map/PIN 5545-62-3629 to its southeast corner. Turn north and follow the eastern bounds of Map/PINs 5545-62-3629, 5545-62-4814, 5545-62-4978, 5545-63-5135, 5545-53-8663, 5545-63-6465, 5545-63-7640, and 5545-64-1035 to the northeast corner of Map/PIN 5545-64-1035. Turn northwest and follow the border of said property to the Jim Sossoman Road eastern right-of-way.

Turn northeast and follow the eastern right-of-way to the intersection with Map/PIN 5545-74-8667. Turn southeast and follow the southern border of Map/PIN 5545-74-8667 to its easternmost corner. Continue northeast along the southeast border of Map/PIN 5545-84-6783 to its easternmost corner. Turn northwest and follow the east border of Map/PIN 5545-84-6783 to the northeast corner crossing over an unnamed right-of-way to the southeast corner of Map/PIN 5545-85-7344. Continue along the eastern and northern borders of said property until you reach the property's northwest corner. Continue northwest along the northern border of Map/PIN 5545-85-3576 to its northern corner. Turn southwest and go to the southwest corner of said property. When you reach an unnamed right-of-way, turn northwest and follow the right-of-way to the Jim Sossoman Road eastern right-of-way. When you reach the right-of-way for Jim Sossoman Road, turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-98-7291.

From this point, travel east along the southern border of Map/PIN 5545-98-7291 until you reach its southeast corner. Turn south and follow the eastern border of Map/PIN 5545-97-7724 and 5555-06-6822 to the southeast corner of 5555-06-6822. Turn southeast and follow the border of Map/PIN 5545-87-4111 southeast and then southwest to the southeast corner. From here, turn east and follow the northeast perimeter of Map/PIN 5555-03-7435 until you reach the southeast corner of Map/PIN 5555-12-6854. Turn north and follow the easterly property line of Map/PINs 5555-12-6854, 5555-12-6938, 5555-13-5302, 5555-13-4567, 5555-13-4840, 5555-14-4080, 5555-14-4158, 5555-14-4356, 5555-14-1498, 5555-14-4651, 5555-14-3932, and 5555-15-5279 to the northeast corner of Map/PIN 5555-15-5279. Turn southeast, cross the road to the southwest corner of Map/PIN 5555-25-0668, and continue to the southeast corner of

Map/PIN 5555-25-0668. Turn northeast and follow the western boundary of Map/PIN 5555-35-9827 to the northernmost corner of Map/PIN 5555-26-7559. Cross Mt. Pleasant Road to the southeast corner of Map/PIN 5555-27-5019. Proceed north along the easterly property line of said parcel and Map/PINs 5555-27-5383 and 5555-27-6647 to the southeast corner of Map/PIN 5555-28-5511.

Continue west along the southern boundary of Map/PIN 5555-28-5511 to its southwest corner. Cross Highway 601 to the southeast corner of Map/PIN 5555-17-6979. Proceed northerly along the easterly property lines of Map/PINs 5555-17-6979, 5555-18-6156, 5555-18-5472, 5555-18-4955, and 5555-19-2451 to the southeast corner of Map/PIN 5555-19-3854. Cross Highway 601 to the northwest corner of Map/PIN 5555-29-0676. Proceed along the west and south borders of the parcel to the southeast corner of said property. Follow the northeast property line of said parcel to the south corner of Map/PIN 5555-29-2721. Continue north on the east property line of Map/PIN 5555-29-2721 to the northeastern corner of said parcel. Turn northwest and follow the border of said property to its northwest corner. Turn northeast and follow the western border of Map/PIN 5555-29-9552 to its northwest corner. Turn west and follow the southern border of Map/PIN 5556-21-3259 back to the easterly US Highway 601 right-of-way. Staying on the east side right-of-way, continuing along Map/Pin 5556-21-3259 northwest then northeast to the intersection of Map/PIN 5556-23-1563. Turn west and follow the southern border of Map/PIN 5556-23-1563 to the Point of Beginning.

This area excludes any area described in Section 1 of S.L. 2000-7.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Midland shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2003 and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of three members. Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Midland shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Midland shall be subject to municipal taxes levied for the year beginning July 1, 2000. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2000. The Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2000-2001, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 7, 2000, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Midland the question of whether or not the area shall be incorporated as the Town of Midland. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Midland."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Midland", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1300

Short Title: Midland Incorporation. (Local)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Midland is enacted to read:

"CHARTER OF THE TOWN OF MIDLAND.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Midland are a body corporate and politic under the name 'Town of Midland'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Midland are as follows:

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Midland shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the two

candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2003 and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of three members. [Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor.]

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Midland shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Midland shall be subject to municipal taxes levied for the year beginning July 1, 2000. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2000. The Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2000-2001, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 7, 2000, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Midland the question of whether or not the area shall be incorporated as the Town of Midland. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Midland."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Midland", Sections 1 through 2 of this act shall become

effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

SB 1359:
Winston-Salem Local Act

BILL ANALYSIS

Committee:	Senate State & Local Gov't	**Introduced by:**	Senator Horton
Date:	June 21, 2000	**Summary by:**	Barbara Riley
Version:	PCS		Committee Counsel

SUMMARY: ***The proposed committee substitute authorizes Winston-Salem to remove and dispose of motor vehicles deemed a safety hazard and amends the definitions of "abandoned motor vehicle and "junked motor vehicle."***

CURRENT LAW: Chapter 160A provides municipalities the authority to adopt ordinances prohibiting the abandonment of motor vehicles and providing for their removal and disposal. G.S.160A-303, G.S. 160A-303.2. Winston-Salem sought a modification of the Statewide provisions in 1995 that authorized the City to deal with vehicles that were left on particular highways and streets within the city limits for more than 48 hours. Chapter 92 of the 1995 Session Laws.

G.S. 160A-303 defines abandoned vehicles to mean those vehicles that are left (1) on a street in violation of an ordinance prohibiting parking, (2) on city property for more than 24 hours, (3) on private property without the consent of the owner or lessee for more than 2 hours, or (4) on public streets for more than 7 days. Junked motor vehicles are defined as vehicles that are partially dismantled or wrecked, cannont be self propelled, are more than 5 years old and worth less than $100.

BILL ANALYSIS: The proposed committee substitute for SB 1359 provides a local amendment for Winston-Salem to the provisions of State law dealing with abandoned and junked vehicles in several respects.

First, it amends the definition of abandoned vehicle to include (1) those left on a street or highway in violation of an ordinance requiring the display of a valid license plate or registration sticker, and (2) those left within the City limits on Peters Creek Parkway, Silas Creek Parkway or Highway 421 for more than 48 hours. The definition of junked vehicle is amended to increase the threshold amount for a vehicle considered junked to $500.

The bill also provides that the City may by ordinance provide for the removal and disposal of vehicles posing a "safety hazard". Vehicles posing a safety hazard are those that are left on a public street or private property for more than 48 hours that are (1) a breeding grounds for rats, or (2) a source of leaking gas, oil, or other flammables, or (3) positioned so that they might fall over, or (4) a source of danger from entrappment for children, and (5) have been declared a safety hazard by the Board of Aldermen or authorized city official pursuant to an ordinance.

The provisions of the bill allowing the removal and disposal by the City of vehicles deemed a safety hazard present a potential conflict with the provisions of the North Carolina Constitution prohibiting local legislation relating to health, sanitation and the abatement of nuisances. N.C. Const. Art. II, Sec. 24(1)(a). The bill is framed very carefully to address the issue from the perspective of safety. However, health and safety issues are so closely interwined that the act could be subject to legal challenge on these grounds.

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1359
State and Local Government Committee Substitute Adopted 6/26/00

Short Title: Winston-Salem Local Act. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303 reads as rewritten:

"**§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.**

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:

a. U.S. Highway 52;

b. Interstate Highway 40; ~~or~~

c. Business Interstate Highway 40;

d. Peters Creek Parkway;

e. Silas Creek Parkway; or

f. Highway 421.

~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or

(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours and:

(1) Is a breeding ground or harbor for rats; or

(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials; or

(3) Is positioned in a way that there is a danger it will fall or turn over; or

(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside; and

(5) Has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When

~~an abandoned or junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees,~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers,

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13. 27."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section

shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1359
Proposed Committee Substitute S1359-PCSA689-LM1

Short Title: Winston-Salem Local Act. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303 reads as rewritten:

"**§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.**

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:

a. U.S. Highway 52;

b. Interstate Highway 40; ~~or~~

c. Business Interstate Highway 40;

d. Peters Creek Parkway;

e. Silas Creek Parkway; or

f. Highway 421.

~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or

(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours and:

(1) Is a breeding ground or harbor for rats; or

(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials; or

(3) Is positioned in a way that there is a danger it will fall or turn over; or

(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside; and

(5) Has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When

~~an abandoned or junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees,~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers,

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13. 27."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section

shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1359

Short Title: Winston-Salem Local Act. (Local)

Sponsors: Senator Horton.

Referred to: Rules and Operations of the Senate.

May 22, 2000

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

Section 1. This act relates to the City of Winston-Salem only.

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

STATE & LOCAL GOVERNMENT

TUESDAY, JUNE 27 2000

8:30 AM

ROOM 1124

Bills

- The following bills or resolutions will be considered:

SB 1362	Gaston County Property Sales	Sen. Forrestor
HB 1606	High Point Overgrown Lots	Rep. Jarrell
HB 1675	Mayodan Town Manager Residency	Rep. Sexton
HB 1739	Asheville Charter Amendments	Rep. Nesbitt
HB 1659	Carteret No Wake Zone	Rep. Smith
HB 1504	Valdese Mayoral Terms	Rep. Church
HB 1536	Sylva Elections	Rep. Haire
HB 1553	Lumberton Traffic Violations	Rep. Yongue
HB 1507	Duplin/Repeal Trap Prohibition	Rep. Tucker

Adjournment

STATE AND LOCAL GOVERNMENT
TUESDAY, June 27, 2000

MINUTES

The Senate State and Local Government Committee met on Tuesday, June 27, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Six members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

SB 1362, Gaston County Property Sales, was explained by Sen. Forrestor. Sen. Miller moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1606, High Point Overgrown Lots, was explained Rep. Jarrell. Sen. Miller moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1675, Mayodan Town Manager Residency, was explained by Rep. Sexton. Sen. Miller moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1739, Asheville Charter Amendment, was not heard. Rep. Nesbitt was not present.

HB 1659, Carteret No Wake Zone, was explained by Rep. Smith. Sen. Garwood moved to adopt a Proposed Committee Substitute. Sen. Garwood moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 1504, Valdese Mayoral Terms, was explained by Rep. Church. Sen. Miller moved a favorable vote of the bill and to give a favorable report to Senate Bills 1362, 1616, 1675, 1659,and 1659, that were heard before the committee had a quorum. The motion carried unanimously. **Favorable Report.**

HB 1536, Sylva Elections, was explained by Rep. Church. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1553, Lumberton Traffic Violations, was explained by Rep. Yongue. Sen. Miller moved to adopt a Proposed Committee Substitute. Sen. Garwood moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 1507, Duplin/Repeal Trap Prohibition, was explained by Rep. Tucker. Sen. Albertson moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Tuesday, June 27, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **1504** Valdese Mayoral Terms
Sequential Referral: None
Recommended Referral: None

H.B. **1507** Duplin/Repeal Trap Prohibition
Sequential Referral: None
Recommended Referral: None

H.B. **1536** Sylva Elections
Sequential Referral: None
Recommended Referral: None

H.B. **1606** High Point Overgrown Lots
Sequential Referral: None
Recommended Referral: None

H.B. **1675** Mayodan Town Manager Residency
Sequential Referral: None
Recommended Referral: None

S.B. **1362** Gaston County Property Sales
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.(CS #1)**1659** Carteret No-Wake Zones
Draft Number PCS 8209
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

H.B.(CS # 1)**1553** Lumberton Traffic Violations

Draft Number:	PCS 7380
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 8

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1362

Short Title: Gaston County Property Sales. (Local)

Sponsors: Senators Forrester and Hoyle.

Referred to: State and Local Government.

May 22, 2000

A BILL TO BE ENTITLED

AN ACT RELATING TO THE DISPOSAL OF PERSONAL PROPERTY BY GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-266(c) reads as rewritten:

"(c) A city council may adopt regulations prescribing procedures for disposing of personal property valued at less than ~~five thousand dollars ($5,000)~~ fifty thousand dollars ($50,000) for any one item or group of items in substitution for the requirements of this Article. The regulations shall be designed to secure for the city fair market value for all property disposed of and to accomplish the disposal efficiently and economically. The regulations may, but need not, require published notice, and may provide for either public or private exchanges and sales. The council may authorize one or more city officials to declare surplus any personal property valued at less than ~~five thousand dollars ($5,000)~~ fifty thousand dollars ($50,000) for any one item or group of items, to set its fair market value, and to convey title to the property for the city in accord with the regulations. A city official authorized under this section to dispose of property shall keep a record of all property sold under this section and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange."

Section 2. This act applies to Gaston County only.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1606

Short Title: High Point Overgrown Lots. (Local)

Sponsors: Representatives Jarrell; Adams, Bowie, Boyd-McIntyre, Decker, Dockham, Esposito, Jeffus, and Wood.

Referred to: Local Government II.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF HIGH POINT TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1999-58 reads as rewritten:

"Section 2. This act applies to the ~~City~~ Cities of High Point and Roanoke Rapids only."

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

HOUSE BILL 1675:
Mayodan Town Manager Residency

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Sexton
Date:	June 21, 2000	**Summary by:**	Frank Folger, Esther Manheimer Research Attorneys
Version:	1st edition		

SUMMARY:

This bill amends the charter of the Town of Mayodan. The change would allow the town manager to reside within five miles of the town limits as part of the residency requirement for the job rather than requiring the town manager to be a town resident. Since 1973, when the town charter was enacted, the town manager has been required, while in office, to reside in the town.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1675

Short Title: Mayodan Town Manager Residency. (Local)

Sponsors: Representative Sexton.

Referred to: Local Government II.

May 24, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF MAYODAN TO ELIMINATE THE REQUIREMENT THAT THE TOWN MANAGER MUST RESIDE WITHIN TOWN LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Section 5.1 of the Charter of the Town of Mayodan, being Chapter 501 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 5.1. Appointment; Compensation. The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside ~~therein~~ within five miles of the Town limits during his tenure of office. No person elected as Mayor or as a member of the Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Council and shall receive such salary as the Council shall fix."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1659
Committee Substitute Favorable 6/7/00
Senate State and Local Government Committee Substitute Adopted 6/27/00

Short Title: Carteret No-Wake Zones. (Local)

Sponsors:

Referred to:

May 23, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH NO-WAKE SPEED ZONES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in Gallant's Channel in Carteret County from Duke Marine Laboratory's south docks to the rock jetty on the east side of Radio Island. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. It is unlawful to operate a vessel at greater than no-wake speed in Bogue Sound at Salter Path in Carteret County in an area from Mariner's Point to the west boundary line of the Salter Path community and extending 100 feet from the shoreline into the sound. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 3. With regard to marking the no-wake speed zones established in Sections 1 and 2 of this act, Carteret County or its designee may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards from such a system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 4. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 5. Violation of Section 1 or 2 of this act is a Class 3 misdemeanor.

Section 6. This act applies only to Carteret County.

Section 7. This act is effective when it becomes law and is enforceable after markers complying with Section 3 of this act are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1659
Committee Substitute Favorable 6/7/00

Short Title: Carteret No-Wake Zones. (Local)

Sponsors:

Referred to:

May 23, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH NO-WAKE SPEED ZONES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in Gallant's Channel in Carteret County from Duke Marine Laboratory's south docks to the rock jetty on the east side of Radio Island. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. It is unlawful to operate a vessel at greater than no-wake speed in Bogue Sound at Salter Path in Carteret County from Mariner's Point to the location of Homer Smith Seafood. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 3. With regard to marking the no-wake speed zones established in Sections 1 and 2 of this act, Carteret County or its designee may place and maintain the markers in accordance with the Uniform Waterway Marking System and any supplementary standards from such a system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and must be sufficient in number and size to give adequate warning of the no-wake speed zone to the vessels approaching from various directions.

Section 4. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 5. Violation of Sections 1 or 2 of this act is a Class 3 misdemeanor.

Section 6. This act applies only to Carteret County.

Section 7. This act is effective when it becomes law and is enforceable after markers complying with Section 3 of this act are placed in the water.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1504

Short Title: Valdese Mayoral Terms. (Local)

Sponsors: Representative Church.

Referred to: Local Government I.

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF VALDESE TO INCREASE THE MAYOR'S TERM OF OFFICE FROM TWO TO FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2.3 of the Charter of the Town of Valdese, being Chapter 847 of the 1977 Session Laws, reads as rewritten:

"Sec. 2.3. Mayor; term of office; duties. The mayor shall be elected in the manner provided by Article III of this charter to serve for a term of ~~two~~ four years, or until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the council. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the council. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this charter, and by the ordinances of the town."

Section 2. Section 3.4 of the Charter of the Town of Valdese, being Chapter 847 of the 1977 Session Laws, reads as rewritten:

"Sec. 3.4. Election of the mayor. At the regular municipal election in ~~1977,~~ 2001, and ~~biennially~~ quadrennially thereafter, there shall be elected a mayor to serve a term of ~~two~~ four years. The mayor shall be elected by the voters of the town voting at large."

Section 3. This act is effective when it becomes law.

HOUSE BILL 1536:
Sylva Elections

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Haire
Date:	June 21, 2000	**Summary by:**	Esther Manheimer and Frank Folger Research Attorneys
Version:	1st edition		

SUMMARY:

This bill allows the Town of Sylva to have nonpartisan municipal elections. Sylva has had partisan elections since its incorporation in 1899. In addition, this bill creates staggered terms for the Sylva Town Council.

This bill is subject to preclearance by the United States Justice Department under Section 5 of the Voting Rights Act.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1536

Short Title: Sylva Elections. (Local)

Sponsors: Representative Haire.

Referred to: Local Government II.

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE STAGGERED TERMS FOR THE SYLVA TOWN COUNCIL AND TO PROVIDE FOR NONPARTISAN ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of the Charter of the Town of Sylva, being Chapter 72 of the Private Laws of 1899, as amended by Chapter 27 of the 1957 Session Laws and Chapter 31 of the 1961 Session Laws, is rewritten to read:

"Section 5(a). Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted by the Jackson County Board of Elections. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

Section 5(b). In 2001 and quadrennially thereafter, a mayor shall be elected for a four-year term. In 2001, five council members shall be elected. The two persons receiving the highest numbers of votes are elected to a four-year term, and the three persons receiving the next highest numbers of votes are elected to two-year terms. In 2003 and quadrennially thereafter, three council members are elected to four-year terms. In 2005 and quadrennially thereafter, two council members are elected to four-year terms."

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

HOUSE BILL 1553:
Lumberton and Pineville Traffic Violations

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep. Yongue
Date:	June 27, 2000	**Summary by:**	Al Andrews*
Version:	PCS (H1553-PCSSN-002)		Committee Counsel

Bill Analysis: This proposed committee substitute allows the City of Lumberton and the Town of Pineville to adopt a local ordinance to enforce traffic offenses such as running a red light or stop sign through the use of a "traffic control photographic system". The PCS also grants the same authority to the City of Greenville, which was erroneously omitted from last year's technical corrections in an effort to group together all cities and towns that have been granted this authority thus far. A traffic control photographic system is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor that works in conjunction with a traffic control device to automatically produce photographs, video, or digital images of vehicles violating these types of statutes or ordinances. A sign identifying each traffic control photographic system must be placed not more than 300 feet from all photographic systems.

The owner of a vehicle photographed is responsible for the violation unless the owner can furnish evidence that, at the time of the offense, the vehicle was under the care, custody or control of another person. The violation is noncriminal and a civil penalty of $50 is assessed. In addition, no license or insurance points may be assigned to the owner or the driver of the vehicle. A citation will be mailed to the owner. Personal service is not required. If the owner fails to provide evidence or pay the civil penalty they waive the right to contest the responsibility and will be subject to a civil penalty not to exceed $100. The cities must institute a nonjudicial administrative hearing to review objections to citations or penalties issued.

Constitutional Issues: It is unclear whether, under the North Carolina Constitution, Article IX, Section 7, the monies collected under G.S. 160A-300.1 belong to the cities and towns issuing the tickets or to the school boards. The City of Charlotte, the first to implement this system, has begun using the monies arguing that because the violation is noncriminal the money belongs to the city.

This act is effective when it becomes law.

*This summary was substantially contributed to by Esther Manheimer

H1553CS-SMSN-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1553
Committee Substitute Favorable 5/30/00
Senate State and Local Government Committee Substitute Adopted 6/27/00

Short Title: Lumberton and Pineville Traffic Violations. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF LUMBERTON AND THE TOWN OF PINEVILLE TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION AND TO RESTORE THE APPLICABILITY OF THE STATUTE TO THE CITY OF GREENVILLE AFTER ITS ENACTMENT IN 1999 AND ERRONEOUS DELETION IN A LATER ACT THAT SAME YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, ~~and~~ Wilmington, Greenville, and Lumberton, and the Towns of Cornelius, Huntersville, ~~and Matthews~~ Matthews, and Pineville only."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1553
Committee Substitute Favorable 5/30/00
Proposed Committee Substitute for House Bill 1553 H1553-PCSSN-002
THIS IS ONLY A DRAFT: LINE NUMBERS MAY CHANGE AFTER ADOPTION
21-JUN-00 10:35:55

Short Title: Lumberton and Pineville Traffic Violations. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF LUMBERTON AND THE TOWN OF PINEVILLE TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION AND TO RESTORE THE APPLICABILITY OF THE STATUTE TO THE CITY OF GREENVILLE AFTER ITS ENACTMENT IN 1999 AND ERRONEOUS DELETION IN A LATER ACT THAT SAME YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, ~~and~~ Wilmington, Greenville, and Lumberton, and the Towns of Cornelius, Huntersville, ~~and Matthews~~ Matthews, and Pineville only."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1553
Committee Substitute Favorable 5/30/00

Short Title: Lumberton Traffic Violations. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF LUMBERTON TO USE PHOTOGRAPHIC IMAGES AS PRIMA FACIE EVIDENCE OF A TRAFFIC VIOLATION AND TO RESTORE THE APPLICABILITY OF THE STATUTE TO THE CITY OF GREENVILLE AFTER ITS ENACTMENT IN 1999 AND ERRONEOUS DELETION IN A LATER ACT THAT SAME YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, and as rewritten by Section 48(c) of S.L. 1999-456, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, ~~and~~ Wilmington, Greenville, and Lumberton, and the Towns of Cornelius, Huntersville, and Matthews only."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1507*

Short Title: Duplin/Repeal Trap Prohibition. (Local)

Sponsors: Representatives Tucker and Ford.

Referred to: Wildlife Resources.

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PROHIBITION ON LEG-GRIPPING TRAPS IN DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1266 of the 1973 Session Laws is repealed.

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

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — June 27, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R Paul Wilms	NCMBA
Jennifer Stark	UNC-Chapel Hill
Dick Taylor	NCATL
Pat Harris	N.C. Press Assoc.

STATE & LOCAL GOVERNMENT

WEDNESDAY, JUNE 28, 2000

11:00 AM

ROOM 1124

Bills

- The following bills or resolutions will be considered:

HB 1670	Marshville Charter Amendment	Rep. Melton
HB 923	SPA Cola Change	Rep. Baddour
HB 1555	Gastonia Overgrown Lots	Rep. Barefoot
HB 1648	Charlotte Transit Procurements	Rep. McMahan
HB 1653	Broadway Mayoral Terms	Rep. Cox
HB 1739	Asheville Charter Amendments	Rep. Nesbitt
HB 1695	New Bern Mayor	Rep. Wainwright
HB 1598	Brunswick Airport Commission	Rep. Redwine
HB 1732	Ocean Isle Beach Erosion Control	Rep. Redwine
HB 1783	Ocean Isle/Kinston Property	Rep. Redwine
HB 1779	Durham Anti-Sweatshop Requirement	Rep. Luebke
HB 1802	Salisbury Property Sales	Rep. Gardner
HB 1753	Martin County Pistol Permit Fee	Rep. Rogers

Adjournment

STATE AND LOCAL GOVERNMENT
WEDNESDAY, JUNE 28, 2000

MINUTES

The Senate State and Local Government Committee met on Wednesday, June 28, 2000 at 11:00 a. m. in Room 1124 of the Legislative Building. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 1648, Charlotte Transit Procurements, was explained by Sen. Odom. Boyde Caukle from the City of Charlotte spoke in favor of the bill. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1753, Martin County Pistol Permit Fee, was explained Rep. Rogers. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1670, Marshville Charter Amendment, was explained by Rep. Melton. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1555, Gastonia Overgrown Lots, was explained by Rep. Barefoot. Sen. Horton moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1739, Asheville Charter Amendments, was explained by Rep. Nesbitt. Sen. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Sen. Kinnaird moved a favorable vote be given to House Bills 1648, 1753, 1670, that were heard before the committee had a quorum. The motion carried unanimously. **Favorable Report.**

HB 1695, New Bern Mayor, was explained by Rep. Wainwright. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1779, Durham Anti-Sweatshop Requirement, was explained by Rep. Luebke. Sen. Ballance moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1802, Salisbury Property Sales, was explained by Rep. Garner. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1598, Brunswick Airport Commission, was explained by Gerry Cohen. Sen. Webster moved to adopt a Proposed Committee Substitute. Sen. Webster moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute**

HB 1783, Ocean Isle Kinston Property, was explained by Rep. Soles. Sen. Webster moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1732, Ocean Isle Beach Erosion Control, was explained by Sen. Soles. Sen. Soles moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 923, SPA Cola Change, was explained by Rep. Baddour. Sen. Miller moved to adopt a Proposed Committee Substitute. Carl Goodwin, Office of State Personnel, answered questions. Sen. Miller moved to give the Proposed Committee Substitute a favorable report. The motion carried unanimously. **Unfavorable as to bill, but favorable as to Senate Committee Substitute.**

HB 1653, Broadway Mayoral Terms, was not heard.

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 28, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **1555** Gastonia Overgrown Lots
Sequential Referral: None
Recommended Referral: None

H.B. **1648** Charlotte Transit Procurements
Sequential Referral: None
Recommended Referral: None

H.B. **1670** Marshville Charter Amendment
Sequential Referral: None
Recommended Referral: None

H.B. **1695** New Bern Mayor
Sequential Referral: None
Recommended Referral: None

H.B. **1732** Ocean Isle Beach Erosion Control
Sequential Referral: None
Recommended Referral: None

H.B. **1739** Asheville Charter Amendments
Sequential Referral: None
Recommended Referral: None

H.B. **1753** Martin County/Pistol Permit Fee
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1)**1779** Durham Anti-Sweatshop Requirement
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1)**1783** Ocean Isle/Kinston Property
Sequential Referral: None
Recommended Referral: None

H.B. **1802** Sailsbury Property Sales
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 10

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 28, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #1)**923** SPA COLA Changes

Draft Number:	PCS 2451
Sequential Referral:	None
Recommended Referral:	Appropriations
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Wednesday, June 28, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. **1598** Brunswick Airport Commission

Draft Number:	PCS 7384
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

HB 1648:
Charlotte Transit Procurements

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Representative McMahan
Date:	June 6, 2000	**Summary by:**	Erika Churchill
Version:	1		Committee Counsel

SUMMARY: ***The bill authorizes the City of Charlotte to purchase public transit equipment using the competitive proposal method of procurement as set forth in G.S. 143-129(h).***

CURRENT LAW: Currently, the City of Charlotte is required to comply with the competitive bidding procedures set forth in G.S. 143-129(b) for the purchase of its public transit equipment. Subsection (h) of that statute sets forth a separate competitive proposal method of equipment procurement for regional public transportation authorities and regional transportation authorities.

BILL ANALYSIS: The bill clarifies the City of Charlotte may utilize the competitive proposal method already developed for the procurement of transit equipment.

BACKGROUND: The creation of a regional public transportation authority requires the agreement of three more counties meeting the statutory requirements, and the creation of a regional transportation authority requires the agreement of the four largest cities within a five county area meeting the statutory requirements. The City of Charlotte alone cannot meet the requirements to become either entity, and therefore could not qualify to utilize the competitive proposal method without specific authority from the General Assembly.

EFFECTIVE DATE: The bill becomes effective when it becomes law.

H1648-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1648*

Short Title: Charlotte Transit Procurements. (Local)

Sponsors: Representatives McMahan; Alexander, Bridgeman, Cunningham, Earle, Easterling, Gulley, Rayfield, Saunders, and C. Wilson.

Referred to: Local Government I.

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO PURCHASE PUBLIC TRANSIT EQUIPMENT USING THE COMPETITIVE PROPOSAL METHOD OF PROCUREMENT.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as amended, is amended by adding the following new section to Subchapter E of Chapter IX:

"Section 9.84. Transit Procurements. In addition to other authorized methods of procurement, the City of Charlotte may contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment for public transit purposes using the competitive proposal method provided in G.S. 143-129(h)."

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

HOUSE BILL 1753:
Martin County/Pistol Permit Fee

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Representative Rogers
Date:	June 6, 2000	**Summary by:**	Kristen Crosson
Version:	First edition		Research Assistant

SUMMARY:

This bill changes the cost of a pistol permit fee in Martin and Pitt Counties from $20 to $5 by repealing Session Law 1993-205 (which had raised the fee from $5 to $20). This brings Martin and Pitt Counties in accordance with G.S. 14-404, which states a fee of $5 shall be charged for a pistol permit.

This act is effectve when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1753

Short Title: Martin County/Pistol Permit Fee. (Local)

Sponsors: Representative Rogers.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN MARTIN COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. S.L. 1993-205, as amended by S.L. 1999-285, is repealed.

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

HOUSE BILL 1670:
Marshville Charter Amendment

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Reps. Melton & Goodwin
Date:	June 6, 2000	**Summary by:**	Kristen Crosson
Version:	First edition		Research Assistant

SUMMARY:

This bill amends the charter of the town of Marshville by removing the words "Board of Aldermen" and "Board" wherever they appear and replacing these words with "City Council". Wherever the word "Alderman" appears, it is replaced with "Council Member".
This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1670

Short Title: Marshville Charter Amendment. (Local)

Sponsors: Representatives Melton; and Goodwin.

Referred to: Local Government I.

May 24, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MARSHVILLE AND OTHER LAWS RELATING TO THE CITY BY DELETING THROUGHOUT THE WORDS "BOARD OF ALDERMEN", "BOARD", AND "ALDERMAN" AND SUBSTITUTING, AS APPROPRIATE, THE WORDS "CITY COUNCIL" AND "COUNCIL MEMBER".

The General Assembly of North Carolina enacts:

Section 1. Wherever in any provision of the Charter of the Town of Marshville, being Chapter 313 of the 1913 Private Laws, as amended, or in any general, local, public-local, special, or private act relating to the Town of Marshville the following "Board of Aldermen" or "Board" appear, the same shall be deleted, and the words "City Council" shall be inserted.

Section 2. Wherever in any provision of the Charter of the Town of Marshville, being Chapter 313 of the 1913 Private Laws, as amended, or in any general, local, public-local, special, or private act relating to the Town of Marshville the word "Alderman" appears, the word shall be deleted, and the words "Council Member" shall be inserted.

Section 3. This act is effective when it becomes law.

HOUSE BILL 1555:
Gastonia Overgrown Lots

BILL ANALYSIS

Committee:	House Local Government I	**Introduced by:**	Rep. Barefoot and Bridgeman
Date:	May 30, 2000	**Summary by:**	Giles S. Perry Committee Counsel
Version:	First Edition		

SUMMARY:

House Bill 1555 authorizes the City of Gastonia to notify chronic violators of the City's overgrown vegetation ordinance that if remedial action is not taken by the owner, the City will do so and place a lien on the property for any costs incurred.

Similar local legislation has been enacted for the Towns of Denton, Farmville, Jonesville, and the Cites of Roanoke Rapids and Greenville.

House Bill 1555 becomes effective when it becomes law.

H1555-SMRW-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 1555

Short Title: Gastonia Overgrown Lots. (Local)

Sponsors: Representatives Barefoot and Bridgeman.

Referred to: Local Government I.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF GASTONIA TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of S.L. 1999-58 reads as rewritten:

"Section 2. This act applies to the ~~City~~ Cities of Gastonia and Roanoke Rapids only."

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

HOUSE BILL 1739:
Asheville Charter Amendments

BILL ANALYSIS

Committee:	State & Local Government	**Introduced by:**	Rep. Nesbitt
Date:	June 21, 2000	**Summary by:**	Frank Folger, Esther Manheimer Research Attorneys
Version:	1st edition		

SUMMARY:

This bill brings the Asheville City charter into conformity with exisitng State law regarding the holding of city council special meetings and the removal of garbage.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1739

Short Title: Asheville Charter Amendments. (Local)

Sponsors: Representatives Nesbitt, Cansler, Sherrill, and Walend.

Referred to: Local Government II.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF ASHEVILLE RESPECTING THE CALLING OF SPECIAL MEETINGS, AND TO REPEAL AN ACT RESPECTING THE REMOVAL OF GARBAGE WITHIN THAT CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of the Charter of the City of Asheville, being Chapter 121 of the Private Laws of 1931, as amended by Section IV of Ordinance No. 1501 of the City of Asheville, adopted March 19, 1985, pursuant to Part 4 of Article 5 of Chapter 160A of the General Statutes, and as rewritten by S.L. 1998-31, reads as rewritten:

"On its first regular meeting date in December following a regular municipal election, the council shall meet at the usual place for holding its meetings, and the newly elected mayor and councilmembers shall assume the duties of office. Before entering upon the duties of their offices, the newly elected mayor and ~~councilmen~~ councilmembers shall severally make oath before the retiring mayor, city clerk or some person authorized by law to administer oaths to perform faithfully the duties of their respective offices. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution. Special meetings ~~shall~~ may be called ~~by the clerk upon written request of the mayor or of the city manager or of three members of the council. No less than 12 hours' notice of special meetings shall be given to each member of the council at such address, within the corporate limits of the City of Asheville, as he shall designate and such notice shall be published at least once prior to the meeting in a daily newspaper of the city. The notice must state the subject or~~

~~subjects to be considered at the meeting and no other subject or subjects may be there considered.~~ in the manner provided by general law."

Section 2. Section 194 of Chapter 16 of the Private Laws of 1923, as amended by Section 87 of Chapter 121 of the Private Laws of 1931 (sometimes referred to as Section 22 of the Related Laws of the City of Asheville) is repealed.

Section 3. This act is effective when it becomes law.

HB 1695:
New Bern Mayor

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Representative Wainwright
Date:	June 6, 2000	**Summary by:**	Erika Churchill
Version:	1		Committee Counsel

SUMMARY: ***The bill amends the charter of the city of New Bern with respect to some of the powers, duties and qualifications of the mayor and mayor pro tem.***

CURRENT LAW: Currently, the mayor pro tem is chosen in July by the Board of Aldermen from one of its membership, and there is no period of time specified for the term to be served. The mayor has the right to vote on any question before the Board of Aldermen as if the mayor were a member of that Board. The mayor may not serve for more than two consecutive terms.

BILL ANALYSIS: The bill changes the election of the mayor pro tem to the month of December, and specifies that the mayor pro tem serves for one year.

The bill changes the ability of the mayor to vote as a board member. The mayor would be allowed to vote only in the case of a tie among the Board of Aldermen. The provision restricting the service of the mayor to two consecutive terms is eliminated, and the residency requirement of a candidate is clarified. A candidate must have been a resident of New Bern for 30 days immediately preceding his election.

EFFECTIVE DATE: This bill is effective when it becomes law.

H1695-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1695

Short Title: New Bern Mayor. (Local)

Sponsors: Representatives Wainwright, Thomas, and Edwards.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE CHARTER OF THE CITY OF NEW BERN RELATING TO THE MAYOR AND MAYOR PRO TEM.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of the Charter of the City of New Bern, being Chapter 1281 of the 1957 Session Laws, as amended by Chapter 266 of the 1983 Session Laws and Section 4 of Chapter 64 of the 1985 Session Laws, reads as rewritten:

"Sec. 6. Mayor and Mayor Pro Tem. At its first meeting in the month of ~~July following a regular municipal election~~ December the board of aldermen shall choose one of its members as mayor pro ~~tem.~~ tem to serve for a term of one year. The mayor pro tem shall act as mayor whenever the mayor shall be absent from the city or be prevented by sickness or other cause from attending to the duties of his office and he shall possess all the rights and powers of the mayor during the continuance of such vacancy, absence or disability. The mayor shall preside at meetings of the board of aldermen and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter and the ordinances of the city. The Mayor shall have the right to vote on ~~any~~ a question before the board of ~~aldermen, and shall do so as if he were a member of the board.~~ aldermen only in the case of a tie. He shall be recognized as the head of the city government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. ~~For the purposes of Sections 8, 9, and 10 of this act, the mayor shall be considered to be an elected member of the board of aldermen.~~"

Section 2. Section 19 of the Charter of the City of New Bern, being Chapter 1281 of the 1957 Session Laws, as amended by Section 10 of Chapter 1111 of the 1961 Session Laws, reads as rewritten:

"Sec. 19. Eligibility of Candidates for Mayor; ~~One Year~~ Residence and Certain Other Qualifications ~~Required; No Third Term in Succession.~~ Required. That no person shall be eligible as mayor unless he shall be a qualified voter for a member of the General Assembly of this State, and shall have been a resident of the City of New Bern for thirty (30) days immediately preceding his ~~election, and no person who has been elected mayor for two full terms shall be eligible as his own immediate successor.~~ election."

Section 3. This act is effective when it becomes law.

HB 1779:
Durham Anti-Sweatshop Requirements

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Reps. Luebke and Miller
Date:	June 13, 2000	**Summary by:**	Erika Churchill
Version:	1		Committee Counsel

SUMMARY: ***This would amend the city charter of Durham to permit Durham to consider working conditions of employees of a potential supplier of clothing or textiles when awarding a contract.***

CURRENT LAW: General Statutes currently permit a governmental unit to consider the following when awarding a bid for the purchase of goods:

- quality
- performance
- time for performance.

BILL ANALYSIS: This bill would allow Durham to consider additional criteria when awarding a bid or contract for the purchase of clothing or textiles. The additional criteria would be the working conditions of the employees producing the clothing or textiles.

EFFECTIVE DATE: The act is effective when it becomes law.

H1779-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1779
Committee Substitute Favorable 6/21/00

Short Title: Durham Anti-Sweatshop Requirements. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO AUTHORIZE THE CITY TO ESTABLISH REQUIREMENTS CONCERNING SWEATSHOPS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read:

"Section 84.4. **Anti-Sweatshop Requirements.** (a) The City Council may establish, agree to, and comply with anti-sweatshop requirements by including the requirements in the specifications for contracts to purchase or rent apparel or textiles and awarding bids pursuant to G.S. 143-129 and G.S. 143-131, if applicable, to the lowest responsible bidders meeting these and other specifications. Anti-sweatshop requirements may include:

(1) Prohibitions against violations of applicable law or regulation, forced labor, or employment of children; and

(2) The disclosure of:

a. The locations and ownership of the manufacturing company where the apparel or textiles are made, finished, packed, or otherwise processed;

b. Compensation to workers; and

c. Any other information necessary and proper for the enforcement of other anti-sweatshop requirements and not in violation of any other State law.

(b) The authority granted by this section is in addition to, and not in derogation of, any other authority granted by this Charter or any other law."

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

HB 1802:
Salisbury Property Sales

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Representative Gardner
Date:	June 13, 2000	**Summary by:**	Erika Churchill
Version:	1		Committee Counsel

SUMMARY: ***This bill would permit the City of Salisbury to dispose of city owed real property by private sale or public auction when the property is located with a Community and Economic Development Project Area, as determined by the City.***

BILL ANALYSIS: This bill would amend the charter of the City of Salisbury to change Subchapter 9.1 from "Public or Private Sale of Property" to "Sale of Property Located Within a Designated Community and Economic Development Project Area." The City would, when it deems it necessary for the health, safety and welfare of the City, designate an area as a Community and Economic Development Project Area. The if the City finds it necessary to sell or dispose of property within that designated area, it may do so by public sale or private negotiated sale. This may be done for consideration or no consideration. Notice must be given at least 10 days prior to the adoption of any resolution disposing of the property.

EFFECTIVE DATE: This bill would become effective when it becomes law.

H1802-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1802

Short Title: Salisbury Property Sales. (Local)

Sponsors: Representative Gardner.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF SALISBURY TO ALLOW THE SALE OF PROPERTY LOCATED WITHIN A DESIGNATED COMMUNITY AND ECONOMIC DEVELOPMENT PROJECT AREA.

The General Assembly of North Carolina enacts:

Section 1. The existing "SUBCHAPTER A. SALE OF PROPERTY" of Chapter IX of the Charter of the City of Salisbury found in Section 1 of Chapter 205 of the 1987 Session Laws reads as rewritten:

~~"SUBCHAPTER A. SALE OF PROPERTY~~

~~"Sec. 9.1. **Public or private sale of property.** The City Council may publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal or any interest in such property, belonging to the City.~~

"SUBCHAPTER A. SALE OF PROPERTY LOCATED WITHIN A DESIGNATED COMMUNITY AND ECONOMIC DEVELOPMENT PROJECT AREA.

"Sec. 9.1. **Public or Private Sale of Property Located Within a Designated Community and Economic Development Project Area.** The City may, when it deems it necessary for the health, safety, and welfare of the City, designate an area as a 'Community and Economic Development Project Area.' When the City Council determines that a sale or disposition of City-owned property located within a designated Community and Economic Development Project Area is necessary, the City may, in addition to other means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The City may attach to the transfer and to the interest conveyed any covenants, conditions, or

restrictions (or any combination of these) as the City deems necessary to further any adopted policies or plans. The consideration received by the City, if any, for the conveyance may reflect the restricted use of the property resulting from the covenants, conditions, or restrictions. An interest in property, pursuant to this section, may be conveyed only pursuant to a resolution of the City Council authorizing the conveyance.

Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing all of the following:

(1) The project area designated by the City Council as a Designated Community and Economic Development Project Area.

(2) The specific property involved.

(3) The nature of the interest to be conveyed.

(4) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and the place of the Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction."

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

HOUSE BILL 1598:
Brunswick/Alamance Airport Commission

BILL ANALYSIS

Committee:	Senate State & Local Government	**Introduced by:**	Rep. Redwine; and Sen. Webster
Date:	June 28, 2000		
Version:	PCS: H1598-PCS2426-LB1	**Summary by:**	Al Andrews Committee Counsel

SUMMARY:

House Bill 1598 changes the appointment system for the Brunswick Airport Commission to take into account the merger of the Towns of Yaupon Beach and Long Beach into one Town, Oak Island. This PCS seeks to expand the Burlington-Alamance Airport Authority.

The bill deletes the requirement for the Towns of Yaupon Beach and Long Beach to appoint one member each to the Commission, and adds a provision for the Town of Oak Island to appoint two members to the Commission.

This PCS expands the Brunswick-Alamance Authority from five to seven members. Three (rather than two) members each will be appointed by the Burlington City Council and the Alamance County Board of Commisioners. The two additional memebrs' terms shall be four years, but the apponting authority may make an initial term shorter to match any other current Authority member's term expiration.

House Bill 1598 becomes effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1598
Senate State and Local Government Committee Substitute Adopted 6/28/00

Short Title: Brunswick/Alam. Airport Commission. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPER REPRESENTATION FROM THE TOWN OF OAK ISLAND ON THE BRUNSWICK COUNTY AIRPORT COMMISSION, TO EXPAND THE BURLINGTON-ALAMANCE AIRPORT AUTHORITY, AND ALLOWING THE TOWN COUNCIL OF THE TOWN OF OAK ISLAND TO SET HEIGHT LIMITS NORTH OF THE INTRACOASTAL WATERWAY IN ACCORDANCE WITH GENERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 411 of the 1961 Session Laws, as rewritten by Chapter 385 of the 1991 Session Laws, reads as rewritten:

"Section 1. There is hereby created a board to be known as the Brunswick County Airport Commission whose membership shall consist of Southport, ~~Yaupon Beach, Long Beach,~~ Oak Island, and Brunswick County and which board is hereby constituted a body politic and corporate. The said board shall be comprised of seven members, four of whom shall be appointed by the Board of County Commissioners of Brunswick ~~County and one of whom shall be appointed by each member town,~~ County, two of whom shall be appointed by Oak Island, and one of whom shall be appointed by Southport, all of whom shall be experienced businessmen with no qualifications as to residence. The membership of said board shall be named as provided for in Chapter 63 of the General Statutes of North Carolina. The members of said board shall receive no compensation per diem or otherwise, but shall be allowed and paid actual expenses incurred in the transaction of business and at the instance of the said Commission. In the event that either the Aldermen of the City of

Southport, ~~the Commissioners of the Town of Yaupon Beach, the Commissioners of the Town of Long Beach,~~ the Town Council of the Town of Oak Island, or the Brunswick County Commissioners do not deem it advisable or any one or two of said municipal bodies do not enter into an agreement to set up said Airport Commission as provided for under Chapter 63 of the General Statutes of North Carolina, then in such event the municipality or county desiring to create such a commission may do so having all powers herein conferred with the right and privilege of calling such commission in the name of the particular municipality and/or county government."

Section 1.1. Section 3 of Chapter 1019 of the 1987 Session Laws, as amended by Section 3 of Chapter 456 and Section 6.1 of Chapter 593, Session Laws of 1989, and Chapter 181 of the 1993 Session Laws, reads as rewritten:

"Sec. 3. This act applies to the Towns of Holden Beach, ~~Long Beach,~~ Oak Island, and Sunset Beach only, but as to the Town of Holden Beach, Section 1 of this act applies only to areas within the corporate limits of the Town as of June 26, 1989, as to the corporate limits of the Town of Oak Island located north of the Atlantic Intracoastal Waterway (AIWW) the Town Council shall establish building height limits in accordance with general law rather than this act, and as to Sunset Beach, Section 1 of this act applies only to areas on the island."

Section 2. Section 2 of Chapter 814 of the 1969 Session Laws reads as rewritten:

"Sec. 2. The Airport Authority shall consist of ~~five (5)~~ seven members who shall be appointed to staggered terms of four years. ~~Two (2)~~ Three members shall be appointed by the City Council of Burlington, ~~two (2)~~ three members shall be appointed by Alamance County Commissioners and one ~~(1)~~ member shall be appointed by the City Council of the City of Burlington and Alamance County Commissioners in a joint meeting. All of the members shall be residents of the County of Alamance but need not be residents of the City of Burlington. The terms of the initial five ~~(5)~~ members of the Authority shall be as follows: the two members to be appointed by the City Council of the City of Burlington and the member to be appointed at the joint meeting of the boards shall be a term of four years, the two members appointed by the County Commissioners shall be a term of two years; thereafter, all terms shall be for four years. The terms of the two additional members shall be for four years, but the appointing authority may set the expiration date for the initial term at a shorter period if it is desired that the term expire at the same time as the terms of any then current members expire. Each of the members and their successors so appointed shall take and subscribe before the Clerk of the Superior Court of Alamance County, an oath of office and file same with the County Commissioners of Alamance County. Upon the occurrence of any vacancy on said Authority, said vacancy shall be filled within ~~sixty (60)~~ 60 days after notice thereof at a regular meeting of the governing body of the governmental unit which has a vacancy within its representation."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1598

Short Title: Brunswick Airport Commission. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Local Government I.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE PROPER REPRESENTATION FROM THE TOWN OF OAK ISLAND ON THE BRUNSWICK COUNTY AIRPORT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 411 of the 1961 Session Laws, as rewritten by Chapter 385 of the 1991 Session Laws, reads as rewritten:

"Section 1. There is hereby created a board to be known as the Brunswick County Airport Commission whose membership shall consist of Southport, ~~Yaupon Beach, Long Beach,~~ Oak Island, and Brunswick County and which board is hereby constituted a body politic and corporate. The said board shall be comprised of seven members, four of whom shall be appointed by the Board of County Commissioners of Brunswick ~~County and one of whom shall be appointed by each member town,~~ County, two of whom shall be appointed by Oak Island, and one of whom shall be appointed by Southport, all of whom shall be experienced businessmen with no qualifications as to residence. The membership of said board shall be named as provided for in Chapter 63 of the General Statutes of North Carolina. The members of said board shall receive no compensation per diem or otherwise, but shall be allowed and paid actual expenses incurred in the transaction of business and at the instance of the said Commission. In the event that either the Aldermen of the City of Southport, ~~the Commissioners of the Town of Yaupon Beach, the Commissioners of the Town of Long Beach,~~ the Town Council of the Town of Oak Island, or the Brunswick County Commissioners do not deem it advisable or any one or two of said municipal bodies do not enter into an agreement to set up said Airport Commission as provided for under Chapter 63 of the General Statutes of North Carolina, then in

such event the municipality or county desiring to create such a commission may do so having all powers herein conferred with the right and privilege of calling such commission in the name of the particular municipality and/or county government."

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

HB 1783:
Ocean Isle/Kinston Property

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Representative Redwine
Date:	June 13, 2000	**Summary by:**	Erika Churchill
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: This bill would permit the Town of Ocean Isle Beach to dispose of real property owned by the town located on Old Georgetown Road via private sale, public auction or any other authorized means when the town deems that the sale would advance or further economic development, transportation, urban revitalization, community development, or land-use plans; and the bill would permit the City of Kinston and the County of Lenoir to to dipose of certain property by private sale.

BILL ANALYSIS:

Ocean Isle. The bill would authorize the Town of Ocean Isle Beach to dispose of town-owned real property by private sale, public auction or any other authorized means when the Town determines that the sale would advance or further economic development, transportation, urban revitalization, community development, or land-use plans. The authority to dispose of real property extends only to an approximately 20-acre parcel on Old Georgetown Road. Notice must be given at least 10 days prior to the adoption of any resolution disposing of the property.

City of Kinston and County of Lenoir. The bill would amend prior Session Laws to authorize the the City and County to acquire and re-sell or lease the property for the purpose of relocating Hurricane Fran and Floyd victims.

EFFECTIVE DATE: This bill would become effective when it becomes law.

H1783-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1783
Committee Substitute Favorable 6/20/00

Short Title: Ocean Isle/Kinston Property. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT ALLOWING THE DISPOSITION OF CERTAIN PROPERTY OF THE TOWN OF OCEAN ISLE BEACH, THE CITY OF KINSTON, AND LENOIR COUNTY BY PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. When the governing board of the Town of Ocean Isle Beach determines that a sale or disposition of property will advance or further any adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the Town may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in approximately 20 acres of real property on Old Georgetown Road, either by public sale or by negotiated private sale. The Town may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the Town deems necessary to further such adopted policies or plans. The consideration received by the Town, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this section may be conveyed only pursuant to resolution of the governing board authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the meeting where the proposed transaction will be considered and shall announce the governing board's intention to authorize the proposed transaction.

Section 2. Section 1 of Chapter 1148 of the 1981 Session Laws reads as rewritten:

"Section 1. Lenoir County and the City of Kinston ~~are authorized to~~ may:

(1) Sell ~~sell~~ or lease the real property known as "Adkin School Property" for low-income housing development purposes, and in sale or lease of such real property;

(2) Acquire real property for the purpose of relocation housing for flood victims of Hurricanes Fran and Floyd, and in the sale or lease of such real property for relocation housing purposes

are exempt from restrictions and limitations required to effectuate leases or sales of real property provided for in Article 12 of Chapter 160A of the General Statutes or in the Charter of City of Kinston, as found in ~~Chapter 92, Session Laws of 1961~~ Chapter 187, Session Laws of 1987 as amended."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1732

Short Title: Ocean Isle Beach Erosion Control. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF OCEAN ISLE BEACH TO PROTECT AND REGULATE EROSION CONTROL WORKS AS A PUBLIC ENTERPRISE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 94 of the 1997 Session Laws reads as rewritten:

"Section 3. This act is effective when it becomes law and applies only to the ~~Town~~ Towns of Kure ~~Beach.~~ Beach and Ocean Isle Beach."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 923
Committee Substitute Favorable 4/19/99
Senate State and Local Government Committee Substitute Adopted 6/28/00

Short Title: Leave/State Employees. (Public)

Sponsors:

Referred to:

April 5, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE STATE EMPLOYEE MINIMUM VACATION LEAVE ACCRUAL RATES AND ALLOW FOR ADVERSE WEATHER LEAVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-8 reads as rewritten:

"**§ 126-8. Minimum leave granted State employees.**

The amount of vacation leave granted to each full-time State employee subject to the provisions of this Chapter shall be determined in accordance with a graduated scale established by the State Personnel Commission which shall allow the equivalent rate of not less than ~~two weeks'~~ 112 hours vacation per calendar year, prorated monthly, cumulative to at least ~~30 days.~~ 240 hours. On December 31 of each year, any State employee who has vacation leave in excess of the allowed accumulation shall have that leave converted to sick leave. Sick leave allowed as needed to such State employees shall be at a rate not less than ~~10 days~~ 96 hours for each calendar year, cumulative from year to year. Notwithstanding any other provisions of this section, no full-time State employee subject to the provisions of Chapter 126, as the same appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973, shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative to at least 30 days."

Section 2. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-8.4. Adverse weather leave and mandatory operations.**

It is recognized that some State government facilities and operations must continue to provide services without regard to weather conditions. Therefore, agency heads shall predetermine and designate the mandatory operations which shall remain open regardless of weather conditions. Adverse weather leave and compensation for employees in mandatory operations shall be addressed by State Personnel Commission guidelines. For nonmandatory operations, the State Personnel Commission shall establish guidelines which shall allow State employees to use up to a maximum of 24 hours of adverse weather leave per calendar year. Adverse weather leave shall be allowed when weather conditions are considered life threatening or when catastrophic conditions occur as a result of hurricanes, tornadoes, floods, or when authorities order evacuation from the place of employment. In cases of extreme circumstances, where a state of emergency has been declared or declaration of disaster has been issued, the Governor may allow exceptions to the maximum of 24 hours' adverse weather leave."

Section 3. Section 1 of this act becomes effective January 1, 2001. Section 2 of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 923
Committee Substitute Favorable 4/19/99

Short Title: SPA COLA Changes. (Public)

Sponsors:

Referred to:

April 5, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE PERSONNEL ACT TO PROVIDE THAT COST-OF-LIVING ADJUSTMENTS REFLECT INCREASES IN THE CONSUMER PRICE INDEX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7(a2) reads as rewritten:

"(a2) For the purpose of this section, unless the context indicates otherwise:

(1) 'Career growth recognition award' means an annual salary increase awarded to a State employee whose final annual performance appraisal indicates job performance that meets or exceeds management's expectations and performance ~~requirements;~~ requirements.

(2) 'Cost-of-living adjustment' means a general salary increase given to State employees ~~in response to inflation and labor market factors;~~ to reflect the amount of the annual percentage increase in the Consumer Price Index.

(3) 'Performance bonus' means a salary increase that is awarded in a lump sum to a State employee whose final annual performance appraisal indicates job performance that exceeds management's expectations and performance requirements."

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

HOUSE BILL 1653 :
Broadway Mayoral Terms

BILL ANALYSIS

Committee:	Local Government I	**Introduced by:**	Reps. Cox & Davis
Date:	June 6, 2000	**Summary by:**	Kristen Crosson
Version:	First edition		Research Assistant

SUMMARY:

This bill amends the charter of the town of Broadway by changing the mayor's term from four to two years for the mayoral election in 2001. In 2003 and then after, the mayor will be elected for a four year term.

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1653

Short Title: Broadway Mayoral Terms. (Local)

Sponsors: Representatives Cox and Davis.

Referred to: Local Government I.

May 23, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE MAYOR TO BE ELECTED IN THE SAME YEARS AS TWO TOWN COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, as amended by Chapter 789 of the 1949 Session Laws and Chapter 416 of the 1997 Session Laws, reads as rewritten:

"Sec. 3. At the time of the holding of the next general election following ratification of this Act, and thereafter, there shall be elected in the Town of Broadway in accordance with the provisions of Article 3 of Chapter 160 of the General Statutes of North Carolina, as amended, the following officers: A mayor and five town commissioners. ~~The mayor shall be elected for a four-year term.~~ In 2001, the Mayor shall be elected for a two-year term. In 2003 and quadrennially thereafter, the Mayor shall be elected for a four-year term. In 1997, the three persons receiving the highest numbers of votes for town commissioner are elected to four-year terms, and the two persons receiving the next highest numbers of votes for town commissioner are elected to two-year terms. In 1999 and quadrennially thereafter, two town commissioners are elected to four-year terms. In 2001 and quadrennially thereafter, three town commissioners are elected to four-year terms. The mayor and the five town commissioners so elected shall constitute the governing body of the Town of Broadway, and such governing body may appoint such other officers and employ such assistants as the governing body of the town may deem necessary for the better governance of the town."

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

VISITOR REGISTRATION SHEET

STATE & LOCAL GOVERNMENT — June 28, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
THERESA EL-Amin	Durham JWI, PO Box 52731, 27717
Lonna Harktrader	Durham Voters alliance 1320 Shepherdst Durham - San Ramón Sister Communities 27707
PAMELA L. BLYTH	DURHAM CITY COUNCIL MEMBER
Valerie J. Ford	Office of State Personnel – Admin. Bldg.
Carl Hoodwin	OSP
Frank Lewis	OSBM
BRANDON THOMAS	SEANC
Wendy Mills	SEANC
Darrell Arnold	SEANC
Katherine Joyce	SEANC
John Bowdish	Alley Associates

VISITOR REGISTRATION SHEET

STATE & L0CAL GOVERNMENT — June 28, 2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jonathan Horowitz	ACLU-NC
Greg Owens	ACLU-NC
Andy Comeau	NCLM
George Everett	Duke Energy
[illegible]	NCATA
Mike Shuler	NC State AFL-CIO
Boyd Cauble	City of Charlotte
[illegible]	Freedom News
Lisa Reyes	The Insider
[illegible]	The Register & Bee

STATE & LOCAL GOVERNMENT

THURSDAY, JUNE 29, 2000

Immediately after Session

Around Sen. Kinnaird's Desk

Bills

- The following bills or resolutions will be considered:

HB 1744	Rowland Charter Amendment WBN	Rep. Bonner
HB 1756	Pasquotank Funding Repeal KINN	Rep. Owens
HB 1653	Broadway Mayoral Terms Harris	Rep. Cox

Adjournment

STATE AND LOCAL GOVERNMENT
Thursday, June 29, 2000

MINUTES

The Senate State and Local Government Committee met on Thursday, June 29, 2000 during a recess around Sen. Kinnaird's chamber desk. Ten members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 1744, Rowland Charter Amendment, was explained Sen. Kinnaird. Sen. Clodfelter moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1756, Pasquotank Funding Repeal, was explained Sen. Kinnaird. Sen. Ballance moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1653, Broadway Mayoral Terms, was explained Sen. Harris. Sen. Jordan moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1275, Extend Billboard Moratorium, was explained Sen. Jordan. Sen. Ballance moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young
Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Thursday, June 29, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **1653** Broadway Mayoral Terms
Sequential Referral: None
Recommended Referral: None

H.B. **1756** Pasquotank Fundiing Repeal
Sequential Referral: None
Recommended Referral: None

S.B. **1275** Extend Billboard Moratorium
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1)**1744** Rowland Charter Amendment
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1744
Committee Substitute Favorable 6/7/00

Short Title: Rowland Charter Amendment. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF ROWLAND TO PROVIDE THAT TOWN ELECTIONS SHALL BE CONDUCTED USING THE NONPARTISAN PLURALITY METHOD.

The General Assembly of North Carolina enacts:

Section 1. Section 3.1 of the Charter of the Town of Rowland, being S.L. 1998-105, reads as rewritten:

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined ~~using the nonpartisan election and runoff election method as provided in G.S. 163-279(a)(4) and G.S. 163-293.~~ by a plurality as provided in G.S. 163-292."

Section 2. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1756

Short Title: Pasquotank Funding Repeal. (Local)

Sponsors: Representative Owens.

Referred to: Local Government II.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO REPEAL CHAPTER 61 OF THE 1989 SESSION LAWS WHICH ALLOWED PASQUOTANK COUNTY ADDITIONAL FLEXIBILITY TO FUND PUBLIC SCHOOL CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 61 of the 1989 Session Laws is repealed.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1653

Short Title: Broadway Mayoral Terms. (Local)

Sponsors: Representatives Cox and Davis.

Referred to: Local Government I.

May 23, 2000

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF BROADWAY TO ALLOW THE MAYOR TO BE ELECTED IN THE SAME YEARS AS TWO TOWN COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of Broadway, being Chapter 548 of the 1947 Session Laws, as amended by Chapter 789 of the 1949 Session Laws and Chapter 416 of the 1997 Session Laws, reads as rewritten:

"Sec. 3. At the time of the holding of the next general election following ratification of this Act, and thereafter, there shall be elected in the Town of Broadway in accordance with the provisions of Article 3 of Chapter 160 of the General Statutes of North Carolina, as amended, the following officers: A mayor and five town commissioners. ~~The mayor shall be elected for a four-year term.~~ In 2001, the Mayor shall be elected for a two-year term. In 2003 and quadrennially thereafter, the Mayor shall be elected for a four-year term. In 1997, the three persons receiving the highest numbers of votes for town commissioner are elected to four-year terms, and the two persons receiving the next highest numbers of votes for town commissioner are elected to two-year terms. In 1999 and quadrennially thereafter, two town commissioners are elected to four-year terms. In 2001 and quadrennially thereafter, three town commissioners are elected to four-year terms. The mayor and the five town commissioners so elected shall constitute the governing body of the Town of Broadway, and such governing body may appoint such other officers and employ such assistants as the governing body of the town may deem necessary for the better governance of the town."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1275*

Short Title: Extend Billboard Moratorium. (Public)

Sponsors: Senators Jordan, Gulley; Carrington, Horton, Kinnaird, Lee, and Rand.

Referred to: Judiciary I.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON NEW BILLBOARDS ALONG A DESIGNATED SECTION OF INTERSTATE 40, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The moratorium on the erection of outdoor advertising along the portion of Interstate Highway 40 from the Orange-Alamance County line to the municipal limits of the City of Wilmington, imposed by S.L. 1999-436, is extended. The moratorium imposed by this section shall not apply to outdoor advertising described in subdivisions (1), (2), and (3) of G.S. 136-129.

Section 2. A moratorium is imposed on the issuance of permits for the construction of new outdoor advertising along the portion of Interstate Highway 40 from the Orange-Alamance County line to the municipal limits of the City of Wilmington. The moratorium imposed by this section shall not apply to outdoor advertising described in subdivisions (1), (2), and (3) of G.S. 136-129.

Section 3. This act becomes effective July 1, 2000, and expires July 1, 2001.

STATE & LOCAL GOVERNMENT

FRIDAY, JUNE 30, 2000

DURING A RECESS
Around Sen. Kinnaird's Desk

Bills

- The following bills or resolutions will be considered:

HB 1767	Mecklenburg Property Disposition	Rep. C. Wilson
HB 1784	Swift Creek Boundaries	Rep. Ellis

Adjournment

STATE AND LOCAL GOVERNMENT

Friday, June 30, 2000

MINUTES

The Senate State and Local Government Committee met on Friday, June 30, 2000 during a recess around Sen. Kinnaird's chamber desk. Eight members were present, including Senator Ellie Kinnaird, who presided.

Action was taken on the following bills:

HB 1767, Mecklenburg Property Disposition, was explained Sen. Clodfelter. Sen. Garwood moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

HB 1784, Swift Creek Boundaries, was explained Sen. Sen. Miller. Sen. Miller moved a favorable vote of the bill. The motion carried unanimously. **Favorable Report.**

Senator Ellie Kinnaird, Chair

Kathie Young

Kathie Young, Legislative Assist.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ellie Kinnaird, Chair

Friday, June 30, 2000

SENATOR KINNAIRD,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1)**1767** Mecklenburg Property Disposition
Sequential Referral: None
Recommended Referral: None

H.B. **1784** Swift Creek Boundaries
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1767*
Committee Substitute Favorable 6/27/00

Short Title: Mecklenburg Property Disposition. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO EXPAND MECKLENBURG COUNTY'S AUTHORITY TO SELL COUNTY-OWNED REAL ESTATE.

The General Assembly of North Carolina enacts:

Section 1. G. S. 160A-266 is amended to add a new subsection to read:

"(d) When the board of commissioners determines that a sale or disposition of property will advance or further any county or municipality-adopted economic development, transportation, urban revitalization, community development, or land-use plan or policy, the county may, in addition to other authorized means sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. The county may attach to the transfer and to the interest conveyed such covenants, conditions, or restrictions (or a combination of them) the county deems necessary to further such adopted policies or plans. The consideration received by the county, if any, for such conveyance may reflect the restricted use of the property resulting from such covenants, conditions, or restrictions. An interest in property pursuant to this subsection may be conveyed only pursuant to resolution of the board of commissioners authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by publication in a newspaper of general circulation, generally describing:

(1) The property involved;

(2) The nature of the interest to be conveyed; and

(3) All of the material terms of the proposed transaction, including any covenants, conditions, or restrictions which may be applicable.

The notice shall give the time and place of the board of commissioners' meeting where the proposed transaction will be considered and shall announce the board's intention to authorize the proposed transaction."

Section 2. This act shall apply to Mecklenburg County only and only with respect to the following parcels of land, all of which are owned by Mecklenburg County as of the date of adoption of this act and all of which have frontage on North College Street: Mecklenburg County Tax Parcels (as of January 1, 2000) 080-031-01, 080-032-04, 080-032-05, 080-041-01, and 080-041-02.

Section 3. This act is effective when it becomes law, but expires the earlier of June 30, 2002, or the date on which all property described in Section 2 of this act is sold, exchanged, or transferred.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1784

Short Title: Swift Creek Boundaries. (Local)

Sponsors: Representatives Ellis and Hensley.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE BOUNDARIES OF THE SWIFT CREEK AREA SUBJECT TO AN ADVISORY REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of S.L. 1998-192 reads as rewritten:

"Section 4. (a) The qualified resident voters of the area described in ~~the Swift Creek Management Plan~~ the area described in subsection (a1) of this section shall be given the opportunity to vote in a nonbinding advisory referendum on incorporation of the Swift Creek area as a municipality. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Incorporation of the Swift Creek area as a municipality, along with the payment of additional property taxes which the proposed municipality may levy."

(a1) The area subject to the referendum called by this section is as follows:

The area in Wake County beginning at the intersection of Lake Wheeler Road and Ten-Ten Road, being an area bounded on the south by Ten-Ten Road; on the east by Lake Wheeler Road; on the north by the boundary of the extraterritorial jurisdiction of the City of Raleigh which consists of Little Swift Creek, also known as Steep Hill Creek, from where it intersects Lake Wheeler Road upstream to where it intersects Tryon Road, then west along Tryon Road to the intersection of Tryon Road and Campbell Road; and, on the west by the boundary of the extraterritorial jurisdiction of the Town of Cary along Campbell Road to the intersection of that boundary line and Holly Springs Road, then along Holly Springs Road to the intersection of Holly Springs Road and Ten-Ten Road, the point and place of beginning.

(b) Registration for the election shall be conducted in accordance with G.S. 163-288.2. The referendum shall be conducted on November 7, 2000."

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