

2003

**HOUSE
STATE GOVERNMENT**

**COMMITTEE
MINUTES**

HOUSE COMMITTEE ON STATE/GOVERNMENT
2003-04 SESSION
Room/Phone/Seat Assignments

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
WOMBLE, Larry, Chair	Dorothy McLean	3-5777	537	57
ADAMS, Alma, Vice-Chair	Beverlee Baker	3-5902	542	67
ALLEN, Bernard, Vice-Chair	Gloria Haywood	5-2528	1227	94
BAKER, Rex	Anne Misenheimer	3-5787	608	49
BOWIE, Joni	Sharon Gaudette	3-5877	538	78
CAPPS, Russell	Nancy Fox	5-2526	1424	86
CULP, Arlie	Waneta, Lord	3-5865	1010	74
DOCKHAM, Jerry	Regina Irwin	3-5822	1106	110
ENGLAND, Bob	Lisa Brown	5-3021	416-B	117
GOFORTH, Bruce	Ann Jordan	3-5746	1220	115
SETZER, Mitchell	Joanna Mills	3-4948	1204	42
WARNER, Alex	Ann Stancil	3-5853	1206	11

EX-OFFICIO MEMBERS

BRUBAKER, Bru	Cindy Coley	5-4946	1229	2
CULPEPPER, Bill	Dot Crocker	5-3028	404	36
CUNNINGHAM, Pete	Valerie Rustin	3-5778	541	7
EDDINS, Rick	Dorie Monroe	3-5800	1319	26

STAFF

Kory Goldsmith	Research	3-2578	545
Tim Hovis	Research	3-2578	545
Theresa Matula	Research	3-2578	545
Shirley Iorio	Research	3-2578	545

COMMITTEE ASSISTANT

Dorothy McLean

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE STATE GOVERNMENT COMMITTEE
2003 – 2004 SESSION**



**Chair
Rep. Womble**



**Vice-Chair
Rep. Adams**



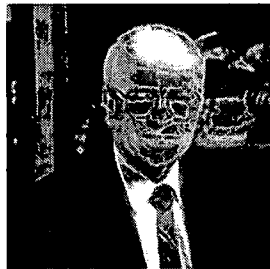
**Vice-Chair
Rep. B. Allen**



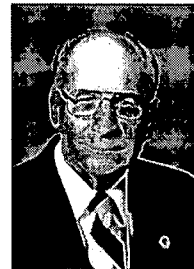
Rep. Baker



Rep. Bowie



Rep. Capps



Rep. Culp



Rep. Dockham



Rep. England



Rep. Goforth



Rep. Setzer



Rep. Warner



**Rep. Brubaker
Ex-officio**



**Rep. Culpepper
Ex-officio**



**Rep. Cunningham
Ex-officio**



**Rep. Eddins
Ex-officio**

2003 Session

DATES

Representative Womble, Chair

Representative Adams, Vice-Chair

Representative B. Allen, Vice-Chair

Representative Baker

Representative Bowie

Representative Capps

Representative Culp

Representative Dockham

Representative England

Representative Goforth

Representative Setzer

Representative Warner

EX-OFFICIO MEMBERS:

Representative Brubaker

Representative Culpepper

Representative Cunningham

Representative Eddins

LEGISLATIVE STAFF:

Kory Goldsmith

Tim Hovis

Theresa Matula

Shirley Iorio

COMMITTEE ASSISTANT:

Dorothy McLean

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, March 19, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present Chairman Larry Womble, Vice-Chair Bernard Allen, Representatives Baker, Bowie, Capps, Culp, Dockham, England, Goforth, and Setzer. Also Kory Goldsmith, Tim Hovis, and Theresa Matula, Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

After introductions and recognition of the Pages Sam Nzewi, Mario Grande and Sergeant-at-Arms staff Thomas Wilder and Bill Sullivan, Chairman Larry Womble welcomed everyone. He asked that committee members do a brief introduction including their background and district information. The Chair then recognized staff counsel and others attending the meeting for introductions.

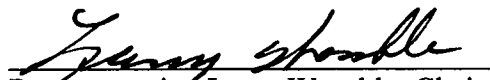
Chairman Womble explained this meeting was for orientation purposes and staff had prepared a visual presentation regarding this committee's purpose including:

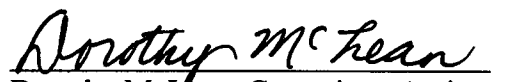
- Types of bills previously submitted to the State Government Committee in years past; and
- Organizational chart of North Carolina government including the Executive Branch, Legislative Branch and Judicial Branch.

After thanking staff for the excellent presentation, the Chair asked for discussions and/or questions. Being none, he announced the next meeting would be held on Wednesday, March 26, 2003, at the appointed time and room. Representative Baker's bill (HB 47 – ADOPT CAROLINA LILY AS STATE WILDFLOWER) will be on the agenda for consideration.

There being no further business, the Chair adjourned the meeting at 10:25 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE ORGANIZATIONAL MEETING

**March 19, 2003
11:00 a.m.
Room 1425 LOB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES

INTRODUCTION OF SERGEANT-at-ARMS

INTRODUCTION

OVERVIEW OF STATE GOVERNMENT

CLOSING REMARKS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

March 19, 2003

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Laura Harper	SEANC
David Stollen	Newberry, NC
Julie Allen	NC Statewatch
Ken Melton	Alley Associates, Inc.
Andy Romanit	NCLN

3-19-03

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2003-2004 SESSION**

You are hereby notified that the Committee on **State Government** will meet as follows:

DAY & DATE: **Wednesday, March 19, 2003**

TIME: **11:00 a.m.**

LOCATION: **Room 1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
Organizational Meeting.

Respectfully,

Representative Womble
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m. on March 13, 2003.

☒ Principal Clerk
☒ Reading Clerk - House Chamber

Dorothy McLean (Committee Assistant)

House Pages

1. Name: Sam Nzewi
County: Forsyth
Sponsor: Mrs. Parmon
2. Name: Mario Grande
County: Wake
Sponsor: Mr. David Miner
3. Name: _____
County: _____
Sponsor: _____
4. Name: _____
County: _____
Sponsor: _____
5. Name: _____
County: _____
Sponsor: _____

Sgt-At-Arms

1. Name: Thomas Wilder
2. Name: Bill Sullivan
3. Name: _____
4. Name: _____

3-19-03

House State Government Committee

North Carolina General Assembly

Types of Bills Referred to House State Government

- Official State Adoptions/Declarations (i.e. flower, shell, bird, reptile)
- Operation and Staffing of State Functions (i.e. agencies, processes)



A Few of Our Official State Adoptions/Declarations

(North Carolina General Statutes, Chapter 145)



- Flower: Dogwood
- Bird: Cardinal
- Tree: Pine
- Shell: Scotch Bonnet
- Mammal: Gray Squirrel
- Saltwater Fish: Channel Bass
- Insect: Honeybee
- Fruit: Scuppernong Grape
- Red Berry: Strawberry
- Blue Berry: Blueberry



3 Branches of Government

- Executive Branch/Council of State and the Cabinet
- Judicial Branch
- Legislative Branch



EXECUTIVE BRANCH Council of State and the Cabinet

- Governor, Michael F. Easley
- Lieutenant Governor, Beverly Perdue
- Secretary of State, Elaine Marshall
- State Treasurer, Richard Moore
- State Auditor, Ralph Campbell, Jr.
- Secretary of Administration, Gwynn T. Swinson
- Commissioner of Agriculture, Meg Scott Phipps
- Secretary of Commerce, Jim Fain
- Secretary of Correction, Theodis Beck



EXECUTIVE BRANCH (cont.) Council of State and the Cabinet

- Secretary of Crime Control & Public Safety, Bryan E. Beatty
- Secretary of Cultural Resources, Lisbeth C. Evans
- Secretary of Environment & Natural Resources, William G. Ross
- Secretary of Health & Human Services, Carmen Hooker Odom
- Commissioner of Insurance, Jim Long
- Secretary of Juvenile Justice and Delinquency Prevention, George Sweat
- Attorney General, Roy Cooper

State Government
8 Departments with
Elected Department Heads

- | | |
|---------------|-------------------------------|
| ❖ Agriculture | ❖ Public Instruction |
| ❖ Insurance | ❖ Secretary of State |
| ❖ Justice | ❖ State Treasurer |
| ❖ Labor | ❖ Office of the State Auditor |

State Government
11 Departments with Appointed
Department Heads

- | | |
|---------------------------------|---|
| ❖ Administration | ❖ Health & Human Resources |
| ❖ Commerce | ❖ Revenue |
| ❖ Correction | ❖ Transportation |
| ❖ Crime Control & Public Safety | ❖ Environment & Natural Resources |
| ❖ Cultural Resources | ❖ Juvenile Justice and Delinquency Prevention |
| ❖ Community Colleges | |

 JUDICIAL BRANCH

- **3 Divisions**
 - Appellate Division
 - Superior Court Division
 - District Court Division
- **Administrative Office of the Courts** – oversees all North Carolina Courts

 LEGISLATIVE BRANCH

- **Senate**
- **House of Representatives**

House
State Government
Committee

North Carolina General Assembly

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, March 26, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: ***Chair Larry Womble, Vice-Chairs Alma Adams, Bernard Allen, and Representatives Baker, Bowie, Capps, Culp, England, Goforth Setzer and Warner.*** Also Kory Goldsmith, Tim Hovis and Theresa Matula Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Chairman Larry Womble welcomed everyone. He then explained the agenda and purpose of the meeting. He also informed the committee that HB 39 had been withdrawn at the sponsor's request.

Chairman Womble called attention to the next order of business HB 47, Adopt Carolina Lily as State Wildflower, and requested the sponsor, Representative Baker, to speak on the bill. A Committee Substitute was presented and accepted by the committee.

Representative Baker explained the history and background on the bill and presented a framed picture of the lily taken by his wife, Helen Baker, to be viewed by all (said picture would also be on display in the Governor's mansion as of today). Representative Baker went on further to tell how he and his wife had saved this particular wildflower from bulldozers on a road-widening project from destruction. Much favorable discussion from the committee followed. The Chair asked Mrs. Helen Baker to also speak since she was the photographer of the picture on display. Mrs. Baker requested a favorable report on this wildflower.

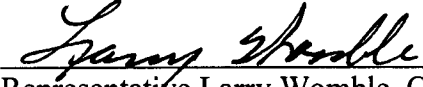
The Chair recognized Representative Setzer who moved for a favorable report to the committee substitute; unfavorable to the original bill. The vote was unanimous for acceptance.

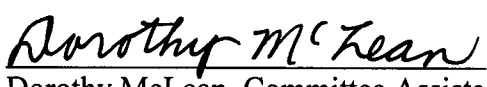
The next item on the agenda was HB 252, Protection of Historic Monuments. The Chair stated that Secretary Libba Evans was here today from the Department of Cultural Resources and had requested an opportunity to speak on the bill. Staff then presented a committee substitute. Motion was made by Representative England to accept the committee substitute and committee acceptance was unanimous. Representative Starnes was called upon as sponsor to discuss the bill. After explaining the bill and the history, the Chair called for discussion from the committee. Much discussion surrounded different aspects and concerns with the bill. Staff was requested to research each of the concerns and get back to the committee.

Representative Womble then called upon the Secretary from Cultural Resources, Libba Evans, to explain the Department's concerns. Ms. Evans explained there were aspects with the bill which prohibited the Department from doing their job. With time almost out, the Chair reassured everyone that staff would research and address the issues discussed.

There being no further business, the Chair adjourned the meeting at 11:00 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE ORGANIZATIONAL MEETING

**March 26, 2003
11:00 a.m.
Room 1425 LOB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 39	No Government Official in PSA	Rep. Blust
HB 47	Adopt Carolina Lily As State Wildflower	Rep. Baker
HB 252	Protection of Historic Monuments	Rep. Starnes

COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

3-26-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Thomas Smith	Individual
Helene Baker	Individual
Mary Roberts	AP
Chris Nichols	Hunter + Williams
Monna Rosefield	DCR
Timothy Wyatt	Individual
Amy Dobson	NC State Watch
Libba Evans	DCR

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

1

HOUSE BILL 39

Short Title: No Government Official in PSA. (Public)

Sponsors: Representatives Blust; Frye, Hilton, Holmes, Kiser, McGee, Pate, and Preston.

Referred to: State Government, if favorable, Rules, Calendar, and Operations of the House.

February 20, 2003

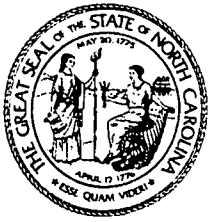
A BILL TO BE ENTITLED

AN ACT TO PROHIBIT STATE OFFICERS OR MEMBERS OF THEIR
IMMEDIATE HOUSEHOLDS FROM APPEARING IN
STATE-ADMINISTERED PUBLIC SERVICE ANNOUNCEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. No State officer, or member of that officer's immediate household, may appear in any State-administered public service announcement, whether that announcement is paid for by State funds, federal funds, or funds resulting from settlement of class actions or other litigation.

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



HOUSE BILL 39: No Government Official in PSA

BILL ANALYSIS

Committee: House State Government
Date: March 26, 2003
Version: First Edition

Introduced by: Representative Blust
Summary by: Tim Hovis
Committee Counsel

SUMMARY: House Bill 39 would prohibit any state officer or member of that officer's household from appearing in a state-administered public service announcement (PSA).

BILL ANALYSIS: Under current law, **G.S. 163-278.16A**, no declared candidate for a Council of State office may use or permit state funds to be used for any advertisement or PSA in a newspaper, on radio, or on television, if the PSA contains that candidate's name, picture, or voice. This restriction only applies after December 31 prior to a general election in which the Council of State office will be on the ballot.

House Bill 39 would prohibit any state officer or member of that officer's household from appearing in a state-administered PSA, including announcements paid for by state funds, federal funds, or funds resulting from settlement of class actions or other litigation.

EFFECTIVE DATE: House Bill 39 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE BILL 47
PROPOSED COMMITTEE SUBSTITUTE H47-PCS30098-LG-5

Short Title: Adopt Carolina Lily as State Wildflower.

(Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED
AN ACT ADOPTING THE CAROLINA LILY AS THE OFFICIAL WILDFLOWER
OF NORTH CAROLINA.

Whereas, North Carolina is blessed with an abundance of wildflowers from the mountains to the coast; and

Whereas, the Carolina Lily is a scarce and beautiful flower that is found throughout North Carolina in upland pine-oak woods and pocosins; and

Whereas, the Carolina Lily (*Lilium michauxii*) is one of many plants named for the distinguished French botanist Andre Michaux who traveled widely in the southeastern United States; and

Whereas, Andre Michaux (1747-1802), a genuine hero of science and exploration, referred to the North Carolina mountains as "the great botanical laboratory and paradise of North America"; and

Whereas, the Carolina Lily, sometimes referred to as Michaux's Lily, bears up to six reddish-yellow, spotted flowers with petals that bend backwards; and

Whereas, each nodding flower grows to about three inches in diameter; and

Whereas, this magnificent flower bears the name of our great State; and

Whereas, the State of North Carolina does not have an official wildflower;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"§ 145-19. State wildflower.

The Carolina Lily (*Lilium michauxii*) is adopted as the official wildflower of the State of North Carolina."

SECTION 2. The title of Chapter 145 of the General Statutes reads as rewritten:

"Chapter 145.

1 ~~State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock,~~
2 ~~Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, Watermelon~~
3 ~~Festival, Symbols and Other Official Adoptions."~~

4 **SECTION 3.** This act is effective when it becomes law.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 47 A BILL TO BE ENTITLED AN ACT ADOPTING THE CAROLINA LILY AS
THE OFFICIAL WILDFLOWER OF NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (#), ☐ ~~which changes the~~
~~title, unfavorable as to the original bill. (Committee Substitute Bill #~~ ~~), (and~~
~~recommendation that the committee substitute bill #~~ ~~) be re-referred to the Committee~~
~~on~~ ~~→)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 47

Short Title: Adopt Carolina Lily as State Wildflower.

(Public)

Sponsors: Representative Baker.

Referred to: State Government.

February 20, 2003

1 A BILL TO BE ENTITLED
2 AN ACT ADOPTING THE CAROLINA LILY AS THE OFFICIAL WILDFLOWER
3 OF NORTH CAROLINA.

4 Whereas, North Carolina is blessed with an abundance of wildflowers from
5 the mountains to the coast; and

6 Whereas, the Carolina Lily is a scarce and beautiful flower that is found
7 throughout North Carolina in upland pine-oak woods and pocosins; and

8 Whereas, the Carolina Lily (*Lilium michauxii*) is named for the distinguished
9 French botanist Andre Michaux who traveled widely in the southeastern United States;
10 and

11 Whereas, this magnificent flower bears the name of our great State; and

12 Whereas, the State of North Carolina does not have an official wildflower;

13 Now, therefore,

14 The General Assembly of North Carolina enacts:

15 SECTION 1. Chapter 145 of the General Statutes is amended by adding a
16 new section to read:

17 "**§ 145-18. State wildflower.**

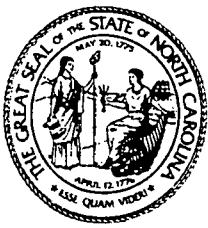
18 The Carolina Lily (*Lilium michauxii*) is adopted as the official wildflower of the
19 State of North Carolina."

20 SECTION 2. The title of Chapter 145 of the General Statutes reads as
21 rewritten:

22 "Chapter 145.

23 State Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, ~~Reptile and Reptile~~, Rock,
24 Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, ~~and~~ Watermelon
25 Festival, Festivals, and Wildflower."

26 SECTION 3. This act is effective when it becomes law.



PCS FOR HOUSE BILL 47: Adopt Carolina Lily as State Wildflower

BILL ANALYSIS

Committee: House State Government
Date: March 25, 2003
Version: H47-PCS30098-LG-5

Introduced by: Representative Baker
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 47 adopts the Carolina Lily as the Official Wildflower of North Carolina. The Proposed Committee Substitute (PCS30098-LG-5) makes technical and clarifying changes.*

BILL ANALYSIS:

Section 1. Section 1 of House Bill 47 amends Chapter 145 of the General Statutes by adding a new section adopting the Carolina Lily (*Lilium michauxii*) as the official wildflower of North Carolina. The Proposed Committee Substitute (PCS) makes an appropriate change in the numbering of the new section.

Section 2. Currently, the title of Chapter 145 includes a list of most of the official adoptions. Section 2 of the PCS for House Bill 47 simplifies the title of Chapter 145 by amending it to read, "Chapter 145. State Symbols and Other Official Adoptions."

Section 3. House Bill 47 is effective when it becomes law.

ADDITIONAL INFORMATION:

- ❖ The Carolina Lily has a one to four foot stem with three-inch long leaves. It features one to six blossoms is yellow to reddish-orange and has brown spots. Each blossom is approximately three inches in diameter with six tepals (3 petals and 3 sepals) that are bent back. The filaments and stigma protrude from the center of the flower. It may be found as far west as east Texas and as far north as Virginia.
- ❖ The Carolina Lily (*Lilium michauxii*) is named for French botanist Andre Michaux.
- ❖ G.S. 145-1 adopts the dogwood as the official flower of the State of North Carolina, the State does not currently have an official wildflower.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 252
HOUSE PROPOSED COMMITTEE SUBSTITUTE
PROPOSED COMMITTEE SUBSTITUTE H252-CSRC-2 [v.3]

3/26/2003 9:38:56 AM

Short Title: Protection of Historic Monuments.

(Public)

Sponsors:

Referred to:

March 6, 2003

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE PROTECTION OF NORTH CAROLINA'S
3 HISTORIC MONUMENTS AND MEMORIALS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 121 of the General Statutes is amended by adding a
6 new section to read:

7 "§ 121-13.3. Protection of North Carolina historic monuments and memorials.

8 (a) Except as provided by subsection (b) of this section, no monument, memorial,
9 plaque, marker, or historic flag display commemorating events, veterans, or persons of
10 North Carolina history on public property of the State or any of its political subdivisions
11 may be relocated, removed, disturbed, altered, or defaced.

12 (b) Monuments, memorials, plaques, markers, and historic flag displays set forth
13 in subsection (a) of this section may be removed, relocated, or altered by one of the
14 following actions:

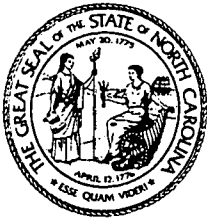
15 (1) With the approval of the North Carolina Historical Commission by a
16 simple majority of the members voting at a regularly scheduled
17 meeting.

18 (2) Upon the authority of the public or private body responsible for the
19 protection, preservation, upkeep, and care of these monuments,
20 memorials, plaques, markers, or historic flag displays.

21 (c) Any monument, memorial, plaque, marker, or historic flag display removed,
22 relocated, or altered by any procedure other than the procedure set forth in subsection
23 (b) of this section shall be returned to its original location and restored to its original
24 condition.

25 (d) A person who willfully violates the provisions of this section shall be guilty
26 of a Class 1 misdemeanor."

1 **SECTION 2.** This act becomes effective December 1, 2003, and applies to
2 offenses committed on or after that date.



HOUSE BILL 252: Protection of Historic Monuments

BILL ANALYSIS

Committee: House State Government
Date: March 24, 2003
Version: H252-CSRC-2[v.3]

Introduced by: Rep. Starnes
Summary by: Kory J. Goldsmith
Committee Counsel

SUMMARY: *The proposed committee substitute to HB 252 would prohibit the removal, alteration, defacement or relocation of any monument, marker, memorial, or historic flag display commemorating events or persons of North Carolina history without a majority vote of the State Historical Commission or a majority vote of the public or private body that is responsible for the care and upkeep of the monument. It would be a Class 1 misdemeanor to violate the act and the object would have to be replaced to its original location and condition.*

CURRENT LAW: The Department of Cultural Resources is charged with receiving, maintaining and administering historic property and objects. Subject to the approval of the Historical Commission, the Department may dispose of records and artifacts it determines have to further use or value. The Department is also charged with selecting suitable sites around the State for the placement of historic markers calling attention to nearby historic sites.

There are numerous laws creating criminal penalties for the removal, alteration, destruction or desecration of public records, public property, and flags. The penalties range from Class H felonies to Class 3 misdemeanors. The following is a list of some of the offenses:

G.S. 14-72 (Larceny) makes it a Class H felony to steal property valued at \$1,000 or more or any record or paper in the custody of the North Carolina State Archives, and a Class 1 misdemeanor to steal property valued at less than \$1,000.

G.S. 14-76.1 makes it a Class 1 misdemeanor to deface or alter records or papers in the North Carolina State Archives.

G.S. 14-132 makes it a Class 2 misdemeanor to deface or injure the walls of any public building, statute or monument.

G.S. 14-160 makes it a Class 2 misdemeanor to willfully injure personal property where the damage is \$200 or less, and a Class 1 misdemeanor where the damage is more than \$200.

G.S. 14-381 makes it a Class 2 misdemeanor to desecrate the U.S. or N.C. flag.

G.S. 14-398 makes it a Class H felony to steal, deface, or destroy property (valued over \$50) of public libraries or museums, and a Class 1 misdemeanor if the property is valued at \$50 or less.

G.S. 121-5(b) makes it Class 3 misdemeanor to unlawfully remove, alter or destroy a public record from the office where it is normally kept without the consent of the Department of Cultural Resources.

BILL ANALYSIS: House Bill 252 would add a section to Chapter 121 of the General Statutes (Archives and History). It would prohibit the removal, relocation, or alteration of a historic monument, marker, plaque, memorial or flag display that has historic significance unless approved by a majority vote of either the State Historical Commission or the public or private body charged with maintaining the historic object. Any historic marker or monument that is moved or altered without the required approval would have to be returned to its original location and restored to its original condition. A violation of the

HOUSE BILL 252

Page 2

act would be a Class 1 misdemeanor. Depending upon whether a defendant has any prior convictions, a Class 1 misdemeanor carries a sentence of between 1 and 120 days. The disposition may be community punishment if the defendant has not prior convictions, or any combination of active, intermediate or community punishment if the defendant has prior convictions.

The act would become effective December 1, 2003 and apply to offenses committed on or after that date.

H252-SMRC-001(House State Gov. PCS)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2003-2004 SESSION**

You are hereby notified that the Committee on **State Government** will meet as follows:

DAY & DATE: **Wednesday, March 26, 2003**

TIME: **11:00 a.m.**

LOCATION: **Room 1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 39	No Government Official in PSA	Rep. Blust
HB 47	Adopt Carolina Lily As State Wildflower	Rep. Baker
HB 252	Protection of Historic Monuments	Rep. Starnes

Respectfully,

Representative Womble
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m. on March 20, 2003.

☒ Principal Clerk
☒ Reading Clerk - House Chamber

Dorothy McLean (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 252

Short Title: Protection of Historic Monuments.

(Public)

Sponsors: Representatives Starnes; and Hilton.

Referred to: State Government.

March 6, 2003

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE PROTECTION OF NORTH CAROLINA'S
3 HISTORIC MONUMENTS AND MEMORIALS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 121 of the General Statutes is amended by adding a
6 new section to read:

7 "**§ 121-13.3. Protection of North Carolina historic monuments and memorials.**

8 (a) Except as provided by subsection (b) of this section, no monument, memorial,
9 plaque, marker, or historic flag display commemorating events, veterans, or persons of
10 North Carolina history on public property of the State or any of its political subdivisions
11 may be relocated, removed, disturbed, altered, or defaced.

12 (b) Monuments, memorials, plaques, markers, and historic flag displays set forth
13 in subsection (a) of this section may be removed, relocated, or altered by one of the
14 following actions:

15 (1) With the approval of the General Assembly by a simple majority of the
16 members voting in each house.

17 (2) With the approval of the North Carolina Historical Commission by a
18 simple majority of the members voting at a regularly scheduled
19 meeting.

20 (3) Upon the authority of the public or private body responsible for the
21 protection, preservation, upkeep, and care of these monuments,
22 memorials, plaques, markers, or historic flag displays. Any monument,
23 memorial, plaque, marker, or historic flag display removed for the
24 reasons set forth in this subdivision must be returned to its original
25 location when the activity is completed.

26 (c) A person who willfully violates the provisions of this section shall be guilty
27 of a Class A1 misdemeanor."

28 SECTION 2. This act becomes effective December 1, 2003, and applies to
29 offenses committed on or after that date.

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, April 2, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: ***Vice Chair Alma Adams and Vice-Chair Bernard Allen. Representatives Baker, Bowie, Capps, Culp, Dockham, England, Goforth, Setzer, and Warner.*** Also Kory Goldsmith, Tim Hovis, and Theresa Matula Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Representative Alma Adams, Vice-Chair, conducted the meeting during the absence of the Chair, Representative Larry Womble.

After introductions, Representative Adams called on Representative Martha Alexander to explain the bill, HB 544, STATE EMPLOYEE PAY EQUITY, was asking for the creation of a study commission to determine wage disparities in state government between men and women and between minorities and nonminorities and other issues regarding compensation disparities in state government.

Staff informed the Vice-Chair there was a draft of a proposed committee substitute before them. Motion was made to adopt the proposed committee substitute.

After explaining the bill, the floor was open for discussion and questions. Representative Goforth inquired as to why the bill needed funding and it was explained funding would be needed to pay expenses of the commission such as per diem, etc. Representative Alexander went on further to say that this amount proposed was a minimum amount.

Polly Williams of the NC Women United was asked to speak on behalf of the bill. A copy of her statement is attached hereto and made a part of these minutes.

Representative Dockham asked if the situation of unfair pay equities was already known, why could money not be appropriated to take care of it instead of appointing a commission to study.

It was explained that the studies referred to and previously reported by the Office of State Personnel were now outdated and new data needed to be simulated to clarify facts and give a clear picture of these disparities.

Representative Culp requested that the committee hear from Carl Goodwin, Office of State Personnel. Mr. Goodwin said the Department had begun to implement changes but changes take time and more staff would be needed to look into issues of competitive salaries. With budget cuts, at this time it would not be possible to complete such studies in a timely fashion.

Ms. Nellie Riley, Office of State Personnel, explained studies had been done beginning in 1982 and again in 1993. Both reports showed inequities and the legislature was requested to budget \$40 million to take care of the problems. The bill to allocate monies never moved forward.

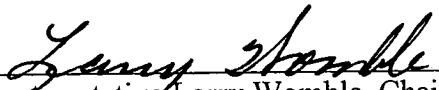
Laura Harper from the State Employees' Association also spoke in support of the bill.

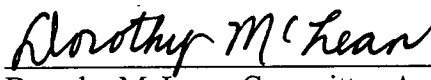
After much discussion, the Vice-Chair, Representative Alma Adams, stated she strongly supported this bill and hoped the committee would find a favorable report.

A motion was made by Representative Bernard Allen to give favorable report to the committee substitute; re-refer to RULES, CALENDAR, AND OPERATIONS OF THE HOUSE; unfavorable to the original bill. Motion passed.

There being no further business, the meeting adjourned at 10:40 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

**HOUSE STATE GOVERNMENT COMMITTEE
ORGANIZATIONAL MEETING**

**April 2, 2003
11:00 a.m.
Room 1425 LB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 544	State Employee Pay Equity	Representatives; Alexander, Clary, Weiss and Insko
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COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

4/2/03
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Arlene McKay	N.C. Business and Professional Womex 123 Montclair Circle, Durham, NC 27713
Jennifer Bumgarner	NC Alliance for Economic Justice 3824 Barrett Dr, Suite 312, Raleigh NC 27604
Paige Johnson	NC Women United Chapel Hill, NC PO Box 3258 27515
Polly Williams	622 Woodburn Road, Raleigh 27605 Justice Center + NC Women United
Carl Goodwin	DSP
Frank Lewis	OSBM
Laura Harper	SEN NC
Nellie Riky	OSP
Kurt Miller	AOC
Gary Wiggins	OSP
Rohnie Condroy	DOI

House/STATE GOVERNMENT

Date _____

**FIRM OR AGENCY AND ADDRESS**

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 544 **A BILL TO BE ENTITLED AN ACT CREATING THE STATE
GOVERNMENT EMPLOYMENT PAY EQUITY STUDY COMMISSION AND
APPROPRIATING FUNDS FOR THAT PURPOSE.**

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (# _____), ☐ which changes the
title, unfavorable as to (the original bill) (~~Committee Substitute Bill # _____~~); (and
recommendation that the committee substitute bill # _____) be re-referred to the Committee
on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.)

☐ With a favorable report as to House committee substitute bill (# _____), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE BILL 544
PROPOSED COMMITTEE SUBSTITUTE H544-PCS10223-LR-2

Short Title: State Employee Pay Equity.

(Public)

Sponsors:

Referred to:

March 18, 2003

A BILL TO BE ENTITLED
AN ACT CREATING THE STATE GOVERNMENT EMPLOYMENT PAY EQUITY
STUDY COMMISSION AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is created the State Government Employment Pay
Equity Study Commission ("Commission"). The Commission shall consist of 15
members appointed as follows:

(1) Five members appointed by the Governor, to include:

- a. One person who represents an organization whose primary purpose is to represent the interests of women.
- b. One representative of an organization whose objectives include the elimination of pay disparities between men and women and minorities and nonminorities and who has undertaken advocacy, educational, or legislative initiatives in pursuit of that objective.
- c. One representative of a higher education or research institution who has experience and expertise in the collection and analysis of data concerning pay disparities and whose research has been used in efforts to promote the elimination of those disparities.
- d. One person who is an active State employee.
- e. One person who is a retired State employee.

(2) Five members appointed by the Speaker of the House of Representatives, to include:

- a. Three members of the House of Representatives.
- b. One person who is knowledgeable about State and federal labor laws.
- c. One person from a private business or firm employing 200 or more employees in this State.

- 1 (3) Five members appointed by the President Pro Tempore of the Senate,
2 to include:
3 a. Three members of the Senate.
4 b. One person who represents an organization whose primary
5 purpose is to represent the interests of State government
6 employees or retirees.
7 c. One person from a private business or firm employing fewer
8 than 200 employees in this State.

9 **SECTION 1.(b)** The Commission shall study:

- 10 (1) The extent of wage disparities in State government employment
11 between men and women and between minorities and nonminorities.
12 (2) Those factors which cause, or which tend to cause, the disparities,
13 including, but not limited to, segregation between women and men and
14 between minorities and nonminorities across and within occupations
15 and payment of lower wages for work in female-dominated
16 occupations.
17 (3) Whether dissimilar State government job categories requiring similar
18 education, training, skills, and responsibilities are being compensated
19 with equal pay.
20 (4) The consequences of the disparities on the efficiency of State
21 government, the State's economy, and the families affected.
22 (5) Actions, including proposed legislation, that are likely to lead to the
23 elimination and prevention of compensation disparities in State
24 government employment.

25 The Commission may consider any other matter that the Commission finds
26 relevant to its charge. The Commission may conduct public hearings around the State to
27 solicit firsthand testimony regarding pay equity issues.

28 **SECTION 2.** The Speaker of the House of Representatives and the President
29 Pro Tempore of the Senate shall each appoint a cochair for the Commission. The
30 Commission may contract for consultant services as provided by G.S. 120-32.02. Upon
31 approval of the Legislative Services Commission, the Legislative Services Officer shall
32 assign professional and clerical staff to assist in the work of the Commission. Clerical
33 staff shall be furnished to the Commission through the offices of the House of
34 Representatives and the Senate Directors of Legislative Assistants. The Commission
35 may meet in the Legislative Building or the Legislative Office Building upon the
36 approval of the Legislative Services Commission. Members of the Commission shall
37 receive per diem, subsistence, and travel allowances at the rate established in G.S.
38 120-3.1. The appointing authority shall fill vacancies.

39 The Commission, while in the discharge of its official duties, may exercise all
40 the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4,
41 including the power to request all officers, agents, agencies, and departments of the
42 State to provide any information, data, or documents within their possession,
43 ascertainable from their records, or otherwise available to them and the power to
44 subpoena witnesses.

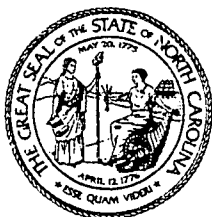
1 The State Personnel Commission, in conjunction with the Director of the
2 Office of State Personnel, shall designate appropriate staff to serve as liaison to the
3 Commission.

4 The Office of State Personnel shall complete an analysis of the issues
5 identified for study in Section 1(b) of this act and submit that analysis, including any
6 findings and recommendations, to the Commission by May 1, 2004, for the
7 Commission's consideration.

8 **SECTION 3.** The Commission's interim and final reports shall include the
9 results of the Commission's study as well as recommendations, legislative and
10 otherwise, for the elimination and prevention of disparities in State employee
11 compensation between men and women and minorities and nonminorities. The
12 Commission shall submit an interim report to the 2004 Regular Session of the 2003
13 General Assembly. The Commission shall make a final report to the 2005 General
14 Assembly and shall terminate upon filing its final report.

15 **SECTION 4.** There is appropriated from the General Fund to the General
16 Assembly the sum of twenty-five thousand dollars (\$25,000) for the 2003-2004 fiscal
17 year and the sum of twenty-five thousand dollars (\$25,000) for the 2004-2005 fiscal
18 year to fund the work of the State Government Employment Pay Equity Study
19 Commission, created in Section 1 of this act.

20 **SECTION 5.** This act becomes effective July 1, 2003.



PCS FOR HOUSE BILL 544: State Employee Pay Equity

BILL ANALYSIS

Committee: House State Government
Date: March 28, 2003
Version: v.1; PCS (H544-CSLR-2)

Introduced by: Representatives Alexander,
 Clary, Weiss, and Insko
Summary by: Theresa Matula
 Committee Staff

SUMMARY: *House Bill 544 creates a State Government Employment Pay Equity Study Commission.*

BILL ANALYSIS:

Sections 1, 2, and 3.

House Bill 544 creates the State Government Employment Pay Equity Study Commission. The Commission shall consist of 15 members, five members appointed by each of the following: Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

The Commission shall study:

- ❖ The extent of wage disparities in State government employment between men and women and between minorities and nonminorities.
- ❖ Those factors that cause, or tend to cause, disparities.
- ❖ Whether dissimilar State government jobs requiring similar education, training, skills and responsibilities are being compensated with equal pay.
- ❖ The consequences of the disparities on the efficiency of State government, the State's economy, and the families affected.
- ❖ Actions, including proposed legislation, that are likely to lead to the elimination and prevention of compensation disparities in State government employment.

The PCS (H544-CSLR-2) requires the State Personnel Commission, in conjunction with the Director of the Office of State Personnel (*not previously included*), to designate appropriate staff to serve as liaison to the Study Commission. The PCS (H544-CSLR-2) also requires the Office of State Personnel to complete an analysis of the issues identified in Section 1.(b) of the act and to submit the analysis, including findings and recommendations to the Commission by May 1, 2004.

The Commission shall submit an interim report to the 2004 Regular Session of the 2003 General Assembly, a final report to the 2005 General Assembly, and shall terminate upon filing its final report.

Section 4.

House Bill 544 appropriates from the General Fund to the General Assembly, \$25,000 for the 2003-04 fiscal year and \$25,000 for the 2004-05 fiscal year to fund the work of the Study Commission.

Section 5.

House Bill 544 would become effective July 1, 2003.

Statement to State Government Committee on H544 "State Employees Pay Equity"
By Polly Williams, NC Justice Center Volunteer

The motivation for a pay equity study bill arose from a report in April of 2002 from the Justice Center titled "Pay Equity in State Government: It's a Long Way Off." The report revealed that although women make up 48.1 percent of state employees—a little less than half—they are 73.3 percent of employees in the low-wage brackets. Let me rephrase that: 24 percent of state employees are in the lowest nine pay grades; of those, 73.3 percent are women. Black and other minority women are 17 percent of all state employees but 32 percent of the low-wage employees. I don't think that many female employees are worth that much less than male employees. But that's what the study commission will investigate.

H544 asks for a study that will measure jobs that are primarily held by women against jobs primarily held by men and jobs that are mainly held by minority workers against jobs held by non-minorities. It will use an objective rating scale. Points are to be awarded on the basis of necessary education, skills, and responsibilities of each job. Then disparities in pay for jobs with similar point scores can be noted. They will stick out. I don't want to predict what the outcome of such a study will be, but we can take a big hint from what has been found in other states completing such studies, and that is that jobs held by women and minorities are often undervalued. As a result, pay scales were revised. The revision did not reduce men's pay. That's not the object. Women's jobs paid better.

Was there a huge cost? Not necessarily. The best results did not come about in states where sweeping changes were made but in states where certain jobs were targeted, and changes were phased in.

Pay equity is a fairness issue, but in North Carolina's case this is also an issue of poverty relief because there are women in those low-wage brackets who are supporting families, and low-wage jobs are the ones that should be looked at first and targeted if inequities are found.

It was in 1982 that a report from the Office of State Personnel showed significant disparities in pay by race and gender among state government workers. In 1993, to no one's surprise, another report made the same discovery. That's why the report of 2002, showing the same thing, said pay equity was a long way off. It has been.

The state is North Carolina's largest employer, and it should be the model for all the others. We need to begin to look at inequities now and make recommendations for action.

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, April 9, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: ***Chair Larry Womble and Vice-Chair Bernard Allen and Representatives Bowie, Capps, Culp, Dockham, England, Goforth, and Setzer***. Also Kory Goldsmith, Tim Hovis and Theresa Matula Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

After introductions and recognition of the Pages and Sergeant-at-Arms staff, Chairman Larry Womble welcomed everyone. The Chair then recognized staff counsel and his committee assistant, Dorothy McLean.

Chairman Womble informed the committee there were two bills on today's agenda. The first bill was HB 470 "AN ACT ESTABLISHING LIBERTY DAY IN THE STATE OF NORTH CAROLINA". The Chair called upon Representative Pate to explain the bill. He gave history revolving around the bill which originated from movement in Denver, Colorado, where the local Lion's Clubs felt that schools no longer were giving sufficient attention to civics in the classroom. Thus, the Club began printing history pamphlets containing the Constitution and Declaration of Independence to be used in classrooms and set aside a "Liberty Day". HB 470 sets aside March 16 as North Carolina's Liberty Day which is the birth date of James Madison also known as the Father of the U.S. Constitution.

Mr. Herring and Mr. Shivers of the local Lion's Clubs also re-iterated the support and need to continue teaching civics in the classroom.

After motion by Representative Capps, the bill received a favorable report.

The next bill to come before the committee was HB 796 "AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT THE APPROVAL OF THE GENERAL ASSEMBLY." Legal staff informed the Chair there was a proposed committee substitute for this bill. Representative Bowie moved for the committee to consider the PCS. Without objection, the PCS was presented to the committee.

The primary sponsor, Representative Bernard Allen, explained the bill history beginning with Dorothea Dix and her quest to take care of the mentally ill and less fortunate living in the state of North Carolina. Presently there was an attempt to dismantle the Dorothea Dix campus and transfer patients to a new smaller facility to be built in Butner. This bill would prevent the sale of the campus property without prior approval of the General Assembly. He went on to further say that the House Wake County delegation supports this legislation. Also, there were quite a few people here today who wanted to speak in support of the bill. Representative Capps also reiterated the importance of support for this bill. Representative England asked why this would even be a consideration. Representative Allen responded that two studies had been done and it had been recommended to save state government millions of dollars. Representative Dockham inquired what is the process for a sale such as this? Representative Allen said it would go before Gov Ops first, Council of State and then last the Governor. Representative Setzer inquired the total acreage and

was informed 335 acres. Representative Goforth inquired as to whether the hospital was now operating at total capacity and was informed it was.

The Chair, upon recommendation of the sponsor, called upon Ann Ackland to speak to the committee. Ms. Ackland told her story regarding the importance of maintaining Dorothea Dix and her daughter who depends on the services of the professionals at the hospital for her mental illness.

Representative Bowie asked the Chair was there any opposition to the bill? No one present stood to oppose the bill.

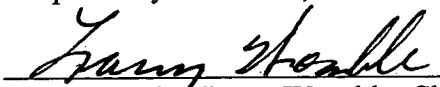
The Chair recognized Robert Lamme, DHHS Legislative Liaison, who explained there were actually two separate issues at hand. (1) the Department's plans to close two hospitals and transfer residents to a new facility to be built in Butner; and (2) the offices at the campus house approximately 1,000 DHHS staff and at this time, there are no plans to remove the staff from their offices. He then said that they did not have any opposition to this bill.

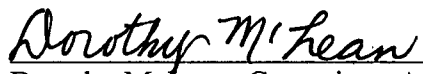
Joe Henderson, Director of State Property, also spoke to the committee and said there were no plans to sell the property at this time.

The Chair then called upon Elise Fisher to give her report to the committee. He asked that she limit her time since it was almost time to adjourn. Ms. Fisher reported on her daughter and the life-saving treatments she had received from Dorothea Dix over the years.

With time running out, the Chair called for adjournment of the meeting with the bill to be brought before the committee at another time. The meeting was adjourned at 10:58 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE ORGANIZATIONAL MEETING

**April 9, 2003
11:00 a.m.
Room 1425 LB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 470 Liberty Day

Rep. Pate

HB 796 Prohibit Sale of Dorothea Dix Property

**Rep. B. Allen, Rep. Ross,
Rep. Miner, Rep. Hackney**

COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Joe Henderson

Dept of Adm

DAVID BARNES

Poyner & Spruill

Casi Hudson

Poyner & Spruill

REP. DON MUMFORD

NCBA

Louise Fisher

Wake AMI & MHNC - Advocate for M. & A.

Nancy Johnson

Wake NAMI

Debra Gilmore

NAMI Wake County

Robb Lanning

DHHS

Andy G. Ch

NCBA

Janet Wlodarczyk

NAMI

Ken: Maltka Abuse

NAMI

Joseph Huberman

Raleigh NC Dix CP

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

April 9, 03

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>LOUIS MICKS</i>	<i>NAMI</i>
<i>Josie Douglas</i>	<i>NAMI Wake NC Assoc. of the Deaf</i>
<i>Betty E. Riddle</i>	<i>concerned citizen</i>
<i>Gray Baker</i>	<i>"</i>
<i>Betty Schmidt</i>	<i>"</i>
<i>Brenda Gray</i>	<i>"</i>
<i>Garlotin Patrick</i>	<i>Wake Co HS.</i>
<i>[Signature]</i>	<i>NC STATE WATCH</i>
<i>Gerry Aklund</i>	<i>Private citizen</i>
<i>Danah House</i>	<i>Private Citizen</i>
<i>Ann Aklund</i>	<i>NAMI</i>

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Laura Harper	SEANC
Jacqueline May	NAMI
Heidi Sargent	NC Lions
Ann R. Shue	Re Liberty Day NC Lions
Benny G. HERRING	NC Lions
EDWARD D. SHIVERS III	NC Lions
Larry Braswell, Jr.	Raleigh Lion Club
Marbarr Harvey	Raleigh CASA -
Kendall Byrum	Rep. Kiser
John Cozza	un
ANN WIRE	DUHS
Hal Miller	NC Aect

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 470 A BILL TO BE ENTITLED AN ACT ESTABLISHING LIBERTY DAY IN THE
STATE OF NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

1

HOUSE BILL 470

Short Title: Liberty Day.

(Public)

Sponsors: Representatives Pate; Justice, Setzer, and Capps.

Referred to: State Government.

March 13, 2003

A BILL TO BE ENTITLED
AN ACT ESTABLISHING LIBERTY DAY IN THE STATE OF NORTH
CAROLINA.

Whereas, as Americans, we enjoy the rights and liberties guaranteed by our founding fathers in the Declaration of Independence and the United States Constitution with its Bill of Rights; and

Whereas, James Madison was a contributing author of the Virginia Plan, the model and basis for the United States Constitution that emerged from the Constitutional Convention of 1787; and

Whereas, James Madison kept written records of the debates had and compromises made at the Convention and those debates and compromises were also incorporated into the constitution; and

Whereas, these records were made public upon the death of all the delegates to the Convention and were published around 1840; and

Whereas, James Madison along with Alexander Hamilton and John Jay wrote many of the newspaper articles that outlined the reasons the states should endorse the new constitution; and

Whereas, these articles became known as the Federalist Papers and still stand as some of the best arguments for our form of government, a representative republic; and

Whereas, James Madison served in the United States House of Representatives from 1789 until 1797, during which time he introduced the Bill of Rights, which was ratified by the states in 1791; and

Whereas, James Madison was Secretary of State from 1801 until 1809, and President of the United States from 1809 until 1817; and

Whereas, it is only fitting that the 16th day of March, the birthday of James Madison, serve as Liberty Day, a day upon which North Carolinians can commemorate the freedoms that were given to every American by the Declaration of Independence

1 and the extraordinary rights and liberties that were given by the United States
2 Constitution; Now, therefore,

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 103 of the General Statutes is amended by adding a
5 new section to read:

6 **"§ 103-11. Liberty Day.**

7 The sixteenth day of March of each year is designated as Liberty Day in North
8 Carolina."

9 **SECTION 2.** This act is effective when it becomes law.

These men who represented North Carolina in signing the Declaration of Independence. They pledged their honor ... and their fortunes.

WILLIAM HOOPER was born on June 28, 1742 in Boston. His father, a Scotch Congregationalist minister, wanted him to be a man of the cloth. However, Hooper chose law. He graduated from Harvard College in 1760, and moved to Wilmington, N.C., after he passed his bar examination. He was so popular that in 1770 he was appointed deputy attorney general for the Colony of North Carolina. In 1773 he was elected to the colonial legislature, followed in 1774 by his election to the Continental Congress.

In the spring of 1776, Hooper's private business so greatly needed his attention in North Carolina, that he did not attend congress. He returned in time to cast his vote for and sign the Declaration of Independence. On December 20, 1776, he was elected a delegate to Congress for the third time. However, the situation at home in North Carolina made it impossible for him to spend more time away in Philadelphia. Accordingly, in February 1777, he resigned his seat in Congress.

Hooper continued his law practice and remained for a while on the North Carolina state legislature. During the Revolutionary War, the British tried, but were unable to capture Hooper or harm his family. They did in vindictiveness, however, torch his estate and leave his property completely devastated when they captured Wilmington. Hooper moved to Hillsboro where he remained to some extent in public life as a state legislator, but never regained his early prominence.

Like many other patriots, he did not allow himself to wallow in bitterness. While to others his prospects appeared doubtful, he would always point to some brighter spots on the canvas, and he focused on these.

In 1787 Hooper's health became considerably impaired. He gradually relaxed from public and professional efforts. Hooper died in Hillsboro on Oct. 14, 1790 at the age of 48.



JOSEPH HEWES was born in 1730 in Kingston, N.J. His parents, Quaker by faith, were Connecticut farmers who moved to New Jersey in search of a more quiet and secure life away from marauding Indians and free of religious prejudices.

Hewes graduated from Princeton College and moved to Philadelphia, where he became an active and prosperous merchant. At the age of 30, he moved to North Carolina and settled in the village of Edenton, where he became a ship owner and a merchant. It was in Edenton that he met John Paul Jones, whom he helped to get his first command in the Navy. He was a man of integrity and honor, acquiring the confidence and esteem of the people and they elected him to represent them in the colonial provincial legislature.

In 1774, he was elected to represent North Carolina in the Continental Congress. In the beginning of 1775, the Society of Friends (the Quakers), to which he and his family belonged, held a general convention denouncing the proceedings of Congress. Hewes severed his connection with the Society and became a promoter of war against Britain.

Hewes was virtually the first secretary of the navy. John Adams, who was especially fond of

him, would often boast that Hewes "laid the foundation, the cornerstone of the American Navy."

The last time he appeared in Congress was on Oct. 29, 1779, after which a lingering illness confined him to his bed, and on Nov. 10, 1779, he died.



JOHN PENN was born on May 17, 1741 in Caroline County, Virginia. Penn received little formal education, but was urged to study law. Penn studied hungrily and remarkably passed the bar examination at Virginia at the age of 21.

Penn was unable to forge a rewarding practice in Virginia so he moved to Williamsboro, N.C. There, he displayed great ability and eloquence, and his practice flourished, as did his interest in politics. He soon became a leader in his community. He was elected to the provincial legislature in 1775 and to the Second Continental Congress.

After signing the Declaration, Penn returned home and was chosen at once to occupy an important position on the North Carolina board of war. His major task was to keep the militia well supplied. His dedicated efforts helped the Americans force Lord Cornwallis into retreat before the end of 1780.

In March of 1784, he was appointed receiver of taxes for North Carolina, but he resigned that office the following April.

Penn afterward resumed his life as a private citizen and continued to practice law. He died on Sept. 14, 1788.

The Liberty Day Story

Liberty Day began as an idea of the Lions Club of Denver. Teachers had a problem: civics had been made voluntary, decreasing the number of available civics books. But at the same time, many American history textbooks appeared without the Declaration of Independence or the U.S. Constitution printed in the back — takes up too much room in the book, teachers were told.

But how could kids be taught about those documents without ever seeing the words?

Private donations were collected for a booklet containing the Declaration of Independence and the Constitution, for free distribution. Teachers were grateful, but had another problem. They teach around themes, they said, and the appropriate theme day for instruction about those documents is July 4, a day most students are not in school. They needed a day during the school year to focus upon those documents and our nation's heritage.

So a theme day was created — and a contest named it Liberty Day.

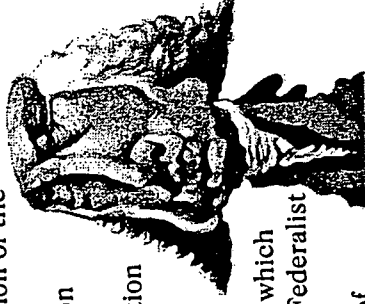
In the first year, Liberty Day was celebrated on Sept. 17, the day the Constitution was signed. Too close to the beginning of the school year, teachers decided.

Then it was suggested that Liberty Day be celebrated on Dec. 15, the day the Bill of Rights was ratified. Too close to Christmas, teachers decided.

Then they suggested that some time in March would be best for the school calendar — and the birthday of James Madison, "father of the Constitution," just happens to be March 16. So Liberty Day became officially celebrated on March 16 or the closest school day to March 16.

James Madison, whose birthday is celebrated on Liberty Day, was a remarkable man who ...

- ★ Helped write the Virginia Plan, the basis of discussion for the creation of the U.S. Constitution
- ★ Kept detailed notes on those debates in the Constitutional Convention of 1787
- ★ Wrote many of the articles in support of that new Constitution, which became known as the Federalist Papers
- ★ Introduced the Bill of Rights to the House of Representatives in 1789 as a member of the first Congress
- ★ Served as secretary of state under President Thomas Jefferson 1801-1809
- ★ Led the nation as president 1809-1817



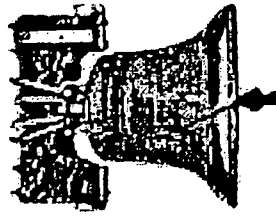
Lions Clubs of North Carolina

The Lions Clubs of North Carolina are part of the world's largest service club association, Lions Clubs International, which has 1.4 million members in more than 44,500 clubs in approximately 185 countries and geographical areas. Lions are men and women who volunteer



their time to humanitarian causes. Founded in 1917, the Lion motto is "We Serve," and Lions do, cutting across all national, racial and cultural boundaries. Liberty Day is the latest

Lions' service project. Other activities include sight conservation and work with the visually impaired, youth programs including drug-abuse education and prevention, diabetes detection and research and work for international cooperation and understanding.



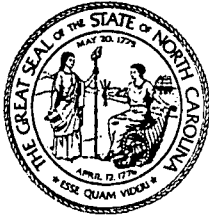
Liberty Day

Liberty Day is a national celebration originated by Lions to call attention to the Declaration of Independence and the U. S. Constitution. Many students lack a basic understanding of America's fundamental liberties and the role elected officials play in maintaining those liberties. Lions are committed to making sure that the basic liberties ensured by America's founding documents are not forgotten. Events are scheduled during the week of March 16 with the cooperation of elected government representatives and school superintendents and teachers.



Lions Clubs of North Carolina

For more information, check the Internet at www.libertyday.org or contact Lion Ann of the Shallotte Lions Club at (910) 579-4849



HOUSE BILL 470: Liberty Day

BILL ANALYSIS

Committee: House State Government
Committee
Date: April 9, 2003
Version: First Edition

Introduced by: Representative Pate
Summary by: Tim Hovis
Committee Counsel

SUMMARY: House Bill 470 would designate March 16, the birthday of James Madison, as Liberty Day.

As noted in the bill, James Madison was a contributor to and record keeper for the Constitutional Convention of 1787, supported the ratification of the Constitution by the states through his writings known as the Federalist Papers, served in the U.S. House where he introduced the Bill of Rights, and served as Secretary of State and President of the United States.

EFFECTIVE DATE: House Bill is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 796

PROPOSED COMMITTEE SUBSTITUTE H796-CSRC-15 [v.1]

4/8/2003 7:10:58 PM

Short Title: Prohibit Sale of Dorothea Dix Property.

(Public)

Sponsors:

Referred to:

March 31, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY
3 ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT
4 THE APPROVAL OF THE GENERAL ASSEMBLY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 146-27 is amended by adding a new subsection to read:

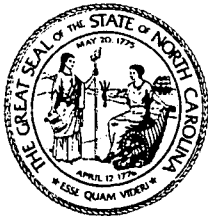
7 "§ 146-27. The role of the Department of Administration in sales, leases, and
8 ~~rentals.~~ rentals; sale of Dix Campus.

9 (a) General. – Every sale, lease, rental, or gift of land owned by the State or by
10 any State agency shall be made by the Department of Administration and approved by
11 the Governor and Council of State. A lease or rental of land owned by the State may not
12 exceed a period of 99 years. The Department of Administration may initiate
13 proceedings for sales, leases, rentals, and gifts of land owned by the State or by any
14 State agency.

15 (b) Large Disposition. – If a proposed disposition is a sale or gift of land with an
16 appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall
17 not be made until after consultation with the Joint Legislative Commission on
18 Governmental Operations.

19 (c) Notwithstanding any other provision of law, the State owned real property
20 encompassing the Dorothea Dix Hospital campus shall not be sold without the prior
21 approval of the General Assembly. As used in this subsection, 'prior approval of the
22 General Assembly' shall mean the passage of a joint resolution approving the sale."

23 SECTION 2. This act is effective when it becomes law.



HOUSE BILL 796: Prohibit Sale of Dorothea Dix Property

BILL ANALYSIS

Committee: House State Government
Date: April 9, 2003
Version: Proposed Committee Substitute
H796-SMRC-15[v.1]

Introduced by: Reps. Allen, Ross, Miner,
Hackney
Summary by: Kory J. Goldsmith & Shirley
Iorio, Committee Staff

SUMMARY: *HB 796 would prohibit the sale of the real property encompassing the Dorothea Dix hospital campus without the prior approval of the General Assembly. Prior approval would mean passage of a joint resolution approving the sale.*

CURRENT LAW: Article 7 of Chapter 146 governs the disposition of State lands. Generally, an agency must obtain the approval of the Governor and the Council of State prior to any sale, lease, rental or gift of land owned by the State. If the proposed transaction of the sale or gift of real property appraised at \$25, 000 or more, the disposition cannot be made until after consultation with the Joint Legislative Commission on Governmental Operations (Gov Ops).

The following procedure applies for obtaining approval for a disposition of property:

- The agency files an application with the Department of Administration (DOA). The application must include facts relating to the disposition and the agency must provide addition information to the DOA if requested.
- DOA investigates all aspects of the proposed disposition including the present and future State needs for the property.
- If DOA determines the disposition is in the best interest of the State, it proceeds with the transaction according to rules adopted by the Governor and Council of State.
- When DOA reaches an agreement for the disposition, the proposed transaction is submitted to the Governor and Council of State for approval or disapproval.

G.S. 146-29.1 prohibits the sale of State real property for less than fair market value to any private, for-profit entity. Conveyances for less than fair market value to a "public entity" is allowed, but the sale must be reported to Gov Ops and the Fiscal Research Division at least 30 days prior to the sale. A public entity includes a county, a municipality, a local board of education, a community college, a special district or other political subdivision of the State.

The PCS differs from the original bill in that it codifies new language and also defines "prior approval of the General Assembly" as passage of a joint resolution approving the sale.

The act is effective when it becomes law.

BACKGROUND (Taken from History of North Carolina by Samuel A'Court Ashe, LL.D.): The North Carolina General Assembly began to discuss the idea of an "asylum for the insane" in 1848. At that time, hundreds of insane people were in the jails and courthouses of the counties. Miss Dorothea Dix of Boston, long devoted in her efforts to have the insane of this country properly cared for, had visited the jails of North Carolina and was urging the legislature to construct an asylum. She prepared information

HOUSE BILL 796

Page 2

that was distributed to the members of the General Assembly, but there was opposition to any appropriation for this purpose. However, Mr. James Dobbin, "the greatest benefactor of the State", made an appeal to the Assembly. "Dobbin made an appeal that touched the souls of men and awakened the consciences of the people." A bill was introduced, passed, and an appropriation was made. The bill provided for the establishment of a State Hospital for the Insane in North Carolina to be built near the city of Raleigh. When the site of the institution was selected it was named Dix Hill in commemoration of Miss Dix's great public service.

"No greater service was ever rendered to North Carolina than the service of Dorothea Dix and James C. Dobbin."

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H.

1

HOUSE BILL 796

Short Title: Prohibit Sale of Dorothea Dix Property.

(Public)

Sponsors: Representatives B. Allen, Ross, Miner, Hackney (Primary Sponsors);
Weiss, Ellis, Capps, Munford, Stam, Eddins, Bell, Jones, Luebke,
McHenry, Parmon, Rapp, and Womble.

Referred to: State Government.

March 31, 2003

A BILL TO BE ENTITLED

**AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY
ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT
THE APPROVAL OF THE GENERAL ASSEMBLY.**

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, the State-owned
real property encompassing the Dorothea Dix Hospital campus shall not be sold without
the prior approval of the General Assembly.

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


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Keeping Watch... Taking Action

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DHHS Secretary Announces Plans to Replace Dix

DHHS Secretary Announces Plans to Replace Dix & Umstead With New Mental Hospital in Butner

By Tracy L. Brown

RALEIGH – North Carolina Department of Health and Human Services Secretary Carmen Hooker Odom announced on Sept. 24 that the new psychiatric hospital will be built in Butner, replacing both John Umstead Hospital currently in Butner and Dorothea Dix Hospital in Raleigh. The announcement came after months of controversial debate regarding the placement of the new 432-bed facility, with all sides identifying the disastrous impact that would occur if the hospitals were closed without a new facility being built to counteract the devastating economic ramifications.

Some legislators, however, claim that the decision to build the new facility in Butner is not "official" yet because the Senate hasn't approved the bill that would allot the \$100 million it will take to fund the new hospital. According to former Sen. Howard Lee, D-Orange, the site could still change since there is currently no funding available due to the fact that the bill was never taken up (News & Observer, 10/2/02). Hooker Odom has proposed using a controversial method of "certificates of participation" to fund the new hospital, which are in short bonds that don't require approval from voters.

The resolution to build the hospital in Butner stemmed from an announcement by Hooker Odom back in March to construct a new "state-of-the-art" mental health facility rather than revitalize the two existing facilities in need of major renovation, which fits into the larger effort of mental health reform, a plan that will transition mentally ill individuals to local infrastructures over a five-year period. At that point, however, a location for the new facility had not yet been determined, and rumors had insinuated a location in Chatham County was a likely spot.

Over the course of the last several months, heated discussions, specifically from individuals in Granville County, were prevalent in regards to the placement of the new hospital. Granville County Commissioner Lee Alligood on several occasions sited the grave economic impact the closing of Umstead would have on the county, thus necessitating the need for the new facility to be built in Butner or a town in

close proximity to Butner.

According to DHHS, six factors were taken into consideration to determine the location: location to clients, availability of a skilled work force, proximity to UNC and Duke, availability of utilities, availability of state owned or reasonably priced property, and access to major highways. Butner, Raleigh (on the grounds of Dorothea Dix), Siler City, and Pittsboro were all in contention and were each scored using a point system established by DHHS. Butner scored the highest, with Raleigh coming in second.

Now the question is whether Duke or UNC-Chapel Hill will take the lead in terms of research at the new hospital in Butner. UNC has a 50-year relationship with Dorothea Dix in Raleigh and was hoping to see a new hospital built in Chatham County, either in Pittsboro or Siler City, thus centrally located to all parties. Discussions of both universities hosting the new hospital are on the table right now.

According to Hooker Odom the plan and follow through for the new hospital should take a total of six years, and neither Dix or Umstead would be closed until the new hospital is complete.

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, April 16, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: **Chair Larry Womble, Vice-Chairs Alma Adams, Bernard Allen. Representatives Bowie, Capps, Culp, England and Goforth** Also Kory Goldsmith, Tim Hovis, and Theresa Matula Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Chairman Larry Womble started by apologizing for the delay in starting the meeting due to various committees' meeting throughout the day. He then introduced members and staff and welcomed everyone. He explained there were two bills on today's agenda and asked that discussion from visitors please be limited due to the limitation of time.

Chairman Womble called attention to the first order of business and called Representative Alma Adams to explain the bill, House Bill 859, **Board of Mortuary Science**. Representative Adams explained the board had always been an elected board. The bill would change the board from elections to appointments. By doing so, the two statewide associations (North Carolina Funeral Directors Association and the Funeral Directors & Morticians Association of North Carolina, Inc.) would both now have the opportunity to be represented by their members. Previously the later association did not have adequate opportunity to have representation on the Board.

Mr. White, Director of the NC Funeral Directions Association spoke in favor and support of the bill. Representative Capps inquired was there opposition to the bill and asked to hear those opposing to express their opinion. Mr. T.E. White of the North Carolina Funeral Directors Association emphasized that race was not an issue in changing the election of the Board. Mr. John Kerr, attorney for the N.C. Funeral Directors Association also spoke in support of the bill. Mr. Mark Henderson, Executive Director of the present Board of Mortuary Science spoke in opposition stating it would replace elections with appointments.

After much discussion, Representative Bernard Allen moved to give the bill a favorable report. The bill passed.

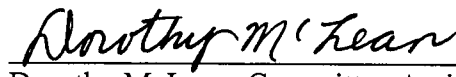
Chairman Larry Womble then asked the committee to consider HB 796, **Prohibit Sale of Dorothea Dix Property**. With the proposed committee substitute for HB 796 properly before the committee, Representative Bernard Allen was called upon as sponsor to explain the bill which had previously been presented to the committee at their meeting on April 9, 2003. Several visitors spoke on their support of the bill.

The Chair recognized Representative Adams who moved for a favorable report to the committee substitute; unfavorable to the original bill. The vote was unanimous for acceptance.

There being no further business, the Chair adjourned the meeting at 11:55 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA**HOUSE STATE GOVERNMENT COMMITTEE
ORGANIZATIONAL MEETING**

**April 16, 2003
11:00 a.m.
Room 1425 LB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 796 Prohibit Sale of Dorothea Dix Property Rep. B. Allen

**Rep. Ross
Rep. Miner
Rep. Hackney**

HB 859 Board of Mortuary Science

Rep. Adams

COMMENTS

ADJOURNMENT

4-16-03

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-16-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Julie Allen	NC Statewatch
Rob Hamm	HHS
Achey Beel	Governor's Office
William Lynch	4012 Haymont Dr Apex 27539
Wiseman-Mallister	FD & MA of NC Fayetteville NC
Ann Allard	NAMI-Wake
Frank Perry	Capital Group
Anthony S. Chis	Regist. Sec. of Assembly

4-16-03

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Emeline B. Manson	Manson Mortuary-Williamston, NC
William H. Manson, Jr.	" " "
T. E. White, Sr.	Kelsey Funeral Home, Albemarle, NC
William O. Betts	Oxford, N.C. Betts & Son Funeral Home, Inc.
CHARLES REYNOLDS	REYNOLDS FUNERAL HOME, APOSTLE, NC. 27916
James T. Willoughby III	Funeral Directors & Mortician Assn of N.C. Inc
JOSEPH B. CUTCHINS, JR	FUNERAL DIRECTORS + MORTICIANS ASSN. OF N.C., INC. CUTCHINS FUNERAL HOME FRANKLINTON NC.
Tom Pappalardo	LAMAR Adv
Henry M Lancaster	LCA
Mark Henderson	North Carolina Board of Mortuary Science 2321 Crabtree Blvd, Raleigh, NC
Robin Miller	N.A.M.I. affiliate

4-16-03

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sherry Whittington	NAMI Affiliate
Gerry Akland	NAMI - Wake
Sarah House	NAMI - WAKE
Bonnie T. Bradwell	NAMI - WAKE
Louis Micks	NAMI - WAKE
Louise Fisher	NAMI - Wake + MHANC
Mabel Guy	Concerned Citizen - Dix Supporter
Josie Douglas	NAMI Wake / North Carolina Assoc. of the Deaf
Betty Schmiedel	Concerned Citizen - Dix Supporter
Grey Baker	" " " "
Jon Carr	Nc Funeral Directors Association

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 859 A BILL TO BE ENTITLED AN ACT TO ELIMINATE STATEWIDE VOTING TO ELECT MEMBERS OF THE BOARD OF MORTUARY SCIENCE AND TO ESTABLISH A NEW PROCESS WHEREBY MEMBERS ARE APPOINTED TO SERVE ON THE BOARD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to the original bill. (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 859

Short Title: Board of Mortuary Science.

(Public)

Sponsors: Representatives Adams; Hunter, McAllister, and Michaux.

Referred to: State Government.

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE STATEWIDE VOTING TO ELECT MEMBERS OF THE
BOARD OF MORTUARY SCIENCE AND TO ESTABLISH A NEW PROCESS
WHEREBY MEMBERS ARE APPOINTED TO SERVE ON THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18 is repealed.

SECTION 2. Article 13A of Chapter 90 of the General Statutes is amended
by adding a new section to read:

"§ 90-210.18A. Board of Mortuary Science created; qualifications; vacancies;
removal.

(a) The General Assembly declares that the practice of funeral service affects the
public health, safety, and welfare and is subject to regulation and control in the public
interest. The public interest requires that only qualified persons be permitted to practice
funeral service in North Carolina and that the profession merit the confidence of the
public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Mortuary Science is created and shall regulate
the practice of funeral service in this State. The Board shall have nine members as
follows:

(1) Seven members, appointed by the Governor, who shall hold either a
funeral director's license or a funeral service license. In appointing
members, the Governor may accept four recommendations from the
North Carolina Funeral Directors Association, Inc., and three
recommendations from the Funeral Directors & Morticians
Association of North Carolina, Inc. However, the Governor shall have
the authority to reject a recommendation, and at the Governor's
request, either organization may resubmit a recommendation.

(2) One member appointed by the General Assembly, upon the
recommendation of the President Pro Tempore of the Senate, who is a
member of the general public.

1 (3) One member appointed by the General Assembly, upon the
2 recommendation of the Speaker of the House of Representatives, who
3 is a member of the general public.

4 Members of the Board shall serve staggered three-year terms, ending on June 30 of
5 the last year of the term or when a successor has been duly appointed, whichever is
6 later. No member may serve more than two complete consecutive terms.

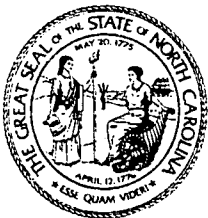
7 (c) Qualifications. – Members appointed by the Governor shall hold a license
8 issued by the Board and shall be engaged in full-time employment in this State in a
9 practice authorized by his or her license. Public members shall not be licensed under
10 this Article or employed by a person who is licensed under this Article.

11 (d) Vacancies. – A vacancy shall be filled in the same manner as the original
12 appointment, except that all unexpired terms of Board members appointed by the
13 General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill
14 vacancies shall serve the remainder of the unexpired term and until their successors
15 have been duly appointed and qualified.

16 (e) Removal. – The Board may remove any of its members for neglect of duty,
17 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
18 as a licensee shall be disqualified from participating in the official business of the Board
19 until the charges have been resolved."

20 **SECTION 3.** Members serving on the Board of Mortuary Science on the
21 effective date of this act shall continue to serve until June 30, 2003. In establishing
22 staggered terms for appointments made pursuant to G.S. 90-210.18A, as enacted by
23 Section 2 of this act, the Governor shall appoint one member to serve a one-year term,
24 three members to serve two-year terms, and three members to serve three-year terms.
25 The General Assembly, upon the recommendation of the President Pro Tempore of the
26 Senate, shall appoint one member for a one-year term, and the General Assembly, upon
27 the recommendation of the Speaker of the House of Representatives, shall appoint one
28 member for a one-year term. After the staggered terms have been established, members
29 appointed to the Board thereafter shall serve three-year terms.

30 **SECTION 4.** This act is effective when it becomes law.



HOUSE BILL 859: Board of Mortuary Science

4-16-03

BILL ANALYSIS

Committee: House State Government
Committee

Date: April 15, 2003

Version: First Edition

Introduced by: Representative Adams

Summary by: Tim Hovis
Committee Counsel

SUMMARY: House Bill 859 eliminates the current system of statewide voting to elect members to the North Carolina Board of Mortuary Science. The bill replaces the current system with a nine member Board appointed by the Governor (7 professional members) and the General Assembly (2 public members). Members serve for staggered three-year terms. Professional members must hold a funeral director's or funeral service license. Public members may neither hold a license nor be employed by a licensed professional.

BILL ANALYSIS: Section 1 of the bill repeals G.S. 90-218.18 which governs the method for electing and appointing members to the Board of Mortuary Science. Under current law, the Board consists of nine members--six professional members and three public members. Persons licensed in the state to practice embalming, funeral directing, or funeral service elect professional members to the Board in a statewide election. Public members are appointed by the Governor (1 member) and the General Assembly (2 members, upon recommendation of the President Pro Tempore and the Speaker). Current law requires that public members may neither be licensed nor employed by a licensee. Members serve for three year terms.

The bill replaces the current elected system with a nine member Board appointed by the Governor (7 professional members) and the General Assembly (2 public members). Members serve for staggered three-year terms. Seven professional members are appointed by the Governor upon recommendation of the North Carolina Funeral Directors Association, Inc. (4 recommendations), and the Funeral Directors & Morticians Association of North Carolina, Inc. (3 recommendations). The Governor may reject a recommendation from either group. Professional members must hold a license issued by the Board and be engaged in full-time employment. Two public members are appointed by the General Assembly upon recommendation of the President Pro Tempore and the Speaker. The bill maintains the requirement that public members be neither licensed nor employed by a licensee.

EFFECTIVE DATE: House Bill 859 is effective when it becomes law. Members currently serving on the Board shall continue to serve until June 30, 2003.

Article 13A.

Practice of Funeral Service.

§ 90-210.18. Construction of Article; State Board; members; election; qualifications; term; vacancies.

(a) The General Assembly declares that the practice of funeral service affects the public health, safety and welfare, and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina, and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Mortuary Science is created and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

- (1) Four funeral service licensees or persons holding both funeral director's license and an embalmer's license,
- (2) Two persons holding a funeral director's license or a funeral service license, and
- (3) Three public members.

(b1) A member's term shall be three years and shall expire on December 31 or when his or her successor has been duly elected or appointed. No member may serve more than two complete consecutive terms. All members of the Board shall have full voting authority.

(b2) The six seats on the Board for licensees shall be filled in an election in which every person licensed to practice embalming, funeral directing, or funeral service in this State may vote. No licensee may be nominated, elected, or serve unless he holds a North Carolina license in the class designated for the seat and unless the licensee is engaged in full-time employment in this State in a practice authorized by the licensee's license. Any vacancy occurring in an elective seat on the Board shall be filled for the unexpired term by majority vote of the remaining Board members.

(b3) The Governor, the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and the General Assembly upon the recommendation of the Speaker of the House of Representatives shall each appoint one public member to the Board. The public members of the Board may neither be licensed under this Article nor employed by a person who is. A vacancy occurring in a public member's seat shall be filled for the unexpired term by the appointing official.

(c) Nominations and elections of members of the North Carolina State Board of Mortuary Science shall be as follows:

- (1) An election shall be held each year to elect two persons for membership on the Board of Mortuary Science, each to take office on the first day of January following the election. If in any year the election of a member of the Board is not completed by January 1, the member elected that year shall take office immediately after completion of the election.
- (2) Every embalmer, funeral director and funeral service licensee with a current North Carolina license shall be eligible to vote in all elections.

The holding of such a license to practice in North Carolina shall constitute registration to vote in such elections. The list of licensed embalmers, funeral directors and funeral service licensees shall constitute the registration list for elections.

- (3) All elections shall be conducted by the State Board of Mortuary Science which is hereby constituted a Board of Mortuary Science Elections. If a member of the State Board of Mortuary Science whose position is to be filled at any election is nominated to succeed himself and does not withdraw his name, he shall be disqualified to serve as a member of the Board of Mortuary Science Elections for that election and the remaining members of the Board of Mortuary Science Elections shall proceed and function without his participation.
- (4) Nomination of candidates for election shall be made to the Board of Mortuary Science Elections by a written petition signed by not less than 20 embalmers, funeral directors or funeral service licensees licensed to practice in North Carolina, and filed with said Board of Mortuary Science Elections subsequent to the first day of May of the year in which the election is to be held and not later than midnight of the first day of August of such year, or not later than such earlier date (not before July 1) as may be set by the Board of Mortuary Science Elections: Provided, that not less than 10 days' notice of such earlier date shall be given to all embalmers, funeral directors and funeral service licensees qualified to sign a petition of nomination.
- (5) Any person who is nominated as provided in subdivision (4) above may withdraw his name by written notice delivered to the Board of Mortuary Science Elections or its designated secretary at any time prior to the closing of the polls in any election.
- (5a) Repealed by Session Laws 1983, c. 69, s. 3.
- (6) Following the close of nominations, there shall be prepared, under and in accordance with such rules and regulations as the Board of Mortuary Science Elections shall prescribe, ballots containing identification of the seats for election and, in alphabetical order, the names of all nominees for each seat. Each ballot shall have such method of identification, and such instructions and requirements printed thereon, as shall be prescribed by the Board of Mortuary Science Elections at such time as may be fixed by the Board of Mortuary Science Elections a ballot and a return official envelope addressed to said Board shall be mailed to each embalmer, funeral director and funeral service licensee licensed to practice in North Carolina, together with a notice by said Board designating the latest day and hour for return mailing and containing such other items as such Board may see fit to include. The said envelope shall bear a serial number and shall have printed on the left portion of its face the following:

"Serial No. of Envelope _____
Signature of Voter _____
Address of Voter _____

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope)." The Board of Mortuary Science Elections may cause to be printed or stamped or written on said envelope such additional notice as it may see fit to give. No ballot shall be valid or shall be counted in an election unless within the time hereinafter provided it has been delivered to said Board by hand or by mail and shall be sealed. The said Board by rule may make provision for replacement of lost or destroyed envelopes or ballots upon making proper provisions to safeguard against abuse.

- (7) The date and hour fixed by the Board of Mortuary Science Elections as the latest time for delivery by hand or mailing of said return ballots shall be not earlier than the tenth day following the mailing of the envelopes and ballots to the voters.
- (8) The said ballots shall be canvassed by the Board of Mortuary Science Elections beginning at 1:00 p.m. on a day and at a place set by said Board and announced by it in the notice accompanying the sending out of the ballots and envelopes, said date to be not later than four days after the date fixed by the Board for the closing of the balloting. The canvassing shall be made publicly and any licensed embalmer, funeral director or funeral service licensee may be present. The counting of ballots shall be conducted as follows: The envelopes shall be displayed to the persons present and an opportunity shall be given to any person present to challenge the qualification of the voter whose signature appears on the envelope or to challenge the validity of the envelope. Any envelope (with enclosed ballot) challenged shall be set aside, and the challenge shall be heard later or at that time by said Board. After the envelopes have been so exhibited, those not challenged shall be opened and the ballots extracted therefrom, insofar as practicable without showing the marking on the ballots, and there shall be a final and complete separation of each envelope and its enclosed ballot. Thereafter each ballot shall be presented for counting, shall be displayed and, if not challenged, shall be counted. No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election: Provided, that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choices or choice from the ballot. The counting of ballots shall be continued until completed. During the counting, challenge may be made to any ballot on the grounds only of defects appearing on the face of the ballot. The said Board may decide the challenge immediately when it is made or it may put aside the ballot

and determine the challenge upon the conclusion of the counting of the ballots.

- (9) a. Election shall be determined by a majority of the votes cast. As used in this subdivision "category I" refers to the seat held by a funeral service licensee or a person holding both a funeral director's license and an embalmer's license, and "category II" refers to the seat held by a funeral director or a funeral service licensee. A majority shall be determined:
 1. In an election to fill one seat in category I and one seat in category II, and if there are two or more candidates for a category, the majority shall be determined by dividing the total vote cast for all candidates in the category by two. An excess of the sum so ascertained shall be a majority.
 2. In an election to fill two seats in the same category, and if there are more than two candidates, the majority shall be determined by dividing the total vote cast for all candidates by two and by dividing the result by two. Any excess of the sum so ascertained shall be a majority. If more than two candidates obtain a majority the two having the highest vote shall be declared elected.
- b. If there is a failure to obtain a majority of the votes cast for any seat the following procedures shall apply:
 1. In an election to fill one seat in category I and one seat in category II, and if no candidate receives a majority in a category, the candidate receiving the highest number of votes in that category shall be declared elected unless the candidate receiving the second highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election, the names of the candidates who received the highest and the next highest number of votes shall appear on the ballot.
 2. In an election to fill two seats in the same category, and if no candidate receives a majority, the two candidates receiving the highest number of votes shall be declared elected unless the candidate receiving the next highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election the names of the two candidates who received the highest number of votes in the first election and the name of the candidate who received the next highest number of votes shall appear on the ballot, and the two candidates who receive the highest

number of votes in the second election shall be declared elected. If in the first election only one candidate fails to receive a majority, the candidate receiving the highest number of votes, but not a majority, shall be declared elected unless the candidate receiving the next highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election the name of the candidate who received the highest number of votes, but not a majority, in the first election and the name of the candidate who received the next highest number of votes shall appear on the ballot, and the candidate who receives the higher number of votes in the second election shall be declared elected.

- c. In any election if there is a tie between candidates the tie shall be resolved by a vote of the Board, provided that if a member of the Board is one of the candidates in the tie he may not participate in such vote.
- (10) In the event there shall be required a second election, there shall be followed the same procedure as outlined in the paragraphs above subject to the same limitations and requirements.
- (11) In the case of the death or withdrawal of a candidate prior to the closing of the polls in any election, he shall be eliminated from the contest and any votes cast for him shall be disregarded. If, at any time after the closing of the period for nominations, because of lack of plural or proper nominations, or death, or withdrawal, or disqualification or any other reason, there shall be (i) only one candidate for a position, he shall be declared elected by the Board of Mortuary Science Elections, or (ii) no candidate for a position, the position shall be filled by the State Board of Mortuary Science. In the event of the death or withdrawal of a candidate after election but before taking office, the position to which he was elected shall be filled by the State Board of Mortuary Science. In the event of the death or resignation of a member of the State Board of Mortuary Science, after taking office, his position shall be filled for the unexpired term by the State Board of Mortuary Science.
- (12) An official list of all licensed embalmers, funeral directors and funeral service licensees shall be kept at an office of the Board of Mortuary Science Elections and shall be open to the inspection of any person at all times. Copies may be made by any licensed embalmer, funeral director or funeral service licensee. As soon as the voting in any election begins, a list of the licensed embalmers, funeral directors, and funeral service licensees shall be posted in such office of said Board and

indication by mark or otherwise shall be made on that list to show whether a ballot-enclosing envelope has been returned.

- (13) All envelopes enclosing ballots and all ballots shall be preserved and held separately by the Board of Mortuary Science Elections for a period of six months following the close of an election.
- (14) From any decision of the Board of Mortuary Science Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner otherwise provided by Chapter 150B of the General Statutes of North Carolina.
- (15) The Board of Mortuary Science Elections is authorized to make rules and regulations relative to the conduct of these elections, provided same are not in conflict with the provisions of this section and provided that notice shall be given to all licensed embalmers, funeral directors, and funeral service licensees.

(d) The Board of Mortuary Science Elections is authorized to appoint such secretary or secretaries and/or assistant secretary or assistant secretaries to perform such functions in connection with such nominations and elections as said Board shall determine, provided that any protestant or contestant shall have the right to a hearing by said Board in connection with any challenge of a voter, or an envelope, or a ballot or the counting of an election. Said Board is authorized to designate an office or offices for the keeping of lists of registered embalmers, funeral directors and funeral service licensees, for the issuance and receipt of envelopes and ballots. (1901, c. 338, ss. 1-3; Rev., s. 4384; C.S., s. 6777; 1931, c. 174; 1945, c. 98, s. 1; 1949, c. 951, s. 1; 1957, c. 1240, s. 1; 1965, c. 630, s. 1; 1973, c. 476, s. 128; 1975, c. 571; 1979, c. 461, ss. 1-4; 1983, c. 69, ss. 1-4; 1987, c. 430, s. 1; c. 827, s. 1; c. 879, s. 6.2; 1991, c. 528, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 901, s. 3; 2001-294, s. 1; 2001-486, s. 2.3(a).)

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 796 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT THE APPROVAL OF THE GENERAL ASSEMBLY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to the committee substitute bill (# _____), ☐ which changes the title, unfavorable as to the original bill. (~~Committee Substitute Bill # _____~~), (and ~~recommendation that the committee substitute bill # _____~~) be re-referred to the Committee on _____.)

☐ With a favorable report as to House committee substitute bill (# _____), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 796

PROPOSED COMMITTEE SUBSTITUTE H796-PCS45065-RC-15

Short Title: Prohibit Sale of Dorothea Dix Property.

(Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY
ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT
THE APPROVAL OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 146-27 is amended by adding a new subsection to read:

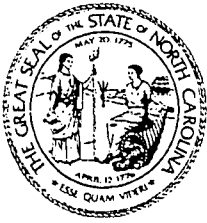
"§ 146-27. The role of the Department of Administration in sales, leases, and
~~rentals.~~ rentals; sale of Dix Campus.

(a) General. – Every sale, lease, rental, or gift of land owned by the State or by
any State agency shall be made by the Department of Administration and approved by
the Governor and Council of State. A lease or rental of land owned by the State may not
exceed a period of 99 years. The Department of Administration may initiate
proceedings for sales, leases, rentals, and gifts of land owned by the State or by any
State agency.

(b) Large Disposition. – If a proposed disposition is a sale or gift of land with an
appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall
not be made until after consultation with the Joint Legislative Commission on
Governmental Operations.

(c) Notwithstanding any other provision of law, the State-owned real property
encompassing the Dorothea Dix Hospital campus shall not be sold without the prior
approval of the General Assembly. As used in this subsection, 'prior approval of the
General Assembly' shall mean the passage of a joint resolution approving the sale."

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



HOUSE BILL 796: Prohibit Sale of Dorothea Dix Property

BILL ANALYSIS

Committee: House State Government
Date: April 9, 2003
Version: Proposed Committee Substitute
H796-SMRC-15[v.1]

Introduced by: Reps. Allen, Ross, Miner,
Hackney
Summary by: Kory J. Goldsmith & Shirley
Iorio, Committee Staff

SUMMARY: *HB 796 would prohibit the sale of the real property encompassing the Dorothea Dix hospital campus without the prior approval of the General Assembly. Prior approval would mean passage of a joint resolution approving the sale.*

CURRENT LAW: Article 7 of Chapter 146 governs the disposition of State lands. Generally, an agency must obtain the approval of the Governor and the Council of State prior to any sale, lease, rental or gift of land owned by the State. If the proposed transaction of the sale or gift of real property appraised at \$25, 000 or more, the disposition cannot be made until after consultation with the Joint Legislative Commission on Governmental Operations (Gov Ops).

The following procedure applies for obtaining approval for a disposition of property:

- The agency files an application with the Department of Administration (DOA). The application must include facts relating to the disposition and the agency must provide addition information to the DOA if requested.
- DOA investigates all aspects of the proposed disposition including the present and future State needs for the property.
- If DOA determines the disposition is in the best interest of the State, it proceeds with the transaction according to rules adopted by the Governor and Council of State.
- When DOA reaches an agreement for the disposition, the proposed transaction is submitted to the Governor and Council of State for approval or disapproval.

G.S. 146-29.1 prohibits the sale of State real property for less than fair market value to any private, for-profit entity. Conveyances for less than fair market value to a "public entity" is allowed, but the sale must be reported to Gov Ops and the Fiscal Research Division at least 30 days prior to the sale. A public entity includes a county, a municipality, a local board of education, a community college, a special district or other political subdivision of the State.

The PCS differs from the original bill in that it codifies new language and also defines "prior approval of the General Assembly" as passage of a joint resolution approving the sale.

The act is effective when it becomes law.

BACKGROUND (Taken from History of North Carolina by Samuel A'Court Ashe, LL.D.): The North Carolina General Assembly began to discuss the idea of an "asylum for the insane" in 1848. At that time, hundreds of insane people were in the jails and courthouses of the counties. Miss Dorothea Dix of Boston, long devoted in her efforts to have the insane of this country properly cared for, had visited the jails of North Carolina and was urging the legislature to construct an asylum. She prepared information

HOUSE BILL 796

Page 2

that was distributed to the members of the General Assembly, but there was opposition to any appropriation for this purpose. However, Mr. James Dobbin, "the greatest benefactor of the State", made an appeal to the Assembly. "Dobbin made an appeal that touched the souls of men and awakened the consciences of the people." A bill was introduced, passed, and an appropriation was made. The bill provided for the establishment of a State Hospital for the Insane in North Carolina to be built near the city of Raleigh. When the site of the institution was selected it was named Dix Hill in commemoration of Miss Dix's great public service.

"No greater service was ever rendered to North Carolina than the service of Dorothea Dix and James C. Dobbin."

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H.

1

HOUSE BILL 796

Short Title: Prohibit Sale of Dorothea Dix Property. (Public)

Sponsors: Representatives B. Allen, Ross, Miner, Hackney (Primary Sponsors);
Weiss, Ellis, Capps, Munford, Stam, Eddins, Bell, Jones, Luebke,
McHenry, Parmon, Rapp, and Womble.

Referred to: State Government.

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE SALE OF STATE-OWNED REAL PROPERTY
ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS WITHOUT
THE APPROVAL OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, the State-owned
real property encompassing the Dorothea Dix Hospital campus shall not be sold without
the prior approval of the General Assembly.

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

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, April 23, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: ***Chair Larry Womble, Vice-Chairs Alma Adams, Bernard Allen. Representatives Baker, Bowie, Capps, Culp, Dockham, England, Goforth, Setzer, and Warner.*** Also Kory Goldsmith, Theresa Matula, and Shirley Iorio, Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Chairman Larry Womble started the meeting with introductions of today's Pages and Sergeant at Arms. He then introduced members and staff and welcomed all visitors.

Chairman Womble called attention to the first order of business HB 727, **Soil and Water Conservation Commission**, and called upon the bill sponsor, Representative Arlie Culp, to explain the bill. After a brief explanation, there being no opposition, Representative Jerry Dockham moved for a favorable report which was seconded by Representative Bernard Allen. The committee voted unanimously to give a favorable report to the bill.

Next on the agenda was HB 924, **State Government EEO**. The Chair called upon Representative Paul Luebke to explain the bill. The committee was informed there was a PCS on the bill. The PCS was put before the committee. Representative Dockham made a motion to accept the PCS. Motion carried. Representative Luebke said the bill in essence stated that no one could be denied employment by the State of North Carolina because of sexual preference. Representative Alma Adams commented she thought this was a good bill and inquired as to any data available regarding discrimination. Representative Luebke said he felt that several people who had asked to speak today would be addressing that issue.

Representative Dockham asked if this would expand such things as benefits for those state employees and was assured it did not. Representative Culp asked if sexual orientation was listed on the state application and was told it was not.

The first speaker was Jo Wyrick, Executive Director of Equality of North Carolina. She began by saying that two-third's of the Fortune 500 already had policies such as this in place and that it has been good for all those businesses. Also, twenty-two states and the District of Columbia have already passed this legislation with no repercussions.

Next to speak was Richard Myracle, a concerned North Carolina citizen. Richard told the committee that he had worked many years and had done extremely well for himself. With his income, he had supported many charities and enriched the community by sharing and working with others. One of his employers discovered he was gay and wanted to fire him immediately. Fortunately, the other employer disagreed and he was able to maintain employment enabling him to continue his community work.

Also spoke in support:

- Adam Robinson, a native of Gaston County who said this law would just make people feel safer in their work place;
- Troy Page, an employee of the Administrative Office of the Courts; and

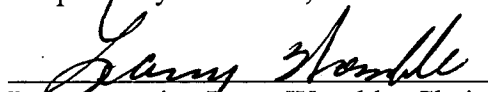
- Ardis Watkins with the State Employees Association said they had no opposition to this bill.

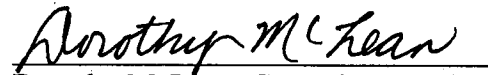
Mr. John Ruston with the N.C. Family Policy Council spoke in opposition along with Victoria Peterson, a concerned citizen, and Mr. Steven Bollinger, a schoolteacher.

The bill sponsor, Representative Paul Luebke, asked that the bill be displaced, and not voted on today.

There being no further business, the Chair adjourned the meeting at 11:50 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE ORGANIZATIONAL MEETING

April 23, 2003

11:00 a.m.

Room 1425 LB

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 924	State Government EEO.	Rep. Luebke
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HB 727	Soil and Water Conservation	Rep. Culp
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COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-23-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Ian Palmquist	Equality, NC PO Box 28768 Raleigh NC 27611
Richard Myracle	7925 Featherstone Drive Raleigh NC 27615
Jo Wyrick	Equality NC PO Box 28768 Raleigh NC 27611
Steven Bollinger	Citizen 2716 Duke Homestead Rd, Dur. 27705
Zachary Whitley	9101 Greenbriar Station Chapel Hill NC 27516
Troy D. Page	(AOC employee) 430 WAYNE DR. RALEIGH, NC 27608
Kari Garbross	NC DENIR
Kerstin Byrum	Rep -
John Rustin	NC Family Policy Council
V. Peterson	Durham
Frank Lewis	ASBm

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-23-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan Beeman	JMSW Program UNC - Greensboro
Maura Nisner	JMSW Program
Kenya Kane	SMSW Program
Jamillah Bynum	JMSW Program
Marc Lewis	JMSW Program Student
Ginger Stewart	Joint Masters of Social Work Program UNCG + A&T
Onique Williams	SMSW Program
Shonny Williams	JMSW
Emily Liddle	JMSW
Quana Spinks	SMSW Program
Benita Davis	JMSW
BETTY RIDER	PERSONAL 15 Stephen Hillsborough NC 27278

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-23-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Natasha Johnson	JMSW
Erette R. Bethea	JMSW program NCA+TGU and UNC-G
Lynn Bomer	NAO
Adam Robinson	Citizen (Wake Co.)
Brian Lewis	Planned Parenthood Health Sys.
Rachael Young	Common Sense Foundation
Shant Duhur	Charlotte Observer
Janic Sohn	Citizen (Orange County) / UNC-CH
Raig Johnson	Planned Parenthood
Melody Moore	JMSW NCA+T/UNC-G Child Welfare Scholar
Christine A. Mills	Joint Master of Social Work Program NC A+T and UNC-G / Child Welfare Collaborat

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-23-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

[illegible]

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 727 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT MEMBERS OF THE
SOIL AND WATER CONSERVATION COMMISSION ARE AUTHORIZED TO HOLD
OFFICE CONCURRENTLY WITH OTHER ELECTIVE OR APPOINTIVE OFFICES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 727

Short Title: Soil and Water Conservation Commission.

(Public)

Sponsors: Representatives Culp; Barbee, Blust, Church, Dockham, Fox, Gibson, Hill, Lewis, McGee, Ray, Rhodes, Saunders, Tolson, Walker, West, G. Wilson, and Yongue.

Referred to: State Government.

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT MEMBERS OF THE SOIL AND WATER
CONSERVATION COMMISSION ARE AUTHORIZED TO HOLD OFFICE
CONCURRENTLY WITH OTHER ELECTIVE OR APPOINTIVE OFFICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-295 reads as rewritten:

"§ 143B-295. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.

(a) The Soil and Water Conservation Commission of the Department of Environment and Natural Resources shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members:

(1) The president, first vice-president, and immediate past president of the North Carolina Association of Soil and Water Conservation Districts. Vacancies arising in any of these positions shall be filled through appointment by the Governor upon the nomination by the executive committee of the North Carolina Association of Soil and Water Conservation Districts;

(2) Three supervisor members nominated by the North Carolina Association of Soil and Water Conservation Districts from its own membership representing the three major geographical regions of the State and appointed by the Governor;

(3) One member appointed at large by the Governor.

(b) The members of the Commission, except those members serving in an ex officio capacity, shall be appointed for terms of three years and shall serve until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

1 (c) The office of member of the Soil and Water Conservation Commission may
2 be held concurrently with any other ~~elected or appointed~~ elective or appointive office, as
3 ~~authorized by G.S.128-1.1 and Article VI, Section 9, of the Constitution of North~~
4 ~~Carolina.~~ in addition to the maximum number of offices permitted to be held by one
5 person under G.S. 128-1.1.

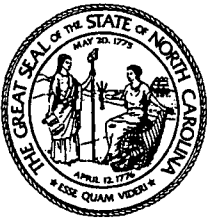
6 (d) The Governor shall have the power to remove any member of the
7 Commission from office for misfeasance, malfeasance, and nonfeasance according to
8 the provisions of G.S. 143B-13.

9 (e) The members of the Commission shall receive per diem and necessary travel
10 and subsistence expenses in accordance with the provisions of G.S. 138-5.

11 (f) A majority of the Commission shall constitute a quorum for the transaction of
12 business.

13 (g) All clerical and other services required by the Commission shall be supplied
14 by the Secretary of Environment and Natural Resources."

15 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 727: Soil and Water Conservation Commission

BILL ANALYSIS

Committee: House State Government
Date: April 22, 2003
Version: 1st Edition

Introduced by: Representative Culp
Summary by: Kory J. Goldsmith
Committee Counsel

SUMMARY: *HB 727 would allow a member of the Soil and Water Conservation Commission to concurrently hold that office as well as another appointed and another elected office.*

CURRENT LAW: Section 9(2) of Article VI of the North Carolina Constitution prohibits a person from concurrently holding two offices elected by the people. It also prohibits a person from concurrently holding more than two appointive offices, or any combination of appointive and elected offices, except as provided by statute. G.S. 128-1.1 prohibits a person from concurrently holding more than one elected and one appointive office.

BILL ANALYSIS: The bill amends G.S. 143B-295 regarding dual office holding for a member of the Soil and Water Conservation Commission. The change would allow a member of the commission to also concurrently hold one elected and one appointed office. Given the constitutional prohibition against concurrently holding two elected offices, the change would not allow a person to concurrently hold one appointed office and two elected offices.

The act is effective when it becomes law.

H727-SMRC-001

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE BILL 924
PROPOSED COMMITTEE SUBSTITUTE H924-CSSH-7 [v.1]

4/22/2003 1:19:39 PM

Short Title: State Government EEO.

(Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED
AN ACT AMENDING THE STATE PERSONNEL ACT TO INCLUDE SEXUAL
ORIENTATION TO THE LIST OF CLASSIFICATIONS COVERED BY THE
STATE'S EQUAL EMPLOYMENT OPPORTUNITY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, sexual orientation, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age."

SECTION 2. G.S. 126-34.1 reads as rewritten:

"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.

(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:

(1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.

(2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:

a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion, creed,

- 1 political affiliation, sexual orientation, or handicapping
2 condition as defined by Chapter 168A of the General Statutes.
- 3 b. Demotion, reduction in force, or termination of an employee in
4 retaliation for the employee's opposition to alleged
5 discrimination on account of the employee's age, sex, race,
6 color, national origin, religion, creed, political affiliation, sexual
7 orientation, or handicapping condition as defined by Chapter
8 168A of the General Statutes.
- 9 (3) Retaliation against an employee, as proscribed by G.S. 126-17, for
10 protesting an alleged violation of G.S. 126-16.
- 11 (4) Denial of the veteran's preference granted in accordance with Article
12 13 of this Chapter in initial State employment or in connection with a
13 reduction in force, for an eligible veteran as defined by G.S. 126-81.
- 14 (5) Denial of promotion for failure to post or failure to give priority
15 consideration for promotion or reemployment, to a career State
16 employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- 17 (6) Denial of an employee's request for removal of allegedly inaccurate or
18 misleading information from the employee's personnel file as provided
19 by G.S. 126-25.
- 20 (7) Any retaliatory personnel action that violates G.S. 126-85.
- 21 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial
22 determination found probable cause to believe there has been a
23 violation of G.S. 126-14.2.
- 24 (9) Denial of employment in violation of G.S. 126-14.2, where an initial
25 determination found probable cause to believe that there has been a
26 violation of G.S. 126-14.2.
- 27 (10) Harassment in the workplace based upon age, sex, race, color, national
28 origin, religion, creed, sexual orientation, or handicapping condition,
29 whether the harassment is based upon the creation of a hostile work
30 environment or upon a quid pro quo.
- 31 (11) Violation of any of the following federal statutes as applied to the
32 employee:
- 33 a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- 34 b. The Age Discrimination in Employment Act, 29 U.S.C. § 621,
35 et seq.
- 36 c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
- 37 d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- 38 (b) An applicant for initial State employment may file in the Office of
39 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
40 General Statutes based upon:
- 41 (1) Alleged denial of employment in violation of G.S. 126-16.
- 42 (2) Denial of the applicant's request for removal of allegedly inaccurate or
43 misleading information from the personnel file as provided by G.S.
44 126-25.

- 1 (3) Denial of equal opportunity for employment and compensation on
2 account of the employee's age, sex, race, color, national origin,
3 religion, creed, political affiliation, sexual orientation, or handicapping
4 condition as defined by Chapter 168A of the General Statutes. This
5 subsection with respect to equal opportunity as to age shall be limited
6 to persons who are at least 40 years of age. An applicant may not,
7 however, file a contested case where political affiliation was the reason
8 for the person's nonselection for (i) an exempt policymaking position
9 as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief
10 administrative assistant position under G.S. 126-5(c)(4), or (iii) a
11 confidential assistant or confidential secretary position under G.S.
12 126-5(c)(2).
- 13 (4) Denial of the veteran's preference in initial State employment provided
14 by Article 13 of this Chapter, for an eligible veteran as defined by G.S.
15 126-81.
- 16 (5) Denial of employment in violation of G.S. 126-14.2, where an initial
17 determination found probable cause to believe that there has been a
18 violation of G.S. 126-14.2.

19 (c) In the case of a dispute as to whether a State employee's position is properly
20 exempted from the State Personnel Act under G.S. 126-5, the employee may file in the
21 Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of
22 the General Statutes.

23 (d) A State employee or applicant for State employment may file in the Office of
24 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
25 General Statutes based upon a false accusation regarding, or disciplinary action relating
26 to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

27 (e) Any issue for which appeal to the State Personnel Commission through the
28 filing of a contested case under Article 3 of Chapter 150B of the General Statutes has
29 not been specifically authorized by this section shall not be grounds for a contested case
30 under Chapter 126."

31 **SECTION 3.** G.S. 126-36 reads as rewritten:

32 **"§ 126-36. Appeal of unlawful State employment practice.**

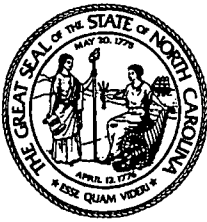
33 (a) Any State employee or former State employee who has reason to believe that
34 employment, promotion, training, or transfer was denied the employee or that demotion,
35 layoff, transfer, or termination of employment was forced upon the employee in
36 retaliation for opposition to alleged discrimination or because of the employee's age,
37 sex, race, color, national origin, religion, creed, political affiliation, sexual orientation,
38 or handicapping condition as defined by G.S. 168A-3 except where specific age, sex or
39 physical requirements constitute a bona fide occupational qualification necessary to
40 proper and efficient administration, shall have the right to appeal directly to the State
41 Personnel Commission.

42 (b) Subject to the requirements of G.S. 126-34, any State employee or former
43 State employee who has reason to believe that the employee has been subjected to any

1 of the following shall have the right to appeal directly to the State Personnel
2 Commission:

- 3 (1) Harassment in the workplace based upon age, sex, race, color, national
4 origin, religion, creed, sexual orientation, or handicapping condition,
5 whether the harassment is based upon the creation of a hostile work
6 environment or upon a quid pro quo.
- 7 (2) Retaliation for opposition to harassment in the workplace based upon
8 age, sex, race, color, national origin, religion, creed, sexual orientation,
9 or handicapping condition, whether the harassment is based upon the
10 creation of a hostile work environment or upon a quid pro quo."

11 **SECTION 4.** This act is effective when it becomes law.



4-23-03

PCS FOR HOUSE BILL 924: State Government EEO

BILL ANALYSIS

Committee: House State Government
Date: April 22, 2003
Version: v.1; PCS (H924-CSSH-7)

Introduced by: Representative Luebke
Summary by: Theresa Matula
Committee Staff

SUMMARY: *The Proposed Committee Substitute for House Bill 924 provides equal opportunity for employment and compensation without regard to sexual orientation for covered State employees; and provides an appeal process for employees, former employees, or applicants for initial employment.*

(The PCS deletes the terms "gender identity" and "gender expression" in the original bill.)

BILL ANALYSIS:

Section 1 amends G.S. 126-16 to require all State departments and agencies and all local political subdivisions of North Carolina to give equal opportunity for employment and compensation, without regard to sexual orientation. G.S. 126-16 is in Article 6 of Chapter 126, as such these provisions shall apply to the employees specified in G.S. 126-5 (c), (c1), (c3) (c7) and (c8).¹

Section 2 amends G.S. 126-34.1 to provide that any of the following actions based on an employee's sexual orientation is grounds for a State employee or former State employee to file a contested case under Article 3 of Chapter 150B: denial of promotion, transfer, or training; demotion, reduction in force, or termination of an employee in retaliation of the employee's opposition to alleged discrimination; or harassment in the workplace. An applicant for initial State employment may file a contested case based upon denial of equal opportunity for employment and compensation on account of the employee's sexual orientation.

Section 3 amends G.S. 126-36 to allow appeal directly to the State Personnel Commission if a State employee or former State employee has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination because of the employee's sexual orientation.

Section 4 establishes that this act is effective when it becomes law.

CURRENT LAWS:

North Carolina

In addition to the equal employment laws in Chapter 126, there is also a provision in Chapter 143 of the North Carolina General Statutes. Article 49A of Chapter 143 of the North Carolina General Statutes establishes that it "is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap by employers which regularly employ 15 or more employees." Sexual orientation is not specifically listed.

Federal

- The Fifth Amendment of the United States Constitution requires that no person be deprived of life, liberty, or property without due process of law. The Fourteenth Amendment prohibits states from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

PCS FOR HOUSE BILL 924

Page 2

- 1866 Civil Rights Act provides that all persons shall have the same right as white citizens to make and enforce contracts, and to have equal treatment under the laws of each state. The U.S. Supreme Court has held that this law applies to employment discrimination against minority groups, as well as members of various ethnic groups. (42 USC 1981)
- Title VII of the Civil Rights Act of 1964 prohibits discrimination due to race, color, religion, sex, and national origin in hiring employment and termination. (42 USC 2000e)
- The Age Discrimination in Employment Act (ADEA)² prohibits discrimination in hiring, employment or termination against applicants and employees age 40 and over. (29 USC 621)
- The Equal Pay Act (EPA) prohibits discrimination due to sex in the payment of wages, by barring payment of a lower wage to one sex than to the opposite sex for jobs of equal skill, effort and responsibility which are performed under similar working conditions. There are exceptions if the employer can show that the difference is due to a seniority system, a merit system, a system basing earnings on quantity/quality of work or some other bona fide factor. (29 USC 206(d))
- Americans with Disabilities Act (ADA)² prohibits discrimination against individuals with a serious disability if they are able to perform the essential functions of the job without special accommodations, or if they can perform the essential functions with reasonable accommodations. (42 USC 12101)

Although discrimination on the basis of sexual orientation is not specifically listed as a prohibitive act, it may not prevent a successful claim against discrimination from being brought in the future.

CURRENT STATE PERSONNEL POLICIES:

Equal Employment Opportunity and Unlawful Workplace Harassment policies may be found in Section 1 of the State Personnel Manual.

- EEO: <http://www.osp.state.nc.us/manuals/manual99/eoo.pdf>
- Workplace Harassment: <http://www.osp.state.nc.us/manuals/manual99/wkplhs.pdf>

¹ G.S. 126-5 (c), (c1), (c3), (c7) and (c8) generally include the following: State employees who are not career State employees, Chief deputy/chief administrative assistant to the head of each State department, Confidential assistant and secretaries for elected or appointed department heads/chief deputies/chief administrative assistants, Employees in exempt policymaking positions; Constitutional officers of the State; Officers and employees of the Judicial Department and General Assembly; Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis; Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State; Employees of the Office of the Governor and the Office of the Lieutenant Governor; Instructional and research staff, physicians, and dentists of The University of North Carolina; Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina; North Carolina School of Science and Mathematics' employees; Employees of the North Carolina State Ports Authority; Employees of the North Carolina Global TransPark Authority; Executive director and one associate director of the North Carolina Center for Nursing; Executive director of the independent staff of the Information Resources Management Commission; Employees of the Tobacco Trust Fund Commission; Employees of the Health and Wellness Trust Fund Commission; Employees of the North Carolina Rural Redevelopment Authority; Employees of the Clean Water Management Trust Fund; Employees of the North Carolina Turnpike Authority; Teaching and related educational classes of employees of the Department of Correction, the Department of Health and Human Services and any other State department, agency or institution whose salaries shall be set in the same manner as set for public school employees in Chapter 115C; Exempt managerial positions; Employees of the University of North Carolina Health Care System; Employees of the University of North Carolina Hospitals at Chapel Hill; Employees of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill; and Employees of the Medical Faculty Practice Plan.

² S.L. 2001-467 added Article 31D State Employee Federal Remedy Restoration Act to Chapter 143 of the North Carolina General Statutes. This provision waived the sovereign immunity of the State for the limited purpose of allowing State employees, except for those in exempt policy-making positions designated pursuant to G.S. 126-5(d), to maintain lawsuits in State and federal courts and obtain and satisfy judgments against the State or any of its departments, institutions or agencies under various acts including the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA). G.S. 126-34 was also amended by adding a new subdivision providing that a violation of the listed federal statutes was grounds for a contested case under Article 3 of Chapter 150B.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 924

Short Title: State Government EEO.

(Public)

Sponsors: Representative Luebke.

Referred to: State Government.

April 8, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE PERSONNEL ACT TO INCLUDE SEXUAL
ORIENTATION, GENDER IDENTITY, AND GENDER EXPRESSION TO THE
LIST OF CLASSIFICATIONS COVERED BY THE STATE'S EQUAL
EMPLOYMENT OPPORTUNITY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-16 reads as rewritten:

**"§ 126-16. Equal opportunity for employment and compensation by State
departments and agencies and local political subdivisions.**

All State departments and agencies and all local political subdivisions of North
Carolina shall give equal opportunity for employment and compensation, without regard
to race, religion, color, creed, national origin, sex, age, sexual orientation, gender
identity, gender expression, or handicapping condition as defined in G.S. 168A-3 to all
persons otherwise qualified, except where specific age, sex or physical requirements
constitute bona fide occupational qualifications necessary to proper and efficient
administration. This section with respect to equal opportunity as to age shall be limited
to individuals who are at least 40 years of age."

SECTION 2. G.S. 126-34.1 reads as rewritten:

"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.

(a) A State employee or former State employee may file in the Office of
Administrative Hearings a contested case under Article 3 of Chapter 150B of the
General Statutes only as to the following personnel actions or issues:

(1) Dismissal, demotion, or suspension without pay based upon an alleged
violation of G.S. 126-35, if the employee is a career State employee.

(2) An alleged unlawful State employment practice constituting
discrimination, as proscribed by G.S. 126-36, including:

a. Denial of promotion, transfer, or training, on account of the
employee's age, sex, race, color, national origin, religion, creed,
political affiliation, sexual orientation, gender identity, gender

- 1 expression, or handicapping condition as defined by Chapter
2 168A of the General Statutes.
- 3 b. Demotion, reduction in force, or termination of an employee in
4 retaliation for the employee's opposition to alleged
5 discrimination on account of the employee's age, sex, race,
6 color, national origin, religion, creed, political affiliation, sexual
7 orientation, gender identity, gender expression, or handicapping
8 condition as defined by Chapter 168A of the General Statutes.
- 9 (3) Retaliation against an employee, as proscribed by G.S. 126-17, for
10 protesting an alleged violation of G.S. 126-16.
- 11 (4) Denial of the veteran's preference granted in accordance with Article
12 13 of this Chapter in initial State employment or in connection with a
13 reduction in force, for an eligible veteran as defined by G.S. 126-81.
- 14 (5) Denial of promotion for failure to post or failure to give priority
15 consideration for promotion or reemployment, to a career State
16 employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- 17 (6) Denial of an employee's request for removal of allegedly inaccurate or
18 misleading information from the employee's personnel file as provided
19 by G.S. 126-25.
- 20 (7) Any retaliatory personnel action that violates G.S. 126-85.
- 21 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial
22 determination found probable cause to believe there has been a
23 violation of G.S. 126-14.2.
- 24 (9) Denial of employment in violation of G.S. 126-14.2, where an initial
25 determination found probable cause to believe that there has been a
26 violation of G.S. 126-14.2.
- 27 (10) Harassment in the workplace based upon age, sex, race, color, national
28 origin, religion, creed, sexual orientation, gender identity, gender
29 expression, or handicapping condition, whether the harassment is
30 based upon the creation of a hostile work environment or upon a quid
31 pro quo.
- 32 (11) Violation of any of the following federal statutes as applied to the
33 employee:
- 34 a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- 35 b. The Age Discrimination in Employment Act, 29 U.S.C. § 621,
36 et seq.
- 37 c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
- 38 d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- 39 (b) An applicant for initial State employment may file in the Office of
40 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
41 General Statutes based upon:
- 42 (1) Alleged denial of employment in violation of G.S. 126-16.

- (2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.
- (3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, gender identity, gender expression, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(c)(2).
- (4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.
- (5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.

(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.

(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

(e) Any issue for which appeal to the State Personnel Commission through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126."

SECTION 3. G.S. 126-36 reads as rewritten:

"§ 126-36. Appeal of unlawful State employment practice.

(a) Any State employee or former State employee who has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination or because of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, gender identity, gender expression, or handicapping condition as defined by G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the State Personnel Commission.

1 (b) Subject to the requirements of G.S. 126-34, any State employee or former
2 State employee who has reason to believe that the employee has been subjected to any
3 of the following shall have the right to appeal directly to the State Personnel
4 Commission:

5 (1) Harassment in the workplace based upon age, sex, race, color, national
6 origin, religion, creed, sexual orientation, gender identity, gender
7 expression, or handicapping condition, whether the harassment is
8 based upon the creation of a hostile work environment or upon a quid
9 pro quo.

10 (2) Retaliation for opposition to harassment in the workplace based upon
11 age, sex, race, color, national origin, religion, creed, sexual orientation,
12 gender identity, gender expression, or handicapping condition, whether
13 the harassment is based upon the creation of a hostile work
14 environment or upon a quid pro quo."

15 **SECTION 4.** This act is effective when it becomes law.

CORRECTED NOTICE

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2003-2004 SESSION

You are hereby notified that the Committee on **State Government** will meet as follows:

DAY & DATE: **Wednesday, April 23, 2003**

TIME: **11:00 a.m.**

LOCATION: **Room 1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 924	State Government EEO.	Rep. Luebke
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HB 727	Soil and Water Conservation Commission	Rep. Culp
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Respectfully,

Representative Womble
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m. on April 17, 2003.

☒ Principal Clerk
☒ Reading Clerk - House Chamber

Dorothy McLean (Committee Assistant)

MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT

The House Committee on State Government met on Wednesday, April 29, 2003, in Room 1425 of the Legislative Building at 8:00 a.m. The following members were present: **Chair Larry Womble, Vice-Chairs Alma Adams, and Bernard Allen. Representatives Baker, Bowie, Capps, Culp, Dockham, England, Goforth, Setzer, and Warner. Attending Ex-Officio Member, Representative, Culpepper.** Also Kory Goldsmith, Tim Hovis, Theresa Matula, and Shirley Iorio Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Chairman Larry Womble started the meeting with introductions of members and staff and welcomed all visitors.

Chairman Womble said the first item on the agenda was HB 751, **Kitty Hawk Land Conveyance**. Representative Bill Culpepper was called to explain the bill. There being a proposed committee substitute, Representative Goforth made motion to accept the committee substitute. Motion passed. After the explanations, Representative Baker made motion to give favorable report to the committee substitute, unfavorable to the original bill and re-refer to Finance. Motion passed.

Next item was HB 964, **Furniture Requirements Contract**, which was explained by the bill sponsor, Representative Alex Warner. Motion was made by Representative Bernard Allen for a favorable report and motion carried.

The Chair then called upon Representative Insko as bill sponsor to explain HB 1155, **State Employee Payroll Deduction/Parental Savings**. Upon completion of the bill's explanation, Representative Bowie made a motion for a favorable report and motion passed.

Representative Rick Glazier was called upon by the Chair to explain his bill, HB 958 **A Joint Resolution Authorizing the Legislative Research Commission to Study Job Sharing in State Government Employment**. Representative Bowie moved for a favorable report. Motion passed and bill was re-referred to Rules.

Chairman Larry Womble asked Representative Decker to explain his bill, HB 1221, **Return Overpayments of State Funds**. Representative Decker explained that there were approximately 350 North Carolina teachers that were overpaid last year with a bonus that should not have been given to those teachers. They did not have to repay the state for this mistake. This bill would ensure that such overpayments would be repaid to the state. Representative Alex Warner moved for a favorable report. Motion carried.

Representative Hill was then called upon to explain the next bill, HB 974, **State Purchases of Substitute for Milk**. In order to assist the dairy farmers in the state, it had been requested to discontinue the purchase of food products containing milk protein concentrate or reconstituted milk. This would help the state's dairy farmers and would also save money. Representative Rex Baker moved for a favorable report. Motion carried and the bill the unanimously passed.

Next item was HB 1052, **Consolidate Administrative Functions**. The bill sponsor, Representative Bill Owens, was called upon to explain the bill. After explanation, Representative Bernard Allen made a motion for a favorable report and motion passed.

HB 483, **Change Offensive Place-Names**, was the next bill to be brought before the committee. A technical amendment was passed out to the members and Representative Bowie moved to adopt the amendment. Amendment passed. The bill sponsor, Representative Adams, explained the bill. Upon hearing the explanation, motion was made to give the bill a favorable report as amended. Motion passed.

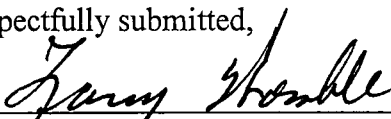
Next item to come before the committee was HB 859, **Board of Mortuary Science**. Representative Adams explained the bill had already passed the committee once, went to the House floor and was now returned. After discussion, it was decided that a subcommittee be appointed to work out differences. The subcommittee was composed of Representative Adams, Representative Goforth and Representative Setzer. They met outside and the committee recessed until decisions could be finalized regarding differences. When subcommittee returned, an amendment was offered. Representative Allen moved to adopt the amendment. Amendment passed. Representative Goforth moved for a favorable report to the committee substitute and roll over the amendment. Motion passed.

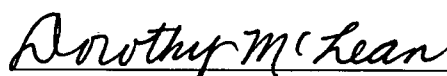
Chairman Larry Womble informed the committee that the sponsor for HB 861, **Review State Government/UNC Employment**, had requested the bill to be removed from the agenda.

Next was HB 1146, **Retainage Rules/Public Contracts**, to be explained to the committee by Representative Nesbitt, the bill sponsor. Upon hearing from the bill sponsor and questions heard on the matter, motion was made by Representative Setzer for a favorable report. Motion passed.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

REVISED 2nd AGENDA

HOUSE STATE GOVERNMENT COMMITTEE MEETING

**April 29, 2003
8:00 a.m.-10:00 a.m.
Room 1425 LB**

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

Representatives:

HB 483	Change Offensive Place- Names	Adams, Jones
HB 751	Kitty Hawk Land Conveyance	Culpepper
HB 861	Review State Government/UNC Employment	Earle, Wainwright
HB 958	Job Sharing Study St. Empl.	Glazier
HB 964	Furniture Requirements Contracts	Warner
HB 974	State Purchases of Substitute for Milk	Hill
HB 1052	Consolidate Administrative Functions	Owens, Dockham
HB 1146	Retainage Rules/Public Contracts	Nesbitt
HB 1155	St. Emp. Payroll Deduction/Parental Saving	Insko
HB 1214	No Discrimination in Commercial Contracts	Cunningham
HB 1221	Return Overpayments of State Funds	Decker
HB 859	Board on Mortuary Science	Adams

COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-29-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

David Ferrell	Vanderenter Black LLP
John Rusk	NCFPC
Michael Houser	NCAE
William H. Mansour	FD + MA
Jim Lowry	NC Utility Contractors Assn
Henry Lancaster	FD MANC/ LCA
Aeslie Bevaqua	WCCBI
Martha Glan	NC DA:CS
SAM JOHNSON	ATTY
Robt ROBERSON	STAC
Henry Jones	Attorney - Raleigh

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-29-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lick Glazier	NC House
Mark Gentry	UNC System
JOSAN HARLOW	WCPSS
Fred Williams	NCCCS
Angela Williams	NCCCS
Mark Gandy	Interior Systems, Inc
Barbara S. Canale	HMSW
Michael P. Dech	General Assembly
Phil Kirk	NCCBI
Lynn Bonner	NCD
Jay Mayo	Womble Carlyle

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-29-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Leanne Wimer

NCSBd

~~Julie~~

NC State

Jon Carr

Jordan Price (NC Forward Directors Assoc)

Kim Hubbard

NCLM

Carl Goodwin

OSP

Gene Wimer

AT&T

Octavia Pring

College Park/Idlewild Community

Martin Nesbitt

Gen Assembly

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 751 A BILL TO BE ENTITLED AN ACT RELATING TO THE TITLE TO EXISTING
LAND AND THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY
HAWK IN THE COUNTY OF DARE AS A RESULT OF CERTAIN EROSION
CONTROL WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE
LIMITS OF THAT TOWN.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.
And recommendation that the committee substitute bill be re-referred to the Committee on
Finance.
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered _____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in _____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

D

HOUSE BILL 751

PROPOSED COMMITTEE SUBSTITUTE H751-PCS80282-RC-39

Short Title: Kitty Hawk Land Conveyance.

(Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE TITLE TO EXISTING LAND AND THE LAND
BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY HAWK IN THE
COUNTY OF DARE AS A RESULT OF CERTAIN EROSION CONTROL
WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE
LIMITS OF THAT TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The following tract of land is hereby granted and conveyed by
the State of North Carolina to the Town of Kitty Hawk in fee simple without reservation
of any public trust rights:

All that certain tract or parcel of land lying and being on the Atlantic Ocean in the
Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, bounded on the
North by a parcel of land owned by Vincent R. Mascitti et ux, bounded on the East by
the mean lower low water mark of the Atlantic Ocean, bounded on the South by a parcel
of land owned by Pelican Perch, L.L.C., and bounded on the West by the East
right-of-way margin of North Carolina Highway 12, also known as Virginia Dare Trail,
and more particularly described as follows:

All that certain tract or parcel of land which now exists or after the completion of the
Project will exist within the following boundaries: between the East right-of-way
margin of North Carolina Highway 12, otherwise known as Virginia Dare Trail, and the
mean lower low water mark of the Atlantic Ocean; and between the North boundary line
of that certain lot or parcel lying in the Town of Kitty Hawk, Atlantic Township, Dare
County, North Carolina, and known and designated as Lot No. 13 of the Kitty Hawk
Beach Terrace Subdivision, as shown and delineated on a map or plat of said
subdivision made by J. L. Liverman, Registered Surveyor, dated June, 1946 and
recorded in Map Book 1, Page 159, of the Dare County Registry, and as more
particularly described in that certain deed from Janet L. Verscharen to Joseph W.
Verscharen, dated June 26, 1995, and recorded in Book 1001, Page 892, of the Dare

1 County Registry, and the South boundary line of that certain lot or parcel of land lying
2 in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and
3 located at 3955 North Virginia Dare Trail, and more particularly described as Tract IV
4 in that certain deed from A. Toby Hedgepeth et ux, to Hedgepeth Enterprises, dated
5 August 10, 1983, recorded in Book 352, Page 854, of the Dare County Registry.

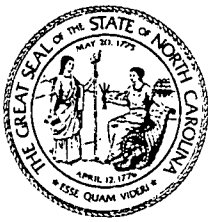
6 **SECTION 2.** The State of North Carolina shall execute and deliver to the
7 Town of Kitty Hawk a deed in recordable form for the property conveyed by Section 1
8 of this act.

9 **SECTION 3.** The corporate limits of the Town of Kitty Hawk are extended
10 to include the tract described in Section 1 of this act.

11 **SECTION 4.** The grant and conveyance in Section 1 of this act includes all
12 future made, constructed, or created land in the tract described in Section 1 of this act.

13 **SECTION 5.** The Town of Kitty Hawk shall maintain the tract described in
14 Section 1 of this act for public use and benefit.

15 **SECTION 6.** This act is effective when it becomes law.



HOUSE BILL 751: Kitty Hawk Land Conveyance Health

BILL ANALYSIS

Committee:	House State Government Committee	Introduced by:	Representatives Alexander and Warren
Date:	April 28, 2003	Summary by:	Tim Hovis
Version:	H751-PCS80282-RC-39		Committee Counsel

SUMMARY: House Bill 751 would convey from the State a tract of land, as described in the bill, to the Town of Kitty. The State is directed to deliver a deed to the town conveying the property. The town is directed to include the tract in its corporate limits and maintain the property for public use and benefit.

The Town of Kitty Hawk is currently undertaking erosion control efforts on the property.

EFFECTIVE DATE: House Bill 751 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 751

Short Title: Kitty Hawk Land Conveyance.

(Public)

Sponsors: Representative Culpepper.

Referred to: State Government.

March 27, 2003

A BILL TO BE ENTITLED
AN ACT RELATING TO THE TITLE TO EXISTING LAND AND THE LAND
BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY HAWK IN THE
COUNTY OF DARE AS A RESULT OF CERTAIN EROSION CONTROL
WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE
LIMITS OF THAT TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The following tract of land is hereby granted and conveyed by the State of North Carolina to the Town of Kitty Hawk in fee simple without reservation of any public trust rights:

All that certain tract or parcel of land lying and being on the Atlantic Ocean in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, bounded on the North by a parcel of land owned by Vincent R. Mascitti et ux, bounded on the East by the mean lower low water mark of the Atlantic Ocean, bounded on the South by a parcel of land owned by Pelican Perch, L.L.C., and bounded on the West by the East right-of-way margin of North Carolina Highway 12, also known as Virginia Dare Trail, and more particularly described as follows:

All that certain tract or parcel of land which now exists or after the completion of the Project will exist within the following boundaries: between the East right-of-way margin of North Carolina Highway 12, otherwise known as Virginia Dare Trail, and the mean lower low water mark of the Atlantic Ocean; and between the North boundary line of that certain lot or parcel lying in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and known and designated as Lot No. 13 of the Kitty Hawk Beach Terrace Subdivision, as shown and delineated on a map or plat of said subdivision made by J. L. Liverman, Registered Surveyor, dated June, 1946 and recorded in Map Book 1, Page 159, of the Dare County Registry, and as more particularly described in that certain deed from Janet L. Verscharen to Joseph W. Verscharen, dated June 26, 1995, and recorded in Book 1001, Page 892, of the Dare County Registry, and the South boundary line of that certain lot or parcel of land lying

1 in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and
2 located at 3955 North Virginia Dare Trail, and more particularly described as Tract IV
3 in that certain deed from A. Toby Hedgepeth et ux, to Hedgepeth Enterprises, dated
4 August 10, 1983, recorded in Book 352, Page 854, of the Dare County Registry.

5 **SECTION 2.** The State of North Carolina shall execute and deliver to the
6 Town of Kitty Hawk a deed in recordable form for the property conveyed by Section 1
7 of this act.

8 **SECTION 3.** The corporate limits of the Town of Kitty Hawk are extended
9 to include the tract described in Section 1 of this act.

10 **SECTION 4.** The grant and conveyance in Section 1 of this act includes all
11 future made, constructed, or created land in the tract described in Section 1 of this act.

12 **SECTION 5.** This act is effective when it becomes law.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 964 A BILL TO BE ENTITLED AN ACT ELIMINATING THE REQUIREMENT
THAT THE STATE PURCHASING OFFICER DETERMINE WHETHER THREE
QUALIFIED VENDORS ARE AVAILABLE IN FURNITURE REQUIREMENTS
CONTRACTS AND CLARIFYING THE TERM QUALIFIED VENDOR IN SUCH
CONTRACTS.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 964

Short Title: Furniture Requirements Contracts.

(Public)

Sponsors: Representatives Warner; Goforth and Decker.

Referred to: State Government.

April 9, 2003

A BILL TO BE ENTITLED

AN ACT ELIMINATING THE REQUIREMENT THAT THE STATE PURCHASING OFFICER DETERMINE WHETHER THREE QUALIFIED VENDORS ARE AVAILABLE IN FURNITURE REQUIREMENTS CONTRACTS AND CLARIFYING THE TERM QUALIFIED VENDOR IN SUCH CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-57.1 reads as rewritten:

"§ 143-57.1. Furniture requirements contracts.

(a) To ensure agencies access to sufficient sources of furniture supply and service, to provide agencies the necessary flexibility to obtain furniture that is compatible with interior architectural design and needs, to provide small and disadvantaged businesses additional opportunities to participate on State requirements contracts, and to restore the traditional use of multiple award contracts for purchasing furniture requirements, each State furniture requirements contract shall be awarded on a multiple award basis, subject to the following conditions:

(1) Competitive, sealed bids must be solicited for the contract in accordance with Article 3 of Chapter 143 of the General Statutes unless otherwise provided for by the State Purchasing Officer pursuant to that Article.

(2) Subject to the provisions of this section, bids shall be evaluated and the contract awarded in accordance with Article 3 of Chapter 143 of the General Statutes.

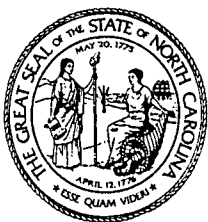
(3) For each category of goods under each State requirements furniture contract, awards shall be made to at least three qualified vendors unless the State Purchasing Officer determines that three qualified vendors are not available or that it is in the best interest of the State to make fewer awards. The State Purchasing Officer, subject to the approval of the Board of Award, shall state his reasons in writing for making fewer awards and the written documentation shall be

1 ~~maintained as part of the bid file and subject to public inspection.~~ three
2 such vendors are not available. A vendor is qualified under this section
3 if the vendor's products conform to the term contract specifications and
4 the vendor is listed on the State's qualified products list.

- 5 (4) An agency may purchase from any vendor certified on the contract but
6 shall make the most economical purchase that it determines meets its
7 needs, based upon price, compatibility, service, delivery, freight
8 charges, and other factors that it considers relevant.

9 (b) For purposes of this section, "furniture requirements contract" means State
10 requirements contracts for casegoods, classroom furniture, bookcases, ergonomic chairs,
11 office swivel and side chairs, computer furniture, mobile and folding furniture,
12 upholstered seating, commercial dining tables, and related items."

13 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 964: Furniture Requirements Contracts

BILL ANALYSIS

Committee: House State Government
Date: April 25, 2003
Version: First Edition

Introduced by: Representative Warner
Summary by: Kory J. Goldsmith
Committee Counsel

SUMMARY: *HB1146 amends G.S. 143-157.1 to provide that every State furniture requirements contract shall be awarded to at least three qualified bidders unless three such vendors are not available.*

CURRENT LAW: Article 3 of Chapter 143 charges the Secretary of Administration (Secretary) with the responsibility of entering into term contracts for apparatus, supplies, material, equipment and services. All State agencies, the public schools and community colleges are required to purchase goods from vendors who have been awarded State term contract for a particular item. Units of local government may, but are not required to purchase from these term contracts.

Prior to soliciting bids, the Secretary of Administration may survey the available products on the market and determine which among them meet the quality and other characteristics required. In some cases, the process may involve testing or other evaluations of products against predetermined criteria. Once the evaluation is complete, the specifications of the bid solicitation can list the specific brands or products that will be accepted. This listing constitutes an "approved products" or "qualified products" list.

G.S. 143-57.1 applies specifically to State "furniture requirements contracts". A "furniture requirement contract" is a contract for casegoods, classroom furniture, bookcases, ergonomic chairs, office swivel and side chairs, computer furniture, mobile and folding furniture, upholstered seating, commercial dining tables and related items. G.S. 143-57.1(a) provides that each State furniture requirements contract shall be awarded on a multiple award basis subject to the following conditions:

- Competitive sealed bids must be solicited under the terms of Article 3 of Chapter 143
- The bids must be evaluated and awarded according to the terms of Article 3 of Chapter 143
- For each category of goods, awards must be made to at least three qualified vendors unless:
 - Three qualified vendors are not available, or
 - The State Purchasing Officer determines it is in the best interests of the State to make fewer awards. The Board of Award must approve this decision and the Officer must state the reasons for making fewer than three awards.

An agency may purchase from any vendor certified on a particular contract, but must make the most economical purchase that meets the unit's needs.

BILL ANALYSIS: HB964 amends G.S. 143-57.1(a)(3) to remove the authority of the State Purchasing Officer to determine that it is in the best interest of the State to award a furniture requirements contract to less than three qualified vendors. The only basis for awarding these contracts to fewer than three vendors would be if less than three qualified vendors were available. A qualified vendor is a vendor whose products conform to the term contract specifications and the vendor is listed on the State's qualified products list.

H9646-SMRC-001

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

H.B. 1155 A BILL TO BE ENTITLED AN ACT ALLOWING PAYROLL DEDUCTION
FOR STATE EMPLOYEES CONTRIBUTING TO THE PARENTAL SAVINGS TRUST
FUND.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 1155

Short Title: St. Emp. Payroll Deduction/Parental Savings. (Public)

Sponsors: Representatives Insko; and Hackney.

Referred to: State Government.

April 10, 2003

A BILL TO BE ENTITLED

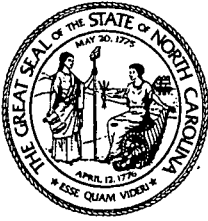
AN ACT ALLOWING PAYROLL DEDUCTION FOR STATE EMPLOYEES
CONTRIBUTING TO THE PARENTAL SAVINGS TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-3.3 is amended by adding a new subsection to read:

"(f1) Payroll Deduction for Contributions to the Parental Savings Fund Allowed. –
An employee of the State may authorize, in writing, the periodic deduction from the
employee's salary or wages paid for employment by the State of a designated lump sum
for deposit in the Parental Savings Trust Fund administered by the State Education
Assistance Authority."

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



HOUSE BILL 1155: St. Emp. Payroll Deduction/Parental Savings

BILL ANALYSIS

Committee: House State Government
Date: April 29, 2003
Version: First Edition

Introduced by: Rep. Insko
Summary by: Shirley Iorio
Committee Staff

SUMMARY: *House Bill 1155 would allow state employees to authorize payroll deductions for their deposits in the Parental Savings Trust Fund.*

The act would become effective when it becomes law.

CURRENT LAW: G.S. 116-203 creates the State Education Assistance Authority (Authority) whose purpose is to develop and administer programs of financial assistance for students pursuing higher education.

G.S. 116-209.25 establishes the Parental Savings Trust Fund (Fund), which is administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the postsecondary education expenses of eligible students. The Authority is authorized, as trustee, to accept, hold, invest, and disburse contributions, and interest earned on contributions, from qualified parents and other interested parties.

G.S. 143-3.3(f) through (k) establishes various payroll deduction options, including those for State employees.

BILL ANALYSIS: House Bill 1155 would amend G.S. 143-3.3 by adding a new subsection that would allow payroll deductions for State employees contributing to the Parental Savings Trust Fund.

BACKGROUND: In 1996, the General Assembly enacted legislation that created a parental savings trust fund to be managed by the NC State Education Assistance Authority.

During the 2000 Session, the General Assembly amended the law to authorize the Authority to invest, as well as accept, hold, and disburse contributions to the Parental Savings Trust Fund, and to determine an appropriate investment strategy for the Fund. The strategy could include a combination of fixed income assets and preferred or common stocks. The Authority may deposit all or any part of the trust fund for investment with either the State Treasurer or with an investment manager(s). This change became effective on July 1, 2001.

In 2001, the General Assembly amended the law again to clarify that the Authority may accept, hold, and invest contributions from parents and other interested parties who are not residents of North Carolina.

Purpose: The purpose of the trust fund is to enable qualified persons to save funds to meet the postsecondary education expenses of eligible students. The money can be used for tuition, fees, books, supplies, equipment, and room and board. A student may attend any public or private, two-year or four-year accredited institution anywhere in the country.

Tax Advantages: Account earnings are free from federal and North Carolina income taxes when the money is used to pay for qualified higher education expenses. Withdrawals used for qualified higher education expenses are exempt from state and federal income taxes.

H1155-SMSF-001

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.J.R. 958 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
COMMISSION TO STUDY JOB SHARING IN STATE GOVERNMENT
EMPLOYMENT.
- ☐ With a favorable report.
- ☒ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ Rules ☒.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered _____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in _____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE JOINT RESOLUTION 958

Sponsors: Representatives Glazier; Bell, Bowie, Carney, Earle, Gibson, Lucas, Luebke, and Rapp.

Referred to: State Government, if favorable, Rules, Calendar and Operations of the House.

April 9, 2003

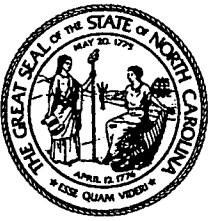
1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY JOB SHARING IN STATE GOVERNMENT
3 EMPLOYMENT.

4 Be it resolved by the House of Representatives, the Senate concurring:

5 **SECTION 1.** The Legislative Research Commission is authorized to study
6 issues relating to employee benefits for employees of State departments, agencies, and
7 institutions, in part-time and in job-sharing positions. In the course of the study the
8 Commission shall consider (i) whether the benefits currently offered are adequate to
9 attract and retain qualified applicants in State employment, (ii) the need to facilitate job
10 sharing for State employees, (iii) the possibility of providing insurance and retirement
11 benefits to State employees working less than three-fourths time, (iv) the appropriate
12 formula for computing retirement credit for part-time State employees, and (v) other
13 issues related to employee benefits for State employees in part-time and job-sharing
14 positions.

15 **SECTION 2.** The Commission shall make a final report of its
16 recommendations to the 2005 General Assembly and may make an interim report to the
17 2004 Regular Session of the 2003 General Assembly.

18 **SECTION 3.** This resolution is effective upon ratification.



HOUSE JOINT RESOLUTION 958:

BILL ANALYSIS

Committee: House State Government
Date: April 28, 2003
Version: First Edition

Introduced by: Representative Glazier
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Joint Resolution 958 authorizes the Legislative Research Commission to study issues related to job-sharing in State government.*

BILL ANALYSIS:

House Joint Resolution 958 authorizes the Legislative Research Commission to study issues relating to employee benefits for employees of State departments, agencies, and institutions, in part-time and in job-sharing positions.

During the course of study, the Commission shall consider the following:

- Whether the benefits currently offered are adequate to attract and retain qualified applicants in State employment
- The need to facilitate job sharing for State employees
- The possibility of providing insurance and retirement benefits to State employees working less than three-fourths time
- The appropriate formula for computing retirement credit for part-time State employees, and
- Other issues related to employee benefits for State employees in part-time and job-sharing positions.

The Commission may make an interim report to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its recommendations to the 2005 General Assembly.

The bill would become effective upon ratification.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Womble (Chair) for the Committee on STATE GOVERNMENT.

☐ Committee Substitute for

H.B. 1221 A BILL TO BE ENTITLED AN ACT REQUIRING THE RETURN OF
OVERPAYMENTS OF STATE FUNDS BY PERSONS IN STATE-SUPPORTED
POSITIONS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, ____ RC) (, by EV _____,) and
the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 1221

Short Title: Return Overpayments of State Funds. (Public)

Sponsors: Representatives Decker; G. Allen, L. Allen, Capps, Church, England, Gibson, Goforth, Hall, Harrell, Hill, Holliman, Parmon, Rapp, Rayfield, Saunders, Sutton, Tolson, Warner, and Wood.

Referred to: State Government.

April 14, 2003

A BILL TO BE ENTITLED
AN ACT REQUIRING THE RETURN OF OVERPAYMENTS OF STATE FUNDS
BY PERSONS IN STATE-SUPPORTED POSITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 3H.

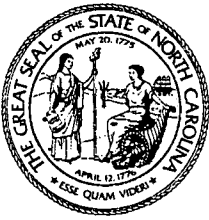
"Overpayments of State Funds.

"§ 143-64.80. Overpayments of State funds to persons in State-supported positions; recoupment required.

(a) An overpayment of State funds to any person in a State-funded position, whether in the form of salary or otherwise, shall be recouped by the entity that made the overpayment and, to the extent allowed by law, the amount of the overpayment may be offset against the salary of the person receiving the overpayment.

(b) No State department, agency, or institution, or other State-funded entity may forgive repayment of an overpayment of State funds, but shall have a duty to pursue the repayment of State funds by all lawful means available, including the filing of a civil action in the General Court of Justice."

SECTION 2. This act is effective when it becomes law and applies to all overpayments of State funds made on or after that date.



HOUSE BILL 1221: Return Overpayment of State Funds

BILL ANALYSIS

Committee: House State Government
Committee

Date: April 28, 2003

Version: House Bill 1221

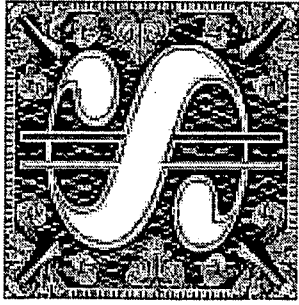
Introduced by: Representative Decker

Summary by: Tim Hovis
Committee Counsel

SUMMARY: House Bill 1221 would create a new Article 3H in Chapter 143 of the General Statutes requiring an entity that provided an overpayment of state funds to any person in a state-funded position to recoup the funds. This requirement would apply whether the funds were paid in the form of salary or otherwise, and the amount of overpayment may be offset by an individual's salary.

The bill also forbids a state agency from forgiving any repayment of the funds and requires the agency to seek repayment of overpaid funds by all lawful means, including filing a civil action against the individual.

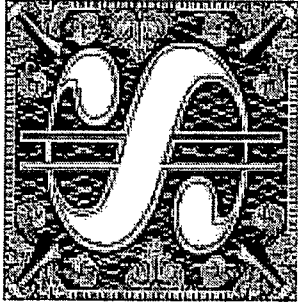
EFFECTIVE DATE: House Bill 1221 is effective when it becomes law and applies to all overpayments made on or after that date.



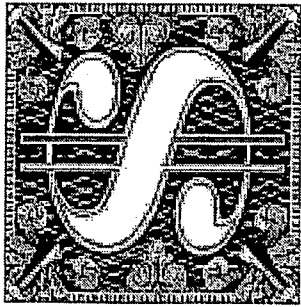
What Bill Would Do

- ◆ Bill would require only repayment of funds when the overpayment is to persons in state-supported positions.
- ◆ No state-supported entity would be allowed to forgive a repayment, and makes it a duty to collect the overpayment.

H 1221 Return Overpayments of State Funds



- ◆ Reason for the bill
- ◆ Teachers' Bonuses
- ◆ State Income Tax Overpayments
- ◆ What bill would do



Reason for the Bill

- ◆ In 2001, Teacher Bonuses were sent to 640 teachers who did not qualify for them.
- ◆ Article from the Charlotte Observer.
- ◆ Department of Public Instruction was not required to reclaim the money.
- ◆ Without direction, Agencies may choose the easiest path for solving an overpayment problem.
- ◆ \$775,000 in overpayments were made in this one case.

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STATE SCREWS UP TEACHER BONUSES 640 MISTAKENLY GET PAY; 350 WHO EARNED
MONEY WERE OVERLOOKED

Charlotte Observer

(CO)

- Saturday, June 8, 2002

By: ASSOCIATED PRESS

Edition: ONE-THREE

Section: METRO

Page: 4B

Word Count: 280

TEXT:

FAYETTEVILLE

Errors by state education officials gave bonuses to 640 teachers who didn't earn them and left out 350 teachers who deserved the pay.

The state will spend about \$650,000 to give bonuses to the teachers who missed them, said Jennifer Bennett of the state Department of Public Instruction.

The teachers who missed their bonus of up to \$1,800 worked at 43 schools across the state.

Bennett said the mistakes were discovered in an audit.

Teachers who received the bonuses in error won't lose the money. The bonus was divided into monthly payments and has been included in teachers' paychecks since the fall.

'We are trying to be fair to the people who should have gotten the money this year, and also be fair to the people who through no fault of their own got the money and have spent it,' Bennett said.

The recruitment retention bonus, which was approved in last year's state budget, is designed to attract teachers in high-demand subjects to low-performing schools.

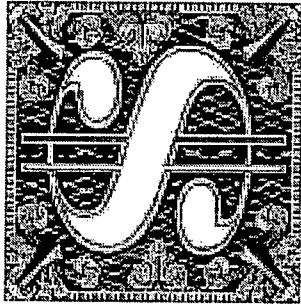
It is payable to certified math, science and special education teachers in eligible middle and high schools.

Schools are eligible if at least 80 percent of students are eligible for a free or reduced lunch or if at least 50 percent of students are performing below grade level in Algebra I and biology.

Bennett said her division provided local education authorities with a list of eligible schools in October 2001. There were errors in that list because the division used schoolwide results, rather than just Algebra I and biology results, to calculate eligible schools.

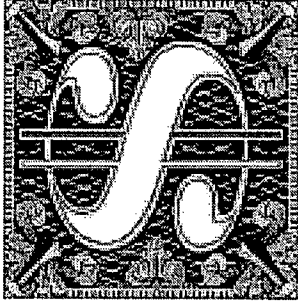
Bennett said \$1.5 million was allocated to pay bonuses. Between \$650,000 and \$700,000 was used to pay ineligible teachers.

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Cost of Overpayment

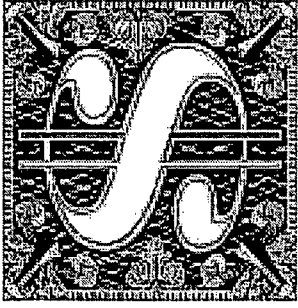
- ◆ 640 Teachers across the state were overpaid. Totalling \$775,000.
- ◆ Approximately 350 teachers who deserved the bonus did not receive it. According to Mr. Phillip Price, DPI Associate Superintendent for Financial and Business Services (807-3601), since they were not going to attempt to get the money back, there was no tally kept for the exact number who should have received the bonus. The approximate total cost to pay the 350 teachers a bonus was \$675,000.
- ◆ The cost of giving bonuses to those teachers who qualified for them and did not get them, as well as those teachers who got them improperly exceeded the budgeted \$1.5 million by an additional \$675,000 for a total of \$2.175 million



Teachers' Bonuses

- ◆ Teachers receive bonuses for recruitment retention for high demand subjects in low performing schools.
- ◆ Not retrieving the improper money:
 - Cheapens the meaning of the bonus,
 - Rewards People who do not deserve the bonus,
 - Shows the taxpayer that state tax money is being wasted,
 - Shows that state errors concerning overpayments may never be corrected unless put into the law.

State Income Tax Overpayments



- ◆ If the Department of Revenue were to overpay a citizen of the state, what would be their action?
- ◆ The overpaid citizen would be required to send back the overpayment to the state.
- ◆ What is the difference between the overpayments?

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 974

Short Title: State Purchases of Substitute for Milk.

(Public)

Sponsors: Representatives Hill; and Church.

Referred to: State Government.

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT ANY DEPARTMENT, INSTITUTION, OR AGENCY OF
THE STATE FROM PURCHASING FOOD PRODUCTS CONTAINING MILK
PROTEIN CONCENTRATE OR RECONSTITUTED MILK.

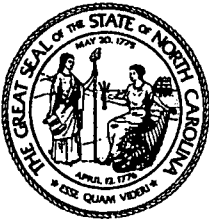
The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by
adding a new section to read:

**"§ 143-59.3. No contracts for the purchase of products containing milk protein
concentrate or reconstituted milk.**

No department, institution, or agency of the State shall enter into a contract for the
purchase of any food product that lists 'milk protein concentrate' on the label as an
ingredient. No department, institution, or agency of the State shall enter into a contract
for the purchase of any fluid milk product that lists 'reconstituted milk' on the label as an
ingredient."

SECTION 2. This act becomes effective October 1, 2003, and applies to
contracts entered into on or after that date.



HOUSE BILL 974: State Purchases of Substitute for Milk

BILL ANALYSIS

Committee: House State Government
Date: April 28, 2003
Version: First Edition

Introduced by: Representative Hill
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 974 prohibits any department, institution, or agency of the State from purchasing food products containing "milk protein concentrate" or fluid milk products containing "reconstituted milk."*

BILL ANALYSIS:

House Bill 974 adds a new section to Article 3 covering Purchases and Contracts in Chapter 143 of the General Statutes. This section would prohibit departments, institutions and agencies of the State from entering into a contract to purchase food products listing "milk protein concentrate" or fluid milk products listing "reconstituted milk" on the label.

This act would become effective on October 1, 2003 and applies to contracts entered into on or after that date.

ADDITIONAL INFORMATION:

- **Milk Protein Concentrate (MPC)** refers to a dried protein product derived from milk using "ultra filtration." It is produced from passing skim milk through a thin porous membrane. This technology retains larger molecules (i.e. protein and fat) and allows smaller molecules (i.e. water, lactose, and some minerals and vitamins) to pass through. The resulting product is mostly protein and may be a dry powder (generally imported) or a thick liquid (generally produced domestically). Milk protein concentrates may be an ingredient in cheese, ice cream and other frozen desserts, bakery and confection products, high-protein sports drinks, energy bars/protein bars, and nutrition supplements.

According to a US General Accounting Office report,¹ the FDA believes milk protein concentrates pose minimal safety risks. In fiscal year 1999, the FDA and state contract inspectors reported no violations in the use of imported ultra-filtered milk or milk protein concentrates in making standardized cheese.

In 2001, the GAO reported that milk protein concentrate imports grew from 805 metric tons in 1990 to 44,878 metric tons in 1999, nearly doubling between 1998 and 1999. Exporters of milk protein concentrates face few US import restrictions. Some farm organizations and milk producers have expressed concerns that the unrestricted flow of milk protein products may displace domestically-produced milk and nonfat dry milk powder. Bills entitled, The Milk Import Tariff Equity Act, have been introduced in the US Senate and House of Representatives to impose tariff-rate quotas on imports of milk protein concentrate, and casein products intended for use in the food and animal feed industries. (*US Senate 560, US House 1160*)

- **Reconstituted Milk** is a fluid milk product produced by adding water to condensed or dried milk components. Reconstituted milk is generally more economical to transport than fluid milk.

¹ United States Governmental Accounting Office report, *Dairy Products – Imports, Domestic Production, and Regulation of Ultra-filtered Milk*, March 2001: <http://www.gao.gov/new.items/d01326.pdf>

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 974 A BILL TO BE ENTITLED AN ACT TO PROHIBIT ANY DEPARTMENT,
INSTITUTION, OR AGENCY OF THE STATE FROM PURCHASING FOOD
PRODUCTS CONTAINING MILK PROTEIN CONCENTRATE OR RECONSTITUTED
MILK.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of
_____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 1052 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE
CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE
GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO
PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

1

HOUSE BILL 1052*

Short Title: Consolidate Administrative Functions.

(Public)

Sponsors: Representatives Owens and Dockham (Primary Sponsors).

Referred to: State Government.

April 10, 2003

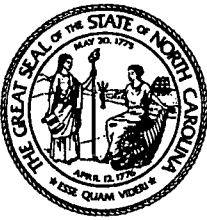
A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE
FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE
GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY
AND SAVINGS ON STATE SPENDING.

The General Assembly of North Carolina enacts:

SECTION 1. The Governor's Commission to Promote Government
Efficiency and Savings on State Spending has recommended that administrative and
support functions of State government be consolidated in areas of high concentration of
State facilities, modeled after similar measures taken recently for State facilities in the
Morganton area. To that end, The University of North Carolina (through the Office of
the President), the Judicial Branch (through the Administrative Office of the Courts),
the Executive Branch (through the Department of Administration), the Legislative
Branch (through the Legislative Services Office), the Community College System
(through the President's Office), and the Department of Public Instruction shall develop
a plan to consolidate administrative functions in areas of high concentrations of State
facilities. That plan shall be presented to the General Assembly no later than May 1,
2004.

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



HOUSE BILL 1052: Consolidate Administrative Functions

BILL ANALYSIS

Committee: House State Government
Date: April 28, 2003
Version: First Edition

Introduced by: Representatives Owens and Dockham
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 1052 provides for the consolidation of administrative functions within State government to promote State spending efficiency and savings.*

BILL ANALYSIS:

House Bill 1052 requires the following entities to develop a plan to consolidate administrative functions in areas with high concentrations of State facilities:

- The University of North Carolina (through the Office of the President)
- Judicial Branch (through the Administrative Office of the Courts)
- Executive Branch (through the Department of Administration)
- Legislative Branch (through the Legislative Services Office)
- Community College System (through the President's Office)
- Department of Public Instruction

The plan shall be presented to the General Assembly no later than May 1, 2004.

The act would become effective when it becomes law.

BACKGROUND:

This recommendation was included in the Governor's Commission to Promote Government Efficiency and Savings on State Spending. The recommendation is modeled on similar measures taken for State facilities in the Morganton area.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 483 A BILL TO BE ENTITLED AN ACT PROVIDING FOR THE ABROGATION OF
OFFENSIVE PLACE-NAMES THROUGHOUT THE STATE.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of
_____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 483

H483-ARC-26 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date April 29, 2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Adams

- 1 moves to amend the bill on page 1, line 7, by deleting the phrase "§ 147-54.4." and
2 replacing it with "§ 147-54.7.".
3

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 483

Short Title: Change Offensive Place-Names.

(Public)

Sponsors: Representatives Adams, Jones (Primary Sponsors); Jeffus and Luebke.

Referred to: State Government.

March 13, 2003

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE ABROGATION OF OFFENSIVE PLACE-NAMES
3 THROUGHOUT THE STATE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 4 of Chapter 147 of the General Statutes is amended by
6 adding a new section to read:

7 "§ 147-54.4. Abrogation of offensive geographical place-names.

8 (a) The General Assembly finds that certain geographical place-names are
9 offensive and insulting to all of the State's people, history, and heritage. These
10 place-names should be replaced by names that reflect the State's people, history, and
11 heritage without resorting to harmful or offensive stereotypes, names, words, or phrases.

12 (b) The Secretary of State, in consultation with the Secretary of the Department
13 of Transportation, the Secretary of the Department of Cultural Resources, and the
14 Secretary of the Department of Natural and Economic Resources, shall adopt rules and
15 policies for changing geographical place-names that are offensive and insulting.

16 (c) The Secretary of State shall coordinate with registers of deeds, local tax
17 officials, and local planning officials to provide for the abrogation of offensive or
18 insulting geographical place-names throughout the State.

19 (d) All State and local governmental agencies shall make changes to maps and
20 any other reference materials to reflect the changes authorized by this section or by rules
21 adopted pursuant to this section."

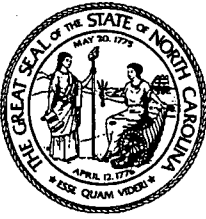
22 SECTION 2.(a) The geographic place names set forth in this section are
23 deemed to be offensive and insulting:

- 24 (1) Nigger Bay – Currituck County.
- 25 (2) Nigger Head – Clay and Madison Counties.
- 26 (3) Niggerhead Creek – Union County.
- 27 (4) Niggerskull Creek – Jackson County.
- 28 (5) Nigger Skull Mountain – Haywood County.
- 29 (6) Niggerskull Mountain – Jackson County.

(7) Nigger Spring – Haywood County.

SECTION 2.(b) By July 1, 2003, the county commissioners of each county listed in subsection (a) of this section shall submit to the Secretary of State a replacement name for each place listed. The Secretary of State may adopt the suggested replacement name or may adopt another suitable replacement name in accordance with rules adopted by the Secretary of State. The Secretary of State shall forward to the United States Board of Geographic Names the recommended replacement names for changes on any federal maps and reference materials that refer to the names and places listed in this section.

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



HOUSE BILL 483: Change Offensive Place-Names

BILL ANALYSIS

Committee: House State Government
Date: April 28, 2003
Version: 1st Edition

Introduced by: Reps. Adams and Jones
Summary by: Kory J. Goldsmith
Committee Counsel

SUMMARY: *HB 483 directs the Secretary of State to adopt rules for changing geographical place-names that are offensive and insulting to all the State's people. It also finds that 7 existing place-names, all of which include the word "nigger", are offensive and directs the county commissioners in the respective counties to submit replacement names to the Secretary of State by July 1, 2003*

CURRENT LAW:

State: The General Assembly determines the place-names for towns and cities when it incorporates a municipality. County Commissioners adopt road and street names by ordinance. There is no State-established method for adopting geographic place-names.

Federal: In 1890, President Harrison created the United States Board on Geographic Names Board to sort out the inconsistencies and contradictions between the many mapping and mining activities taking place in the western United States. In 1906, President Theodore Roosevelt extended the authority of the Board to standardize all geographic names for Federal use, including name changes and new names. In 1947, Congress created the United State Board on Geographic Names (Board). It is authorized to establish and maintain uniform geographic name usage throughout the Federal Government, and only federally recognized place-names may appear on federal publications.

The Board has the authority to change a federally recognized name or to adopt a new place-name. It is the policy of the Board to refuse to adopt a name for Federal usage that is determined by the Board to be derogatory to a particular racial or ethnic group, gender, or religious group. The Board will not adopt a name proposal that includes the word "Jap" or "Nigger" whether or not it is in current local usage and regardless of by whom proposed.

The Board maintains a database (the Geographic Names Information System) that contains all the federally recognized place-names.

BILL ANALYSIS:

Section 1 provides that the General Assembly finds that certain geographical place-names are offensive and insulting to all the State's people, and should be replaced with name that reflect the State's people, history and heritage without resorting to offensive stereotypes, names, words, or phrases. The bill directs the Secretary of State (Secretary) to adopt rules for changing geographic place-names that are offensive and insulting. The Secretary is also directed to work with registers of deeds, local tax officials, and local planning officials to change offensive or insulting geographical place-names throughout the State. Finally, all State and local government agencies are required to make changes to maps and other reference materials to reflect changes authorized by this law or rules adopted under this law.

Section 2(a) finds that the following place-names are offensive and insulting:

- (1) Nigger Bay – Currituck County.
- (2) Nigger Head – Clay and Madison Counties.

HOUSE BILL 483

Page 2

- (3) Niggerhead Creek – Union County.
- (4) Niggerskull Creek – Jackson County.
- (5) Nigger Skull Mountain – Haywood County.
- (6) Niggerskull Mountain – Jackson County.
- (7) Nigger Spring – Haywood County.

Section 2(b) – By July 1, 2003, the County Commissioners of the counties listed in (a) above must submit to the Secretary a replacement place-name. The Secretary may adopt the recommended replacement or another replacement. The Secretary shall forward to the Board the recommended replacement names for changes on any federal maps or reference materials.

None of the place-names listed in the bill appear to be federally adopted names. Therefore, the State or local entities could change the place-names without prior approval by the federal Board.

H483-SMRC-001



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 483

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H483-ARC-26 [v.1]

Page 1 of 1

Date 4-29 2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

APR 30 2003

Representative Adams

- 1 moves to amend the bill on page 1, line 7, by deleting the phrase "§ 147-54.4." and
- 2 replacing it with "§ 147-54.7.".
- 3

SIGNED *Alvin Adams*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED APR 30 2003 FAILED _____ TABLED _____

109-0 E

Alvin Adams

ADOPTED

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

- ☐ Committee Substitute for
H.B. 859 A BILL TO BE ENTITLED AN ACT TO ELIMINATE STATEWIDE VOTING
TO ELECT MEMBERS OF THE BOARD OF MORTUARY SCIENCE AND TO
ESTABLISH A NEW PROCESS WHEREBY MEMBERS ARE APPOINTED TO SERVE
ON THE BOARD.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill (# _____), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill # _____), (and
recommendation that the committee substitute bill # _____) be re-referred to the Committee
on _____.)
- ☐ With a favorable report as to House committee substitute bill (# _____), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate
____ (by the following vote, _____ RC) (, by EV _____,) and
the bill is ordered enrolled.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1H. B. No. 859DATE 4/29/03

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 rewriting the line to read:4 "members, the Governor shall accept five
5 recommendations from the";6
7 page 1, line 22, by deleting the word
8 "three" and substituting the word "two";9
10 page 1, lines 25-26, by rewriting the
11 lines to read:12 "the authority to reject a recommendation,
13 and must request another recommendation
14 from that association."15
16 and on page 2, lines 20-24,
17 by rewriting those lines to read:18 "SECTION 3. Members serving on the
19 Board of Mortuary Science and serving

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 859

S. B. No. page 2 of Amendment

DATE 4/29/03

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

)

Sen.)

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

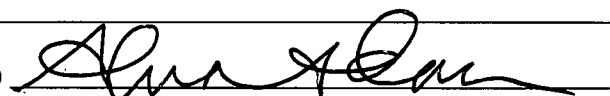
2 () WHICH CHANGES THE TITLE

3 by _____

4 on the Board on the effective date of
5 this act shall complete their current
6 terms. To establish staggered terms of
7 the members of the Board of mortuary
8 science pursuant to G.S. 90-210.18A(b),
9 three members ^{recommended} ~~elect~~ by the North
10 Carolina Funeral Directors Association, Inc.
11 shall serve two-year terms and two
12 members ^{recommended} ~~elect~~ by that Association shall
13 serve three-year terms. One member ^{recommended} ~~elect~~
14 by the Funeral Directors & Morticians
15 Association of North Carolina, Inc. shall
16 serve a two-year term and one member
17 ^{recommended} ~~elect~~ by that Association shall serve a
18 three-year term."

19 _____

SIGNED



ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 859

Short Title: Board of Mortuary Science.

(Public)

Sponsors: Representatives Adams; Hunter, McAllister, and Michaux.

Referred to: State Government.

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE STATEWIDE VOTING TO ELECT MEMBERS OF THE
BOARD OF MORTUARY SCIENCE AND TO ESTABLISH A NEW PROCESS
WHEREBY MEMBERS ARE APPOINTED TO SERVE ON THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18 is repealed.

SECTION 2. Article 13A of Chapter 90 of the General Statutes is amended
by adding a new section to read:

**"§ 90-210.18A. Board of Mortuary Science created; qualifications; vacancies;
removal.**

(a) The General Assembly declares that the practice of funeral service affects the
public health, safety, and welfare and is subject to regulation and control in the public
interest. The public interest requires that only qualified persons be permitted to practice
funeral service in North Carolina and that the profession merit the confidence of the
public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Mortuary Science is created and shall regulate
the practice of funeral service in this State. The Board shall have nine members as
follows:

- (1) Seven members, appointed by the Governor, who shall hold either a
funeral director's license or a funeral service license. In appointing
members, the Governor ^{may} ~~shall~~ accept ^{four} ~~three~~ recommendations from the
North Carolina Funeral Directors Association, Inc., and ~~three~~ ^{two}
recommendations from the Funeral Directors & Morticians
Association of North Carolina, Inc. However, the Governor shall have
the authority to reject a recommendation, and at the Governor's
request, either organization may resubmit a recommendation.
- (2) One member appointed by the General Assembly, upon the
recommendation of the President Pro Tempore of the Senate, who is a
member of the general public.

1 (3) One member appointed by the General Assembly, upon the
2 recommendation of the Speaker of the House of Representatives, who
3 is a member of the general public.

4 Members of the Board shall serve staggered three-year terms, ending on June 30 of
5 the last year of the term or when a successor has been duly appointed, whichever is
6 later. No member may serve more than two complete consecutive terms.

7 (c) Qualifications. – Members appointed by the Governor shall hold a license
8 issued by the Board and shall be engaged in full-time employment in this State in a
9 practice authorized by his or her license. Public members shall not be licensed under
10 this Article or employed by a person who is licensed under this Article.

11 (d) Vacancies. – A vacancy shall be filled in the same manner as the original
12 appointment, except that all unexpired terms of Board members appointed by the
13 General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill
14 vacancies shall serve the remainder of the unexpired term and until their successors
15 have been duly appointed and qualified.

16 (e) Removal. – The Board may remove any of its members for neglect of duty,
17 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
18 as a licensee shall be disqualified from participating in the official business of the Board
19 until the charges have been resolved."

20 **SECTION 3.** Members serving on the Board of Mortuary Science on the
21 effective date of this act shall continue to serve until June 30, 2003. In establishing
22 staggered terms for appointments made pursuant to G.S. 90-210.18A, as enacted by
23 Section 2 of this act, the Governor shall appoint one member to serve a one-year term,
24 three members to serve two-year terms, and three members to serve three-year terms.
25 The General Assembly, upon the recommendation of the President Pro Tempore of the
26 Senate, shall appoint one member for a one-year term, and the General Assembly, upon
27 the recommendation of the Speaker of the House of Representatives, shall appoint one
28 member for a one-year term. After the staggered terms have been established, members
29 appointed to the Board thereafter shall serve three-year terms.

30 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 861

Short Title: Review State Government/UNC Employment. (Public)

Sponsors: Representatives Earle, Wainwright (Primary Sponsors); Adams, Alexander, B. Allen, Bell, Carney, Cunningham, Farmer-Butterfield, Hunter, Insko, Jones, Lucas, Luebke, McAllister, Michaux, Miller, Womble, and Wright.

Referred to: State Government, if favorable, Rules, Calendar, and Operations of the House.

April 7, 2003

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE REVIEW OF DISPARITIES IN HIRING,
COMPENSATION, ADVANCEMENT, AND RETENTION ACROSS
DEMOGRAPHIC GROUPS WITHIN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) By October 1, 2003, the Office of State Personnel (OSP) shall conduct an analysis across demographic groups to determine the existence and extent of disparities in the hiring, compensation, advancement, and retention of State employees within the following occupational categories:

- (1) Officials and administrators.
- (2) Management related.
- (3) Professionals.
- (4) Technical.
- (5) Administrative support.
- (6) Law enforcement.
- (7) Service.
- (8) Skilled craft.

The analysis shall cover employees of State agencies, departments, and institutions and employees at The University of North Carolina and its constituent institutions.

SECTION 1.(b) The OSP's analysis of State employee hiring, compensation, advancement, and retention across demographic groups in State government employment shall be comprehensive. The analysis shall include, but is not limited to, the following:

- (1) Whether any disparities in hiring exist among State agencies, departments, and institutions whereby certain demographic groups are underrepresented.
- (2) Relative compensation among the different demographic groups.
- (3) Differences in opportunities for advancement, including the availability of training and promotions and differences in performance ratings.
- (4) Differences regarding the incidence and outcome of disciplinary actions.
- (5) Trends relative to retaining State employees, including the labor market forces affecting retention.
- (6) Trends and issues that may have a negative impact on different demographic groups.
- (7) Factors that may have a unique impact on members of specific demographic groups.
- (8) Factors relating to any adverse patterns that may exist in the terms of conditions of State government employment.

SECTION 2.(a) There is created the Task Force on State Government Employment ("Task Force"). The Task Force shall review the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall examine possible remedial measures. The Task Force shall make recommendations to the Governor, the General Assembly, and the State Personnel Commission regarding appropriate measures to remedy or lessen any disparities it finds to exist. The Task Force shall be within the Department of Administration for administrative purposes. The Task Force shall consist of 19 voting members and two ex officio members, as follows:

- (1) Four persons appointed by the Governor, one of whom shall be a State employee and one of whom shall be a representative of a statewide organization whose primary purpose is to represent the interests of African-American citizens.
- (2) Three persons appointed by the President Pro Tempore of the Senate, one of whom shall be a human resources professional in a private business or firm employing more than 500 employees in this State.
- (3) Three persons appointed by the Speaker of the House of Representatives, one of whom shall be a human resources professional in a private business or firm employing less than 500 employees in this State.
- (4) Two persons appointed by the Board of Governors of The University of North Carolina, including one person associated with a historically African-American campus.
- (5) One person appointed by each of the following to represent each respective organization:
 - a. North Carolina Council for Women.
 - b. Governor's Advisory Council on Aging.

- c. Commission of Indian Affairs.
 - d. Council on Veterans Affairs.
 - e. Governor's Advocacy Council for Persons With Disabilities.
 - f. Governor's Advisory Group on Hispanic and Latino Affairs.
 - g. North Carolina Human Relations Commission.
- (6) The State Personnel Director and the Chair of the State Personnel Commission, or their respective designees, who shall serve as nonvoting members.

SECTION 2.(b) All appointments shall be effective September 15, 2003, and an organizational meeting of the Task Force shall be held by October 15, 2003, at which time the Task Force shall elect its chair and vice-chair from among its members. Subsequent meetings shall be held at the call of the chair. A majority of the members shall constitute a quorum. Members shall receive subsistence, per diem, and travel allowances as provided by G.S. 138-5. The appointing authority shall fill vacancies.

SECTION 2.(c) The OSP's Division of Equal Opportunity Services shall provide staff support to the Task Force. All State agencies shall cooperate with the Task Force and, upon the chair's request, assist the Task Force in the performance of its duties and responsibilities.

SECTION 2.(d) By May 15, 2004, the Task Force shall complete its review of the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall adopt recommendations to remedy or lessen any disparities found to exist. The Task Force shall expire upon submitting its final report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the State Personnel Commission. A copy of the final report shall be provided to the head of each State department, agency, and institution; to the Board of Governors of The University of North Carolina and the governing board of each constituent university; and to the Fiscal Research Division of the Legislative Services Office.

SECTION 3. The State Personnel Commission may adopt policies and rules to remedy or lessen disparities across demographic groups based upon the findings of the OSP and the final recommendations of the Task Force.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 1146

Short Title: Retainage Rules/Public Contracts.

(Public)

Sponsors: Representative Nesbitt.

Referred to: State Government.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SECRETARY OF THE DEPARTMENT OF
ADMINISTRATION TO ADOPT RULES AND GUIDELINES FOR RETAINAGE
FROM PAYMENT ON PUBLIC CONSTRUCTION CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 143 is amended by adding a new section
to read:

"§ 143-134.4. Rules and guidelines for retainage.

(a) The Secretary of the Department of Administration shall study retainage from
payment on public construction projects. After the study, the Secretary shall adopt rules
for State agencies and The University of North Carolina and community colleges and
shall adopt guidelines for local government units for retainage on public construction
projects. The rules and guidelines shall address the following:

- (1) Retainage by public owners from payment to contractors and retainage
by those contractors from payment to subcontractors.
- (2) Retainage from periodic progress payments and final payment,
including a maximum allowable amount of retainage.
- (3) A time certain for the owner's release of retainage, based upon the
owner's occupancy, substantial completion of the work, or the owner's
use of the improvements for the purposes intended.
- (4) A time certain for the contractor's release of retainage to a
subcontractor, based upon the contractor's receipt of retainage.
- (5) Conditions permitting withholding of retention beyond the date of
release, including those stated in G.S. 143-134.1(d), and limits on the
amount of retainage for a condition permitting withholding.
- (6) Interest on wrongfully withheld retainage and conditions for the
payment of attorneys' fees for the collection of wrongfully withheld
retainage.

1 (7) Line item release of retainage, based upon a schedule of values, for
2 specific work that has been completed by the contractor and approved
3 by the owner.

4 (8) For any rules adopted, an effective date of 60 days from the date of
5 publication in the North Carolina Register that applies to all public
6 construction projects entered into on or after that date.

7 (9) Any other matters relating to the withholding and release of retainage
8 on public construction projects.

9 (b) In developing the rules and guidelines required by this section, the Secretary
10 shall study and consider the use of escrow accounts and, in lieu of retainage, the use of
11 payment and performance bonds, letters of credit, or other forms of security.

12 (c) Notwithstanding the provisions of G.S. 150B-21.1(a), the Secretary shall
13 adopt rules under this section as temporary rules. After publishing the proposed
14 temporary rules in the North Carolina Register and at least 30 days prior to adopting any
15 temporary rules, the Secretary shall:

16 (1) Notify persons on its mailing list maintained pursuant to G.S.
17 150B-21.2(d) and any other interested parties of its intent to adopt
18 temporary rules.

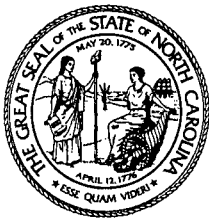
19 (2) Accept oral and written comments on the proposed temporary rules.

20 (3) Hold at least one public hearing on the proposed temporary rules.

21 The Secretary shall submit to the Codifier of Rules a reference to this section as the
22 Secretary's statement of need."

23 **SECTION 2.** The Secretary shall adopt rules, as required by this act, within
24 120 days from the date this act becomes law and shall adopt and publish guidelines, as
25 required by this act, within 150 days from the date this act becomes law.

26 **SECTION 3.** This act is effective when it becomes law.



HOUSE BILL 1146: Retainage Rules/Public Contracts

BILL ANALYSIS

Committee: House State Government
Date: April 25, 2003
Version: First Edition

Introduced by: Representative Nesbitt
Summary by: Kory J. Goldsmith
Committee Counsel

SUMMARY: *HB 1146 directs the Secretary of Administration (Secretary) to study retainage from public construction contracts. The Secretary must then adopt rules for State agencies, The University of North Carolina and Community Colleges, and guidelines for local government units regarding retainage for public construction contracts.*

CURRENT LAW: In large construction projects, the contractor is entitled to receive progress or partial payments. "Retainage" is the practice by which the owner of the project withholds a percentage of these payments. The purpose of retainage is to provide some protection to the public entity in the event the work for which it is paying is unsatisfactory. Retainage may also occur on payments made by a prime contractor to subcontractors.

The North Carolina's standard construction contract for public construction projects provides for a 5% retainage on the periodic payments during the distribution of the first 50% of the project funds. After that point, and if the work has been satisfactory, the owner, the contractor and the surety may agree that no additional retainage is withheld. If this occurs, then upon final payment, the total amount of retainage is 2.5%.

G.S. 143-134.1(a) provides that the balance due prime contractors must be paid within 45 days after that contractor's work project has been accepted by the owner, certified completed, or occupied by the owner. Payments withheld beyond the 45th day are subject to 1% per month interest. Subsection (d) of the same statute provides that a prime contractor may withhold retainage on payments to subcontractors, but the percentage of retainage may not exceed the percentage retained by the owner in payments to the prime contractor. If the contractor withholds more than the amount allowed, the retainage is subject to 1% per month interest.

BILL ANALYSIS: HB1146 directs the Secretary of Administration to study retainage on payments from public construction projects. The Secretary is also instructed to adopt rules applicable to State agencies, The University of North Carolina, and community colleges, and guidelines for units of local government (including public schools). The rule and guidelines must address:

- Retainage by public owners from payment to contractors and retainage by contractors to subcontractors;
- Retainage from periodic payments and final payments including a maximum allowable amount of retainage;
- A time certain for owner's release of retainage based upon the owner's occupancy, substantial completion of work, or owner's use of the improvements;
- A time certain for the contractor's release of retainage to a subcontractor;
- Conditions permitting withholding of retention beyond the date of release and limitations on the amount of retainage for a condition permitting withholding;

HOUSE BILL 1146

Page 2

- Interest on wrongfully withheld retainage;
- Attorney fees incurred to recover wrongfully withheld retainage;
- Line item release of retainage for specified work that has been completed and approved by the owner.

30 days prior to adopting temporary rules, the Secretary shall:

- Notify interested parties
- Obtain oral and written comments
- Hold at least one public hearing

The Secretary would have 120 days from the date the act becomes effective to adopt rules and 150 days to adopt guidelines.

The act is effective when it becomes law. The rules adopted by the Secretary will become effective 60 days from their publication in the North Carolina Register and shall apply to public construction projects entered into on or after that date.

H1146-SMRC-001

MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT

The House Committee on State Government met on Wednesday, April 30, 2003, in Room 1425 of the Legislative Building at 8:00 a.m. The following members were present: *list names starting with Chair Larry Womble, Vice-Chairs Alma Adams, and Bernard Allen. Attending Ex-Officio Members Representatives, Brubaker, Culpepper, Cunningham. Representatives Baker, Bowie, Capps, Culp, Dockham, England, Goforth, Setzer, and Warner.* Also Theresa Matula, and Shirley Iorio, Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

Chairman Larry Womble started the meeting with introductions of today's Pages and Sergeant at Arms. He then introduced members and staff and welcomed all visitors.

Chairman Womble called attention to the only order of business HB 924, **State Government Equal Employment Opportunity**, and explained this bill had been discussed before and a proposed committee substitute previously had been accepted to come before the committee. Representative Adams made a motion to keep the committee substitute properly before the committee and motion passed. The Chair explained that there would be two people speaking today. One would be in favor and one in opposition. He then called upon the bill sponsor, Representative Paul Luebke, to explain the bill.

The first speaker was Victoria Peterson from Durham, North Carolina. Ms. Peterson explained the federal government had passed such a law to protect primarily African Americans, women and other minorities from employment discrimination. It was not their intent to include sexual orientation. She asked "what is sexual orientation"? She stated the terminology was too broad – and since our State speaks clearly against same sex relationships, she hoped the committee would give this bill an unfavorable report.

Next to speak in support of the bill was Sean Connelly from Wilmington, North Carolina. Mr. Connelly stated he worked for the state and had done so for twenty years. He also stated that he was fortunate because his agency recognized employees for their talent and ability. He said that this law was not about benefits but instead identity issues and he hoped the committee would support this bill.

Representative Alma Adams asked for support on this bill, as she had been a victim of discrimination during her life as a woman and as an African-American.

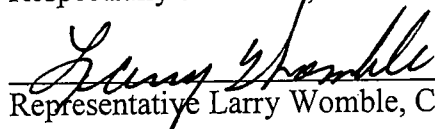
Representative Bowie asked if a potential employee revealed in their interview their sexual orientation and later was denied employment, could that person sue the state. Ms. Sitze, counsel, said the question could not be asked during an interview but the person could volunteer the information of sexual orientation without being asked. Of course, that person would still have to prove that they were denied employment based on sexual orientation.

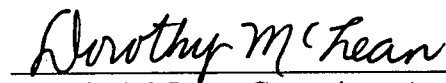
Representative Capps said the bill stated it would apply to local governments. Ms. Matula said at the end of the bill summary, which had been passed out earlier, it lists all people it would affect but it was for state employees only.

Representative Bernard Allen was recognized for a motion. Representative Allen asked the committee to give the committee substitute a favorable report. The vote was division and the Chair then asked for a vote by show of hands. Motion was defeated 8 to 7.

There being no further business, the Chair adjourned the meeting at 11:35 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

4-30-03

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE MEETING

April 30, 2003

Room 1425 LB

Representative Larry Womble
Chair

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

HB 924

State Government EEO

Rep. Luebke

COMMENTS

ADJOURNMENT

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-30-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Victoria Peterson	Durham
SAM CANNALLY Amy Ross	WILMINGTON intern Sen. Dalton
Kirkell Byrum	Rep Kesa
Sarah Toney	Sen. Kees
Denise Huntley	Sen. Crofton
Brad Vito	Rep. Culpepper
Marcos Arellano	Rep. Luebke's Intern
Rob McRight	Intern (Rep. Hadney)
John Kutz	AK FPC
J. Warren	BCTGM

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-30-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>R. G. Full</i>	BCT & M
<i>Jerry Meek</i>	NC Democratic Party
<i>John McHugh</i>	Gov Office
<i>KOP</i>	Asheville Chex-Times
<i>Julie Allen</i>	NC Statewatch
<i>Betty Rider</i>	HRC - EQUALITY NC
<i>Gary Wiggins</i>	State Personnel
<i>Robin Allen</i>	PFLAG Triangle
<i>Michael Williamson</i>	Retirement Div.
<i>Pam Heardorff</i>	" "
<i>TROY PAGE</i>	AOC

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-30-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Ian Palmquist	Equality NC
ED FARTHING	ATTORNEY Y HICKORY
René Seagraves	Board Equality NC Durham
Jo Wyrick	Equality NC Raleigh
Sarah Karges	NARAL in NC
Frank Lewis	OSBM
SAM ISLEY	1422 Mordecai Dr Raleigh, NC 27604 RECONCILING UNITED METHODISTS of NC
Anne Winick	Equality-NC
BRIAN LEWIS	Planned Parenthood Health Systems
Laura Harper	SEANC
BRAD OAKS	Equality NC

VISITOR REGISTRATION SHEET

House/STATE GOVERNMENT

4-30-03

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

George R. Greene Jr.

UNC-CH

2101 Lyndhurst Dr.
Raleigh, NC 27610

John Durham

Charlotte Osburn

Mildred Spearman

NCDOC



PCS FOR HOUSE BILL 924: State Government EEO

BILL ANALYSIS

Committee: House State Government
Date: April 22, 2003
Version: v.1; PCS (H924-CSSH-7)

Introduced by: Representative Luebke
Summary by: Theresa Matula
Committee Staff

SUMMARY: *The Proposed Committee Substitute for House Bill 924 provides equal opportunity for employment and compensation without regard to sexual orientation for covered State employees; and provides an appeal process for employees, former employees, or applicants for initial employment.*

(The PCS deletes the terms "gender identity" and "gender expression" in the original bill.)

BILL ANALYSIS:

Section 1 amends G.S. 126-16 to require all State departments and agencies and all local political subdivisions of North Carolina to give equal opportunity for employment and compensation, without regard to sexual orientation. G.S. 126-16 is in Article 6 of Chapter 126, as such these provisions shall apply to the employees specified in G.S. 126-5 (c), (c1), (c3) (c7) and (c8).¹

Section 2 amends G.S. 126-34.1 to provide that any of the following actions based on an employee's sexual orientation is grounds for a State employee or former State employee to file a contested case under Article 3 of Chapter 150B: denial of promotion, transfer, or training; demotion, reduction in force, or termination of an employee in retaliation of the employee's opposition to alleged discrimination; or harassment in the workplace. An applicant for initial State employment may file a contested case based upon denial of equal opportunity for employment and compensation on account of the employee's sexual orientation.

Section 3 amends G.S. 126-36 to allow appeal directly to the State Personnel Commission if a State employee or former State employee has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination because of the employee's sexual orientation.

Section 4 establishes that this act is effective when it becomes law.

CURRENT LAWS:

North Carolina

In addition to the equal employment laws in Chapter 126, there is also a provision in Chapter 143 of the North Carolina General Statutes. Article 49A of Chapter 143 of the North Carolina General Statutes establishes that it "is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap by employers which regularly employ 15 or more employees.)" Sexual orientation is not specifically listed.

additional info

Federal

- The Fifth Amendment of the United States Constitution requires that no person be deprived of life, liberty, or property without due process of law. The Fourteenth Amendment prohibits states from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

PCS FOR HOUSE BILL 924

Page 2

- 1866 Civil Rights Act provides that all persons shall have the same right as white citizens to make and enforce contracts, and to have equal treatment under the laws of each state. The U.S. Supreme Court has held that this law applies to employment discrimination against minority groups, as well as members of various ethnic groups. (42 USC 1981)
- Title VII of the Civil Rights Act of 1964 prohibits discrimination due to race, color, religion, sex, and national origin in hiring employment and termination. (42 USC 2000e)
- The Age Discrimination in Employment Act (ADEA)² prohibits discrimination in hiring, employment or termination against applicants and employees age 40 and over. (29 USC 621)
- The Equal Pay Act (EPA) prohibits discrimination due to sex in the payment of wages, by barring payment of a lower wage to one sex than to the opposite sex for jobs of equal skill, effort and responsibility which are performed under similar working conditions. There are exceptions if the employer can show that the difference is due to a seniority system, a merit system, a system basing earnings on quantity/quality of work or some other bona fide factor. (29 USC 206(d))
- Americans with Disabilities Act (ADA)² prohibits discrimination against individuals with a serious disability if they are able to perform the essential functions of the job without special accommodations, or if they can perform the essential functions with reasonable accommodations. (42 USC 12101)

Although discrimination on the basis of sexual orientation is not specifically listed as a prohibitive act, it may not prevent a successful claim against discrimination from being brought in the future.

CURRENT STATE PERSONNEL POLICIES:

Equal Employment Opportunity and Unlawful Workplace Harassment policies may be found in Section 1 of the State Personnel Manual.

- EEO: <http://www.osp.state.nc.us/manuals/manual99/eeo.pdf>
- Workplace Harassment: <http://www.osp.state.nc.us/manuals/manual99/wkplhs.pdf>

¹ G.S. 126-5 (c), (c1), (c3), (c7) and (c8) generally include the following: State employees who are not career State employees, Chief deputy/chief administrative assistant to the head of each State department, Confidential assistant and secretaries for elected or appointed department heads/chief deputies/chief administrative assistants, Employees in exempt policymaking positions; Constitutional officers of the State; Officers and employees of the Judicial Department and General Assembly; Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis; Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State; Employees of the Office of the Governor and the Office of the Lieutenant Governor; Instructional and research staff, physicians, and dentists of The University of North Carolina; Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina; North Carolina School of Science and Mathematics' employees; Employees of the North Carolina State Ports Authority; Employees of the North Carolina Global TransPark Authority; Executive director and one associate director of the North Carolina Center for Nursing; Executive director of the independent staff of the Information Resources Management Commission; Employees of the Tobacco Trust Fund Commission; Employees of the Health and Wellness Trust Fund Commission; Employees of the North Carolina Rural Redevelopment Authority; Employees of the Clean Water Management Trust Fund; Employees of the North Carolina Turnpike Authority; Teaching and related educational classes of employees of the Department of Correction, the Department of Health and Human Services and any other State department, agency or institution whose salaries shall be set in the same manner as set for public school employees in Chapter 115C; Exempt managerial positions; Employees of the University of North Carolina Health Care System; Employees of the University of North Carolina Hospitals at Chapel Hill; Employees of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill; and Employees of the Medical Faculty Practice Plan.

² S.L. 2001-467 added Article 31D State Employee Federal Remedy Restoration Act to Chapter 143 of the North Carolina General Statutes. This provision waived the sovereign immunity of the State for the limited purpose of allowing State employees, except for those in exempt policy-making positions designated pursuant to G.S. 126-5(d), to maintain lawsuits in State and federal courts and obtain and satisfy judgments against the State or any of its departments, institutions or agencies under various acts including the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA). G.S. 126-34 was also amended by adding a new subdivision providing that a violation of the listed federal statutes was grounds for a contested case under Article 3 of Chapter 150B.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

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HOUSE BILL 924
PROPOSED COMMITTEE SUBSTITUTE H924-CSSH-7 [v.1]

4/22/2003 1:19:39 PM

Short Title: State Government EEO.

(Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED
AN ACT AMENDING THE STATE PERSONNEL ACT TO INCLUDE SEXUAL
ORIENTATION TO THE LIST OF CLASSIFICATIONS COVERED BY THE
STATE'S EQUAL EMPLOYMENT OPPORTUNITY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, sexual orientation, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age."

SECTION 2. G.S. 126-34.1 reads as rewritten:

"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.

(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:

(1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.

(2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:

a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion, creed,

political affiliation, sexual orientation, or handicapping condition as defined by Chapter 168A of the General Statutes.

- b. Demotion, reduction in force, or termination of an employee in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, or handicapping condition as defined by Chapter 168A of the General Statutes.
- (3) Retaliation against an employee, as proscribed by G.S. 126-17, for protesting an alleged violation of G.S. 126-16.
 - (4) Denial of the veteran's preference granted in accordance with Article 13 of this Chapter in initial State employment or in connection with a reduction in force, for an eligible veteran as defined by G.S. 126-81.
 - (5) Denial of promotion for failure to post or failure to give priority consideration for promotion or reemployment, to a career State employee as required by G.S. 126-7.1 and G.S. 126-36.2.
 - (6) Denial of an employee's request for removal of allegedly inaccurate or misleading information from the employee's personnel file as provided by G.S. 126-25.
 - (7) Any retaliatory personnel action that violates G.S. 126-85.
 - (8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.
 - (9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.
 - (10) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, sexual orientation, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.
 - (11) Violation of any of the following federal statutes as applied to the employee:
 - a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
 - b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
 - c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
 - d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:

- (1) Alleged denial of employment in violation of G.S. 126-16.
- (2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.

- (3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(c)(2).
- (4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.
- (5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.

(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.

(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

(e) Any issue for which appeal to the State Personnel Commission through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126."

SECTION 3. G.S. 126-36 reads as rewritten:

"§ 126-36. Appeal of unlawful State employment practice.

(a) Any State employee or former State employee who has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination or because of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, or handicapping condition as defined by G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the State Personnel Commission.

(b) Subject to the requirements of G.S. 126-34, any State employee or former State employee who has reason to believe that the employee has been subjected to any

1 of the following shall have the right to appeal directly to the State Personnel
2 Commission:

- 3 (1) Harassment in the workplace based upon age, sex, race, color, national
4 origin, religion, creed, sexual orientation, or handicapping condition,
5 whether the harassment is based upon the creation of a hostile work
6 environment or upon a quid pro quo.
- 7 (2) Retaliation for opposition to harassment in the workplace based upon
8 age, sex, race, color, national origin, religion, creed, sexual orientation,
9 or handicapping condition, whether the harassment is based upon the
10 creation of a hostile work environment or upon a quid pro quo."

11 **SECTION 4.** This act is effective when it becomes law.

Sam Connally
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910-397-7992 (Ph/Fx)

Disclosure: The following correspondence represents a personal communication from the undersigned State employee to members of the North Carolina General Assembly. It has been prepared at the writer's personal expense during non-duty hours, consistent with provisions of N.G.G.S. 126-13, "Appropriate political activity of State employees."

April 29, 2003

TO: The Honorable Larry W. Womble, Chair
House Committee on State Government

The Honorable Daniel G. Clodfelter, Chair
Senate Committee Judiciary I

CC: The Honorable Paul Luebke
The Honorable Wib Gulley

FROM: Sam Connally

SUBJECT: House Bill 924 and Senate Bill 1007
State Government EEO

Dear Representative Womble, Senator Clodfelter, and Members of the House Committee on State Government and Senate Judiciary I:

I am writing in support of House Bill 924 and Senate Bill 1007, State Government EEO, sponsored by Representative Luebke and Senator Gulley, respectively, that would add sexual orientation to the State's EEO statement in N.C.G.S. 126-16. I am convinced that including sexual orientation in the State's commitment to equal employment opportunity will be good for the State of North Carolina.

- It makes good business sense, as demonstrated by the fact that over 300 of the Fortune 500 companies include sexual orientation in their own EEO statements.
- It constitutes sound Human Resources policy for the 21st century by ensuring that employment decisions are predicated only on legitimate job-related criteria and are free from adverse impact on the basis of any personal demographic characteristic that is not related to talent or ability.

- It is good public policy, in that it would reflect the State's commitment to affording equal employment opportunity to all its citizens, regardless of personal demographic characteristics -- an action already undertaken by 22 states.

I would like to share my perceptions of the State's EEO statement from three distinct perspectives:

1. As Assistant to the Chancellor for EEO/AA and Director of Human Resources at UNC Wilmington, I would like to share our experience and what I perceive to be the value of UNCW including sexual orientation in our EEO/AA statement in 1994.
2. As Co-Chair of the policy committee and executive committee of the State Personnel Roundtable, I would like to share how our "Equal Benefits Resolution" led, in part, to insurance providers for health, life, dental, and vision insurance offering their products to State employees with unmarried partners identical to coverage provided to all employees.
3. As a gay, partnered man who has served in State government since 1980, first as a career service SPA employee and currently as an EPA "at will" employee, I would like to share my own positive experience of State government and university employment for the past several years, against the backdrop of a less inclusive, more threatening climate of years past.

The first two of these perspectives obviously derive from my employment by UNCW in the EEO/AA and Human Resources roles -- and it would ordinarily be permissible for me to share perceptions related to UNCW's EEO statement or the Roundtable's equal benefits resolution, on behalf of these organizations, if only to provide information to members of the General Assembly concerning historical experience dealing with sexual orientation in the context of equal employment and equal benefit programs in the State of North Carolina. Nonetheless, it should be clear that I represent neither UNC Wilmington nor the University of North Carolina in doing so -- only my own experience in serving UNCW and the University of North Carolina system.

The last of the perspectives noted above, however, is uniquely personal. While my own professional judgment and experience lead me to be an ardent and vocal supporter of a more inclusive EEO/AA statement for the State of North Carolina as representing contemporary human resources practice in a competitive labor market, as a gay man myself, the issue of inclusiveness is personally meaningful and relevant.

Over the years, my colleagues in NC human resources have often observed that it is sometimes difficult to distinguish between message and messenger in matters pertaining to equal employment. Just as the voices of African Americans were sometimes discounted in the civil rights discourse of the 50's and 60's or the voices of women were discounted in the women's issues discourse of the 70's and 80's -- so too might it appear that my advocacy in support of including sexual orientation and marital

status in the State's EEO policy would appear to reflect my own self-interest. [As a practical matter, this is not the case.] Nonetheless, I am persuaded, it is no less right a course of action to extend the State's equal employment policy to include sexual orientation than to have included minorities and women in the State's commitment to full equality of educational and employment opportunity in years past.

UNCW EEO Statement

I have been responsible for coordinating UNCW's EEO/AA program since 1993. The year I was assigned this responsibility, the University Human Relations Advisory Committee recommended we include sexual orientation in the University's formal EEO statement which we did in January, 1994. There was no presenting situation which mandated this change, no adverse impact from having done so, and no public outcry or loss of public support. It simply represented a continuation of the university's long-standing commitment to provide students, faculty, and staff a welcoming, hospitable, and affirming environment in which to pursue higher education.

In the ensuing years, however, I have experienced or observed many instances in which prospective students, faculty, or staff have specifically cited the inclusion of sexual orientation in our EEO statement as being a significant factor in their decision to seek educational or employment opportunities at UNCW. Furthermore, there have been several instances in which this policy affirmation has provided the key to resolving employment concerns in an expeditious, equitable, and dignified manner that previously might have embroiled the institution in a degree of unnecessary controversy.

Since 1994, we have responded to other evolving concepts or public discourse in our commitment to maintaining an open and diverse educational community. We included marital status in 1998 (following a complaint about the fact we had an unmarried, pregnant woman on our faculty) to ensure that marital status was not perceived to be a relevant employment consideration. We included ethnicity (in addition to national origin) following the September 11, 2001 terrorist attacks to reinforce our commitment that persons of Arabic descent continued to be welcome and valued members of the education community. [A copy of UNCW's 2003 EEO/AA Policy Statement is attached.]

In each of these instances, I believe our actions have contributed to and supported our commitment to equality of educational and employment opportunity. We are persuaded that talent knows no boundaries. Thus, if we are to recruit the most talented students, faculty, and staff, we must be prepared to welcome and affirm talent and ability regardless of personal demographic characteristics.

State Personnel Roundtable "Equal Benefits Resolution"

The State Personnel Roundtable is an informal collaboration among chief human resources officers in State agencies, universities, and the Office of State Personnel. We meet periodically to exchange ideas and develop common strategies for improving

human resources administration and promote equity and consistency in human resources administration for State employees.

In Fall 1993, during UNCW's discussion of including sexual orientation in our own EEO statement, I participated in my first Roundtable discussion as Director of Human Resources. Upon raising the question of whether the State might include sexual orientation in the State-wide EEO statement, the then-current Director of State Personnel quietly walked out of the room, leaving comment to the Director of Equal Employment Opportunity Services. The official platform of the Office of State Personnel was apparently that "when the federal government adopts the Employment Non-Discrimination Act, the State of North Carolina will necessarily comply."

The hidden message was that the topic of sexual orientation in North Carolina State government was so fraught with political liability that even human resources professionals committed to improving HR administration in NC could not risk their personal stature, positions, or careers in supporting a more inclusive non-discrimination policy. You can imagine this had a somewhat chilling effect on the discussion and delayed for some years any material discussion of providing a more robust equal employment policy statement.

With the inception of NC Flex, the State's pre-tax optional deduction programs for life, vision, and dental insurance, a number of colleagues began to explore the possibility of inviting NC Flex insurance providers to offer comparable coverage to employees with unmarried partners on an after-tax basis (under authority of Employee Insurance Committees in N.C.G.S. 58-31-60). In Fall 1999, each NC Flex vendor agreed to underwrite after-tax coverage for employees with unmarried partners on an identical basis as NC Flex pre-tax coverage for all employees at UNC Wilmington, providing a basis for continued discussion among Roundtable members.

In Fall 2000, the Policy Committee of the Roundtable endorsed an "Equal Benefits Resolution" and offered it for discussion to the entire Roundtable. In Spring, 2002, the full Roundtable endorsed a similar "Equal Benefits Resolution" which we provided to NC Flex vendors. [Copy attached.] This year, all NC Flex vendors -- recognizing that there is no actuarial basis on which to exclude employees with unmarried partners from voluntary, employee-paid insurance programs -- offered to extend such coverage State-wide. While representatives of the Department of Insurance, State Purchasing & Contracts, and the Attorney General's Office have agreed conceptually that the Office of State Personnel might administratively include employees with unmarried partners in state-wide contracts, this has yet to be realized. Currently, each institution or university whose Employee Insurance Committee elects to offer such coverage must write individual contracts with program providers.

Personal Experience in State Government

After the Committee's consideration of HB 924 on April 23, I read with some interest an article which appeared in the Charlotte Observer which included the statement, "A state

worker said the head of his agency ... would probably fire him once he found out the employee was gay." It is dismaying that any State employee feels this sense of vulnerability and isolation in the 21st century. Perhaps this is a consequence, in part, of the fact that this employee's agency has yet to assure him through its EEO statement that employment decisions will not be predicated on sexual orientation. In contrast, I thought it would be helpful for me to share with you that my own experience in State government and university employment as a gay man has generally been quite positive -- working, as I do, in a university that has evidenced its commitment to equal employment opportunity by including sexual orientation in its EEO policy -- though my career has not been without its own moments of uncertainty in years past.

Following a tour of duty in the military chaplaincy in the 82d Airborne Division at Fort Bragg, I elected to make North Carolina my home. After leaving active duty, I began my career as a State employee at North Carolina State University in 1980 and transferred to UNC Wilmington in 1986. For the first ten years of my career, my sexual orientation was known to my co-workers and supervisors on a personal level, but was undiscussed as a work issue, as was appropriate for this time in our history.

In May, 1987, however, a discussion occurred among senior officers at UNC Wilmington that I was not to become aware of for some years. My partner of many years moved from Raleigh to Wilmington and sought employment at UNCW in an office support role. He was hired in our Postal Services unit as the best qualified candidate in the applicant pool for an entry-level postal clerk position. Some weeks later, his co-workers made the connection between the two of us, and word of our being "roommates" traveled quickly up the chain of command.

Apparently, there was some concern that if our being "roommates" were to become public, that it might invite adverse publicity for the university. Unbeknownst to either of us at the time, an eager-to-please senior officer in my partner's chain of command offered to simply fire James (over his supervisor's ardent objection) because he was still a probationary employee without appeal rights. Alternatively, I was already a career service employee and could not be discharged without documentation of "just cause." My heart will always be grateful to the wisdom of our Provost at the time who summarized and terminated this discussion from proceeding further:

- *Do I understand correctly that James was the best qualified candidate for the job when you hired him? Correct.*
- *Do I understand correctly that Sam was not involved in the hiring process and there was no adverse influence in James' selection? Correct.*
- *Then there is no issue for the University here. This conversation is concluded.*

The purpose of my sharing this account with you is not to indict UNC Wilmington's past, nor to hold up my own experience of ex post facto vulnerability as typical of State government or university employment. Rather, two points would seem to be relevant.

- First, the right course of action -- particularly in an emotional circumstance -- is often the product of individual insight and leadership.

Our Provost had the insight in 1987 (long before UNCW adopted its expanded EEO statement) that James' & my relationship was unrelated to either of our ability to perform for the University. Further, he had the courage to bring his personal leadership to bear to calm the discussion and forestall what might otherwise have been an adverse outcome.

- Second, the right course of action -- particularly in an emotional circumstance -- should not be the product of individual insight and leadership.

The right course of action in a matter as important as the equal treatment of State employees, should not be contingent on simply the right person being in the right place at the right time to avoid adversity. Rather, the right course of action should be a function of policy and reflect the values of the institution (rather than an individual).

At no time in the past ten years, since UNCW adopted its expanded EEO statement, would dismissing an employee because of perceived sexual orientation even have been imaginable -- much less for it to have been offered by a senior officer as a quick & simple solution to avoid possible public comment or personal discomfort.

In my own experience, good things happen when individuals or organizations exercise leadership and demonstrate their commitment to equal employment opportunity. We attract more talented and able students and employees; we affirm talent and ability and give voice to the realization that talent and ability know no demographic boundaries; and we foster an environment where employees can be most productive and help contribute to the State's ability to serve the citizens of North Carolina.

Like UNCW's Provost in 1987, putting a deliberative end to a potentially inflammatory discussion, including sexual orientation in the State's EEO statement will require leadership. Representative Luebke, Senator Gulley, and other members of the Senate have demonstrated personal and political courage in bringing this issue to the General Assembly for its consideration. I am hopeful that you will lend your own voice in support of HB 924 and SB 1007 when they come before your committees and that you will help lead North Carolina to a more inclusive and equitable future in State government.

With all best wishes,


Sam Connally

Attachments

- UNCW Reaffirmation of Commitment to Equal Educational & Employment Opportunity
- State Personnel Roundtable "Equal Benefits Resolution"



REAFFIRMATION OF COMMITMENT TO EQUAL EDUCATIONAL & EMPLOYMENT OPPORTUNITY

The University of North Carolina at Wilmington is committed to and will provide equality of educational and employment opportunity for all persons regardless of race, sex, age, color, gender, national origin, ethnicity, creed, religion, disability, sexual orientation, political affiliation, marital status, veteran status, or relationship to other university constituents -- except where sex, age, or ability represent bona fide educational or occupational qualifications or where marital status is a statutorily established eligibility criterion for State funded employee benefit programs. Further, the university seeks to promote campus diversity by enrolling and employing a larger number of minorities and women where these groups have historically been and continue to be under-represented within the university in relation to availability and extends preference in staff employment to veterans and current State employees seeking promotion.

This affirmation is published in accordance with 41 CFR 60 and is in keeping with Title VII & Title IX of the Civil Rights Act of 1964, as amended; Executive Order 11246; the Rehabilitation Act of 1973; the Vietnam Era Veterans' Readjustment Assistance Act of 1974; the Civil Rights Restoration Act of 1988; and NC General Statutes 116 & 126.

To ensure that equal educational and employment opportunity exists throughout the university, a results-oriented equal opportunity/affirmative action program has been implemented to overcome the effects of past discrimination and to eliminate any artificial barriers to educational or employment opportunities for all qualified individuals that may exist in any of our programs. The university aims to achieve, within all areas of the university community, a diverse student body, faculty, and staff capable of providing for excellence in the education of its students and for the enrichment of the university community.

The University of North Carolina at Wilmington reaffirms its commitment to equality of educational and employment opportunity in its relationships with all members of the university community and its commitment to the elimination of any documented historical and continuing under-utilization of women and minorities among the student body or employee complement. The University of North Carolina at Wilmington is committed to this program and is aware that with its implementation, positive benefits will be received from the greater utilization and development of previously under-utilized human resources.

STATEMENT ON DIVERSITY IN THE UNIVERSITY COMMUNITY

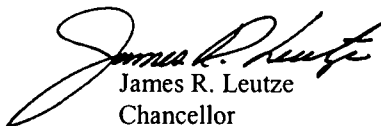
As an institution of higher learning, the University of North Carolina at Wilmington represents a rich diversity of human beings among its faculty, staff, and students and is committed to maintaining a campus environment that values that diversity. Accordingly, the university supports policies, curricula, and co-curricular activities that encourage understanding and appreciation of all members of its community and will not tolerate any harassment of or disrespect for persons because of race, sex, age, color, gender, national origin, ethnicity, creed, religion, disability, sexual orientation, political affiliation, marital status, veteran status, or relationship to other university constituents.

UNLAWFUL HARASSMENT, PERSONAL DISCRIMINATION, AND RETALIATION

The University of North Carolina at Wilmington affirms that students and employees are entitled to an educational and employment environment free from unlawful harassment or personal discrimination and expressly prohibits unlawful harassment or personal discrimination of any individual among the university community engaged in educational or employment pursuits based on that individual's race, sex, age, color, gender, national origin, ethnicity, creed, religion, disability, sexual orientation, political affiliation, marital status, veteran status, or relationship to other university constituents. Further, no student or employee shall be subject to retaliation for bringing a good faith complaint pertaining to unlawful harassment or personal discrimination or for protesting such behavior directed against another member of the university community.

For more information concerning ways in which our multicultural learning community may be nurtured and protected or complaint resolution procedures, contact the Chancellor's Human Relations Advisory Committee, the Office of Campus Diversity, the Office of the Dean of Students, or the Office of Human Resources.

Adopted January 1, 2003.


James R. Leutze
Chancellor

**STATE PERSONNEL ROUNDTABLE
AFFIRMATION OF COMMITMENT TO
EQUAL BENEFITS PROGRAM**

WHEREAS, the State Personnel Roundtable – consisting of Human Resources and Personnel Directors of all Council of State Agencies, Cabinet Agencies, constituent institutions of the University of North Carolina, and the Office of State Personnel – is committed to improving human resources administration in North Carolina for the benefit of the citizens of the State; and

WHEREAS, the US Census for 2000 documented that a significant percentage of American households consist of unmarried partners domiciled together and sharing responsibility for the common necessities of life; and the labor market reflects the increasing diversity of the American population and represents the pool of talent and ability available to the State; and

WHEREAS, members of the State Personnel Roundtable recognize that benefit programs constitute a critical component of total compensation influencing the State's ability to recruit and retain employees; that talent and ability are unrelated to personal demographic characteristics; and that the State must respect diversity in order to recruit and retain the best talent and ability to serve the citizens of North Carolina; and

WHEREAS, the State of North Carolina is committed to providing equal employment opportunity to all of its citizens without regard to personal demographic characteristics;

THEREFORE, BE IT NOW RESOLVED that all employment opportunities, all terms and conditions of employment, and all employment benefit programs of the State of North Carolina shall henceforth be offered to State Employees without regard to personal demographic characteristics which are not related to talent or ability – including race, gender, age, religion, creed, color, national origin, ethnicity, disability, sexual orientation, or marital status – except where sex, age, or ability represent bona fide occupational qualifications for employment or where marital status represents a Federally-mandated basis for determining eligibility for or the taxability of flexible benefit programs under Internal Revenue Service regulations.

AND BE IT FURTHER RESOLVED that the State Personnel Roundtable hereby encourages Employee Insurance Committees of agencies and universities, the NC Flexible Benefits Advisory Committee, the Teachers' and State Employees' Comprehensive Major Medical Plan, the Teachers' & State Employees' Retirement System, the Department of Insurance, and the North Carolina General Assembly to work together to further the realization of inclusive, non-discriminatory benefit programs for State Employees.

Adopted by the State Personnel Roundtable the 14th day of March, 2002, and executed on behalf of the Roundtable by Co-Chairs of the Executive Committee, as certified below:



Ann Cobb
Co-Chair, Executive Committee



Sam Connally
Co-Chair, Executive Committee

Part 3. Comprehensive Major Medical Plan.

§ 135-40. Undertaking.

(a) The State of North Carolina undertakes to make available a Comprehensive Major Medical Plan (hereinafter called the "Plan") exclusively for the benefit of its employees, retired employees and certain of their dependents which will pay benefits in accordance with the terms hereof. The Plan shall have all the powers and privileges of a corporation and shall be known as the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. The Executive Administrator and Board of Trustees shall carry out their duties and responsibilities as fiduciaries for the Plan.

(a1) (Effective July 1, 2000) The State of North Carolina deems it to be in the public interest for North Carolina firemen, rescue squad workers, and members of the national guard, and certain of their dependents, who are not eligible for any other type of comprehensive group health insurance or other comprehensive group health benefits, and who have been without any form of group health insurance or other comprehensive group health benefit coverage for at least six months, to be given the opportunity to participate in the benefits provided by the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan. Coverage under the Plan shall be voluntary for eligible firemen, rescue squad workers, and members of the national guard who elect participation in the Plan for themselves and their eligible dependents.

(b) The Plan benefits will be provided under contracts between the State and the Claims Processor selected by the State. Claims Processor refers to the administrator, third party administrator or other party contracting with the State to administer the Plan benefits. Such contracts shall include the substance of G.S. 135-40.1 through G.S. 135-40.13 and the description of Plan in the request for proposal, and shall be administered by the respective Claims Processor of the State which will determine benefits and other questions arising thereunder. The contracts necessarily will conform to applicable State laws. If any of the provisions of G.S. 135-40.1 through G.S. 135-40.13 and the request for proposals must be modified for inclusion in the contract because of State laws, such modification will be made.

(c) Payroll deduction shall be available for coverage under this Part or under G.S. 135-39.5B of amounts not paid by the State.

(d) Notwithstanding any other provisions of the Plan, the Executive Administrator and Board of Trustees are specifically authorized to use all appropriate means to secure tax qualification of the Plan under any applicable provisions of the Internal Revenue Code of 1954 as amended. The Executive Administrator and Board of Trustees shall furthermore comply with all applicable provisions of the Internal Revenue Code as amended, to the extent that this compliance is not prohibited by this Article. (1981 (Reg. Sess., 1982), c. 1398, s. 6; 1985, c. 732, ss. 44, 61; 1985 (Reg. Sess., 1986), c. 1020, ss. 8, 20; 1989, c. 752, s. 22(b); 1999-237, s. 28.29(a).)

§ 135-40.2. Eligibility.

(a) The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-40.3:

- (1) All permanent full-time employees of an employing unit who meet the following conditions:
 - a. Paid from general or special State funds, or
 - b. Paid from non-State funds and in a group for which his or her employing unit has agreed to provide coverage.Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision.
- (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at least one-half of the workdays of each pay period.
- (2) Retired teachers, State employees, members of the General Assembly, and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985.
- (2a) Surviving spouses of:
 - a. Deceased retired employees, provided the death of the former plan member occurred prior to October 1, 1986; and
 - b. Deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs, provided the death of the former plan member occurred prior to October 1, 1986.
- (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).
- (3a) Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.
- (4) Members of the General Assembly.
- (5) Notwithstanding the provisions of subsection (e) of this section, employees on official leave of absence while completing a full-time program in school administration in an approved program as a Principal Fellow in accordance with Article 5C of Chapter 116 of the General Statutes.
- (6) Notwithstanding the provisions of G.S. 135-40.11, employees formerly covered by the provisions of this section, other than retired employees, who have been employed for 12 or more months by an employing unit and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at the time of separation from service resulting from a job elimination. Employees covered by this

subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination.

- (7) Any member enrolled pursuant to subdivision (1) or (1a) of this subsection who is on approved leave of absence with pay or receiving workers' compensation.

- (8) Employees on approved Family and Medical Leave.

(a1) Repealed by Session Laws 2000-141, s. 6(b), effective August 2, 2000, and by Session Laws 2000-184, s. 1(b), effective August 1, 2000.

(a2) A classroom teacher in a job-sharing position as defined in G.S. 115C-302.2(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual employees shall pay the balance of the total noncontributory premiums not paid by the employing unit.

(b) The following person shall be eligible for coverage under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-40.3:

- (1) Repealed by Session Laws 1983, c. 761, s. 255.
- (2) Former members of the General Assembly who enroll before October 1, 1986.
- (2a) For enrollments after September 30, 1986, former members of the General Assembly if covered under the Plan at termination of membership in the General Assembly. To be eligible for coverage as a former member of the General Assembly, application must be made within 30 days of the end of the term of office. Only members of the General Assembly covered by the Plan at the end of the term of office are eligible. If application is not made within the specified time period, the member forfeits eligibility.
- (3) Surviving spouses of deceased former members of the General Assembly who enroll before October 1, 1986.
- (3a) Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.
- (3b) For enrollments after September 30, 1986, surviving spouses of deceased former members of the General Assembly, if covered under the Plan at the time of death of the former member of the General Assembly.
- (4) All permanent part-time employees (designated as half-time or more) of an employing unit who meets the conditions outlined in subdivision (a)(1)a above, and who are not covered by the provisions of G.S. 135-40.2(a)(1).
- (4a) Repealed by Session Laws 1997-512, s. 22.
- (5) The spouses and eligible dependent children of enrolled teachers, State employees, retirees, former members of the General Assembly, former

employees covered by the provisions of G.S. 135-40.2(a)(6), Disability Income Plan beneficiaries, enrolled continuation members, and members of the General Assembly. Spouses of surviving dependents are not eligible, nor are dependent children if they were not covered at the time of the member's death. Surviving spouses may cover their dependent children provided the children were enrolled at the time of the member's death or enroll within 30 days of the member's death.

- (6) Blind persons licensed by the State to operate vending facilities under contract with the Department of Health and Human Services, Division of Services for the Blind and its successors, who are:
 - a. Operating such a vending facility;
 - b. Former operators of such a vending facility whose service as an operator would have made these operators eligible for an early or service retirement allowance under Article 1 of this Chapter had they been members of the Retirement System; and
 - c. Former operators of such a vending facility who attain five or more years of service as operators and who become eligible for and receive a disability benefit under the Social Security Act upon cessation of service as an operator.

Spouses, dependent children, surviving spouses, and surviving dependent children of such members are not eligible for coverage.

- (7) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(j).
- (8) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly provided the death of the former Plan member occurred after September 30, 1986, and the surviving spouse was covered under the Plan at the time of death.
- (9) Repealed by Session Laws 1987, c. 857, s. 11.1.
- (10) Any eligible dependent child of the deceased retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, provided the child was covered at the time of death of the retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, (or was in posse at the time and is covered at birth under this Part), or was covered under the Plan on September 30, 1986. An eligible surviving dependent child can remain covered until age 19, or age 26 if a full-time student, or indefinitely if certified as incapacitated under G.S. 135-40.1(3)b.
- (11) Repealed by Session Laws 2000-141, s. 6(b), effective August 2, 2000, and by Session Laws 2000-184, s. 1(b), effective August 1, 2000.
- (12) Notwithstanding the provisions of G.S. 135-40.11, former employees covered by the provisions of G.S. 135-40.2(a)(6), and their spouses and eligible dependent children who were covered by the Plan at the time of

the former employees' separation from service pursuant to G.S. 135-40.2(a)(6), following expiration of the former employees' coverage provided by G.S. 135-40.2(a)(6). Election of coverage under this subdivision shall be made within 90 days after the termination of coverage provided under G.S. 135-40.2(a)(6).

(13) Firemen, rescue squad workers, and members of the national guard, their eligible spouses, and eligible dependent children.

(c) No person shall be eligible for coverage as a dependent if eligible as an employee or retired employee, except when a spouse is eligible on a fully contributory basis. In addition, no person shall be eligible for coverage as a dependent of more than one employee or retired employee at the same time.

(d) Former employees who are receiving disability retirement benefits or disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided the former employee has at least five years of retirement membership service, shall be eligible for the benefit provisions of this Plan, as set forth in this Part, on a noncontributory basis. Such coverage shall terminate as of the end of the month in which such former employee is no longer eligible for disability retirement benefits or disability income benefits pursuant to Article 6 of this Chapter.

(e) Employees on official leave of absence without pay may elect to continue this group coverage at group cost provided that they pay the full employee and employer contribution through the employing unit during the leave period.

(f) For the support of the benefits made available to any member vested at the time of retirement, their spouses or surviving spouses, and the surviving spouses of employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina Art Society, Inc., and the North Carolina Symphony Society, Inc., each association, organization or board shall pay to the Plan the full cost of providing these benefits under this section as determined by the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan. In addition, each association, organization or board shall pay to the Plan an amount equal to the cost of the benefits provided under this section to presently retired members of each association, organization or board since such benefits became available at no cost to the retired member.

(g) An eligible surviving spouse and any eligible surviving dependent child of a deceased retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary shall be eligible for group benefits under this section without waiting periods for preexisting conditions provided coverage is elected within 90 days after the death of the former plan member. Coverage may be elected at a later time, but will be subject to the 12-month waiting period for preexisting conditions and will be effective the first day of the month following receipt of the application.

(h) No person shall be eligible for coverage as an employee or retired employee or as a dependent of an employee or retired employee upon a finding by the Executive Administrator or Board of Trustees or by a court of competent jurisdiction that the

employee or dependent knowingly and willfully made or caused to be made a false statement or false representation of a material fact in a claim for reimbursement of medical services under the Plan. The Executive Administrator and Board of Trustees may make an exception to the provisions of this subsection when persons subject to this subsection have had a cessation of coverage for a period of five years and have made a full and complete restitution to the Plan for all fraudulent claim amounts. Nothing in this subsection shall be construed to obligate the Executive Administrator and Board of Trustees to make an exception as allowed for under this subsection.

(i) Any employee receiving benefits pursuant to Article 6 of this Chapter when the employee has less than five years of retirement membership service, or an employee on leave without pay due to illness or injury for up to 12 months, is entitled to continued coverage under the Plan for the employee and any eligible dependents by paying one hundred percent (100%) of the cost. (1981 (Reg. Sess., 1982), c. 1398, s. 6; 1983, c. 499; c. 761, ss. 252-255; c. 867, s. 4; c. 922, s. 5; 1985, c. 400, ss. 5, 6; 1985 (Reg. Sess., 1986), c. 1020, s. 29(a)-(1); 1987, c. 738, ss. 29(n), 36(a), 36(b); c. 809, ss. 3, 4; c. 857, ss. 11(a), 11.1, 11.2, 12; 1989, c. 752, s. 22(e), (f); 1989 (Reg. Sess., 1990), c. 1074, s. 22(a); 1993, c. 321, s. 85(b); 1995, c. 278, s. 1; c. 507, ss. 7.21(a)-(c), 7.28(a)-(c); 1997-443, s. 11A.118(a); 1997-512, ss. 17, 19-27; 1999-237, s. 28.29(f); 2000-141, ss. 6(a), (b); 2000-184, ss. 1(a),(b), 3; 2001-487, s. 86(a); 2002-174, s. 4.)

4-30-03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 924

Short Title: State Government EEO.

(Public)

Sponsors: Representative Luebke.

Referred to: State Government.

April 8, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE PERSONNEL ACT TO INCLUDE SEXUAL ORIENTATION, GENDER IDENTITY, AND GENDER EXPRESSION TO THE LIST OF CLASSIFICATIONS COVERED BY THE STATE'S EQUAL EMPLOYMENT OPPORTUNITY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, sexual orientation, gender identity, gender expression, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age."

SECTION 2. G.S. 126-34.1 reads as rewritten:

"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.

(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:

(1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.

(2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:

a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, sexual orientation, gender identity, gender

- 1 expression, or handicapping condition as defined by Chapter
2 168A of the General Statutes.
- 3 b. Demotion, reduction in force, or termination of an employee in
4 retaliation for the employee's opposition to alleged
5 discrimination on account of the employee's age, sex, race,
6 color, national origin, religion, creed, political affiliation, sexual
7 orientation, gender identity, gender expression, or handicapping
8 condition as defined by Chapter 168A of the General Statutes.
- 9 (3) Retaliation against an employee, as proscribed by G.S. 126-17, for
10 protesting an alleged violation of G.S. 126-16.
- 11 (4) Denial of the veteran's preference granted in accordance with Article
12 13 of this Chapter in initial State employment or in connection with a
13 reduction in force, for an eligible veteran as defined by G.S. 126-81.
- 14 (5) Denial of promotion for failure to post or failure to give priority
15 consideration for promotion or reemployment, to a career State
16 employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- 17 (6) Denial of an employee's request for removal of allegedly inaccurate or
18 misleading information from the employee's personnel file as provided
19 by G.S. 126-25.
- 20 (7) Any retaliatory personnel action that violates G.S. 126-85.
- 21 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial
22 determination found probable cause to believe there has been a
23 violation of G.S. 126-14.2.
- 24 (9) Denial of employment in violation of G.S. 126-14.2, where an initial
25 determination found probable cause to believe that there has been a
26 violation of G.S. 126-14.2.
- 27 (10) Harassment in the workplace based upon age, sex, race, color, national
28 origin, religion, creed, sexual orientation, gender identity, gender
29 expression, or handicapping condition, whether the harassment is
30 based upon the creation of a hostile work environment or upon a quid
31 pro quo.
- 32 (11) Violation of any of the following federal statutes as applied to the
33 employee:
- 34 a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- 35 b. The Age Discrimination in Employment Act, 29 U.S.C. § 621,
36 et seq.
- 37 c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
- 38 d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- 39 (b) An applicant for initial State employment may file in the Office of
40 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
41 General Statutes based upon:
- 42 (1) Alleged denial of employment in violation of G.S. 126-16.

- 1 (2) Denial of the applicant's request for removal of allegedly inaccurate or
2 misleading information from the personnel file as provided by G.S.
3 126-25.
- 4 (3) Denial of equal opportunity for employment and compensation on
5 account of the employee's age, sex, race, color, national origin,
6 religion, creed, political affiliation, sexual orientation, gender identity,
7 gender expression, or handicapping condition as defined by Chapter
8 168A of the General Statutes. This subsection with respect to equal
9 opportunity as to age shall be limited to persons who are at least 40
10 years of age. An applicant may not, however, file a contested case
11 where political affiliation was the reason for the person's nonselection
12 for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3),
13 (ii) a chief deputy or chief administrative assistant position under G.S.
14 126-5(c)(4), or (iii) a confidential assistant or confidential secretary
15 position under G.S. 126-5(c)(2).
- 16 (4) Denial of the veteran's preference in initial State employment provided
17 by Article 13 of this Chapter, for an eligible veteran as defined by G.S.
18 126-81.
- 19 (5) Denial of employment in violation of G.S. 126-14.2, where an initial
20 determination found probable cause to believe that there has been a
21 violation of G.S. 126-14.2.

22 (c) In the case of a dispute as to whether a State employee's position is properly
23 exempted from the State Personnel Act under G.S. 126-5, the employee may file in the
24 Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of
25 the General Statutes.

26 (d) A State employee or applicant for State employment may file in the Office of
27 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
28 General Statutes based upon a false accusation regarding, or disciplinary action relating
29 to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

30 (e) Any issue for which appeal to the State Personnel Commission through the
31 filing of a contested case under Article 3 of Chapter 150B of the General Statutes has
32 not been specifically authorized by this section shall not be grounds for a contested case
33 under Chapter 126."

34 **SECTION 3.** G.S. 126-36 reads as rewritten:

35 **"§ 126-36. Appeal of unlawful State employment practice.**

36 (a) Any State employee or former State employee who has reason to believe that
37 employment, promotion, training, or transfer was denied the employee or that demotion,
38 layoff, transfer, or termination of employment was forced upon the employee in
39 retaliation for opposition to alleged discrimination or because of the employee's age,
40 sex, race, color, national origin, religion, creed, political affiliation, sexual orientation,
41 gender identity, gender expression, or handicapping condition as defined by G.S.
42 168A-3 except where specific age, sex or physical requirements constitute a bona fide
43 occupational qualification necessary to proper and efficient administration, shall have
44 the right to appeal directly to the State Personnel Commission.

(b) Subject to the requirements of G.S. 126-34, any State employee or former State employee who has reason to believe that the employee has been subjected to any of the following shall have the right to appeal directly to the State Personnel Commission:

(1) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, sexual orientation, gender identity, gender expression, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.

(2) Retaliation for opposition to harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, sexual orientation, gender identity, gender expression, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo."

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

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING & BILL SPONSOR NOTICE
2003-2004 SESSION**

You are hereby notified that the Committee on **State Government** will meet as follows:

DAY & DATE: **Wednesday, April 30, 2003**

TIME: **11:00 a.m.**

LOCATION: **Room 1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 924 State Government EEO Representative Luebke

Respectfully,

Representative Womble
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
11:00 a.m. on April 30, 2003.

☒ Principal Clerk
☒ Reading Clerk - House Chamber

Dorothy McLean (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON
STATE GOVERNMENT**

The House Committee on State Government met on Wednesday, May 14, 2003, in Room 1425 of the Legislative Building at 11:00 a.m. The following members were present: *Chair Larry Womble, Vice-Chair Bernard Allen and Representatives Capps, Culp, Dockham, and England.* Also Kory Goldsmith, Theresa Matula, Tim Hovis and Shirley Iorio Staff Counsel were present. A Visitor Registration list and agenda are attached and made part of these minutes.

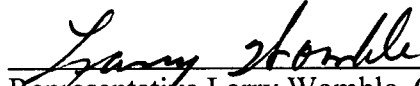
Chairman Larry Womble welcomed members, staff, Pages, Sergeant at Arms and visitors.

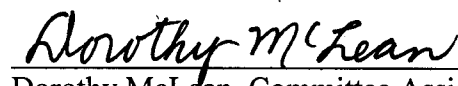
The Chair then called attention to the two bills on today's agenda. The first order of business was SB 851. The bill sponsor, Senator Metcalf, was called upon to explain the bill entitled, **AN ACT TO PROVIDE THAT A PERSON MAY BE REAPPOINTED TO THE BOARD OF DIRECTORS OF THE ARBOTERUM AFTER ONE YEAR'S ABSENCE FROM THE BOARD.** After discussion, Representative Culp moved for a favorable report. The motion passed.

Chairman Larry Womble then called upon Senator Kerr to explain SB 940 entitled, **AN ACT TO PROVIDE JOB PROTECTION FOR VOLUNTEER FIREFIGHTERS, RESCUE SQUAD WORKERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL CALLED INTO THE SERVICE OF THE STATE IN RESPONSE TO A PROCLAMATION OF A STATE DISASTER BY THE GOVERNOR OR THE GENERAL ASSEMBLY, OR IN RESPONSE TO AN EMERGENCY SITUATION RESULTING IN THE ACTIVATION OF THE STATE EMERGENCY RESPONSE TEAM.** Representative Bernard Allen moved for a favorable report. The motion passed.

There being no further business, the Chair adjourned the meeting at 11:25 a.m.

Respectfully submitted,


Representative Larry Womble, Chair


Dorothy McLean, Committee Assistant

AGENDA

HOUSE STATE GOVERNMENT COMMITTEE MEETING

May 14, 2003

Room 1425 LB

***Representative Larry Womble
Chair***

CALL TO ORDER

WELCOME

INTRODUCTION OF PAGES and SERGEANT-at-ARMS

BILLS TO BE DISCUSSED

SB 940	Disaster Leave/Vol. Emergency Personnel	Rep. Kerr
SB 851	Amend Arboretum Bd. Of Directors	Sen. Metcalf
HB 861	Review State Government/UNC Employment	Rep. Earle Rep. Wainwright

COMMENTS

ADJOURNMENT

House Pages

- (1.) Name: Michael White
County: Guthrie
Sponsor: Jones
- (2.) Name: Oliver Buckmaster
County: Cumberland
Sponsor: Flazier
- (3.) Name: Kaitlin Powers
County: Pender
Sponsor: Wright
- (4.) Name: Leonette Kigo-Stockton
County: Mech
Sponsor: Linda Johnson
- (5.) Name: Immi Valentine
County: Mech.
Sponsor: _____

(6) Raibach Co. 4
TANNER
Wing

Sgt-At-Arms

1. Name: Bill Sullivan
2. Name: JAMES Worth
3. Name: JAMES Womack
4. Name: CHARLES Williams

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for

S.B. 851 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A PERSON MAY BE REAPPOINTED TO THE BOARD OF DIRECTORS OF THE ARBOTERUM AFTER ONE YEAR'S ABSENCE FROM THE BOARD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to the original bill. (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of Rep. _____, (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered _____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in _____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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1

SENATE BILL 851

Short Title: Amend Arboretum Bd. of Directors.

(Public)

Sponsors: Senator Metcalf.

Referred to: State Government, Local Government, and Veterans' Affairs.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON MAY BE REAPPOINTED TO THE
BOARD OF DIRECTORS OF THE ARBORETUM AFTER ONE YEAR'S
ABSENCE FROM THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-243 reads as rewritten:

"§ 116-243. Board of directors established; appointments.

A board of directors to govern the operation of the Arboretum is established, to be
appointed as follows:

- (1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (4) The President of The University of North Carolina or his designee to serve ex officio;
- (5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex officio;
- (6) The President of Western North Carolina Arboretum, Inc., to serve ex officio;

1 (7) Six by the Board of Governors of The University of North Carolina,
2 initially, three for one-year terms, and three for three-year terms.
3 Successors shall be appointed for four-year terms. One shall be an
4 active grower of nursery stock, and one other shall represent the State's
5 garden clubs;

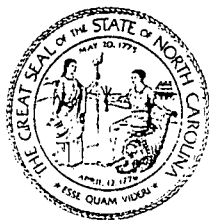
6 (8) The executive director of the Arboretum and the Executive Vice
7 President of Western North Carolina Development Association shall
8 serve ex officio as nonvoting members of the board of directors.

9 All appointed members may serve two full four-year terms following the initial
10 appointment and then may not be reappointed until they have been absent for at least
11 ~~four years.~~ one year. Members serve until their successors have been appointed.
12 Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in
13 appointments made by the General Assembly shall be filled in accordance with G.S.
14 120-122. Initial terms begin July 1, 1986.

15 The chairman of the board of directors shall be elected biennially by majority vote of
16 the directors.

17 The executive director of the Arboretum shall report to the board of directors."

18 **SECTION 2.** This act is effective when it becomes law.



SB 851: Amend Arboretum Bd. of Directors

5-14-03

favorable
report

BILL ANALYSIS

Committee: House State Government
Date: May 14, 2003
Version: 1st Edition

Introduced by: Senator Metcalf
Summary by: Tim Hovis
Committee Counsel

SUMMARY: *Allows members of the Board of Directors of the North Carolina Arboretum who have served the maximum consecutive terms allowed to be reappointed after a one year absence from the Board.*

BILL ANALYSIS:

The North Carolina Arboretum was established pursuant to Article 30 of Chapter 116 of the General Statutes. It was set up on land provided by the US Forest Service from property that was known as the Bent Creek Experimental Forest. The Arboretum is charged with maintaining plantings that are fully representative of Western North Carolina.

The North Carolina Arboretum is administered by The University of North Carolina through a Board of Directors. The statute governing the Board of Directors, G.S. 116-243, currently provides that a member of the Board may serve two full four-year terms after which the member may not be reappointed for at least four years. House Bill 851 would shorten the time that a member would have to be absent from the Board before being reappointed from four years to one year.

The act is effective when it becomes law.

This summary was contributed to by Barbara Riley, Staff Attorney, Research Division.

**2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Womble** (Chair) for the Committee on **STATE GOVERNMENT**.

☐ Committee Substitute for
S.B. 940 A BILL TO BE ENTITLED AN ACT TO PROVIDE JOB PROTECTION FOR
VOLUNTEER FIREFIGHTERS, RESCUE SQUAD WORKERS, AND EMERGENCY
MEDICAL SERVICES PERSONNEL CALLED INTO THE SERVICE OF THE STATE IN
RESPONSE TO A PROCLAMATION OF A STATE DISASTER BY THE GOVERNOR
OR THE GENERAL ASSEMBLY, OR IN RESPONSE TO AN EMERGENCY
SITUATION RESULTING IN THE ACTIVATION OF THE STATE EMERGENCY
RESPONSE TEAM.

- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to the original bill. (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

- ____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.
- ____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.
- ____ The bill/resolution is re-referred to the Committee on _____.
- ____ On motion of Rep. _____, (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.
- ____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. _____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. _____)/resolution is placed on the Unfavorable Calendar.
- ____ On motion of Rep. _____, (the rules are suspended) (Rule _____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).
- ____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV _____.) () This amendment changes the title.
- ____ The bill/resolution (, as amended,) passes its second reading (by following vote, _____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).
- ____ The bill/resolution (, as amended,) passes its third reading (by the following vote, _____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. _____ by Special message.
____ sent to the Senate for concurrence in
____ the House amendment (s).
____ the House committee substitute bill.
____ enrolled.
- ____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, _____ RC) (, by EV _____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S

2

SENATE BILL 940

Second Edition Engrossed 4/22/03

Short Title: Disaster Leave/Vol. Emergency Personnel.

(Public)

Sponsors: Senator Kerr.

Referred to: State Government, Local Government, and Veterans' Affairs.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE JOB PROTECTION FOR VOLUNTEER FIREFIGHTERS,
RESCUE SQUAD WORKERS, AND EMERGENCY MEDICAL SERVICES
PERSONNEL CALLED INTO THE SERVICE OF THE STATE IN RESPONSE
TO A PROCLAMATION OF A STATE OF DISASTER BY THE GOVERNOR
OR THE GENERAL ASSEMBLY, OR IN RESPONSE TO AN EMERGENCY
SITUATION RESULTING IN THE ACTIVATION OF THE STATE
EMERGENCY RESPONSE TEAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 166A of the General Statutes is amended
by adding a new section to read:

**§ 166A-17. Leave options for voluntary firefighters, rescue squad workers, and
emergency medical service personnel called into service.**

(a) A member of a volunteer fire department, rescue squad, or emergency
medical services agency called into service of the State after a proclamation of a state of
disaster by the Governor or by the General Assembly, or upon the activation of the State
Emergency Response Team in response to a disaster or emergency, shall have the right
to take leave without pay from his or her civilian employment. No member of a
volunteer fire department, rescue squad, or emergency medical services agency shall be
forced to use or exhaust his or her vacation or other accrued leave from his or her
civilian employment for a period of active service. The choice of leave shall be solely
within the discretion of the member.

(b) For the volunteer member to be entitled to take leave without pay pursuant to
this section, his or her services shall be requested in writing by the Director of the
Division of Emergency Management or by the head of a local Emergency Management
Agency. The request shall be directed to the Chief of the member's volunteer fire
department, rescue squad, or emergency medical services agency and a copy shall be
provided to the member's employer. This section shall not apply to those members
whose services have been certified by their employer to the Director of the Division of

1 Emergency Management, or to the head of a local Emergency Management Agency, as
2 essential to the employer's own on-going emergency or disaster relief activities.

3 (c) For purposes of this section, a disaster or emergency requiring the activation
4 of the State Emergency Response Team means a disaster or emergency at Activation
5 Level 2 or greater according to the North Carolina State Emergency Operations Plan of
6 November 2002. Activation Level 2 requires the State Emergency Operations Center to
7 be fully activated with 24-hour staffing from all State Emergency Response Team
8 members.

9 (d) The Commissioner of Labor shall enforce the provisions of this section
10 pursuant to Chapter 95 of the General Statutes."

11 **SECTION 2:** This act is effective when it becomes law and applies to any
12 volunteer firefighter, rescue squad worker, or emergency medical services personnel
13 called into service of the State after the proclamation of a state of disaster or the
14 activation of the State Emergency Response Team occurring on or after that date.



5-14-03

SENATE BILL 940: Disaster Leave/Vol. Emergency Personnel

BILL ANALYSIS

Committee: House State Government
Date: May 14, 2003
Version: Second Edition

Introduced by: Senator Kerr
Summary by: Theresa Matula
Committee Staff

SUMMARY: *Senate Bill 940 prevents members of volunteer fire departments, rescue squads, and emergency medical services agencies called into service after proclamation of a state disaster, or upon activation of the State Emergency Response Team, from being forced to use vacation or other accrued leave from civilian employment while in active service.*

BILL ANALYSIS:

Section 1 of Senate Bill 940 amends Article 1 of Chapter 166A North Carolina Emergency Management Act. by adding a new section, G.S. 166A-17.

G.S. 166A-17(a) allows a member of a volunteer fire department, rescue squad, or emergency medical services agency to have the right to take leave without pay from his or her civilian employment and prevents them from being forced to use or exhaust vacation, or other accrued leave, for a period of active service. The choice of leave shall be solely within the discretion of the member. In order to have the right to take leave without pay from his or her civilian employment, the member of a volunteer fire department, rescue squad, or emergency medical services agency must be called into service of the State under the following situations:

- after a proclamation of a state of disaster by the Governor or by the General Assembly, or
- upon the activation of the State Emergency Response Team in response to a disaster or emergency.

G.S. 166A-17(b) provides that in order for the volunteer member to be entitled to take leave without pay pursuant to this section, the following shall apply:

- His or her services shall be requested in writing by the Director of the Division of Emergency Management or by the head of a local Emergency Management Agency.
- The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency and a copy shall be provided to the member's employer.

The section does not apply to those members whose services have been certified by their employer to the Director of the Division of Emergency Management, or to the head of a local Emergency Management Agency, as essential to the employer's own on-going emergency or disaster relief activities.

G.S. 166A-17(c) provides that for purposes of this section, a disaster or emergency requiring the activation of the State Emergency Response Team means a disaster or emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hours staffing from all State Emergency Response Team members.

G.S. 166A-17(d) requires the Commissioner of Labor to enforce the provisions of this section pursuant to Chapter 95 of the General Statutes.

Continued on Back

SENATE BILL 940

Page 2

Section 2 establishes that this is effective when it becomes law and applies to volunteer firefighters, rescue squad workers, or emergency medical services personnel called into service of the State after the proclamation of a state of disaster or the activation of the State Emergency Response Team occurring on or after that date.

SIMILAR CURRENT LAW:

§ 127A-111. Civilian leave option.

(a) A member of the North Carolina National Guard called into service of the State by the Governor shall have the right to take leave without pay from his or her civilian employment. No member of the North Carolina National Guard shall be forced to use or exhaust his or her vacation or other accrued leaves from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes.

§ 127A-116. Leaves of absence for State officers and employees.

The Governor or the Governor's designee shall promulgate appropriate policy and regulations relating to leaves of absence for short periods of military training and for State or federal military duty or special emergency management service of all officers and employees of the State and its political subdivisions, including officers and employees of public educational facilities under the sponsorship of the State, without loss of pay, time or efficiency rating.

S940-SMSH-002

*pull bill
per Rep Earle
5-14-03*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 861

Short Title: Review State Government/UNC Employment.

(Public)

Sponsors: Representatives Earle, Wainwright (Primary Sponsors); Adams, Alexander, B. Allen, Bell, Carney, Cunningham, Farmer-Butterfield, Hunter, Insko, Jones, Lucas, Luebke, McAllister, Michaux, Miller, Womble, and Wright.

Referred to: State Government, if favorable, Rules, Calendar, and Operations of the House.

April 7, 2003

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE REVIEW OF DISPARITIES IN HIRING, COMPENSATION, ADVANCEMENT, AND RETENTION ACROSS DEMOGRAPHIC GROUPS WITHIN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) By October 1, 2003, the Office of State Personnel (OSP) shall conduct an analysis across demographic groups to determine the existence and extent of disparities in the hiring, compensation, advancement, and retention of State employees within the following occupational categories:

- (1) Officials and administrators.
- (2) Management related.
- (3) Professionals.
- (4) Technical.
- (5) Administrative support.
- (6) Law enforcement.
- (7) Service.
- (8) Skilled craft.

The analysis shall cover employees of State agencies, departments, and institutions and employees at The University of North Carolina and its constituent institutions.

SECTION 1.(b) The OSP's analysis of State employee hiring, compensation, advancement, and retention across demographic groups in State government employment shall be comprehensive. The analysis shall include, but is not limited to, the following:

- (1) Whether any disparities in hiring exist among State agencies, departments, and institutions whereby certain demographic groups are underrepresented.
- (2) Relative compensation among the different demographic groups.
- (3) Differences in opportunities for advancement, including the availability of training and promotions and differences in performance ratings.
- (4) Differences regarding the incidence and outcome of disciplinary actions.
- (5) Trends relative to retaining State employees, including the labor market forces affecting retention.
- (6) Trends and issues that may have a negative impact on different demographic groups.
- (7) Factors that may have a unique impact on members of specific demographic groups.
- (8) Factors relating to any adverse patterns that may exist in the terms of conditions of State government employment.

SECTION 2.(a) There is created the Task Force on State Government Employment ("Task Force"). The Task Force shall review the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall examine possible remedial measures. The Task Force shall make recommendations to the Governor, the General Assembly, and the State Personnel Commission regarding appropriate measures to remedy or lessen any disparities it finds to exist. The Task Force shall be within the Department of Administration for administrative purposes. The Task Force shall consist of 19 voting members and two ex officio members, as follows:

- (1) Four persons appointed by the Governor, one of whom shall be a State employee and one of whom shall be a representative of a statewide organization whose primary purpose is to represent the interests of African-American citizens.
- (2) Three persons appointed by the President Pro Tempore of the Senate, one of whom shall be a human resources professional in a private business or firm employing more than 500 employees in this State.
- (3) Three persons appointed by the Speaker of the House of Representatives, one of whom shall be a human resources professional in a private business or firm employing less than 500 employees in this State.
- (4) Two persons appointed by the Board of Governors of The University of North Carolina, including one person associated with a historically African-American campus.
- (5) One person appointed by each of the following to represent each respective organization:
 - a. North Carolina Council for Women.
 - b. Governor's Advisory Council on Aging.

- c. Commission of Indian Affairs.
- d. Council on Veterans Affairs.
- e. Governor's Advocacy Council for Persons With Disabilities.
- f. Governor's Advisory Group on Hispanic and Latino Affairs.
- g. North Carolina Human Relations Commission.

- (6) The State Personnel Director and the Chair of the State Personnel Commission, or their respective designees, who shall serve as nonvoting members.

SECTION 2.(b) All appointments shall be effective September 15, 2003, and an organizational meeting of the Task Force shall be held by October 15, 2003, at which time the Task Force shall elect its chair and vice-chair from among its members. Subsequent meetings shall be held at the call of the chair. A majority of the members shall constitute a quorum. Members shall receive subsistence, per diem, and travel allowances as provided by G.S. 138-5. The appointing authority shall fill vacancies.

SECTION 2.(c) The OSP's Division of Equal Opportunity Services shall provide staff support to the Task Force. All State agencies shall cooperate with the Task Force and, upon the chair's request, assist the Task Force in the performance of its duties and responsibilities.

SECTION 2.(d) By May 15, 2004, the Task Force shall complete its review of the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall adopt recommendations to remedy or lessen any disparities found to exist. The Task Force shall expire upon submitting its final report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the State Personnel Commission. A copy of the final report shall be provided to the head of each State department, agency, and institution; to the Board of Governors of The University of North Carolina and the governing board of each constituent university; and to the Fiscal Research Division of the Legislative Services Office.

SECTION 3. The State Personnel Commission may adopt policies and rules to remedy or lessen disparities across demographic groups based upon the findings of the OSP and the final recommendations of the Task Force.

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

CORRECTIONS

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING & BILL SPONSOR NOTICE 2003-2004 SESSION

You are hereby notified that the Committee on **State Government** will meet as follows:

DAY & DATE: **Wednesday, May 14, 2003**

TIME: **11:00 a.m.**

LOCATION: **Room 1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 940	Disaster Leave/Vol. Emergency Personnel	Sen. Kerr
SB 851	Amend Arboretum Bd. Of Directors	Sen. Metcalf
HB 861	Review State Government/UNC Employment	Rep. Earle Rep. Wainwright

Respectfully,

Representative Womble
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
1:00 a.m. on May 13 , 2003.

☒ Principal Clerk
☒ Reading Clerk - House Chamber

Dorothy McLean (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

1

SENATE BILL 851

Short Title: Amend Arboretum Bd. of Directors.

(Public)

Sponsors: Senator Metcalf.

Referred to: State Government, Local Government, and Veterans' Affairs.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON MAY BE REAPPOINTED TO THE
BOARD OF DIRECTORS OF THE ARBORETUM AFTER ONE YEAR'S
ABSENCE FROM THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-243 reads as rewritten:

"§ 116-243. Board of directors established; appointments.

A board of directors to govern the operation of the Arboretum is established, to be appointed as follows:

- (1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms;
- (4) The President of The University of North Carolina or his designee to serve ex officio;
- (5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex officio;
- (6) The President of Western North Carolina Arboretum, Inc., to serve ex officio;

1 (7) Six by the Board of Governors of The University of North Carolina,
2 initially, three for one-year terms, and three for three-year terms.
3 Successors shall be appointed for four-year terms. One shall be an
4 active grower of nursery stock, and one other shall represent the State's
5 garden clubs;

6 (8) The executive director of the Arboretum and the Executive Vice
7 President of Western North Carolina Development Association shall
8 serve ex officio as nonvoting members of the board of directors.

9 All appointed members may serve two full four-year terms following the initial
10 appointment and then may not be reappointed until they have been absent for at least
11 ~~four years.~~ one year. Members serve until their successors have been appointed.
12 Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in
13 appointments made by the General Assembly shall be filled in accordance with G.S.
14 120-122. Initial terms begin July 1, 1986.

15 The chairman of the board of directors shall be elected biennially by majority vote of
16 the directors.

17 The executive director of the Arboretum shall report to the board of directors."

18 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

2

SENATE BILL 940
Second Edition Engrossed 4/22/03

Short Title: Disaster Leave/Vol. Emergency Personnel. (Public)

Sponsors: Senator Kerr.

Referred to: State Government, Local Government, and Veterans' Affairs.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE JOB PROTECTION FOR VOLUNTEER FIREFIGHTERS, RESCUE SQUAD WORKERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL CALLED INTO THE SERVICE OF THE STATE IN RESPONSE TO A PROCLAMATION OF A STATE OF DISASTER BY THE GOVERNOR OR THE GENERAL ASSEMBLY, OR IN RESPONSE TO AN EMERGENCY SITUATION RESULTING IN THE ACTIVATION OF THE STATE EMERGENCY RESPONSE TEAM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-17. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.

(a) A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a proclamation of a state of disaster by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to a disaster or emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division of Emergency Management or by the head of a local Emergency Management Agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division of

1 Emergency Management, or to the head of a local Emergency Management Agency, as
2 essential to the employer's own on-going emergency or disaster relief activities.

3 (c) For purposes of this section, a disaster or emergency requiring the activation
4 of the State Emergency Response Team means a disaster or emergency at Activation
5 Level 2 or greater according to the North Carolina State Emergency Operations Plan of
6 November 2002. Activation Level 2 requires the State Emergency Operations Center to
7 be fully activated with 24-hour staffing from all State Emergency Response Team
8 members.

9 (d) The Commissioner of Labor shall enforce the provisions of this section
10 pursuant to Chapter 95 of the General Statutes."

11 **SECTION 2.** This act is effective when it becomes law and applies to any
12 volunteer firefighter, rescue squad worker, or emergency medical services personnel
13 called into service of the State after the proclamation of a state of disaster or the
14 activation of the State Emergency Response Team occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

1

HOUSE BILL 861

Short Title: Review State Government/UNC Employment. (Public)

Sponsors: Representatives Earle, Wainwright (Primary Sponsors); Adams, Alexander, B. Allen, Bell, Carney, Cunningham, Farmer-Butterfield, Hunter, Insko, Jones, Lucas, Luebke, McAllister, Michaux, Miller, Womble, and Wright.

Referred to: State Government, if favorable, Rules, Calendar, and Operations of the House.

April 7, 2003

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE REVIEW OF DISPARITIES IN HIRING, COMPENSATION, ADVANCEMENT, AND RETENTION ACROSS DEMOGRAPHIC GROUPS WITHIN STATE GOVERNMENT EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) By October 1, 2003, the Office of State Personnel (OSP) shall conduct an analysis across demographic groups to determine the existence and extent of disparities in the hiring, compensation, advancement, and retention of State employees within the following occupational categories:

- (1) Officials and administrators.
- (2) Management related.
- (3) Professionals.
- (4) Technical.
- (5) Administrative support.
- (6) Law enforcement.
- (7) Service.
- (8) Skilled craft.

The analysis shall cover employees of State agencies, departments, and institutions and employees at The University of North Carolina and its constituent institutions.

SECTION 1.(b) The OSP's analysis of State employee hiring, compensation, advancement, and retention across demographic groups in State government employment shall be comprehensive. The analysis shall include, but is not limited to, the following:

- (1) Whether any disparities in hiring exist among State agencies, departments, and institutions whereby certain demographic groups are underrepresented.
- (2) Relative compensation among the different demographic groups.
- (3) Differences in opportunities for advancement, including the availability of training and promotions and differences in performance ratings.
- (4) Differences regarding the incidence and outcome of disciplinary actions.
- (5) Trends relative to retaining State employees, including the labor market forces affecting retention.
- (6) Trends and issues that may have a negative impact on different demographic groups.
- (7) Factors that may have a unique impact on members of specific demographic groups.
- (8) Factors relating to any adverse patterns that may exist in the terms of conditions of State government employment.

SECTION 2.(a) There is created the Task Force on State Government Employment ("Task Force"). The Task Force shall review the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall examine possible remedial measures. The Task Force shall make recommendations to the Governor, the General Assembly, and the State Personnel Commission regarding appropriate measures to remedy or lessen any disparities it finds to exist. The Task Force shall be within the Department of Administration for administrative purposes. The Task Force shall consist of 19 voting members and two ex officio members, as follows:

- (1) Four persons appointed by the Governor, one of whom shall be a State employee and one of whom shall be a representative of a statewide organization whose primary purpose is to represent the interests of African-American citizens.
- (2) Three persons appointed by the President Pro Tempore of the Senate, one of whom shall be a human resources professional in a private business or firm employing more than 500 employees in this State.
- (3) Three persons appointed by the Speaker of the House of Representatives, one of whom shall be a human resources professional in a private business or firm employing less than 500 employees in this State.
- (4) Two persons appointed by the Board of Governors of The University of North Carolina, including one person associated with a historically African-American campus.
- (5) One person appointed by each of the following to represent each respective organization:
 - a. North Carolina Council for Women.
 - b. Governor's Advisory Council on Aging.

- c. Commission of Indian Affairs.
- d. Council on Veterans Affairs.
- e. Governor's Advocacy Council for Persons With Disabilities.
- f. Governor's Advisory Group on Hispanic and Latino Affairs.
- g. North Carolina Human Relations Commission.

(6) The State Personnel Director and the Chair of the State Personnel Commission, or their respective designees, who shall serve as nonvoting members.

SECTION 2.(b) All appointments shall be effective September 15, 2003, and an organizational meeting of the Task Force shall be held by October 15, 2003, at which time the Task Force shall elect its chair and vice-chair from among its members. Subsequent meetings shall be held at the call of the chair. A majority of the members shall constitute a quorum. Members shall receive subsistence, per diem, and travel allowances as provided by G.S. 138-5. The appointing authority shall fill vacancies.

SECTION 2.(c) The OSP's Division of Equal Opportunity Services shall provide staff support to the Task Force. All State agencies shall cooperate with the Task Force and, upon the chair's request, assist the Task Force in the performance of its duties and responsibilities.

SECTION 2.(d) By May 15, 2004, the Task Force shall complete its review of the OSP's analysis of disparities in hiring, compensation, advancement, and retention across demographic groups in State government employment and shall adopt recommendations to remedy or lessen any disparities found to exist. The Task Force shall expire upon submitting its final report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the State Personnel Commission. A copy of the final report shall be provided to the head of each State department, agency, and institution; to the Board of Governors of The University of North Carolina and the governing board of each constituent university; and to the Fiscal Research Division of the Legislative Services Office.

SECTION 3. The State Personnel Commission may adopt policies and rules to remedy or lessen disparities across demographic groups based upon the findings of the OSP and the final recommendations of the Task Force.

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

2003-2004 Standing Committees

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Box

8	2003-2004 House Transportation
	2003 House UNC Board of Governors
	2003-2004 House Ways & Means
	2003-2004 House Wildlife Resources
	2003-2004 Senate Agriculture, Environment, & Natural Resources
	2003 Senate (Joint) Appropriations Base Budget
	2004 Senate (Joint) Appropriations Base Budget
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