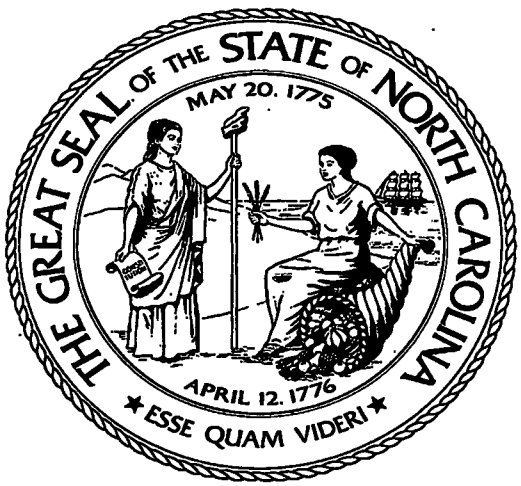
2009-2010

SENATE
STATE & LOCAL
GOVERNMENT

MINUTES

Senate Committee

STATE AND LOCAL GOVERNMENT



2009 Session

Senator Ed Jones
Co- Chair

Senator Don East
Co-Chair

State and Local Government Committee
2009-2010 Membership

SENATOR	CLERK	ROOM	PHONE
Senator Don East, Co-Chair	Anne Misenheimer	1120 LB	3-5743
Senator Ed Jones, Co-Chair	Irma Avent-Hurst	623 LOB	5-3032
Senator Katie Dorsett, Vice Chair	Phyllis Cameron	2106 LB	5-3042
Senator Charles W. Albertson	Cindy Davis	525 LOB	3-5705
Senator Tom Apodaca	Airen Blaine	1127 LB	3-5745
Senator Phil Berger	Barbara Eldridge	1026 LB	3-5708
	Sara Clapp Cody Hand Darrell Malcolm		
Senator Harris Blake	Anna Kidd	517 LOB	3-4809
Senator Julia Boseman	Laura Holt-Kabel Chardon Groveman	309 LOB	5-2525
Senator Don Davis		526 LOB	3-5621
Senator Fletcher Hartsell	Gerry Johnson	518 LOB	3-7223
Senator Ed Jones	Irma Avent-Hurst Joseph Peele	623 LOB	3-3032
Senator Vernon Malone	Bonnie McNeil Claudette Howell	313 LOB	3-5880
Senator Floyd McKissick	Bernie David Yerumo	621 LOB	3-4599
Senator Joe Sam Queen	Sarah Wilson	1117 LB	3-34600
Sen. R.C. Soles, Jr.	Janet Blalock Mona Fitzgerald Joan Leatherman	2022 LB	3-5963
Sen. Richard Stevens	Kleist Rhodes	406 LOB	3-5653
Senator David Weinstein	Vickie Spears	2108 LB	3-5651
Staff:			
Barbara Riley, Counsel		545 LOB	3-2578
Hal Pell, Counsel		201CC	3-2578
Bill Gilkeson Legislative Analyst		545 LOB	3-2578
Committee Assistants	Anne Misenheimer Irma Avent-Hurst	1120 LB 623 LOB	3-5743 5-3032

Anne Misenheimer

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Thursday, February 26, 2007 after Session
Senator Ed Jones desk in Senate Chambers

MINUTES

The Senate State and Local Government Committee met immediately after Session around Senator Ed Jones's desk in Chambers, Sixteen members of the committee were present. Senator Jones presided.

Senator Jones called the meeting to order. Senate Bill 207, Duplin Chair Vote Only if Tie, was the only bill to be heard. Senator Albertson explained the bill and the members gave the bill a Favorable Report.

The meeting was adjourned.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Thursday, February 26, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **207** Duplin Chair Vote Only if Tie.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:

Senate State and Local Government Committee
Tuesday, March 3, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 32	Clinton/Overgrown Vegetation Ordinance.	Representative Bell
SB 29	Norwood Satellite Annexations.	Senator Purcell
SB 67	Greensboro/Restore Zoning Protest Rights.	Senator Dorsett
SB 173	Wilmington ETJ Authority Restored.	Senator Boseman
SB 248	Conform County School Board Vacancy Statute.	Senator Foriest
SB 251	Winterville/Public Nuisance Ordinance.	Senator Davis
SB 294	Williamston/Overgrown Vegetation Ordinance.	Senator Jenkins

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, March 3, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on March 3, 2009, in Room 1124 of the Legislative Building. Six members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the staff and pages. The first item of business was House Bill 32, Clinton/ Overgrown Vegetation Ordinance. Senator Albertson moved that the bill be before the Committee and Representative Bell explained the bill. Senator Albertson moved to give the bill a Favorable Report and the bill carried. Next on the agenda was Senate Bill 29, Norwood Satellite Annexations. Senator McKissick moved that the bill be properly before the Committee and Senator Purcell explained the bill. After some discussion, Senator Blake made a motion that the bill received a Favorable Report and the bill carried. Senate Bill 67, Greensboro/Restore Zoning Protest Rights was the next bill to be heard. Senator Malone moved that the bill be properly before the Committee and Senator Dorsett explained the bill. Barbara Riley gave the committee a synopsis of the bill and Senator McKissick moved for a Favorable Report. The bill was given a favorable report by the committee. Senator Albertson moved that Senate Bill 248, Conform County School Board Vacancy Statute be properly before the Committee and Senator Foriest explained the Bill. Bill Gilkeson further explained the bill and Senator McKissick moved for a favorable report and the bill carried. Senate Bill 173, Wilmington ETJ Authority Restored was the next bill to be heard from the Committee. Senator Soles moved that the bill be properly before the committee and Senator Boseman explained the bill. After questions and much discussion among the committee and explanations from the Staff, Senator Malone moved for a Favorable Report and the bill carried. Senator Soles moved that SB 251, Winterville/Public Nuisance Ordinance be properly before the Committee. Senator Davis explained the bill and Senator Stevens moved for a Favorable Report and the bill carried. The last bill to be heard was Senate Bill 294, Williamston/Overgrown Vegetation. Senator Don East explained Senator Jenkins's bill and Senator Albertson moved for a Favorable Report. The bill carried.

The meeting adjourned at 12:30 pm.

Edward L. Jones
Senator Ed Jones, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

SENATE BILL 29

Short Title:	Norwood Satellite Annexations.	(Local)
Sponsors:	Senators Purcell; and Jones.	
Referred to:	State and Local Government.	

February 4, 2009

A BILL TO BE ENTITLED

AN ACT MODIFYING THE STANDARDS FOR SATELLITE ANNEXATIONS FOR THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b), as it applies to the Town of Norwood under S.L. 2007-71, reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than ~~three miles~~ five miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~twenty-five percent (25%)~~ fifty percent (50%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Durham, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Roanoke Rapids, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Ahoskie, Angier, Ayden, Benson, Bladenboro, Burgaw, Calabash, Catawba, Clayton, Columbia, Columbus, Cramerton, Creswell, Dallas, Dobson, Four Oaks, Fuquay-Varina, Garner, Godwin, Granite Quarry, Green Level, Grimesland, Holly Ridge, Holly Springs, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Rolesville, Rutherfordton, Shallotte, Smithfield, Spencer, Stem, Stovall, Surf City,

Swansboro, Taylorsville, Troutman, Troy, Wallace, Warsaw, Watha, Waynesville, Weldon, Wendell, Windsor, Yadkinville, and Zebulon."

SECTION 2. This act applies to the Town of Norwood only.

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

SENATE BILL 29:
Norwood Satellite Annexations

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Sen. Purcell	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY:

Senate Bill 29 would modify the requirements for satellite annexation for the Town of Norwood and allow the Town to annex an area not more than 5 miles from its primary corporate limits and whose area, combined with that of other satellite areas, will not exceed 50% of the area within the Town's primary corporate limits.

CURRENT LAW:

G.S. 160A-58.1(a) provides for the annexation by a municipality of an area not contiguous with the primary corporate limits of the municipality upon the receipt of a petition signed by all of the owners of real property in the non contiguous area. Pursuant to statute, the noncontiguous area to be annexed must meet all of the requirements of G.S. 160A-58.1(b). In particular, the area to be annexed must not be more than 3 miles from the primary city limits, G.S. 160A-58.1(b)(1), and may not, when added to other satellite areas annexed by the municipality, exceed 10% of the area within the primary corporate limits. G.S. 160A-58.1(b)(5).

BILL ANALYSIS:

Senate Bill 29 allows amends G.S. 160A-58.1(b) to allow the Town of Norwood to annex an area located up to 5 miles from its primary corporate limits and whose area, when combined with other satellite annexations, does not exceed 50% of the area within its primary corporate limits.

EFFECTIVE DATE:

The act is effective when it becomes law.

S29-SMRF-7(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 67*

Short Title:	Greensboro/Restore Zoning Protest Rights.	(Local)
Sponsors:	Senators Dorsett; Bingham and Vaughan.	
Referred to:	State and Local Government.	

February 5, 2009

A BILL TO BE ENTITLED

AN ACT RESTORING THE ZONING PROTEST RIGHTS OF THE CITIZENS OF THE CITY OF GREENSBORO BY REPEALING THE EXEMPTION OF THAT CITY FROM THE GENERAL LAW RELATING TO ZONING PROTEST PETITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 1971-29 is repealed.

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

SENATE BILL 67:
Greensboro/Restore Zoning Protest Rights

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	February 27, 2009
Introduced by:	Sen. Dorsett	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: The General Statutes provide a mechanism for landowners affected by a proposed amendment to a zoning ordinance to challenge such change. Submission of a qualified protest petition by affected landowners triggers a requirement of a supermajority vote of the city council for such an amendment to become effective. By local law enacted in 1971, Greensboro was exempted from the statutes providing for qualified zoning protest petitions. Senate Bill 67 would repeal the exemption for Greensboro and restore the general law providing for zoning protests

[As introduced, this bill was identical to H64, as introduced by Reps. Harrison, Jeffus, Adams, Wiley, which received a favorable report in House Judiciary I.]

CURRENT LAW: Section 11 of S.L. 1971-29[1] exempts the City of Greensboro from the provisions of G.S. 160A-385 (formerly G.S. 160-176) and G.S. 160A-386 (formerly G.S. 160-176.1) which provide for qualified protest petitions to proposed zoning ordinance amendments.

Pursuant to G.S. 160A-385, when a qualified protest petition is filed, a ¾ majority vote of the city council is necessary for the approval of the amendment. Vacant seats on the council and members excused from voting are not considered members of the council for the calculation of the supermajority.

To qualify, the petition must be signed by the owners of at least 20% of the area included in the proposed change or 5% of a 100' wide buffer extending along the entire boundary of the area. Protest petitions are not applicable for amendments that initially zone an area added to the territorial coverage of a zoning ordinance through extension of extraterritorial jurisdiction or annexation. They are also not applicable to amendments to special or conditional use districts or conditional districts if the amendment does not change the type of use, increase residential density, increase the size of nonresidential development, or reduce buffers or screening in the district.

G.S. 160A-386 sets forth the requirements for a protest petition. The petition must be in writing, signed by the requisite number of property owners and received by the city clerk at least 2 business days before the public hearing. The city council may by ordinance provide for the form for the petition and reasonable information to be included. Persons signing a protest petition may withdraw their name anytime prior to a vote on the zoning amendment.

BILL ANALYSIS: If enacted, Senate Bill 67 would make the City of Greensboro subject to the provisions of G.S. 160A-385 and G.S. 160A-386 that provide for qualified protests of zoning amendments.

EFFECTIVE DATE: Senate Bill 67 is effective when it becomes law.

G.S. 160A-385 and G.S. 160A-386 read as follows:

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[1] "**Sec. 11.** The City of Greensboro is hereby exempted from those provisions of G.S. 160-176 and G.S. 160-176.1 specifically relating to petitions of protest on zoning matters (as the same may be recodified under Chapter 160 of the General Statutes of North Carolina) and said provisions are hereby no longer applicable to the City of Greensboro; provided, however, the remainder of the provisions of G.S. 160-176 shall remain applicable to the City of Greensboro."

"§ 160A-385. Changes.

(a) Qualified Protests.

(1) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority.

(2) To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

(3) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

(b) Amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (ii) a vested right has been established pursuant to G.S. 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. 160A-385.1."

§ 160A-386. Protest petition; form; requirements; time for filing.

No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. 160A-385 unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the city clerk in sufficient time to allow the city at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The city council may by ordinance require that all protest petitions be on a form prescribed and furnished by the city, and such form may prescribe any reasonable information deemed necessary to permit the city to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. (1963, c. 1058, s. 2; 1971, c. 698, s. 1; 2005-418, s. 6.)

S67-SMRF-5(e1) v2

SENATE BILL 173

Short Title:	Wilmington ETJ Authority Restored.	(Local)
Sponsors:	Senator Boseman.	
Referred to:	State and Local Government.	

February 17, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF WILMINGTON TO EXERCISE EXTRATERRITORIAL PLANNING AND ZONING WITHIN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 23.2 of the Charter of the City of Wilmington, being Chapter 495 of the Session laws of 1977 reads as rewritten:

"Sec. 23.2. Extraterritorial planning authority. The City Council of the City of Wilmington is hereby authorized to exercise any planning, zoning, subdivision, building, or other regulatory power which may now or hereafter be conferred upon the City of Wilmington and vested in the city council by this charter, the General Statutes of North Carolina, or any other law applicable to the City of Wilmington not only within the corporate limits of the city but also within the territory beyond the corporate limits as now or hereafter fixed in accordance with the General Statutes. In exercising such powers in accordance with G.S. 160A-360 within the territory beyond the corporate limits of the city but within New Hanover County, the approval of the Board of Commissioners of New Hanover County is not required. Such powers may be exercised to the same extent and according to the same procedures as are applicable to the exercise of planning, zoning, subdivision, or building regulation powers within the corporate limits of the city."

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

SENATE BILL 173:
Wilmington ETJ Authority Restored

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY:

Senate Bill 173 will allow the City of Wilmington to exercise its extraterritorial jurisdiction in an area three miles beyond its corporate limits without the consent of New Hanover county.

CURRENT LAW:

G.S. 160A-360(a) provides for a city to exercise its planning and zoning authority in an area extending not more than one mile beyond its limits. A city of 25,000 or more, with the consent of the county, may exercise these powers in an area extending up to three miles from its limits. G.S. 160A-360(g). also provides that a county may also rescind its approval upon two years written notice to the city by repealing the resolution approving the exercise of extraterritorial jurisdiction.

EFFECTIVE DATE:

The act is effective when it becomes law.

S173-SMRF-8(e1) v1

SENATE BILL 248

Short Title:	Conform County School Board Vacancy Statute.	(Public)
Sponsors:	Senators Foriest; Bingham, Brunstetter, Forrester, Hartsell, Stevens, and Swindell.	
Referred to:	State and Local Government.	

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE A TECHNICAL CORRECTION BY DELETING FROM A 1981 LAW RELATING TO FILLING VACANCIES IN COUNTY BOARDS OF EDUCATION ELECTED ON A PARTISAN BASIS COUNTY BOARDS OF EDUCATION THAT IN FACT ARE NOT ELECTED ON A PARTISAN BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-37.1 reads as rewritten:

"**§ 115C-37.1. Vacancies in offices of county boards elected on partisan basis in certain counties.**

(a) All vacancies in the membership of county boards of education which are elected by public or local act on a partisan basis shall be filled by appointment of the person, board, or commission specified in the act, except that if the act specifies that appointment shall be made by a party executive committee, then the appointment shall be made instead by the remaining members of the board.

(b) If the vacating member was elected as the nominee of a political party, then the person, board, or commission required to fill the vacancy shall consult with the county executive committee of that party and appoint the person recommended by that party executive committee, if the party executive committee makes a recommendation within 30 days of the occurrence of the vacancy.

(c) Whenever only the qualified voters of less than the entire county were eligible to vote for the member whose seat is vacant (either because the county administrative unit was less than countywide or only residents of certain areas of the administrative unit could vote in the general election for a district seat), the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territory of the vacating school board member.

(d) This section shall apply only in the following counties: ~~Alamance,~~ Alleghany, ~~Avery, Beaufort,~~ Brunswick, ~~Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie,~~ Forsyth, Graham, ~~Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore,~~ New Hanover, ~~Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania,~~ Vance, ~~Wake, Washington, and Yancey.~~ and Washington."

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

SENATE BILL 248:
Conform County School Board Vacancy Statute

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Sen. Foriest	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 248 corrects the statute providing for the filling of vacancies in partisan county school boards by deleting references to counties whose school boards are not, in fact, partisan.***

CURRENT LAW: Although the general law on county school boards, stated in G.S. 115C-37(a), is that they are elected on a nonpartisan basis, most county school boards are governed, not by the general law, but by local act. Some of those local acts call for partisan elections of school boards.

G.S. 115C-37 also has a general provision for how vacancies are filled if the school board is partisan. That general provision is that the vacancy is filled by the county executive committee of the political party that nominated the vacating member.

However, in 1981 the General Assembly passed an alternative statute, G.S. 115C-37.1 giving the duty of filling the vacancy on certain partisan county boards to the remaining members of the board. Under that statute, if the county party committee makes a recommendation to the board within 30 days after the vacancy occurs, the board must abide by that recommendation, as long as the party committee restricted voting on the recommendation to members who were part of the electorate of the vacating member. G.S. 115C-37.1 limits the application of its alternative provisions to certain counties named in the statute.

It has recently come to light that 30 of the counties named in 115C-37.1, the alternative procedure for filling vacancies on partisan school boards, no longer have school boards that are partisan.

BILL ANALYSIS: SB 248 deletes from GS 115C-37.1 the 30 counties that no longer have partisan school boards. Those counties are Alamance, Avery, Beaufort, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

EFFECTIVE DATE: Effective when it becomes law.

S248-SMRR-3(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 251*

Short Title:	Winterville/Public Nuisance Ordinance.	(Local)
Sponsors:	Senators Davis and Jenkins.	
Referred to:	State and Local Government.	

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF WINTERVILLE TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2005-44, as amended by S.L. 2007-3, S.L. 2007-254, and S.L. 2008-23, reads as rewritten:

"**SECTION 2.** This act applies to the County of New Hanover, the Cities of Wilmington and Wilson, and the Towns of Cornelius, Davidson, Matthews, ~~and Morehead City~~Morehead City, and Winterville only."

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

SENATE BILL 251:
Winterville/Public Nuisance Ordinance

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Sen. Davis	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 251 would add the Town of Winterville to the local governments authorized to remedy chronic violations of their public nuisance ordinance after providing chronic violators only annual notice. The expense of remedying the violation would become a lien upon the chronic violator's property and be collected as unpaid taxes.

[As introduced, this bill was identical to H219, as introduced by Rep. McLawhorn, which is currently in House Local Government II.]

CURRENT LAW: G.S. 160A-174 grants to cities the authority to adopt ordinances related to the health, safety, or welfare of their citizens. G.S. 160A-175 authorizes cities to enforce their ordinances, and G.S. 160A-193 allows cities to abate situations that are dangerous or prejudicial to the public health and welfare. The cost of abatement may be charged to the violator.

In 2005 the General Assembly enacted S.L. 2005-44, which gave the Town of Matthews the authority to give a "chronic violator" of the municipality's public nuisance ordinance notice on an annual basis. A "chronic violator" is a person who owns property whereupon, in the previous calendar year, the municipality took gave notice of violation at least three times under the nuisance ordinance. Under that local act, if a chronic violator's property is in violation of the ordinance again, the municipality make take action to remedy the violation after giving only the annual notice. The expense of the action would become a lien on the property and would be collected as unpaid taxes. The text of S.L. 2005-44 that applies to Matthews is as follows:

"A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance."

In 2007, the General Assembly added the towns of Cornelius and Davidson, the City of Wilmington, and New Hanover County to the local governments that had the same power as Matthews.

BILL ANALYSIS: SB 251 would add the Town of Winterville to the local governments that may remedy chronic violations of the public nuisance ordinance after only annual notification.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: As noted, the General Assembly has passed several local bills allowing local governments to remedy chronic violations of the public nuisance ordinance after only annual notification. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that SB 251 is a local act dealing with the abatement of nuisances and therefore unconstitutional.

Brad Krehely, a staff attorney in the Research Division, contributed significantly to this summary.

S251-SMRR-6(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 294*

Short Title:	Williamston/Overgrown Vegetation Ordinance.	(Local)
Sponsors:	Senator Jenkins.	
Referred to:	State and Local Government.	

February 25, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF WILLIAMSTON TO EXPEDITE THE REMOVAL OF OVERGROWN VEGETATION BY AMENDING THE DEFINITION OF CHRONIC VIOLATOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200(a) reads as rewritten:

"(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least ~~three~~ two times under the overgrown vegetation ordinance."

SECTION 2. This act applies to the Town of Williamston only.

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

SENATE BILL 294:
Williamston/Overgrown Vegetation Ordinance

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Sen. Jenkins	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 32 would add the Town of Williamston to the municipalities authorized to remedy chronic violations of their overgrown vegetation ordinance after providing chronic violators only annual notice. The expense of remedying the violation would become a lien upon the chronic violator's property and be collected as unpaid taxes.

[As introduced, this bill was identical to H322, as introduced by Rep. Edith Warren.]

CURRENT LAW: G.S. 160A-174 grants to cities the authority to adopt ordinances related to the health, safety, or welfare of their citizens. G.S. 160A-175 authorizes cities to enforce their ordinances, and G.S. 160A-193 allows cities to abate situations that are dangerous or prejudicial to the public health and welfare. The cost of abatement may be charged to the violator.

G.S. 160A-200 gives to 26 named municipalities the authority to give a "chronic violator" of the municipality's overgrown vegetation ordinance notice on an annual basis. A "chronic violator" is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance. Under the statute, if a chronic violator's property is in violation of the ordinance again, the municipality make take action to remedy the violation, i.e., cut down the weeds, after giving only the annual notice. The expense of the action would become a lien on the property and would be collected as unpaid taxes.

§ 160A-200. Annual notice to chronic violators of overgrown vegetation ordinances.

(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Marshville, Pinetops, Pineville, Smithfield, Spring Lake, Wingate, and Yadkinville, and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only. (1999-58, s. 2; 2000-33, s. 1; 2000-38, s. 1; 2001-107, s. 1; 2003-77, s. 1; 2003-80, s. 1; 2005-81, s. 1; 2005-202, s. 1; 2007-31, s. 1; 2007-258, s. 1; 2008-6, s. 1; 2008-25, s. 1.)

BILL ANALYSIS: HB 32 would add the Town of Williamston to the municipalities that may remedy violations by a "chronic violator" of the municipality's overgrown vegetation ordinance after only annual notification.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: As noted, the General Assembly has enacted a number of local bills allowing municipalities to remedy chronic violations of overgrown vegetation ordinances after giving only an annual notice. Those local acts are codified in G.S. 160A-200, which now applies to 26 municipalities. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that Senate Bill 294 is a local act dealing with the abatement of nuisances and therefore unconstitutional.

Brad Krehely, a staff attorney in the Research Division, contributed significantly to this summary.

S294-SMRR-5(e1) v2

H 1

HOUSE BILL 32

Short Title:	Clinton/Overgrown Vegetation Ordinance.	(Local)
Sponsors:	Representatives Bell; and E. Floyd.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 3, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF CLINTON TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200(b) reads as rewritten:

"(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Marshville, Pinetops, Pineville, Smithfield, Spring Lake, Wingate, and Yadkinville, and to the Cities of Clinton, Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only."

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

HOUSE BILL 32:
Clinton/Overgrown Vegetation Ordinance

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 2, 2009
Introduced by:	Rep. Bell	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 32 would add the City of Clinton to the municipalities authorized to remedy chronic violations of their overgrown vegetation ordinance after providing chronic violators only annual notice. The expense of remedying the violation would become a lien upon the chronic violator's property and be collected as unpaid taxes.

[As introduced, this bill was identical to S104, as introduced by Sen. Albertson, which is currently in Senate State and Local Government.]

CURRENT LAW: G.S. 160A-174 grants to cities the authority to adopt ordinances related to the health, safety, or welfare of their citizens. G.S. 160A-175 authorizes cities to enforce their ordinances, and G.S. 160A-193 allows cities to abate situations that are dangerous or prejudicial to the public health and welfare. The cost of abatement may be charged to the violator.

G.S. 160A-200 gives to 26 named municipalities the authority to give a "chronic violator" of the municipality's overgrown vegetation ordinance notice on an annual basis. A "chronic violator" is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance. Under the statute, if a chronic violator's property is in violation of the ordinance again, the municipality make take action to remedy the violation, i.e., cut down the weeds, after giving only the annual notice. The expense of the action would become a lien on the property and would be collected as unpaid taxes.

§ 160A-200. Annual notice to chronic violators of overgrown vegetation ordinances.

(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Marshville, Pinetops, Pineville, Smithfield, Spring Lake, Wingate, and Yadkinville, and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only. (1999-58, s. 2; 2000-33, s. 1; 2000-38, s. 1; 2001-107, s. 1; 2003-77, s. 1; 2003-80, s. 1; 2005-81, s. 1; 2005-202, s. 1; 2007-31, s. 1; 2007-258, s. 1; 2008-6, s. 1; 2008-25, s. 1.)

BILL ANALYSIS: HB 32 would add the City of Clinton to the municipalities that may remedy violations by a "chronic violator" of the municipality's overgrown vegetation ordinance after only annual notification.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: As noted, the General Assembly has enacted a number of local bills allowing municipalities to remedy chronic violations of overgrown vegetation ordinances after giving only an annual notice. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that House Bill 32 is a cal act dealing with the abatement of nuisances and therefore unconstitutional.

Brad Krehely, a staff attorney in the Research Division, contributed significantly to this summary.

H32-SMRR-4(e1) v3

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, March 03, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	**29**	Norwood Satellite Annexations.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**67**	Greensboro/Restore Zoning Protest Rights.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**173**	Wilmington ETJ Authority Restored.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**248**	Conform County School Board Vacancy Statute.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**251**	Winterville/Public Nuisance Ordinance.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**294**	Williamston/Overgrown Vegetation Ordinance.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	**32**	Clinton/Overgrown Vegetation Ordinance.	
		Sequential Referral:	None
		Recommended Referral:	None

TOTAL REPORTED: 7

Committee Clerk Comments:

Senate State & Local Government Committee
February 26, 2009
Senator Jones's Desk, Senate Chamber

SB 207	Duplin Chair Vote Only If Tie	Senator Charlie Albertson

Report	Favorable
Motion	Senator Katie Dorsett
Seconded	Senator Weinstein
Speakers	Senator Charlie Albertson

VISITOR REGISTRATION SHEET

Senate State & Local Government — March 3, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mia Bailey	ElectriCities of NC, Inc.
Mike McLaughlin	O L G
R. Paul Wiles	WGR
C. Thomas	NC Realtors
Jim Blackburn	NC Association of County Commissioners
Rick Zechini	NC Assn of REALTORS
Jack Gozart	Womble
Jessi Hayes	NC Home Builders
Lisa Martin	NC Home Builders
Conor Brockett	NCSBA
Joe Williams	ATT

Senate State and Local Government Committee
Tuesday, March 10, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 327	Gatesville Term Limits.	Senator Jones
HB 164	Godwin Town Elections.	Representative Glazier
SB 332	Zoo and Zoo Funds Modifications.	Senator Brunstetter
SB 360	Repeal Statesville Police Act.	Senator Hartsell
SB364	Apex Wheel Locks.	Senator Stevens

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, March 10, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on March 10, 2009, in Room 1124 of the Legislative Building. Ten members of the committee were present. Senator Don East Presided.

Senator East called the meeting to order and introduced the pages.

The first bill to be heard was Senate Bill 327, Gatesville Term Limits. Senator Jones explained the bill and Senator Dorsett moved to adopt a Proposed Committee Substitute. Senator Weinstein moves for a favorable Report. The bill carried Unfavorable to the Original Bill but Favorable to the PCS. Senate Bill 364, Apex Wheel Locks was the next to be explained to the Committee by Senator Stevens . A motion was made to accept the Proposed Committee Substitute and Senator Weinstein moved that the bill be given a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. Representative Glazier Explained House Bill 164, Godwin Town Elections and Senator Dorsett moved for a Favorable Report. The bill Carried. Senator Brunstetter's Senate Bill 332, Zoo and Zoo Funds Modifications was the next bill to come before the Committee. Senator Brunstetter explained the bill and Mr. Jim Klinger a staff member for the Zoo Society and Dr. Jones from the Zoo Society answered questions from the Committee. Senator Malone moved for a Favorable Report and the bill carried. Senator Hartsell's Senate Bill 360, Repeal Statesville Police Act was explained by Staff Counsel, Barbara Riley, and was put on hold until the next committee meeting

The meeting adjourned at 12:30 pm

Don East
Senator Don East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 327
PROPOSED COMMITTEE SUBSTITUTE S327-CSRR-2 [v.1]

3/9/2009 7:53:50 PM

Short Title: Gatesville Term Lengths. (Local)

Sponsors:

Referred to:

February 26, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF GATESVILLE TO EXTEND THE TERMS OF OFFICE FOR THE MAYOR AND MEMBERS OF THE BOARD OF COMMISSIONERS FROM TWO TO FOUR YEARS AND STAGGERING THOSE TERMS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of the Charter of the Town of Gatesville, being Chapter 88 of the 1923 Private Laws, as amended by Section 3 of Chapter 10 of the 1933 Private Laws, reads as rewritten:

"Sec. 3. ~~That there shall be an election for the offices of mayor and three commissioners for the town of Gatesville held on Tuesday after the first Monday in May, one thousand nine hundred and thirty three, and biennially thereafter as now provided by law for elections in cities and towns of this State.~~

(a) **Regular Municipal Elections.** Except as provided in subsection (b) of this section, regular municipal elections shall be held in the Town every four years and shall be conducted in accordance with the uniform municipal elections laws of North Carolina. The Mayor and members of the Board of Commissioners shall be elected according to the nonpartisan plurality method of election, as provided in G.S. 163-292. The Commissioners shall be elected in a multi-seat contest, and the Mayor shall be elected separately.

(b) **Election of the Board of Commissioners; Election of Mayor.** The Commissioners and Mayor shall be elected to four-year terms by the qualified voters of the entire Town, except as provided otherwise in this subsection. In 2009, and quadrennially thereafter, a Mayor shall be elected separately from the Commissioners to a four-year term. In 2009, for the position of Commissioner, the two persons receiving the highest number of votes in a multi-seat contest shall be elected to four-year terms, and the one person receiving the next highest number of votes shall be elected to a two-year term. In 2011, and quadrennially thereafter, one person shall be elected to a four-year term. In 2013, and quadrennially thereafter, two persons shall be elected in a multi-seat contest to four-year terms."

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

SENATE BILL 327:
Gatesville Term Limits

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 9, 2009
Introduced by:	Sen. Jones	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S327-CSRR-2		

SUMMARY: ***This Proposed Committee Substitute for Senate Bill 327 would extend the terms of office of the Mayor and 3 Town Commissioners of Gatesville from 2 years to 4 years. It would set up staggered terms for the 3 Commissioners.***

CURRENT LAW: In 1933 the General Assembly provided that the Mayor and 3 Town Commissioners of Gatesville would be elected that year and every 2 years thereafter.

As to the method of election, the 1933 act said the Gatesville Mayor and Commissioners would be elected "as now provided by law for elections in cities and towns of this State." City elections are now conducted using the nonpartisan plurality method.

BILL ANALYSIS: S 327 would provide that in the town election of 2009, the Mayor would be elected to a 4-year term. There would be a multi-seat race in 2009 for the 3 commissioners. The 2 candidates for Commissioner receiving the highest number of votes would be elected to 4-year terms, and the candidate who came in third would be elected to a 2-year term. When the 2-year term expired in 2011, the election for that seat would be for a 4-year term. When the two 4-year terms filled in the 2009 election expired in 2013, the election for those seats would be for 4-year terms. That way, staggered 4-year terms for the 3 Commissioners would be phased in. The bill specifically provides that the elections shall use the nonpartisan plurality method.

The PCS would change the short title to accurately reflect the bill. The original short title was "Gatesville Term Limits." The PCS also makes clear that Commissioners are elected in a multi-seat race, and the Mayor is elected separately.

EFFECTIVE DATE: Effective when it becomes law, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice because Gatesville is in Gates County, one of the 40 counties in North Carolina subject to Section 5.

BACKGROUND: Gatesville is the county seat of Gates County. According to the 2000 Census, it had a total population of 281.

S327-SMRR-12(CSRR-2) v1

HOUSE BILL 164

Short Title:	Godwin Town Elections.	(Local)
Sponsors:	Representatives Glazier; E. Floyd and Hughes.	
Referred to:	Local Government II.	

February 16, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE BOARD OF COMMISSIONERS OF THE TOWN OF GODWIN FROM THREE TO FOUR MEMBERS AND ALLOW THE MAYOR TO VOTE ON ALL ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Section 3 of the Charter of the Town of Godwin, being Chapter 397 of the Private Laws of 1905, as rewritten by Chapter 243 of the 1947 Session Laws, the Board of Commissioners of the Town of Godwin consists of four members elected for two-year terms in 2009 and biennially thereafter. This section becomes effective with the organizational meeting after the 2009 regular municipal election, and four members shall be elected at that election.

SECTION 2. The Mayor of the Town of Godwin shall be elected in 2009 and biennially thereafter for a two-year term. Beginning with the organizational meeting after the 2009 regular municipal election, the Mayor may vote on all issues before the town board of commissioners.

SECTION 3. Election of the Mayor and Board of Commissioners of the Town of Godwin shall be determined on the plurality basis in accordance with G.S. 163-292.

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

HOUSE BILL 164:
Godwin Town Elections

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 6, 2009
Introduced by:	Rep. Glazier	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 164 would do the following with regard to the Town of Godwin:

- Increase the size of the Town board of commissioners from 3 to 4 members, effective for the 2009 election.
- Specify that the Mayor may vote on all issues.
- Provide that Town elections would be by nonpartisan plurality.

CURRENT LAW: The Town of Godwin was incorporated in 1905, with three council members and a mayor serving as elected officials. The current charter is silent as to whether or not the mayor has the authority to vote on issues before the council. Although the Town Board by resolution decided in 1973 that Town elections would be nonpartisan, it did not specify in that resolution that they would be nonpartisan plurality.

The 2000 Census showed Godwin with a total population of 112.

BILL ANALYSIS: The bill would increase the number of council members from 3 to 4, effective with the organizational meeting in 2009. The bill would clarify that the mayor has the authority to vote on matters before the council. And the bill would specify that Town elections would use the nonpartisan plurality method.

EFFECTIVE DATE: Effective when it becomes law, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice as the Town of Godwin in located in Cumberland County, one of the 40 counties in North Carolina subject to Section 5.

H164-SMRR-7(e1) v3

Erika Churchill, a staff attorney in the Research Division, contributed significantly to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 364
PROPOSED COMMITTEE SUBSTITUTE S364-PCS35149-RF-3

Short Title: Apex Wheel Locks. (Local)

Sponsors:

Referred to:

March 3, 2009

A BILL TO BE ENTITLED

AN ACT RELATING TO ILLEGALLY PARKED VEHICLES IN THE TOWN OF APEX TO ALLOW USE OF WHEEL LOCKS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 291 of the 1993 Session Laws, as amended by Chapter 381 of the 1995 Session Laws, S.L. 1997-218, S.L. 2002-127, S.L. 2003-240, and S.L. 2003-328, reads as rewritten:

"Sec. 2. This act applies to the Cities of Durham, Greensboro, Hickory, Lenoir, Monroe, Raleigh, Winston-Salem, and the ~~Town of~~ Towns of Apex and Yadkinville only. This act shall also apply to the City of Wilmington, but only as to the area in the central business district as defined in that City's zoning ordinance as of June 1, 1997."

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

SENATE BILL 364:
Apex Wheel Locks

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 9, 2009
Introduced by:	Sen. Stevens	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	S364-CSRF-3		

SUMMARY: ***Senate Bill 364 would allow the Towns of Apes to use wheel locks on any illegally parked vehicle that has three or more outstanding, unpaid and overdue parking tickets for that vehicle. The proposed committee substitute corrects a citation error.***

CURRENT LAW: A number of local bills passed over the past several years allowing local governments to adopt ordinances allowing the use of wheel locks on illegally parked vehicles that have 3 or more unpaid parking tickets for 90 days or more. The ordinance has to provide for notice or warning to be put on the vehicle, immobilization through the wheel locks and an immobilization fee of not more than $50.00. The ordinance shall also provide for towing, impoundment, and an appeal hearing. The cities are not responsible for any damage that may occur to immobilized illegally parked vehicles that results from unauthorized attempts to free or move the vehicle.

BILL ANALYSIS: Senate Bill 364 allows the Town of Apex to pass an ordinance to allow for the use of wheel locks. Wheel locks can be used on illegally parked vehicles that have three or more unpaid and overdue parking tickets for 90 days or more.

BACKGROUND: Several municipalities throughout North Carolina have had this local legislation enacted. They include Durham, Greensboro, Hickory, Lenoir, Monroe, Raleigh, Winston-Salem, Wilmington, and the Town of Yadkinville. Wilmington uses wheel locks in its central business district as defined by its zoning ordinance.

EFFECTIVE DATE: This act is effective when it becomes law.

S364-SMRF-9(e1) v2

SENATE BILL 332*

Short Title:	Zoo and Zoo Funds Modifications.	(Public)
Sponsors:	Senators Brunstetter, Dorsett, Jones, Tillman, Weinstein; Albertson, Apodaca, Atwater, Berger of Rockingham, Bingham, Clodfelter, Davis, Foriest, Forrester, Garrou, Jacumin, Kinnaird, Preston, Purcell, Stevens, and Vaughan.	
Referred to:	State and Local Government.	

February 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURCHASING AND CONTRACTING AUTHORITY BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK; TO EXPAND THE UMSTEAD EXEMPTION FOR THE PARK; TO IMPROVE THE ADMINISTRATION OF PARK OPERATIONS; TO REQUIRE A REPORTING OF THE PROGRESS AND IMPLEMENTATION OF THE MANDATES OF THIS ACT; AND TO ESTABLISH THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I: PURCHASING AND CONTRACTING AUTHORITY ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 1.1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.8A. Purchase of certain goods and services for the North Carolina Zoological Park.**

(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary purpose is the attraction of, interaction with, and education of the public regarding issues of global conservation, ecological preservation, and scientific exploration, and that purpose presents unique challenges requiring greater flexibility and faster responsiveness in meeting the needs of and creating the attractions for the Park. Accordingly, the Department of Environment and Natural Resources may use the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law, to contract with a non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the contract directly results in the generation of revenue for the State of North Carolina; or (ii) the use of the acquired goods and services by the Park results in increased revenue or decreased expenditures for the State of North Carolina.

(b) Limitation. – Contracts executed pursuant to the exemption of subsection (a) of this section may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be

considered in awarding contracts shall be identified in the request for proposals.

(c) Procurement Methods. – The Department may use procurement methods set forth in G.S. 143-135.9 in developing and evaluating requests for proposals under this section. The Department may negotiate with any proposer in order to obtain a final contract that best meets the needs of the awarding authority. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that: (i) deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and (ii) would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(d) Promotional Rights. – Subject to the approval of the Department, a non-State entity awarded a contract that results in increased revenue or decreased expenditures for the Park may advertise, announce, or otherwise publicize the provision of services pursuant to award of the contract."

SECTION 1.2. G.S. 143-135.9 reads as rewritten:

"**§ 143-135.9. ~~"Best Value" information technology procurements.~~Best Value procurements.**

(a) ~~For purposes of this section:~~Definitions. – The following definitions apply in this section:

(1) ~~"Best Value" procurement means the~~Best Value procurement. – The selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

(2) ~~"Government-Vendor Partnership" means a~~Government-Vendor partnership. – A mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of ~~complex technology.~~needed goods or services.

(3) ~~"Information technology" includes electronic~~ Information technology. – Electronic data processing and telecommunications goods and services, microelectronics, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design and/or redesign of business processes.

(4) ~~"Solution-Based Solicitation" means a~~Solution-Based solicitation. – A solicitation in which the requirements are stated in terms of how the product or service being purchased should accomplish the business objectives, rather than in terms of the technical design of the product or service.

(b) Intent. – The intent of ~~"Best Value" Information Technology~~Best Value procurement is to enable contractors to offer and the agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement. ~~Business process reengineering, system design, and technology implementation may be combined into a single solicitation.~~

(c) Information Technology. – The acquisition of information technology by the State of North Carolina shall be conducted using the ~~"Best Value"~~Best Value procurement method. For purposes of this section, business process reengineering, system design, and technology

implementation may be combined into a single solicitation. For acquisitions which the procuring agency and the Division of Purchase and Contracts or the Office of Information Technology Services, as applicable, deem to be highly complex or determine that the optimal solution to the business problem at hand is not known, the use of Solution-Based Solicitation and Government-Vendor Partnership is authorized and encouraged. Any county, city, town, or subdivision of the State may acquire information technology pursuant to this section.

~~(d) Any county, city, town or subdivision of the State may acquire information technology pursuant to this section.~~

(e) North Carolina Zoological Park. – The acquisition of goods and services under a contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of Environment and Natural Resources on behalf of the North Carolina Zoological Park may be conducted using the Best Value procurement method. For acquisitions which the procuring agency deems to be highly complex, the use of Government-Vendor partnership is authorized."

PART II: EXPANSION OF UMSTEAD ACT EXEMPTION FOR THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 2.1. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

...

(26) The North Carolina Zoological Park."

SECTION 2.2. G.S. 66-58(c)(18) is repealed.

PART III: ADMINISTRATIVE IMPROVEMENTS TO THE NORTH CAROLINA ZOOLOGICAL PARK OPERATIONS

SECTION 3.1. The Secretary of the Department of Environment and Natural Resources shall work with the North Carolina Zoological Park to do the following:

(1) Examine all purchasing and contracting policies and procedures. The Department shall identify opportunities for delegating purchasing and contracting responsibilities to the Park where appropriate. For purchases and contracts involving promotion and advertising, the Department shall consider increasing the amount over which the Park must solicit competitive bids or quotes to five thousand dollars ($5,000).

(2) Continue negotiations with the Office of Information Technology Services regarding the implementation of Article 3D of Chapter 147 of the General Statutes.

(3) Identify and address any other administrative concerns of the Park.

SECTION 3.2. The Secretary of the Department of Environment and Natural Resources shall review the current Memorandum of Understanding between the Department and the North Carolina Zoological Society. The Secretary shall work with the Society to make appropriate revisions to or replace the Memorandum, as needed.

PART IV: REPORT

SECTION 4. The Department of Environment and Natural Resources shall report to the North Carolina Zoological Park Funding and Organization Study Committee and to the Fiscal Research Division of the Legislative Services Office on the progress and implementation of Parts I and III of this act no later than January 15, 2010.

PART V: ESTABLISHMENT OF COMMITTEE

SECTION 5.1. Committee Established. – The North Carolina Zoological Park Funding and Organization Study Committee is hereby established.

SECTION 5.2. Membership. – The Committee shall consist of 22 members as follows:

(1) Five members of the Senate appointed by the President Pro Tempore of the Senate.

(2) Five members of the House appointed by the Speaker of the House of Representatives.

(3) The Secretary of Environment and Natural Resources, or the Secretary's designee.

(4) The Director of the Zoological Park, or the Director's designee.

(5) The Secretary of Commerce, or the Secretary's designee.

(6) The Executive Director of the Division of Tourism, Film and Sports Development of the Department of Commerce, or the Executive Director's designee.

(7) The Chair of the North Carolina Zoological Park Council, or the Chair's designee.

(8) The Chair of the board of directors of the North Carolina Zoological Society, Inc., or the Chair's designee.

(9) Two additional representatives of the Zoo Society Board, who may be comprised of current or former members, one appointed by the President Pro Tempore of the Senate upon recommendation of the Chair of the Zoo Society Board, one appointed by the Speaker of the House of Representatives upon recommendation of the Chair of the Zoo Society Board.

(10) Two representatives from the public at large appointed by the President Pro Tempore of the Senate.

(11) Two representatives from the public at large appointed by the Speaker of the House of Representatives.

SECTION 5.3. Cochairs. – The Committee shall have three cochairs, one designated by the President Pro Tempore of the Senate and two designated by the Speaker of the House of Representatives from among their respective appointees. The Committee shall meet upon the call of the cochairs.

SECTION 5.4. Quorum. – A quorum of the Committee shall consist of 10 members.

SECTION 5.5. Vacancies. – Any vacancy on the Committee shall be filled by the original appointing authority.

SECTION 5.6. Purpose and Duties. – The Committee shall study: (i) funding issues associated with the Zoological Park, including current and expected capital and operational needs, current sources of revenue, and potential funding mechanisms; and (ii) the current organizational structure of the Zoological Park, and other potential organizational structures, including, but not limited to, reorganization as an authority, as a private nonprofit corporation, or other entity to determine which organizational structure would most effectively achieve the mission of the Zoological Park.

SECTION 5.7. Expenses of Members. – Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 5.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Committee to aid in its work.

SECTION 5.9. Consultants. – The Committee may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 5.10. Meetings. – The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 5.11. Report. – The Committee shall report its findings and recommendations to the 2010 Regular Session of the 2009 General Assembly and the Environmental Review Commission on or before May 1, 2010, at which time the Committee shall terminate.

SECTION 5.12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

PART VI: EFFECTIVE DATE

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

SENATE BILL 332:
Zoo and Zoo Funds Modifications

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	February 26, 2009
Introduced by:	Sen. Brunstetter	**Prepared by:**	Hal Pell Committee Co-Counsel
Analysis of:	First Edition		

SUMMARY: ***This act creates a new law providing the methods by which the Department of Environment and Natural Resources (DENR), on behalf of the North Carolina Zoological Park, would be able to purchase goods and services. The act also expands the Zoo's Umstead Act exemption; requires DENR to work with the Zoo on outstanding procurement and contract issues, information technology issues, and any other administrative concerns; requires DENR to review the current Memorandum of Understanding (MOA) between DENR and the North Carolina Zoological Society (Society) and revise or replace the MOA as necessary; and establishes a new Study Committee. This act is effective when it becomes law.***

BILL ANALYSIS:

Part I: Purchase and Contract Authority

The act creates a new statute, allowing DENR to use specified procedures to contract with a non-State entity where:

- The contract directly results in the generation of revenue for the State, or
- The use of the acquired goods and services by the Zoo results in increased revenue, or decreased expenditures, for the State.

DENR, acting on behalf of the Zoo with regard to contracts between the Zoo and non-state entities that generate revenue for the State (e.g., carousel, strollers, etc.), would be authorized to use methods only currently authorized for State acquisition of information technology, pursuant to G.S. 143-135.9:

- Best Value procurement. Best Value procurement means the selection of a contractor based on a determination of which proposal offers the best trade off between price and performance, where quality is considered an integral performance factor. The intent of Best Value procurement is to enable contractors to offer and the agency to select the most appropriate solution to meet the business objectives defined in the solicitation.
- Government-Vendor Partnership. Government-Vendor Partnership means a mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of needed goods or services.

Notice of requests for proposals must be given as provided by law, and contracts must be awarded to the person or entity that submits the best overall proposal. Factors considered in awarding contracts must be identified in the request for proposals.

DENR is authorized to negotiate in order to obtain a final contract that meets the best needs of the awarding authority. Negotiations shall not alter the contract beyond the scope of the original request for proposals, in a manner that: (i) deprives any person submitting a proposal of a fair opportunity to compete; or (ii) would have resulted in a contract award to a different person had the alterations been included in the original request for proposals.

Promotional Rights

Subject to DENR approval, contractors awarded revenue generating contracts with the Zoo would be allowed to advertise, announce, or publicize award of the contract. For example, a soft drink vendor that has an exclusive contract with the Zoo for the provision of soft drinks within the Zoo, would be allowed to advertise that relationship. This type of promotion is currently prohibited by State rule (01 NCAC 05B.1516).

Part I also amends G.S. 143-135.9, Best Value Procurements, to make technical changes and to include the North Carolina Zoological Park as an agency that may acquire goods and services using the Best Value procurement method. The Government-Vendor partnership method is authorized for highly complex acquisitions.

Part II. Umstead Act Exemption Expansion.

The Zoo would be fully exempted from the restrictions of the Umstead Act. The Umstead Act (G.S. 66-58) generally prohibits the State from engaging in activities that compete with private enterprise, including leasing or subleasing of space to another for the purpose of operating or rendering any prohibited competitive activities. Under current law, one of the exceptions under the Umstead Act is for the leasing of 50 acres or less within the Zoo, by DENR to the Society, for the maintenance or operation of an exhibition center, theater, conference center, and associated restaurants and lodging facilities. The bill would replace this limited exemption with a full exemption for the Zoo.

Parts III and IV: Administrative improvements and reporting.

DENR would be required to work with the Zoo to do the following:

- Examine all purchase and contract processes, including increased delegation.
- Negotiate with the Office of Information Technology Services on the Zoo's IT needs.
- Identify and address any other administrative issues.
- Review the current Memorandum of Agreement between DENR and the Society, and revise or replace the MOA as necessary. [The current MOA was executed on August 23, 1993, and has not been revised or updated since.]

DENR would report back to the North Carolina Zoological Park Funding and Organization Study Committee (see Part V), and the Fiscal Research Division, on these issues no later than January 15, 2010.

Part V. Establishment of Committee.

The act would [re-]establish the North Carolina Zoological Park Funding and Organization Study Committee. The Committee would be constituted, and have the same powers and duties, as the Study Committee whose authorization expired on December 31, 2008. The Committee would report to the 2010 Regular Session of the General Assembly, and to the Environmental Review Commission, on or before May 1, 2010, and would terminate on that date.

EFFECTIVE DATE: This act is effective when it becomes law.

Dan Ettefagh, Study Committee Counsel, substantially contributed to this summary.

S332-SMRK-5(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, March 10, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **332** Zoo and Zoo Funds Modifications.
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None

H.B. **164** Godwin Town Elections.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **327** Gatesville Term Limits.
Draft Number: PCS15095
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **364** Apex Wheel Locks.
Draft Number: PCS35149
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — March 10,2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cady Thomas	NC Assn of REALTORS
Dan Etheridge	Staff
Mia Bailey	Electricities of NC, Inc
Jim Blackburn	Association of County Commissioners
Elizabeth Biser	DENR
David Toman	DENR. Zoo
Russ Williams	N.C. Zoological Society
Kelly Bell	NC Zoo Society
Lisa Martin	NC HBA
Jessi Hayes	NC HBA
Kelli Kulma	NC League of Municipalities

Senate State and Local Government Committee
Tuesday, March 17, 2009, 15 Min. After Session
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 112	Wallace/Community Development Target Areas.	Representative Tucker
SB 315	Southport Annexation Agreement.	Senator Soles, Jr.
SB 381	Est. DV Fatality Review Team/Mecklenburg Co.	Senator Dannelly
SB 385	Macon Subdivisions.	Senator Snow
SB 452	Make Overgrown Vegetation Law Statewide.	Senator Stein

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, March 17, 2009 at 15 Min. After Session
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 15 Min. After Session on March 17, 2009, in Room 1124 of the Legislative Building. Ten members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

The first bill on the agenda was House Bill 112, Wallace/Community Development Target Areas. Senator Albertson moved that the bill be properly put before the Committee. Representative Tucker explained the bill and Senator Albertson made a motion that the bill received a Favorable Report. The bill carried. The next bill to be considered was Senate Bill 385, Macon Subdivisions. Senator Davis moved that the bill be properly before the committee. Senator Snow was introduced to explain the proposed committee substitute which Senator Weinstein had moved to adopt. The PCS received a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. Senator Stein explained Senate Bill 452, Make Overgrown Vegetation Law Statewide after Senator Soles had moved that the bill be properly before the committee. Senator Dorsett made a motion that the bill receive a Favorable Report and the Committee concurred. The last bill to be heard was Senate Bill 315. Senator Weinstein moved that a Proposed Committee Substitute be adopted and Senator Soles explained the PCS. Senator Weinstein moved that the bill receive a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS and the bill carried.

The meeting adjourned at 12:20 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

HOUSE BILL 112

Short Title:	Wallace/Community Development Target Areas.	(Local)
Sponsors:	Representative Tucker.	
Referred to:	Local Government II.	

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF WALLACE TO DECLARE RESIDENTIAL AND NONRESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS UNSAFE AND TO HAVE THE OPTION OF REMOVING OR DEMOLISHING THOSE BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-425.1(d) reads as rewritten:

"(d) This section applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, Lumberton, Rocky Mount, Whiteville, and Wilson, and the Towns of Garner, Franklin, Hope Mills, ~~Louisburg, and Spring Lake~~Louisburg, Spring Lake, and Wallace only."

SECTION 2. G.S. 160A-432(a1) reads as rewritten:

"(a1) [Removal of Building: Certain Localities.] – In the case of a residential building or nonresidential building or structure declared unsafe under G.S. 160A-425.1, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

This subsection applies to the Cities of Clinton, Durham, Fayetteville, Goldsboro, High Point, Lumberton, Rocky Mount, and Wilson, and the Towns of Garner, Franklin, Hope Mills, ~~Louisburg, and Spring Lake.~~Louisburg, Spring Lake, and Wallace only."

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

HOUSE BILL 112:
Wallace/Community Development Target Areas

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 16, 2009
Introduced by:	Rep. Tucker	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 112 adds Wallace to the list of municipalities granted the authority to declare a building in a community development target area to be unsafe and affix a notice to the building. These municipalities may also remove or demolish a residential or nonresidential building that has been declared unsafe and place a lien on the property to recover the cost of removal or demolition.***

CURRENT LAW: Under current law, certain municipalities may declare a residential or nonresidential building or structure in a community development target area to be unsafe and affix a notice to the exterior of the building.

For purposes of this law, a building in a community development target area is unsafe if it meets both of the following conditions:

- Appears to be vacant or abandoned.
- Appears to be in such dilapidated condition as to do one or more of the following:
  - to cause or contribute to blight, disease, vagrancy, fire or safety hazard,
  - to be a danger to children, or
  - to tend to attract persons intent on criminal activities or other activities that constitute a public nuisance.

If a residential or nonresidential building is declared unsafe, then the municipality has the option of removing or demolishing the building and placing a lien on the property for the cost incurred, in lieu of initiating other appropriate action to prevent, restrain, correct or abate violations.

BACKGROUND: The North Carolina General Assembly has enacted a number of these types of laws. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that House Bill 112 is a local act dealing with the abatement of nuisances and therefore unconstitutional.

BILL ANALYSIS: This bill would add the city of Wallace to the list of municipalities granted the authority to remove or demolish residential and nonresidential structures in a community development target area that have been declared unsafe. The cities would also be authorized to place a lien for the costs of removal or demolition of the building.

EFFECTIVE DATE: This act is effective when it becomes law.

Brad Krehely, counsel to House Local Government II, substantially contributed to this summary.

H112-SMRF-16(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 315
PROPOSED COMMITTEE SUBSTITUTE S315-CSRF-7 [v.1]

3/16/2009 4:53:30 PM

Short Title: Southport Annexation Agreement. (Local)

Sponsors:

Referred to:

February 26, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF SOUTHPORT TO ENTER INTO AN ANNEXATION AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the City of Southport is granted certain contract powers as follows:

(1) To enter into an agreement with Carolina Power and Light Company, a North Carolina corporation doing business as Progress Energy Carolinas, Inc., and with the North Carolina Eastern Municipal Power Agency, a joint agency organized and existing under Chapter 159B of the General Statutes, whereby the City of Southport may provide that certain property more particularly described in the agreement may not be involuntarily annexed by the City prior to January 1, 2073, under the General Statutes as they now exist or may be subsequently amended, except as may be provided in that agreement. The City of Southport shall not seek to repeal this act.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the governing board of the City of Southport during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

SECTION 2. The City of Southport may accept as consideration for the agreement discussed in Section 1 of this act the acquiescence by Carolina Power and Light Company, a North Carolina corporation doing business as Progress Energy Carolinas, Inc., and the North Carolina Eastern Municipal Power Agency, a joint agency organized and existing under Chapter 159B of the General Statutes in an annexation by the City of Southport of the areas provided in that agreement.

SECTION 3. This act is effective when it becomes law and also applies to an agreement dated August 27, 2008, that conforms with this act. That agreement is specifically ratified by the General Assembly.

SENATE BILL 315:
Southport Annexation Agreement

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 16, 2009
Introduced by:	Sen. Soles	**Prepared by:**	Barbara Riley
Analysis of:	S315-CSRF-7		Committee Counsel

SUMMARY: Senate Bill 315 is a local act that would allow the City of Southport to enter into an annexation agreement. The Proposed Committee Substitute corrects one typographical error.

[As introduced, this bill was identical to H347, as introduced by Rep. Stiller, which is currently in House Finance.]

BILL ANALYSIS: Senate Bill 315 specifically authorizes the City of Southport to enter into an agreement with Progress Energy Carolinas and the North Carolina Eastern Municipal Power Agency. The bill does all of the following:

- Stipulates that certain property described in the agreement may not be involuntarily annexed by the City of Southport before January 1, 2073.
- Provides that any agreement entered into is proprietary and commercial in nature and is consistent with the public policy of the State of North Carolina.
- Provides that any agreement entered into is a continuing agreement and is binding on and enforceable against the governing board of the City of Southport during the full term of the agreement.
- Provides that the parties may modify, amend, or extend the agreement by mutual written consent, without the approval of the General Assembly as long as the modification does not materially alter the concept of the agreement.
- Provides that the City may accept as consideration for the agreement the acquiescence by Progress Energy and NC Eastern Municipal Power in an annexation by the City of an area provided in the agreement.

EFFECTIVE DATE: This act is effective when it becomes law and also applies to an August 27, 2008 agreement which the General Assembly ratifies by this act.

BACKGROUND: Similar legislation has been enacted for the following municipalities:

- Town of Fletcher- S.L. 2008-51
- Town of Navassa- S.L. 2007-314
- Town of Weldon- S.L. 2001-425
- Town of Huntersville- S.L. 2000-100

Brad Krehely, counsel to House Local Government II, substantially contributed to this summary.

S315-SMRF-17(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 381*
PROPOSED COMMITTEE SUBSTITUTE S381-CSRK-4 [v.3]

3/16/2009 2:01:34 PM

Short Title: Est. DV Fatality Review Team/Mecklenburg Co. (Local)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND PROTECTION REVIEW TEAM IN MECKLENBURG COUNTY.

Whereas, the General Assembly finds that it is the public policy of this State to prevent domestic violence fatalities; and

Whereas, the General Assembly further finds that the prevention of these fatalities is a community responsibility and professionals from disparate disciplines have expertise that can promote the safety and well-being of victims of domestic violence; and

Whereas, multidisciplinary reviews of these deaths can lead to a greater understanding of the causes and methods of preventing these deaths; and

Whereas, according to the North Carolina Coalition Against Domestic Violence, there were 81 domestic violence-related homicides in the State in 2008; and

Whereas, according to the Charlotte Mecklenburg Police Department, there were 11 domestic violence-related homicides in Charlotte, North Carolina, in 2008; and

Whereas, the Charlotte Mecklenburg area is a leader throughout the State with its innovative domestic violence programming and services, yet there remains a disconnect when it comes to the rate of domestic violence-related homicides; and

Whereas, there is a need to increase safety of citizens with one strategy mitigating the effect of abuse by increasing the safety of victims of domestic violence, exploring circumstances from a strengths perspective to allow professionals to gain clarity in the continued needs of the community; and

Whereas, precedence has been established in this area as similar statutes are already in existence, such as the North Carolina Child Fatality Prevention System, which outlines the course of action for a statewide disciplinary team to review child fatalities; and

Whereas, establishing a Domestic Violence Fatality Prevention and Protection Review Team will be modeled after the North Carolina Child Fatality Prevention Team, with potential members representing a cross section of community service providers, including health, mental health, social services, law enforcement, courts, school professionals, and other domestic violence service providers; and

Whereas, by creating legislation that protects professionals from confidentiality violations in specific cases where domestic violence-related homicides have occurred, the effectiveness of this project will be increased; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Domestic Violence Fatality Prevention and Protection Review Team. – A county may establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team to identify and review domestic violence-related deaths, including homicides and suicides, and facilitate communication among the various agencies and organizations involved in domestic violence cases to prevent future fatalities.

SECTION 1.(b) Definitions. – The following definitions apply in this act:

(1) Domestic violence fatality. – The death of a person, 18 years of age or older, that is the result of an act of domestic violence as defined in G.S. 50B-1.

(2) Review team. – The Domestic Violence Fatality Prevention and Protection Review Team.

SECTION 1.(c) Composition. – The Review Team shall consist of a lead agency, Community Support Services of Charlotte, North Carolina, and representatives of public and nonpublic agencies in the community that provide services to victims or families of domestic violence, including:

(1) A representative from a domestic violence victim's service group.
(2) An attorney from the local district attorney's office.
(3) Local law enforcement personnel.
(4) A representative from the local medical examiner's office.
(5) A representative from the local department of social services.
(6) A representative from the local health department.
(7) A representative from an area mental health authority.
(8) A representative from the local public schools.
(9) A representative from a health care system.
(10) Local medic or emergency services personnel.
(11) A survivor of domestic violence.

SECTION 1.(d) Powers and Duties of the Review Team. – The Review Team shall meet at least four times each year. To accomplish the purposes of this act, the Review Team shall:

(1) Study the incidences and causes of death by domestic violence-related behavior in the community. The study shall include an analysis of all community, private, and public agency involvement with the decedent and family members prior to death.
(2) Develop a system for multidisciplinary review of domestic violence-related deaths.
(3) Examine the laws, rules, and policies relating to confidentiality.
(4) Access information that affects the agencies that provide intervention services to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect victims of domestic violence and recommend any necessary changes.
(5) Perform any other studies, evaluations, or determinations the Review Team considers necessary to carry out its mandate.
(6) Make recommendations for system improvements and needed resources where gaps and deficiencies may exist.
(7) In addition to any other duties outlined in this act, the lead agency shall develop a written plan outlining standard operating procedures for the following:
    a. Appointing Review Team members and a chair.
    b. Establishing other Review Team duties and responsibilities.
    c. Establishing terms of service for Review Team members.
    d. Establishing the procedure for filling vacancies.
    e. Maintaining confidentiality policies consistent with applicable laws.

f. Training Review Team members.
g. Establishing a meeting schedule.
h. Maintaining a record of official meetings, including minutes and those in attendance.
i. Establishing a process to initiate case review.
j. Reporting annually to the local board of county commissioners and the Governor's Crime Commission.

SECTION 1.(e) Access to Records. – The Review Team, during its existence, shall have access to all medical records, hospital records, and records maintained by the county or any local agency as necessary to carry out the purposes of this act, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the Review Team may share relevant information in an official Review Team meeting only.

SECTION 1.(f) Confidentiality; Immunity. – All otherwise confidential information and records acquired by the Review Team, during its existence and in the exercise of its duties, shall: (i) be confidential; (ii) not be subject to discovery or introduction into evidence in any proceedings; and (iii) only be disclosed as necessary to carry out the purposes of the Review Team. No member of the Review Team or any person who attends a meeting of the Review Team may testify in any proceeding about what transpired at a particular meeting, information presented at the meeting, or opinions formed by a person as a result of the meeting. This section shall not prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the Review Team and any invited participants shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Persons disclosing or providing information or records pursuant to this act are not criminally or civilly liable for disclosing or providing the information. Review Team members are immune from claims of liability, and confidential information gathered pursuant to this act is not subject to subpoena or discovery.

Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the Review Team shall be governed by G.S. 132-1.4. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

SECTION 2. A Review Team established by a county pursuant to this act shall terminate upon the earlier of its filing its final report, or June 15, 2014.

SECTION 3. Each Review Team established pursuant to this act shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities by June 15, 2011, and a final report with recommendations for action by June 15, 2014. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 5. This act applies to Mecklenburg County only.

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

SENATE BILL 381:
Est. DV Fatality Review Team/Mecklenburg Co

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 16, 2009
Introduced by:	Sen. Dannelly	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S381-CSRK-4		Committee Co-Counsel

SUMMARY: This local act would establish a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County. This act is effective when it becomes law.

BACKGROUND: In 2007, the legislature enact a Session Law that required the Attorney General's Office, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, to develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database includes the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. The Attorney General's Office is required to report to the Joint Legislative Committee on Domestic Violence, no later than February 1 of each year, with the data collected for the previous calendar year.

BILL ANALYSIS:

This act authorizes Mecklenburg County to establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team. The Team's purpose would be to identify and review domestic violence-related deaths, and facilitate communication amongst the various agencies and organizations involved in domestic violence cases with the goal of preventing future fatalities. The act defines who would be considered a domestic violence fatality, and lists the designated positions for membership on the Review Team. The lead agency of the Team would be the Community Support Services of Charlotte, North Carolina.

- The Review Team would be required to meet quarterly, and the act provides specific actions for the Review Team to accomplish.
- The Review Team would have access to otherwise confidential information, which would remain confidential, and subject to review only by members of the Review Team. The records of criminal investigations in the possession of the Review Team would retain the same confidentiality as if they were with the investigating agency. The district attorney's records would not be subject to disclosure.
- The act specifically shields the information obtained by the Review Team from public disclosure, and prohibits any member from testifying as to what transpires within a meeting, or any information obtained as the result of attendance at a meeting.
- Team members are required to sign a statement acknowledging possible civil or criminal consequences for any breach of confidentiality.
- The Review Team established by a county shall terminate upon the earlier of its making its final report, or June 15, 2014.

Each Review Team shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission, summarizing its findings and activities, by June 15, 2011. A final report with recommendations is due by June 15, 2014. The reports shall not identify specific cases or case reviews that led to the Review Team's findings and recommendations.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 385*
PROPOSED COMMITTEE SUBSTITUTE S385-CSRR-3 [v.1]

3/16/2009 10:03:49 PM

Short Title: Macon Subdivisions. (Local)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORITY OF MACON COUNTY TO REGULATE THE SUBDIVISION OF LAND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335 reads as rewritten:

"**§ 153A-335. "Subdivision" defined.**

(a) For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

(2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

A county in its ordinance may provide that 'subdivision' does not apply to a family subdivision. A 'family subdivision' is the division of land into two or more parcels or lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor. The exemption provided by the ordinance shall only apply if the deed of conveyance notes that it is a family subdivision as defined by this section. Degrees of kinship shall be computed in accordance with G.S. 104A-1.

(b) A county may provide for expedited review of specified classes of subdivisions. "

SECTION 2. This act does not impose any liability on the State of North Carolina concerning the construction or maintenance of any road.

SECTION 3. This act applies to Macon County only.

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

SENATE BILL 385:
Macon Subdivisions

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 17, 2009
Introduced by:	Sen. Snow	**Prepared by:**	William R. Gilkeson
Analysis of:	PCS to First Edition S385-CSRR-3		Committee Counsel

SUMMARY: This Proposed Committee Substitute for Senate Bill 385 would allow Macon County to exempt from its subdivision-regulation ordinance a "family subdivision."

CURRENT LAW: The county statute on planning and regulation of development provides that a county may regulate subdivisions in a uniform way. Subdivisions are defined as "all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets" with certain exceptions.

In an exception created in 1989 for Henderson County only, the county is given the authority to exempt from its subdivision ordinance a "family subdivision." A "family subdivision" is defined as "the division of land into two or more parcels or lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor." The exemption applies only if the deed of conveyance references that definition.

BILL ANALYSIS: SB 385 would add Macon County to the exemption. (The PCS made a technical change to the bill, reflecting that the underlying statute has changed since 1989.)

EFFECTIVE DATE: When it becomes law.

S385-SMRR-16(CSRR-3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 452*

Short Title:	Make Overgrown Vegetation Law Statewide.	(Public)
Sponsors:	Senators Stein; Albertson, Clodfelter, Davis, Dorsett, Hoyle, Hunt, Jenkins, Jones, Malone, McKissick, Purcell, Rucho, Soles, Stevens, and Swindell.	
Referred to:	State and Local Government.	

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE STATEWIDE A LOCAL ACT AUTHORIZING MUNICIPALITIES TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF ITS OVERGROWN VEGETATION ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200 reads as rewritten:

"**§ 160A-200. Annual notice to chronic violators of overgrown vegetation ordinances.**

~~(a)~~ A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

~~(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Marshville, Pinetops, Pineville, Smithfield, Spring Lake, Wingate, and Yadkinville, and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only~~"

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

SENATE BILL 452:
Make Overgrown Vegetation Law Statewide

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 16, 2009
Introduced by:	Sen. Stein	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 452 would authorize all municipalities to remedy chronic violations of their overgrown vegetation ordinance after providing chronic violators only annual notice. The expense of remedying the violation would become a lien upon the chronic violator's property and be collected as unpaid taxes.

[As introduced, this bill was identical to H448, as introduced by Rep. Jackson, which is currently in House Local Government I, if favorable, Judiciary II.]

CURRENT LAW: G.S. 160A-174 grants to cities the authority to adopt ordinances related to the health, safety, or welfare of their citizens. G.S. 160A-175 authorizes cities to enforce their ordinances, and G.S. 160A-193 allows cities to abate situations that are dangerous or prejudicial to the public health and welfare. The cost of abatement may be charged to the violator.

G.S. 160A-200 gives to 26 named municipalities the authority to give a "chronic violator" of the municipality's overgrown vegetation ordinance notice on an annual basis. A "chronic violator" is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance. Under the statute, if a chronic violator's property is in violation of the ordinance again, the municipality make take action to remedy the violation, i.e., cut down the weeds, after giving only the annual notice. The expense of the action would become a lien on the property and would be collected as unpaid taxes.

§ 160A-200. Annual notice to chronic violators of overgrown vegetation ordinances.

(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

(b) This section applies to the Towns of Ahoskie, Ayden, Franklinton, Leland, Marshville, Pinetops, Pineville, Smithfield, Spring Lake, Wingate, and Yadkinville, and to the Cities of Durham, Eden, Gastonia, Greensboro, High Point, Lexington, Louisburg, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Rockingham, Rocky Mount, Wadesboro, and Winston-Salem only. (1999-58, s. 2; 2000-33, s. 1; 2000-38, s. 1; 2001-107, s. 1; 2003-77, s. 1; 2003-80, s. 1; 2005-81, s. 1; 2005-202, s. 1; 2007-31, s. 1; 2007-258, s. 1; 2008-6, s. 1; 2008-25, s. 1.)

In the 2009 Session, bills have been introduced to give the authority to Clinton, Kings Mountain, and Williamston. In the Williamston bill, "chronic violator" would be one with 2, not 3, violations in the past year.

BILL ANALYSIS: SB 452 would give the authority to enforce overgrown weed ordinances through annual notice, now given through local acts to 26 municipalities, to all municipalities.

EFFECTIVE DATE: Effective when it becomes law.

BACKGROUND: As noted, the General Assembly has enacted a number of local bills allowing municipalities to remedy chronic violations of overgrown vegetation ordinances after giving only an annual notice. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that any of those local bills is a local act dealing with the abatement of nuisances and therefore unconstitutional. Giving the authority to all municipalities on a statewide basis would overcome that constitutional problem. It would not address any constitutional issue of due process that the annual notice procedure might raise.

S452-SMRR-14(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, March 18, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **452** Make Overgrown Vegetation Law Statewide.
Sequential Referral: None
Recommended Referral: None

H.B. **112** Wallace/Community Development Target Areas.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **315** Southport Annexation Agreement.
Draft Number: PCS35193
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **385** Macon Subdivisions.
Draft Number: PCS55223
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State and Local Government — March 17, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia Davis	MWC
T. Tetterton	FAC
Daniel Rawls	K+L Gates
Colleen Kochanek	NCCADV

Senate State and Local Government Committee
Tuesday, March 24, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 360	Repeal Statesville Police Act.	Senator Hartsell
SB 381	Est. DV Fatality Review Team/Mecklenburg Co.	Senator Dannelly
SB 429	New Hanover/Energy-Related Incentives.	Senator Boseman
SB 430	Wilmington Civil Service Rewrite.	Senator Boseman
SB 433	First Craven Sanitary District Validation.	Senator Preston
SB 479	Fremont Charter Rewrite.	Senator Rouzer
SB 533	Clayton/Electronic Notices.	Senator Rouzer
SB 550	Duplin Elections	Senator Albertson

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, March 24, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on March 24, 2009, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Don East presided.

Senator East called the meeting to order and introduced the pages.

Senate Bill 550, Duplin Elections was the first bill to be heard by the Committee. A Proposed Committee Substitute was explained by Senator Albertson and Senator Apodaca moved that the PCS receive a Favorable Report, Unfavorable to the bill but Favorable to the PCS. Senator Dannelly was introduced to explain Senate Bill 381, Est. DV Fatality Review Team/Mecklenburg Co. A Proposed Committee Substitute was adopted and Senator Berger made the motion to give the PCS a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. The bill carried. Senator Preston explained Senate Bill 433, First Craven Sanitary District Validation to the Committee and Senator Dorsett moved that the Bill receive a Favorable Report. The committee concurred. Senate Bill 360, Repeal Statesville Police Act; Senate Bill 429, New Hanover/ Energy-Related Incentives; Senate Bill 430, Wilmington Civil Service Rewrite; Senate Bill 479, Fremont Charter Rewrite; and Senate Bill 533, Clayton/Electronic Notices were not heard.

The meeting adjourned at 12:20.

Don East
Senator Don East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 360

Short Title:	Repeal Statesville Police Act.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	State and Local Government.	

March 3, 2009

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LOCAL ACT GRANTING THE POLICE DEPARTMENTS OF STATESVILLE AND MOORESVILLE COUNTYWIDE JURISDICTION WITHIN IREDELL COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 330 of the Session Laws of 1971 is repealed.

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

SENATE BILL 360:
Repeal Statesville Police Act

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 9, 2009
Introduced by:	Sen. Hartsell	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 360 repeals a local law granting the Statesville and Mooresville police departments' jurisdiction within Iredell County.***

CURRENT LAW: G.S. 160A-285 provides that municipal police officers have law enforcement powers within the corporate limits of the city. In addition to this authority, municipal police officers may exercise law enforcement powers within one mile of the corporate limits and on all land owned or leased by the city wherever located. A police officer may also exercise law enforcement authority outside the corporate limits when in hot pursuit of an offender. G.S. 160A-286.

S.L. 1971-330 gave the police of Statesville and Mooresville the same powers and authority to make arrests and execute criminal process throughout Iredell County as they had within their respective municipalities.

BILL ANALYSIS: Senate Bill 360 repeals S.L. 1971-330. The jurisdiction of Statesville and Mooresville police officers will be pursuant to the general law as provided in G.S. 160A-285 and G.S. 160A-286 as set forth above.

EFFECTIVE DATE: The act is effective when it becomes law.

S360-SMRF-10(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 381*
PROPOSED COMMITTEE SUBSTITUTE S381-CSRK-4 [v.4]

3/20/2009 10:32:59 AM

Short Title: Est. DV Fatality Review Team/Mecklenburg Co. (Local)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND PROTECTION REVIEW TEAM IN MECKLENBURG COUNTY.

Whereas, the General Assembly finds that it is the public policy of this State to prevent domestic violence fatalities; and

Whereas, the General Assembly further finds that the prevention of these fatalities is a community responsibility and professionals from disparate disciplines have expertise that can promote the safety and well-being of victims of domestic violence; and

Whereas, multidisciplinary reviews of these deaths can lead to a greater understanding of the causes and methods of preventing these deaths; and

Whereas, according to the North Carolina Coalition Against Domestic Violence, there were 81 domestic violence-related homicides in the State in 2008; and

Whereas, according to the Charlotte Mecklenburg Police Department, there were 11 domestic violence-related homicides in Charlotte, North Carolina, in 2008; and

Whereas, the Charlotte Mecklenburg area is a leader throughout the State with its innovative domestic violence programming and services, yet there remains a disconnect when it comes to the rate of domestic violence-related homicides; and

Whereas, there is a need to increase safety of citizens with one strategy mitigating the effect of abuse by increasing the safety of victims of domestic violence, exploring circumstances from a strengths perspective to allow professionals to gain clarity in the continued needs of the community; and

Whereas, precedence has been established in this area as similar statutes are already in existence, such as the North Carolina Child Fatality Prevention System, which outlines the course of action for a statewide disciplinary team to review child fatalities; and

Whereas, establishing a Domestic Violence Fatality Prevention and Protection Review Team will be modeled after the North Carolina Child Fatality Prevention Team, with potential members representing a cross section of community service providers, including health, mental health, social services, law enforcement, courts, school professionals, and other domestic violence service providers; and

Whereas, by creating legislation that protects professionals from confidentiality violations in specific cases where domestic violence-related homicides have occurred, the effectiveness of this project will be increased; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Domestic Violence Fatality Prevention and Protection Review Team. – A county may establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team to identify and review domestic violence-related deaths, including homicides and suicides, and facilitate communication among the various agencies and organizations involved in domestic violence cases to prevent future fatalities.

SECTION 1.(b) Definitions. – The following definitions apply in this act:

(1) Domestic violence fatality. – The death of a person, 18 years of age or older, that is the result of an act of domestic violence as defined in G.S. 50B-1.

(2) Review team. – The Domestic Violence Fatality Prevention and Protection Review Team.

SECTION 1.(c) Composition. – The Review Team shall consist of a lead agency, Community Support Services of Charlotte, North Carolina, and representatives of public and nonpublic agencies in the community that provide services to victims or families of domestic violence, including:

(1) A representative from a domestic violence victim's service group.
(2) An attorney from the local district attorney's office.
(3) Local law enforcement personnel.
(4) A representative from the local medical examiner's office.
(5) A representative from the local department of social services.
(6) A representative from the local health department.
(7) A representative from an area mental health authority.
(8) A representative from the local public schools.
(9) A representative from a health care system.
(10) Local medic or emergency services personnel.
(11) A survivor of domestic violence.

SECTION 1.(d) Powers and Duties of the Review Team. – The Review Team shall meet at least four times each year. To accomplish the purposes of this act, the Review Team shall:

(1) Study the incidences and causes of death by domestic violence-related behavior in the community. The study shall include an analysis of all community, private, and public agency involvement with the decedent and family members prior to death.
(2) Develop a system for multidisciplinary review of domestic violence-related deaths.
(3) Examine the laws, rules, and policies relating to confidentiality.
(4) Access information that affects the agencies that provide intervention services to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect victims of domestic violence and recommend any necessary changes.
(5) Perform any other studies, evaluations, or determinations the Review Team considers necessary to carry out its mandate.
(6) Make recommendations for system improvements and needed resources where gaps and deficiencies may exist.
(7) In addition to any other duties outlined in this act, the lead agency shall develop a written plan outlining standard operating procedures for the following:
    a. Appointing Review Team members and a chair.
    b. Establishing other Review Team duties and responsibilities.
    c. Establishing terms of service for Review Team members.
    d. Establishing the procedure for filling vacancies.
    e. Maintaining confidentiality policies consistent with applicable laws.

f. Training Review Team members.
g. Establishing a meeting schedule.
h. Maintaining a record of official meetings, including minutes and those in attendance.
i. Establishing a process to initiate case review.
j. Reporting annually to the local board of county commissioners and the Governor's Crime Commission.

SECTION 1.(e) Access to Records. – The Review Team, during its existence, shall have access to all medical records, hospital records, and records maintained by the county or any local agency as necessary to carry out the purposes of this act, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the Review Team may share relevant information in an official Review Team meeting only.

SECTION 1.(f). Limitation on Access. – Notwithstanding any provision in the law that allows the Review Team to access records, no member of the Review Team shall be authorized to review a domestic violence fatality case while the case is under investigation by any law enforcement agency, or if an action is pending in any criminal or civil court in the State, except as provided in this section. A Review Team member may review and have access to records in a domestic violence fatality case only if:

(1) A district attorney has given written approval for access due to the completion of the investigation or court proceedings; or
(2) A district attorney has given written approval for access, stating that access by the Review Team will not have any negative or adverse effects on the investigation or completion of a pending case.

SECTION 1.(g) Confidentiality; Immunity. – All otherwise confidential information and records acquired by the Review Team, during its existence and in the exercise of its duties, shall: (i) be confidential; (ii) not be subject to discovery or introduction into evidence in any proceedings; and (iii) only be disclosed as necessary to carry out the purposes of the Review Team. No member of the Review Team or any person who attends a meeting of the Review Team may testify in any proceeding about what transpired at a particular meeting, information presented at the meeting, or opinions formed by a person as a result of the meeting. This section shall not prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the Review Team and any invited participants shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Persons disclosing or providing information or records pursuant to this act are not criminally or civilly liable for disclosing or providing the information. Review Team members are immune from claims of liability, and confidential information gathered pursuant to this act is not subject to subpoena or discovery.

Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the Review Team shall be governed by G.S. 132-1.4. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

SECTION 2. A Review Team established by a county pursuant to this act shall terminate upon the earlier of its filing its final report, or June 15, 2014.

SECTION 3. Each Review Team established pursuant to this act shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities by June 15, 2011, and a final report with recommendations for action by June 15,

2014. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 5. This act applies to Mecklenburg County only.

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

SENATE BILL 381:
Est. DV Fatality Review Team/Mecklenburg Co

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 16, 2009
Introduced by:	Sen. Dannelly	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S381-CSRK-4		Committee Co-Counsel

SUMMARY: ***This local act would establish a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County. This act is effective when it becomes law.***

BACKGROUND: In 2007, the legislature passed legislation that required the Attorney General's Office, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, to develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b).

The information in the database includes the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. The Attorney General's Office is required to report to the Joint Legislative Committee on Domestic Violence with the data collected for the previous calendar year. In the 2008 calendar year, Mecklenburg County had 14 domestic violence fatalities.

BILL ANALYSIS:

This act authorizes Mecklenburg County to establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team. The Team's purpose would be to identify and review domestic violence-related deaths, and facilitate communication amongst the various agencies and organizations involved in domestic violence cases with the goal of preventing future fatalities. The act defines who would be considered a domestic violence fatality, and lists the designated positions for membership on the Review Team. The lead agency of the Team would be the Community Support Services of Charlotte, North Carolina.

- The Review Team would be required to meet quarterly, and the act provides specific actions for the Review Team to accomplish.
- The Review Team would have access to otherwise confidential information, which would remain confidential, and subject to review only by members of the Review Team.
- A district attorney would have to approve the release of records of pending and closed cases.
- The records of criminal investigations in the possession of the Review Team would retain the same confidentiality as if they were with the investigating agency.
- The district attorney's records would not be subject to disclosure.
- The act specifically shields the information obtained by the Review Team from public disclosure, and prohibits any member from testifying as to what transpires within a meeting, or any information obtained as the result of attendance at a meeting.

- Team members are required to sign a statement acknowledging possible civil or criminal consequences for any breach of confidentiality.
- The Review Team established by a county shall terminate upon the earlier of its making its final report, or June 15, 2014.

Each Review Team shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission, summarizing its findings and activities, by June 15, 2011. A final report with recommendations is due by June 15, 2014. The reports shall not identify specific cases or case reviews that led to the Review Team's findings and recommendations.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 429

Short Title:	New Hanover/Energy-Related Incentives.	(Local)
Sponsors:	Senator Boseman.	
Referred to:	State and Local Government.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING NEW HANOVER COUNTY TO PROVIDE DEVELOPMENT INCENTIVES IN EXCHANGE FOR REDUCTIONS IN ENERGY CONSUMPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-241, as amended by S.L. 2008-22, reads as rewritten:

"**SECTION 2.** This act applies only to ~~Cabarrus County,~~ the Counties of Cabarrus and New Hanover, to the Cities of Asheville, Charlotte, Concord, Durham, Kannapolis, Locust, and Wilmington, and to the Towns of Carrboro, Cary, Chapel Hill, Harrisburg, Midland, Mount Pleasant, and Stanfield."

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

SENATE BILL 429:
New Hanover/Energy-Related Incentives

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 23, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY:

Senate Bill 429 amends S.L. 2007-241 and adds New Hanover County to the list of local governments that may adopt ordinances to provide incentives to developers within a county or a municipality and its extraterritorial jurisdiction who agree to construct new development or reconstruct existing development in a manner that the county or municipality determines makes a significant contribution to the reduction of energy consumption. Incentives include density bonuses, adjustments to otherwise applicable development requirements, and other incentives. Density bonus ordinances permit developers to increase the number of units allowed on a piece of property.

Cabarrus County, and the Cities of Concord, Durham, Kannapolis, and Locust, and the Towns of Cary, Harrisburg, Midland, Mount Pleasant and Stanfield were added to the legislation in 2008.

The cities of Asheville, Charlotte and Wilmington, and the Towns of Carrboro and Chapel Hill were granted this authority in 2007.

EFFECTIVE DATE:

This act is effective when it becomes law.

S429-SMRF-20(e1) v1

SENATE BILL 430

Short Title:	Wilmington Civil Service Rewrite.	(Local)
Sponsors:	Senator Boseman.	
Referred to:	State and Local Government.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE WILMINGTON CIVIL SERVICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article XI of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the 1981 Session Laws, reads as rewritten:

"ARTICLE XI. CIVIL SERVICE.

"Sec. 11.1. Civil Service Commission established. ~~There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department.~~

~~The employees of the City of Wilmington Fire Department, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The Wilmington Ministerial Association governing body, by a majority vote, shall name one member.~~

~~The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.~~

~~A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term.~~

~~The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.~~

~~The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police~~

~~and fire department members of actions, reports and recommendations made by the commission.~~

(a) Establishment, Qualifications, and Restrictions. There is created a civil service commission consisting of five regular members and one nonvoting ex officio member. Each regular member must be a citizen and a resident of the City of Wilmington. No regular member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city, or a former employee of the police or fire department.

(b) Appointment, Term and Removal of Regular Members. The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one regular member. The employees of the City of Wilmington Police Department who are subject to this Article, by a majority vote, shall name one regular member. The City Council of the City of Wilmington, by a majority vote, shall name one regular member. The New Hanover County Medical Society governing board, by a majority vote, shall name one regular member. The sitting members of the Civil Service Commission, by a majority vote, shall select one member to be confirmed by the City Council as a regular member of the commission.

The regular members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

(c) Vacancy. A vacancy on the commission may be caused by the death, resignation, disqualification, or removal of a regular member. Such vacancy shall be filled by the appointing authority authorized to name the member causing the vacancy. If the appointing agency fails to fill the vacancy within 60 days after notification, the senior resident superior court judge of the judicial district that includes New Hanover County shall be notified and shall immediately fill the vacancy. Regular members appointed to fill a vacancy serve for the remainder of the unexpired term.

(d) Compensation, Officers, and Quorum. The City Council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the regular members of the commission shall elect a chairman and may elect other officers. A majority of the regular members of the commission constitutes a quorum. There shall be a minimum of four regular members present to consider the appeal of a dismissal or demotion under this Article. A quorum will be required to consider nondisciplinary matters.

(e) Secretary. The city clerk shall act as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, shall be custodian of all papers and records pertaining to the business of the commission, shall notify commission members of meetings, shall administer required oaths, shall be responsible for transmitting to the Superior Court of New Hanover County a complete transcript of all proceedings and papers concerning any commission order appealed to the court, and shall perform other duties as the commission may require.

(f) Ex Officio Member. The director of human resources shall act as a nonvoting ex officio member of the commission and shall advise the commission on all city and departmental policies, rules, regulations and procedures. The commission shall, within a reasonable time, supply the director of human resources with notification of any actions, reports, or recommendations made by the commission. The human resources department shall notify affected police and fire department members of actions, reports, and recommendations made by the commission.

"Sec. 11.2. ~~Jurisdiction.~~ Application of Article. ~~The Civil Service Act has jurisdiction over an employee of the Police Department of the City of Wilmington certified in accordance with Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty is that of enforcing the criminal laws of the city and State, excluding those employees whose primary responsibility is that of issuing parking tickets or collecting fees. The chief of the police department is not covered by the Civil Service Act.~~

~~The act shall apply to an employee of the Fire Department of the City of Wilmington certified in accordance with Section 11.5 of this act and whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the fire service. The chief of the fire department is not covered by the Civil Service Act.~~

(a) General Application. The provisions of this Article shall only apply to civil service certified employees of the City of Wilmington police and fire departments as defined in this section.

(b) Police Department. An employee of the police department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this act; (iii) has received certification as a criminal justice officer by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the police department as a criminal justice officer. Other than Section 11.4 of this act, the provisions of this Article shall not apply to the chief of police. The provisions of this Article shall not apply to any deputy chief or auxiliary police officer appointed to such position after the date of the enactment of this Article.

(c) Fire Department. An employee of the fire department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this act; (iii) has received certification as either a firefighter or fire inspector by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the fire department in a primary function of protecting life and property through firefighting, including those fire officer positions assigned to supporting services of the fire service. Other than Section 11.4 of this act, the provisions of this Article shall not apply to the fire chief. The provisions of this Article shall not apply to any deputy fire chief appointed to such position after the date of the enactment of this Article.

"Sec. 11.3. Powers and duties. The commission:

~~(a)~~ (1) Shall approve reasonable requirements for employment and for examination of applicants. ~~Positions shall be publicized. Examinations shall be competitive, open, and free to all persons meeting the commission's requirements. Examinations shall be practical in character, shall be limited to matters that fairly test the relative ability of the applicant to discharge the duties of the position and shall include tests of mental and physical qualifications and health. Employment procedures shall be consistent with federal and State regulations and the affirmative action policy as adopted by the city council. The director of personnel shall be responsible for implementing and administering personnel policies and procedures approved by the commission. Any standards for police or fire employees that are established by the State of North Carolina shall be included in the requirements for employment.~~

~~(b)~~ (2) ~~Shall cause to be prepared and kept a register of persons passing the examinations. The established policy of the city will be followed in filing vacancies from the register.~~ Shall only hear and decide appeals of dismissals or demotions filed by civil service certified employees of the police or fire department.

(3) Shall subpoena on behalf of the commission, or any party to a hearing before the commission, witnesses and compel the production of records, books, papers, documents, or tangible things. If a person fails or refuses to obey a subpoena issued pursuant to this subdivision, the commission may apply to the Superior Court of New Hanover County for an order requiring that its

order be obeyed, and the court shall have jurisdiction to issue these orders after notice to the proper parties.

(4) Shall comply with the provisions of G.S. 160A-168 during the conduct of an appeal hearing before the commission.

~~(c)~~ (5) Shall make an annual report to the city ~~council, city manager,~~ council and city manager. ~~and to the chiefs of the police and fire departments for posting on departmental bulletin boards.~~ The commission may prescribe the form and content of the report.

~~(d)~~ (6) May secure necessary staff services and request assistance in the performance of its duties from the city manager.

~~(e)~~ (7) The commission may use the facilities of the city for holding any of its activities.

(8) May determine its own rules of procedure. The North Carolina Rules of Evidence and the North Carolina Rules of Civil Procedure shall not apply to any hearing before the commission.

"Sec. 11.4. Appointment of chief of fire department and chief of police department. Appointments of the chief of the fire department and chief of the police department shall be made by the city council and in making appointments to chiefs of the fire and police departments, due consideration shall be given to persons already employees of the respective department.

"Sec. 11.5. Probationary police and fire officers. Employees of the police and fire departments may be hired on a probationary basis for a period not to exceed 18 months. During this period the chief of the respective department may dismiss after notifying the city manager. At the end of the probationary period, an employee shall become certified, unless terminated prior thereto by action of the chief, with all rights and privileges contained in this Article.

~~"Sec. 11.6. Disciplinary action. (a) Except as provided in Section 11.5 of this act, an employee of the Police or Fire Department of the City of Wilmington may be dismissed only for cause and with an opportunity to be heard in his or her own defense. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive city council of its control over the finances of the city.~~

~~(b) The chief of the appropriate department may suspend, with or without pay, any employee of the police or fire department charged with violating any rule or regulation of the department, for a period not to exceed 30 calendar days. Within three working days after making any suspension, the chief shall file with the city manager a written statement setting forth the reasons for the suspension in detail. Within the same time, the chief shall give to the suspended officer a signed copy of the statement of the basis for the suspension. Within 10 working days after his suspension, the employee may file with the city manager a written request for a hearing. The city manager shall conduct the hearing within 30 calendar days thereafter.~~

~~If the employee is suspended without pay and the city manager finds that the suspension was not justified, or if the charges are dismissed, the employee shall be fully reimbursed for any loss of pay.~~

~~(c) With the approval of the city manager, the chief of the appropriate department may dismiss or demote any employee for violating any rule or regulation of the department of which the employee is a member. Within three working days after making any dismissal or demotion, the chief of the department shall file with the Secretary of the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.~~

~~Within 10 working days after dismissal or demotion, the employee may appeal by first filing with the secretary of the commission a written request for a hearing before the Civil~~

~~Service Commission. Such request for hearing shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within 60 calendar days after receipt of the request. Hearings shall be administrative in nature. 'Working days' for purposes of this subsection shall mean 8:30 a.m. to 5:00 p.m., Monday through Friday except legal holidays.~~

~~If the commission determines that the employee has not violated a rule or regulation of the department, the commission shall reinstate with appropriate back pay. In the conduct of its investigations, the commission may subpoena witnesses, administer oaths and compel the production of evidence.~~

~~The commission upon finding any employee guilty may sustain the action of the chief or take any other action that may be deemed appropriate.~~

~~Any employee found guilty by the commission may appeal to a court of competent jurisdiction. The trial upon appeal shall be governed by the provisions of Article 4, Chapter 150A, of the General Statutes of North Carolina pertaining to Judicial Review of Decisions of Certain Administrative Agencies except that for purpose of G.S. 150A-45 the person seeking review must file a petition in the Superior Court of New Hanover County.~~

~~A person who may wish to appeal to the superior court shall file with the secretary of the commission a bond in an amount set by the commission, with sufficient surety conditioned that the person shall pay the cost of such appeal in the event such cost shall be levied against the person, and shall pay to the secretary the necessary fee for entering such appeal in the superior court within 10 calendar days after entry of such order or decree appealed from, and upon appeal, the secretary of the Civil Service Commission shall forthwith transmit to the superior court a complete transcript of all papers and proceedings concerning the order or decree or action of the Civil Service commission appealed from, together with the appeal bond and fee.~~

"Sec. 11.6. Dismissal, demotion, and appeal.

(a) General. A civil service certified employee of the police or fire department of the City of Wilmington may be dismissed or demoted only for cause and with an opportunity to be heard in his or her own defense. Notwithstanding any provision of this Article, the city council shall retain the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city and nothing in this Article shall be so construed as to deprive the city council of its control over the finances of the city. Further, notwithstanding any provision in this Article, the city manager shall retain all powers and authority granted to him by law and by the Charter of the City of Wilmington.

(b) Dismissal and Demotion. The chief of the appropriate department may, with the prior approval of the city manager, dismiss or demote any civil service certified employee of the police or fire department for violating any rule, regulation, policy, or procedure of the city or of the department of which the employee is a member. Within five working days after making any such dismissal or demotion, the chief of the department shall file with the secretary of the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.

(c) Appeal of Dismissal or Demotion. No more than 10 working days after the effective date of his or her dismissal or demotion, the employee may appeal such dismissal or demotion to the Civil Service Commission by filing a written notice of appeal and request for a hearing with the secretary of the commission. The notice of appeal and request for a hearing shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within a reasonable time after receipt of the request. Hearings shall be administrative in nature and shall be conducted in closed session unless an open session is requested by the employee. "Working days" for purposes of this subsection shall mean 8:00 A.M. to 5:00 P.M., Monday through Friday, except legal or city holidays.

(d) Appeal Powers of the Commission. If, at the completion of its hearing, the commission shall find that:

(1) The employee has not committed the offense or offenses with which he or she has been charged, the commission shall reinstate the employee and direct the city manager to reimburse any lost pay and benefits to the employee.

(2) The employee has committed the offense or offenses with which he or she has been charged, the commission shall sustain the action taken or may impose such other punishment as it deems just and proper.

(e) Appeal from Action of the Commission. Every decision of the commission shall be subject to review by the Superior Court of New Hanover County by proceedings in the nature of certiorari. Any party to a hearing before the commission may appeal any order of the commission to the Superior Court of New Hanover County by giving notice of appeal, in writing, to the clerk of superior court not later than 10 days after the entry of the order. Assignments of error must be filed with the court and served upon the commission and other parties no later than 30 days after entry of the order. The appeal to superior court shall be heard upon the record of proceedings at the hearing before the Commission.

"Sec. 11.7. ~~Enforcement of subpoenas.~~ Testimony before the Commission. ~~In the conduct of hearings or investigations, the members of the commission shall have the right and power to compel by subpoena both the attendance and testimony of witnesses or for the production of evidence that may be relevant to the case to be heard. The commission may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. No testimony of any witness before the commission may be used against the witness on the trial of any criminal prosecution other than for false swearing committed on examination.~~ All persons testifying before the commission shall be administered the appropriate oath by the city clerk. The city clerk or other designated court recorder shall be responsible for recording all proceedings. Any person, while under oath, at an investigation by the commission, willfully swearing falsely, shall be guilty of a misdemeanor.

"Sec. 11.8. ~~Personnel policies.~~ Other city policies. ~~Unless specifically excepted by this act, all other ordinances and policies affecting the employees of the City of Wilmington shall apply to employees under the Civil Service Act.~~ Unless specifically excepted by this Article, all other ordinances, rules, regulations, policies, and procedures affecting the employees of the City of Wilmington shall apply to civil service certified employees."

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

SENATE BILL 430:
Wilmington Civil Service Rewrite

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 20, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Hal Pell Committee Co-Counsel and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: ***This act amends the Charter of the City of Wilmington with regard to the members and duties of the Civil Service Commission. This act is effective when it becomes law.***

CURRENT LAW: The Charter of the City of Wilmington establishes a Civil Service Commission to: approve requirements for employment and for examination of applicants with the city's fire and police departments; keep a register of persons passing the examinations; make annual reports to the city council and city manager; and hear and decide appeals of dismissals or demotions filed by civil service certified employees of the police or fire department.

BILL ANALYSIS: This act:

- Repeals the authority of the Wilmington Ministerial Association governing body to name one member to the Commission and gives the authority instead to the sitting members of the Civil Service Commission.
- Provides that a minimum of four members of the Commission must be present to consider the appeal of a dismissal or demotion under this Charter.
- Clarifies the definition of "civil service certified employee" of the City of Wilmington police department and fire department to reflect current State standards and City practices.
- Provides that Deputy Police Chiefs and Deputy Fire Chiefs appointed after the date of the adoption of this Act are excluded from the Act, as is the Chief of Police. When the current act was drafted, the positions of Deputy Police Chief and Deputy Fire Chiefs did not exist. Current Deputy Police and Fire Chiefs will be included under the Civil Service Act.
- Authorizes the Wilmington Civil Service Commission to subpoena witnesses and compel the production of records, books, and papers.
- Clarifies that civil service certified employees may only be dismissed or demoted for cause.
- Adds a provision that chiefs must have the prior approval from the city manager before dismissing or demoting any civil service certified employee of the police or fire department.

EFFECTIVE DATE: This act is effective when it becomes law.

Summary of Changes to Wilmington Civil Service Act*

The Wilmington Civil Service Commission (CSC) hears appeals of dismissals and demotions of sworn members of the Police and Fire Departments. The proposed changes are as follows:

- Currently one member of the CSC is to be appointed by the Wilmington Ministerial Association which no longer exists. Under the amendments, this member would be recommended by the other members of the Commission and confirmed by City Council.

- Clearly preserves appeal rights of civil service employees for instances of dismissal and demotion *(current provisions only reference dismissal in some sections)*

- Deletes provision limiting suspensions to thirty (30) days or less and deletes appeal route through the city manager *(suspensions of any length that are imposed would be subject to the appeal procedure available to all city employees, which is an appeal to the City's Disciplinary Review Panel)*

- Changes number of CSC members required to hear an appeal from three (3) to four (4) members

- Deputy Police Chiefs and Deputy Fire Chiefs hired after the adoption of this act will not be covered by the Civil Service Act; current Deputy Police Chiefs and current Assistant Fire Chiefs will continue to be included under the Civil Service Act *(deputy chiefs are executive level positions and act as the Chief's primary policy consultants and therefore should be subject to dismissal without cause; current deputy/assistant chiefs were hired under the protection of the current Civil Service Act and will continue to retain that protection under these proposed amendments)*

- Proposed amendment clarifies that the city manager retains all given powers and authority, notwithstanding the provisions of the Civil Service Act

- Removes criteria for civil service exam and employment procedures *(State certification requirements have replaced the need for civil service examinations)*

- Clarifies the meaning of "working days" as used in the act and sets forth that a hearing will be scheduled within "a reasonable time after receipt of the request"; otherwise the procedure for appeal to the CSC and the powers of the CSC to sustain, modify or overturn the dismissal or demotion remain unchanged

- Clarifies procedure for appealing decision from CSC to the Superior Court upon the record of the proceedings; deletes references to repealed state laws; deletes requirement that appellant post a bond for the costs to appeal and sets forth requirement for appellant to file and serve assignments of error

- Clarifies status and duties of ex-officio member as a non-voting member of the commission

- Continues to allow the CSC to establish its own rules of procedures; clarifies exemption of CSC hearings from the N.C. Rules of Evidence and the N.C. Rules of Civil Procedure

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* Provided by the City Attorney's Office, City of Wilmington

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 433*

Short Title:	First Craven Sanitary District Validation.	(Local)
Sponsors:	Senator Preston.	
Referred to:	State and Local Government.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE YEARS OF ELECTION, AND TO VALIDATE ELECTIONS IN AND ACTIONS OF THE FIRST CRAVEN SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. In 2009, and quadrennially thereafter, members of the First Craven Sanitary District Board shall be elected for Seats 1 and 2 for four-year terms. In 2011 and quadrennially thereafter, members of the First Craven Sanitary District Board shall be elected for Seats 3, 4, and 5 for four-year terms.

SECTION 2. The previous elections of the Seat 2 member of the First Craven Sanitary District since January 1, 2003 are hereby validated, notwithstanding any irregularity in the elections for the member of Seat 2. Further, any and all actions of the Seat 2 member of the First Craven Sanitary District since January 1, 2003, are hereby ratified and confirmed, notwithstanding any irregularity in the manner of election.

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

SENATE BILL 433:
First Craven Sanitary District Validation

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 20, 2009
Introduced by:	Sen. Preston	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***This act changes the election cycle for the First Craven Sanitary District Board, and validates previous elections for the Seat 2 member, and actions by the member, since January 1, 2003. This act is effective when it becomes law.***

[As introduced, this bill was identical to H488, as introduced by Reps. Underhill, Wainwright, which is currently in House Local Government II.]

BILL ANALYSIS:

The act provides that beginning in 2009, and every four years after, the members for Seats 1 and 2 of the First Craven Sanitary District Board shall be elected. In 2011, and every four years after, the members for Seats 3, 4, and 5 of the Board shall be elected. Elections of the Seat 2 member since January 1, 2003, are validated. Any and all actions of the Seat 2 member since that date are ratified and confirmed—regardless of any irregularities in the elections.

EFFECTIVE DATE: This act is effective when it becomes law.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

SENATE BILL 479*

Short Title:	Fremont Charter Rewrite.	(Local)
Sponsors:	Senator Rouzer.	
Referred to:	State and Local Government.	

March 10, 2009

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF FREMONT.

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

"Sec. 1.1. **Incorporation.** The Town of Fremont in Wayne County, and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Fremont," hereinafter at times referred to as the "Town."

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

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

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Town Governing Body; Composition.** The Mayor and the Town Board of Aldermen, hereinafter at times referred to as the "Board" shall be the governing body of the Town.

"Sec. 2.2. **Town Board of Aldermen; Composition; Terms of Office.** The Board shall be composed of six members to be elected for terms of four years, or until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years.

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with G.S. 160A-70.

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

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

"Sec. 2.7. **Qualifications for Office; Compensation; Vacancies.** The qualifications of the Mayor and Board members shall be in accordance with general law. The Mayor and Board members shall receive compensation as they shall from time to time determine. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in the town every four years beginning in 2011 and quadrennially thereafter, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

"Sec. 3.2. **Mode of Election.** The town shall be divided into six single-member electoral districts and the qualified voters of each district shall elect one board member who resides in the district, for the seat apportioned to that district.

"Sec. 3.3. **Nonpartisan Elections.** Municipal elections shall be conducted according to the nonpartisan plurality election method as provided by G.S. 163-292.

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

"ARTICLE IV. TAXATION.

"Sec. 4.1. **General Authority to Levy and Collect Taxes.** To raise revenue for defraying expenses incident to the proper government of the Town, the Board may annually levy and collect: (i) a tax on real and personal property and on all other property subject to taxation; (ii) a tax on all businesses, trades, professions, avocations, privileges, and franchises, carried on or enjoyed within the Town; and (iii) any other taxes permitted by general law.

"Sec. 4.2. **Levy, Collection, and Payment of Property Taxes.**

(a) Except as otherwise herein provided, property taxes shall be imposed and collected in the manner provided by general law.

(b) Property taxes shall become due and payable on the date provided by general law. Interest shall be charged for late payment, and discounts may be allowed for prepayment of taxes, in the amounts and during the periods covered by general law.

"Sec. 4.3. **Additional Remedies for Collection of Privilege License Taxes.** In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the Town may employ the remedies of levy upon personal property, attachment and garnishment, in the manner of the subject to the limitations provided in general law.

"Sec. 4.4. **Administration.** The listing and appraisal of property and the levy and collection of property taxes in the Town shall in all respects be governed by the general laws of the State, except as they shall be specifically amended by this Charter.

"ARTICLE V. PUBLIC IMPROVEMENTS.

"Sec. 5.1. **Assessments for Street and Sidewalk Improvements, Petition Unnecessary.**

(a) In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town may make street improvements and assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Town may order street improvements and assess the total cost thereof against the abutting property owners, exclusive of the cost incurred at street intersections, according to one or more of the assessment bases set forth in G.S. 160A-216 et seq., without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 2,000 linear feet; and

(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements; or

(3) That it is in the public interest to connect two streets, or portions of a street already improved; or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

(c) For the purpose of this Article, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

(d) In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in G.S. 160A-216 et seq.; provided however, that regardless of the assessment basis or bases employed, the Town may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by G.S. 160A-216 et seq., except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of G.S. 160A-216 et seq.

"Sec. 5.2. **Power of Eminent Domain.** The procedures provided in G.S. 136-103 et seq., as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, storm drains, waterlines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and G.S. 136-103 et seq., for any of such purposes without being limited to streets constituting a part of the State highway system; provided, however, that the provisions of this section shall not apply with regard to properties owned by a private condemnor except as permitted by G.S. 40A-5(b).

"ARTICLE VI. NUISANCES.

"Sec. 6.1. **Abatement of Public Health Nuisances.** The Town shall have authority to summarily remove, abate, or remedy everything in the Town limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety pursuant to G.S. 160A-193.

"Sec. 6.2. **Chronic Nuisance Violators.** The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town of Fremont gave notice of violation at least

two times under any provision of the public nuisance ordinance. A property owner shall remain a chronic violator until one calendar year after the date of the property owner's last violation.

"Sec. 6.3. **Junked Motor Vehicle.** In applying G.S. 160A-303.2 to the Town, junked motor vehicle means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or removed in the manner in which it was originally intended to move; or

(3) Is more than five years old and appears to be worth less than $500.00."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Fremont and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 244, Private Laws of 1903
Chapter 236, Private Laws of 1913
Chapter 123, Private Laws of 1917
Chapter 203, Private Laws of 1927
Chapter 66, Session Laws of 1957
Chapter 567, Session Laws of 1963
Chapter 113, Session Laws of 1971
Chapter 314, Session Laws of 1981, as to Fremont.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Fremont and all existing rules or regulations of departments or agencies of the Town of Fremont not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Fremont or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act does not affect the terms of office of the current Mayor and Board of Aldermen of the Town of Fremont.

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

SENATE BILL 479:
Fremont Charter Rewrite

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	March 20, 2009
Introduced by:	Sen. Rouzer	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 479 would enact a complete rewrite of the Town Charter of Fremont.

[As introduced, this bill was identical to H403, as introduced by Rep. Sager, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: The Charter of the Town of Fremont was last enacted as a whole in 1913. Since that time a string of local acts have been passed to amend the Charter, but none has done a complete rewrite.

BILL ANALYSIS: The bill would rewrite the entire charter. It would provide for a Mayor and 6 Aldermen. The town would be divided into six aldermanic districts, and each Alderman would be elected by the voters of a district. The rewritten charter would not effect the terms of the current Mayor and Aldermen. The Mayor and Aldermen under the new Charter would be elected for the first time in 2011. They would all be elected to 4-year terms.

The Charter also gives the Town the authority to make street improvements it considers to be in the public interest and assess the cost to the abutting property owners. They Town may do that without the property owners having petitioned for the improvements.

EFFECTIVE DATE: When it becomes law. Since the Charter involves town elections, it may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice. Fremont is in Wayne County, which is one of the 40 NC counties covered by Section 5.

BACKGROUND: Fremont is a town in northern Wayne County, near Goldsboro. In the 2000 Census the town's population was 1,463.

S479-SMRR-24(e1) v1

S 1

SENATE BILL 533

Short Title:	Clayton/Electronic Notices.	(Local)
Sponsors:	Senator Rouzer.	
Referred to:	State and Local Government.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF CLAYTON TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE FOR CERTAIN PUBLIC HEARINGS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Clayton, being Chapter 983 of the 1987 Session Laws, is amended by adding a new Article to read as follows:

"Article VI. MISCELLANEOUS PROVISIONS.

"Sec. 6.1. **Electronic Notice of Hearings.** The Council may adopt ordinances providing that notice of public hearings may be given through electronic means including, but not limited to, the Town's Internet site. Ordinances adopted pursuant to this section shall not supersede any State law that requires notice by mail to certain classes of people or the posting of signs on certain property and shall not alter the publication schedule for any public notice."

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

SENATE BILL 533:
Clayton/Electronic Notices

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 23, 2009
Introduced by:	Sen. Rouzer	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 533 would allow the Town of Clayton to give notice of public hearings through electronic means, include its website.

[As introduced, this bill was identical to H710, as introduced by Rep. Daughtry, which is currently in Unknown.]

CURRENT LAW: The NC Open Meetings law has a general provision about notice for a meeting other than a regular meeting, a recessed meeting in which notice of the reconvening is given in the meeting, or an emergency meeting. G.S. 143-318.12(b)(2). It is as follows:

> *"For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station, which has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed or delivered at least 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars ($10.00) per calendar year, and may require them to renew their requests quarterly."*

If a municipal board is preparing to adopt a resolution to change the way it is elected, G.S. 160A-102 requires that it hold a public hearing with 10 days notice.

BILL ANALYSIS: SB 533 would allow the Town of Clayton to adopt ordinances to give notice of public hearings using electronic means including, but not limited to, its website. But the bill provides that the ordinances do not supercede any State law providing notice by mail to certain classes of people or posting of signs on property. It says the ordinances shall not alter the publication schedule for any public notice.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Clayton is a town in Johnston County near Raleigh. The 2000 Census showed it with a population of 6,973, but the 2007 Census estimate of its population was 14,948.

S533-SMRR-28(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 550

Short Title:	Duplin Elections.	(Local)
Sponsors:	Senator Albertson.	
Referred to:	State and Local Government.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO ADD AN ADDITIONAL MEMBER TO THE DUPLIN COUNTY BOARD OF EDUCATION AND THE BOARD OF COMMISSIONERS OF DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Section 1. ~~Except as provided in Section 4 of this act following the 1988 elections the~~ Effective the first Monday in December of 2010, the Duplin County Board of Commissioners and Board of Education shall each consist of ~~six~~ seven members elected in partisan ~~elections~~ elections, one each from the six districts described in Section ~~8.~~ 8, and one from the county at large. Only voters who reside in a district may vote in the party primaries and general elections for that district."

SECTION 2. Section 5 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Sec. 5. In 1990 and every four years thereafter, one commissioner each shall be elected from Districts II and III. In 1992 and every four years thereafter, one commissioner each shall be elected from Districts I, IV, V and VI. In 2010 and every four years thereafter, one commissioner shall be elected at large."

SECTION 3. Section 6 of Chapter 966 of the 1987 Session Laws reads as rewritten:

"Sec. 6. In 1988 and every four years thereafter, three members shall be elected to the Board of Education, one each from Districts I, V and VI. The three other members of the Board of Education shall be elected in 1990 and every four years thereafter. In those years one member each shall be elected from Districts II, III and IV. In 2010 and every four years thereafter, one member shall be elected at large."

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

SENATE BILL 550:
Duplin Elections

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 23, 2009
Introduced by:	Sen. Albertson	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 550 amends S.L. 1987-966, which embodied a court ordered method of electing the Board of Education and the County Commissioners in Duplin County. The bill would add an additional at large member to the Board of Education and to the County Commissioners

CURRENT LAW: In 1988, as a result of the Voting Rights Act lawsuit NAACP v. Duplin County, the U.S. District Court for the Eastern District of North Carolina ordered that both the county commissioners and the school board of Duplin County must be elected from the same set of six districts. Two of the districts were majority black, and the remaining four were majority white. Only the voters who lived in the district could vote for a district representative. So each of the six school board members and each of the six county commissioners represent the voters in one district. That member is the only member the voters of the district get to vote for to represent them on that board.

After the court order, the General Assembly enacted a local bill in 1988, S.L. 1987-966, putting the court order in a Session Law.

BILL ANALYSIS: Senate Bill 550 has been drawn in response to 3-to-3 deadlocks on the school board and the board of commissioners. The bill provides for the election of a 7th member to each of the boards. The additional member would be elected at large so that the districts set forth in the court order would not have to be redrawn.

EFFECTIVE DATE: The bill would be effective when it becomes law. Because Duplin County is not covered by Section 5 of the Voting Rights Act, the bill could be implemented without federal preclearance. However, due to the fact that the bill amends the earlier federal court order, the possibility remains that the changes set out in the bill will require approval by the US District Court for the Eastern District of North Carolina.

Bill Gilkeson, counsel to Senate State and Local Government, substantially contributed to this summary.

S550-SMRF-22(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, March 25, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **433** First Craven Sanitary District Validation.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **381** Est. DV Fatality Review Team/Mecklenburg Co.
Draft Number: PC35256
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **550** Duplin Elections.
Draft Number: PCS35255
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — March 24, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Donald Ragavage	Professional FireFighters and Paramedics NC
Bruce Thompson	PARKER POE
Jeff Gray	State Lodge, FOP
Patricia Peele	NC Dist. 4 Supporters of SB 381
Sue Liverman	Diabetes Nurse Educator
Dorothy White Cannon	Diabetes Volunteer
David Arden	PFFPNC
Richard O'Brien	11

VISITOR REGISTRATION SHEET

Senate State & Local Government — March 24, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Hutson	MWC
Dawn Brown	K&L GATES
Wayne Yancy	Sen. Charlie Dannelly
W. Daniel Auburn	Electricities of N.C.
Jeffrey COHEN	Bill Drafting
Heather Barrett	Hunton & Williams

Senate State and Local Government Committee
Tuesday, March 31, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 429	New Hanover/Energy-Related Incentives.	Senator Boseman
SB 475	Amend Carrboro Charter/Conserve Energy/Water.	Senator Kinnaird
SB 498	Affordable Housing for Teachers/Edgecombe Co.	Senator Jenkins
SB 499	Edgecombe/No Hunting on the Land of Another.	Senator Jenkins
SB 503	Durham MWBE.	Senator McKissick
SB 504	Durham Anti-Sweatshop Requirements.	Senator McKissick

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, March 31, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on March 31, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

Senate Bill 429, New Hanover Energy-Related Incentives was the first item of business. Senator Malone moved that the bill be properly before the Committee and Senator Boseman explained the bill. Senator Stevens made a motion that the bill received a Favorable Report which passed the committee unanimously. Senator Blake moved that the PCS for Senate Bill 475, Amend Carrboro Charter/Conserve Energy/Water be properly before the Committee. Senator Kinnard explained the bill and Dan Dolland of the Board of Aldermen also made comments supporting the bill. After much discussion and questions from the committee and comments from Henry Jones of the County Commissioners, two amendments were discussed and Senator Dorsett made a motion to roll the amendments into the PCS. The bill was displaced in order to accomplish the paper work and would then be before the Committee at a later date. The next bill to be heard was Senate Bill 498, Affordable Housing for Teachers/Edgecombe County. Senator Jenkins explained the bill, Senator Dorsett moved that the bill receive a Favorable Report and the bill carried. Senator Dorsett made a motion to adopt a Proposed Committee Substitute for Senate Bill 499, Edgecombe/No Hunting on the Land of Another and Senator Jenkins explained the Bill. Senator Stevens moved that the PCS receive a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute and the bill carried. Senate Bill 503, Durham MWBE and Senate Bill 504, Durham Anti-Sweatshop Requirements were explained by Senator McKissick to the Committee. Senator Dorsett moved for a Favorable Report for SB 503 and the bill carried. Senator Davis moved for a Favorable Report for SB 504 and the bill carried.

The meeting adjourned at 1:00 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 429

Short Title:	New Hanover/Energy-Related Incentives.	(Local)
Sponsors:	Senator Boseman.	
Referred to:	State and Local Government.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING NEW HANOVER COUNTY TO PROVIDE DEVELOPMENT INCENTIVES IN EXCHANGE FOR REDUCTIONS IN ENERGY CONSUMPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2007-241, as amended by S.L. 2008-22, reads as rewritten:

"**SECTION 2.** This act applies only to ~~Cabarrus County,~~ the Counties of Cabarrus and New Hanover, to the Cities of Asheville, Charlotte, Concord, Durham, Kannapolis, Locust, and Wilmington, and to the Towns of Carrboro, Cary, Chapel Hill, Harrisburg, Midland, Mount Pleasant, and Stanfield."

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

SENATE BILL 429:
New Hanover/Energy-Related Incentives

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 23, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY:

Senate Bill 429 amends S.L. 2007-241 and adds New Hanover County to the list of local governments that may adopt ordinances to provide incentives to developers within a county or a municipality and its extraterritorial jurisdiction who agree to construct new development or reconstruct existing development in a manner that the county or municipality determines makes a significant contribution to the reduction of energy consumption. Incentives include density bonuses, adjustments to otherwise applicable development requirements, and other incentives. Density bonus ordinances permit developers to increase the number of units allowed on a piece of property.

Cabarrus County, and the Cities of Concord, Durham, Kannapolis, and Locust, and the Towns of Cary, Harrisburg, Midland, Mount Pleasant and Stanfield were added to the legislation in 2008.

The cities of Asheville, Charlotte and Wilmington, and the Towns of Carrboro and Chapel Hill were granted this authority in 2007.

EFFECTIVE DATE:

This act is effective when it becomes law.

S429-SMRF-20(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 475
PROPOSED COMMITTEE SUBSTITUTE S475-CSRR-11 [v.1]

3/26/2009 1:54:00 PM

Short Title: Amend Carrboro Charter/Conserve Energy/Water. (Local)

Sponsors:

Referred to:

March 10, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO AUTHORIZE THE BOARD OF ALDERMEN TO ADOPT ORDINANCES THAT PROHIBIT DEED RESTRICTIONS, COVENANTS, EQUITABLE SERVITUDES, OR ANY SIMILAR BINDING AGREEMENTS THAT WOULD PROHIBIT THE INSTALLATION OF SOLAR COLLECTORS, CLOTHESLINES, RAIN BARRELS, GARDEN FENCES, OR ANY OTHER DEVICES DESIGNED TO GENERATE OR CONSERVE ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR TO CAPTURE, STORE, OR REUSE WATER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, is amended by adding a new section to read:

"**Section 10-2. Prohibiting deed restrictions or similar binding agreements that restrict energy-generating or energy- or water-saving devices.**

(a) The board of aldermen may by ordinance declare void and unenforceable any deed restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector, clothesline, rain barrel, garden fence, or any other device designed to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device where the device is proposed to be located. Such ordinance may also provide that a property owner shall not be denied permission to install any such device by any entity granted the power or right in any deed restriction, covenant, equitable servitude, or similar binding agreement to approve, forbid, control, or direct the alteration of property. An ordinance adopted pursuant to this section shall not prohibit the adoption or enforcement of any deed restriction, covenant, equitable servitude, similar binding agreement, or any rule or regulation adopted by a property owners association that is designed to ensure that any such device is installed and maintained in such a manner that it does not pose a risk to the health or safety of any person. No ordinance adopted pursuant to this section shall apply to any condominium created under Chapter 47C of the General Statutes.

(b) An ordinance adopted under this section may provide for enforcement using any of the means authorized by G.S. 160A-175. In addition, any person aggrieved by a violation of an ordinance adopted under this section may apply to a court of competent jurisdiction for equitable relief against the enforcement of any deed restriction, covenant, equitable servitude,

or similar binding agreement that is prohibited by such ordinance, and the court may award costs and reasonable attorneys' fees to the prevailing party in any such action."

SECTION 2. This act becomes effective October 1, 2009, and applies to deed restrictions, covenants, or similar binding agreements that run with the land recorded on or after that date.

SENATE BILL 475: Amend Carrboro Charter/Conserve Energy/Water

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 29, 2009
Introduced by:	Sen. Kinnaird	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 475 would authorize the Town of Carrboro to void restrictive covenants on land that would block the use of energy-conservation or water-conservation devices.***

[As introduced, this bill was identical to H720, as introduced by Rep. Insko, which is currently in House Local Government II, if favorable, Judiciary I.]

CURRENT LAW: In 2007 the General Assembly enacted GS 22B-20, which declared void any deed restriction, covenant, or similar binding agreement running with the land that would prohibit the installation of solar collectors. The statute became effective October 1, 2007, and applied only to deed restrictions, etc., recorded on or after that date.

BILL ANALYSIS: SB 475 would authorize the Carrboro Board of Aldermen to pass an ordinance voiding any deed, restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit or have the effect of prohibiting the installation (by a person who otherwise has the property right to do so) either of the following:

1. Any device designed to generate or conserve energy through the use of renewable resources.
2. Any device designed to capture, store, or reuse water.

The bill lists examples of such devices: solar collector, clothesline, rain barrel, garden fence.

If the deed or covenant gives some person control over the alteration of the property, the Town could, in its ordinance, prohibit that person from preventing the property owner from installing such a device.

The Town could not prohibit such a restrictive covenant in a condominium. Nor could the Town prohibit a covenant designed to ensure that the installation of one of these devices does not pose a health or safety risk.

The Town could enforce its ordinance using any means provided to a municipality in GS 160A-175, which includes fines and misdemeanor criminal prosecution. The bill would also authorize a private party aggrieved by a restrictive covenant to bring a court action, and the court could award reasonable costs and attorney fees to the plaintiff.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The 2007 law contains some exceptions to the ban on deed restrictions about solar collectors that SB 475 does require Carrboro to place in its ordinance.

The 2007 law also made the statewide ban on deed restrictions effective only as to future contracts. That was done out of a concern as to the constitutionality of impairing contracts already in existence before the law was enacted.

S475-SMRR-34(e1) v2

SENATE BILL 498*

Short Title:	Affordable Housing for Teachers/Edgecombe Co.	(Local)
Sponsors:	Senator Jenkins.	
Referred to:	State and Local Government.	

March 11, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE EDGECOMBE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR TEACHERS AND OTHER SCHOOL SYSTEM EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, and subject to the restrictions set out in this act, the Edgecombe County Board of Education may contract with any person, firm, partnership, corporation, association, foundation, or other business entity to construct, provide, or maintain affordable rental housing on property owned or leased by the Edgecombe County Board of Education or by any other person, firm, partnership, corporation, association, foundation, or other business entity.

SECTION 2. Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, the Edgecombe County Board of Education may henceforth use its local funds, including its Edgecombe Learning Fund, to purchase, lease, or otherwise acquire real property on which such housing would be located, and may assign, donate, lease, or otherwise transfer certain rights in such real property to any person, firm, partnership, corporation, association, foundation, or other business entity to hold title to and/or manage such property, or otherwise further the purposes of this act. The Edgecombe County Board of Education may henceforth use local funds, including its Edgecombe Learning Fund, to support a nonprofit foundation to effectuate the purposes of this act.

SECTION 3. Notwithstanding G.S. 66-58, G.S. 115C-518, and Article 12 of Chapter 160A of the General Statutes, or any other provision of law, the Edgecombe County Board of Education or its designee may rent housing units owned or leased by the Board pursuant to this act for residential use. In renting such housing units, the Board shall give priority to Edgecombe County public school teachers and shall thereafter give priority to other Edgecombe County public school professional staff or other Board employees, but shall also use its discretion to achieve occupancy sufficient to sustain the purposes of this act. The Board shall have the authority to establish reasonable rents for any such housing units, and may, in its discretion, charge below-market rates. The provision of affordable housing for teachers or other board of education employees consistent with this act shall be considered an educational purpose pursuant to G.S. 105-278.7.

SECTION 4. This act shall not exempt any affordable housing units constructed pursuant to this act from compliance with applicable building codes, zoning ordinances, or health and safety statutes, rules, or regulations.

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

SENATE BILL 498:
Affordable Housing for Teachers/Edgecombe Co

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 30, 2009
Introduced by:	Sen. Jenkins	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 498 would authorize the Edgecombe County Board of Education to construct and provide affordable rental housing for Edgecombe County school teachers and other school professional staff and employees.***

[As introduced, this bill was identical to H531, introduced by Reps. Tolson and Farmer-Butterfield. HB 531 received a favorable report from the House Committee on Education and was serially referred to House Finance.]

CURRENT LAW: Under G.S. 66-58, the Umstead Act, governmental units are generally prohibited from engaging in the sale of goods and services in competition with citizens of the State, unless specifically exempted. G.S.115C-518 provides for the disposition of school property when a local board of education determines that a building site or other real or personal property is unnecessary or undesirable for public school purposes. Such property is usually offered to the board of county commissioners at a fair market price or sold by advertisement for sealed bids or at public auction under Article 12 of Chapter 160A of the General Statutes. G.S. 105-278.7 exempts real and personal property from property tax when such property is used for educational or other charitable purposes.

BILL ANALYSIS: Section 1 of House Bill 531 would authorize the Edgecombe County Board of Education to contract with any person, firm, partnership, corporation, association, foundation or other business entity to (i) construct, (ii) provide, or (iii) maintain affordable rental housing on property owned or leased by the Board or by any other person, firm, partnership, corporation, association, foundation, or other business entity.

Section 2 provides that the Board may use its local funds (including the Edgecombe Learning Fund) to purchase, lease, or acquire real property on which the housing would be located. The Board may also to assign, donate, lease or transfer rights in such real property to any person, firm, partnership, corporation, association, foundation, or other business entity to hold title to and manage such property. The Board may use local funds, including the Edgecombe Learning Fund, to support a nonprofit foundation to implement the purpose of the bill.

Section 3 of the bill authorizes the Board of Education or its designee to rent housing units for residential use that are owned or leased by the Board under the act for residential use. In renting such housing units, the Board must give priority to Edgecombe County public school teachers and then to other public school professional staff or other Board employees. The Board may use its discretion to maintain occupancy sufficient to sustain the purposes of the act. The Board has authority to establish reasonable rents for the housing units and may charge below-market rates. The provision of affordable housing is declared to be an educational purpose under G.S. 105.278.7 and therefore exempt from taxation.

Section 4 of the bill provides that any affordable housing units constructed under this act will not be exempt from compliance with applicable building codes, zoning ordinances, or other health and safety statutes, rules, or regulations.

EFFECTIVE DATE: The bill would be effective when it becomes law.

BACKGROUND: Similar types of legislation have been passed in recent years for the City of Asheville and the Asheville Board of Education, the Hertford County Board of Education, the Bertie County Board of Education, and the Dare County Board of Education.

Shirley Iorio, Committee Analyst to the House Education Subcommittee on Pre-School, Elementary and Secondary Education, and Wendy Graft Ray, Counsel to House Judiciary III substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 499*

Short Title:	Edgecombe/No Hunting on the Land of Another.	(Local)
Sponsors:	Senator Jenkins.	
Referred to:	State and Local Government.	

March 11, 2009

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT HUNTING ON THE PROPERTY OF ANOTHER WITHOUT WRITTEN PERMISSION IN EDGECOMBE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2005-264 reads as rewritten:

"**SECTION 4.** This act applies only to ~~Orange~~ Edgecombe, Orange, and Wilson Counties."

SECTION 2. This act becomes effective October 1, 2009, and applies to offenses committed on or after that date.

SENATE BILL 499:
Edgecombe/No Hunting on the Land of Another

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 30, 2009
Introduced by:	Sen. Jenkins	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to First Edition S499-CSRF-12		

SUMMARY: ***Senate Bill 499 would prohibit hunting on the property of another without the written permission of the landowner or lessee of the land. The proposed committee substitute corrects a citation error by setting out the contents of S.L. 2005-264.***

[As introduced, this bill was identical to H529, as introduced by Reps. Tolson, Farmer-Butterfield, which is currently in House Wildlife Resources.]

BILL ANALYSIS:

Section 1 of the bill provides that it is unlawful to hunt on the land of another without written permission of the landowner, lessee or their designee. The permission must be signed and dated for the current hunting season.

Section 2 makes violation of the act a Class 3 misdemeanor for the first offense and a Class 2 misdemeanor for a second or subsequent offence.

Section 3 provides that the act may be enforced by Wildlife officers, sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

EFFECTIVE DATE:

The act becomes effective October 1, 2009 and applies to offenses committed on or after that date.

S499-SMRF-26(CSRF-12) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 503

Short Title:	Durham MWBE.	(Local)
Sponsors:	Senators McKissick; and Atwater.	
Referred to:	State and Local Government.	

March 11, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO GRANT THE CITY MANAGER THE AUTHORITY TO INCLUDE THE CITY'S MINORITY OR WOMEN'S BUSINESS ENTERPRISE REQUIREMENTS IN THE SPECIFICATIONS FOR CITY CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 84.1 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 474 of the 1983 Session Laws, reads as rewritten:

"Sec. 84.1. **Minority or Women's Business Enterprise Requirements.** (a) The City Council may establish, agree to and/or comply with minimum minority and/or women's business enterprise participation requirements in projects financed by public funds to ensure equal employment opportunities and/or to redress past discrimination, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and G.S. 143- 131, if applicable, to the lowest responsible bidder or bidder meeting these and other specifications.

(b) The City Council may, on any terms it deems proper, authorize the City Manager or the City Manager's designee to include minimum minority and/or women's business enterprise participation requirements authorized in subsection (a) of this section in the specifications for contracts to perform all or part of any projects financed by public funds and to award bids to the lowest responsible bidders meeting these and other specifications."

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

SENATE BILL 503:
Durham MWBE

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 29, 2009
Introduced by:	Sen. McKissick	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 503 would authorize the Durham City Council to authorize the City Manager to include the city's minority/women's business enterprise requirements in the specifications for city contracts.***

CURRENT LAW: The City Charter of Durham authorizes the City Council to establish minimum minority and/or women's business enterprise (MWBE) participation requirements in projects financed by public money to ensure equal employment opportunities and/or to redress past discrimination. The City Council may include those minimum requirements in the specifications of city contracts.

BILL ANALYSIS: The bill would authorize the City Council to authorize the City Manager to include the MWBE participation requirements it has established in the specifications to contracts. The bill would do so by amending the City Charter.

EFFECTIVE DATE: When it becomes law.

S503-SMRR-33(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 504

Short Title:	Durham Anti-Sweatshop Requirements.	(Local)
Sponsors:	Senators McKissick; and Atwater.	
Referred to:	State and Local Government.	

March 11, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO GRANT THE CITY MANAGER THE AUTHORITY TO INCLUDE THE CITY'S ANTI-SWEATSHOP REQUIREMENTS IN THE SPECIFICATIONS FOR CITY CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 84.4 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by S.L. 2000-47, reads as rewritten:

"Section 84.4. **Anti-Sweatshop Requirements.** (a) The City Council may establish, agree to, and comply with anti-sweatshop requirements by including the requirements in the specifications for contracts to purchase or rent apparel or textiles and awarding bids pursuant to G.S. 143-129 and G.S. 143-131, if applicable, to the lowest responsible bidders meeting these and other specifications. Anti-sweatshop requirements may include:

(1) Prohibitions against violations of applicable law or regulation, forced labor, or employment of children; and

(2) The disclosure of:

a. The locations and ownership of the manufacturing company where the apparel or textiles are made, finished, packed, or otherwise processed;

b. Compensation to workers; and

c. Any other information necessary and proper for the enforcement of other anti-sweatshop requirements and not in violation of any other State law.

(a1) The City Council may, on any terms it deems proper, authorize the City Manager or the City Manager's designee to include anti-sweatshop requirements authorized in subsection (a) of this section in the specifications for contracts to purchase or rent apparel or textiles and to award bids to the lowest responsible bidders meeting these and other specifications.

(b) The authority granted by this section is in addition to, and not in derogation of, any other authority granted by this Charter or any other law."

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

SENATE BILL 504:
Durham Anti-Sweatshop Requirements

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	March 26, 2009
Introduced by:	Sen. McKissick	**Prepared by:**	Kelly Quick
Analysis of:	First Edition		Research Assistant

SUMMARY: ***This act would allow the City of Durham to grant the City Manager the authority to include the City's anti-sweatshop requirements in the specifications for city contracts. Currently, only the Durham City Council has this authority. This act is effective when it becomes law.***

CURRENT LAW: The current Charter of the City of Durham allows the City Council to establish, agree to, and comply with anti-sweatshop requirements by including the requirements in the specifications for contracts to purchase or rent apparel or textiles. Anti-sweatshop requirements may include:

- Prohibitions against violations of applicable law or regulation, forced labor, or employment of children; and
- The disclosure of:
  - The locations and ownership of the manufacturing company where the apparel or textiles are made, finished, packed, or otherwise processed;
  - Compensation to workers; and
  - Any other information necessary and proper for the enforcement of other anti-sweatshop requirements and not in violation of any other State law.

BILL ANALYSIS: This bill authorizes the Durham City Council to permit the City Manager or the City Manager's designee to include anti-sweatshop requirements in the specifications for contracts to purchase or rent apparel or textiles and to award bids to the lowest responsible bidders meeting these and other specifications.

EFFECTIVE DATE: This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, April 01, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **429** New Hanover/Energy-Related Incentives.
Sequential Referral: None
Recommended Referral: None

S.B. **498** Affordable Housing for Teachers/Edgecombe Co.
Sequential Referral: None
Recommended Referral: None

S.B. **503** Durham MWBE.
Sequential Referral: None
Recommended Referral: None

S.B. **504** Durham Anti-Sweatshop Requirements.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **499** Edgecombe/No Hunting on the Land of Another.
Draft Number: PCS75236
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — 3-31-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
KENNETH EVERHART	WRC
Grady McAllister	NC Conservation Network.
Patrice Carver	NCACC
Jim Blackburn	NCACC
JOHN SHAW	WQWC

VISITOR REGISTRATION SHEET

Senate State & Local Government — 3-31-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
PATRICK BAKER	City of Durham 101 City Hall Plz Durham NC 2770
Karmisha R. Wallace	" "
Chaz Offenburg	Sen. Kinnaird's Office
John McInerney	Talis Management Group
Rick Zechini	NC Assoc. of Realtors
Jesse Hays	NC HBA
Lisa Martin	NC HBA
Cam Cover	BPMHL
[illegible]	NC HBA
Patrick Baffa	[illegible]
Sarah Clapp	NC WRC

Senate State and Local Government Committee
Tuesday, April 14, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1072	SOS/ITS Exemption.	Senator Malone
HB 201	Add Division of LESS to CCPS.	Representative Warren Representative Spear
SB 352	SPA Sick Leave Transfers.	Senator Kinnaird
SB 548	Durham City Manager/Contract Authority.	Senator McKissick
SB 564	Statewide Nuisance Notice Authority.	Senator Davis
SB 712	State Surplus Property/ New Recipient.	Senator Hunt
SB 618	Urban Area Revitalization Made Uniform.	Senator Hartsell

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, April 14, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on April 14, 2009, in Room 1124 of the Legislative Building. Thirteen members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

Senate Bill 1072, SOS/ITS Exemption was the first bill to be heard. Senator Dorsett moved that the bill be properly before the Committee and Senator Malone explained the bill. Senator Weinstein made a motion to give the Bill a Favorable Report and the ayes carried the bill. Senator Weinstein made a motion to accept a Proposed Committee Substitute for House Bill 201, Add Division of LESS to CCPS and the PCS was adopted. Representative Spear explained the Bill and Senator Dorsett moved to give the bill a Favorable Report, Unfavorable to Original Bill but Favorable to the PCS. The bill carried. Senate Bill 352, SPA Sick Leave Transfers and Senate Bill 430, Wilmington Civil Service Rewrite were pulled from the agenda. The next bill to be heard was Senate Bill 548, Durham City Manager/Contract Authority. Senate McKissick explained the bill and Senator Davis moved for a Favorable Report. The Bill carried. Senator Soles made a motion to adopt a Proposed Committee Substitute for Senate Bill 564, Statewide Nuisance Notice Authority. Senator Davis Explained the bill and an amendment with a technical adjustment was made to line one of the bill. Senator Stevens moved to give the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. The bill carried. Senate Bill 712, State Surplus Property/New Recipient was the next bill before the Committee. Senator moved that the bill be before the Committee and Senator Hunt explained the bill. David Hampton a computer refubisher also spoke on the bill. Senator McKissick made a motion to give the bill a Favorable Report and the Committee concurred. Senate Bill 618, Urban Area Revitalization Made Uniform was the last bill to be heard. Senator Boseman moved that the bill be properly before the Committee and Senator Hartsell explained the bill to the Committee. Senator Dorsett moved to give the bill a Favorable Report and the bill carried.

The meeting adjourned at 12:45 pm

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1072

Short Title:	SOS/ITS Exemption.	(Public)
Sponsors:	Senator Malone.	
Referred to:	State and Local Government.	

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE SECRETARY OF STATE FROM CERTAIN INFORMATION TECHNOLOGY MANAGEMENT AUTHORITY OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.83(a) reads as rewritten:

"(a) With respect to all executive departments and agencies of State government, except the Department of Justice and the Department of the Secretary of State if they do not elect at their option to participate, the Office of Information Technology Services shall have all of the following powers and duties:

(1) To establish and operate information resource centers and services to serve two or more departments on a cost-sharing basis, if the State CIO, after consultation with the Office of State Budget and Management, decides it is advisable from the standpoint of efficiency and economy to establish these centers and services.

(2) With the approval of the Office of State Budget and Management, to charge each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services.

(3) To require any department served to transfer to the Office ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services.

(4) To adopt reasonable rules for the efficient and economical management and operation of the shared centers, services, and the integrated State telecommunications network.

(5) To adopt plans, policies, procedures, and rules for the acquisition, management, and use of information technology resources in the departments affected by this section to facilitate more efficient and economic use of information technology in these departments.

(6) To develop and promote training programs to efficiently implement, use, and manage information technology resources.

(7) To provide cities, counties, and other local governmental units with access to the Office of Information Technology Services, information resource centers and services as authorized in this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies."

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

SENATE BILL 1072: SOS/ITS Exemption

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 3, 2009
Introduced by:	Sen. Malone	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***This act exempts the Office of the Secretary of State from all statutory requirements based upon the provision of services by the Office of Information Technology Services. This act is effective when it becomes law.***

CURRENT LAW: All executive departments and agencies, except the Department of Justice (which has the option to participate), must receive services from the Office of Information Technology (OITS), and are subject to the requirements listed in the applicable statute.

BILL ANALYSIS: This act would add the Department of the Secretary of State to the Department of Justice as agencies with the option of accepting the services of the OITS, and the statutory requirements associated with the provision of those services.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 201*
Committee Substitute Favorable 3/4/09
Committee Substitute #2 Favorable 3/18/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H201-CSRF-17 [v.1]

4/7/2009 9:49:56 AM

Short Title: Add Division of LESS to CCPS. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE DIVISION OF LAW ENFORCEMENT SUPPORT SERVICES IS A DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, TO ASSIGN DUTIES TO THE DIVISION, AND TO MAKE CORRESPONDING CHANGES TO CHAPTERS 20 AND 105 OF THE GENERAL STATUTES TO ALLOW LAW ENFORCEMENT SUPPORT SERVICES TO TRANSFER MOTOR VEHICLES TO LAW ENFORCEMENT AGENCIES WITHOUT HAVING TO BECOME A MOTOR VEHICLE DEALER OR PAY HIGHWAY USE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-73(b) reads as rewritten:

"(b) Exceptions. – This section does not apply to a dealer or an insurance company to whom a vehicle is transferred when the transfer meets the requirements of G.S. 20-75. This section does not apply to the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services, or to the Department of Environment and Natural Resources, Division of Forest Resources, when receiving, titling, or transferring any vehicle acquired under the provisions of 10 U.S.C. § 381 or any similar acquisition and transfer program administered by the Division of Law Enforcement Support Services or the Division of Forest Resources. A person who must follow the procedure in G.S. 20-76 to get a certificate of title and who applies for a title within the required 20-day time limit is considered to have complied with this section even when the Division issues a certificate of title to the person after the time limit has elapsed."

SECTION 2. G.S. 20-287(a) reads as rewritten:

"**§ 20-287. Licenses required; penalties.**

(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of the dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an

additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who ~~operates~~ operate as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom. The provisions of this subsection do not apply to the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services or the Department of Environment and Natural Resources, Division of Forest Resources, when receiving, titling, or transferring any vehicle acquired under the provisions of 10 U.S.C. § 381 or any similar acquisition and transfer program administered by the Division of Law Enforcement Support Services."

SECTION 3. G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.

(2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.

(3) To the same owner to reflect a change or correction in the owner's name.

(3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.

(4) By will or intestacy.

(5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.

(6) By a distribution of marital or divisible property incident to a marital separation or divorce.

(7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.

(8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:

a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.

b. By a local board of education.

(9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:

a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire.

b. A four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.

c. An emergency services vehicle.

(10) To a qualified State agency if either of the conditions listed in this subdivision apply. For purposes of this subdivision, a 'qualified State agency' is the Division of Law Enforcement Support Services of the Department of Crime Control and Public Safety or the Division of Forest Resources of the Department of Environment and Natural Resources, and a 'qualified recipient' is an emergency response unit, a law enforcement agency, or a fire department. Qualified recipients must pay highway use tax due unless specifically exempted by this section. The conditions are:

a. The motor vehicle was received from the United States Department of Defense for transfer to a qualified recipient, and the transfer

occurs within 180 days of the receipt of a United States Government Certificate to Obtain Title to a Vehicle.

b. The motor vehicle is being returned by a qualified recipient for the purpose of transferring the motor vehicle to another qualified recipient."

SECTION 4. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. Law Enforcement Support Services Division.

"**§ 143B-508. Law Enforcement Support Services Division established.**

(a) There is hereby established, within the Department of Crime Control and Public Safety, the Law Enforcement Support Services Division, which shall be organized and staffed in accordance with this Part and within the limits of authorized appropriations.

(b) The Law Enforcement Support Services Division is authorized to perform the following functions:

(1) Manage State, local, and federal programs that facilitate or enable the transfer of technology, goods, and services through programs for excess property, property acquisition, and equipment loans.

(2) Provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and creation and maintenance of a data bank of statewide storage location of postconviction evidence or other similar programs.

(3) Provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.

(4) Acquire, maintain, and control equipment to be loaned to law enforcement agencies for use in undercover investigations and to other agencies for other purposes.

(5) Develop, test, and promulgate innovative and technological solutions for the first responder community.

(6) Provide other assistance as may be necessary or appropriate to carry out assigned duties and responsibilities."

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

HOUSE BILL 201:
Add Division of LESS to CCPS

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	April 6, 2009
Introduced by:	Reps. Spear, R. Warren	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***House Bill 201 statutorily establishes the Division of Law Enforcement Support Services within the Department of Crime Control and Public Safety. It also provides exemptions from the titling requirement, the motor vehicle dealers and manufacturers licensing law, and the highway use tax for certain State agencies acting as a pass-through for vehicles received through a United States Department of Defense program that are subsequently transferred to local law enforcement agencies.***

[As introduced, this bill was identical to S139, as introduced by Sen. Snow, which is currently in Senate Finance.]

CURRENT LAW:

G.S. 20-73 requires a person to whom a vehicle is transferred to apply to DMV for a new certificate of title within 28 days after the vehicle is transferred. A person who fails to apply for a certificate of title within the required time frame is subject to a $15 civil penalty and is guilty of a Class 2 misdemeanor.

G.S. 20-287 provides that it is unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in North Carolina without first obtaining a license.

G.S. 105-187.6(a) provides a list of full exemptions to the North Carolina highway use tax when a certificate of title is issued as a result of transfer of a motor vehicle.

10 U.S.C. § 381 establishes procedures under which States and units of local government may purchase law enforcement equipment for counter-drug activities through the Department of Defense.

BILL ANALYSIS:

Sections 1-3 of the Proposed Committee Substitute for House Bill 201 exempts the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services, and the Department of Environment and Natural Resources, Division of Forest Resources from the following requirements related to the transfer of a motor vehicle when that transfer occurs under the provisions of 10 U.S.C. § 381:

- The requirement that a person must apply for a new certificate of title within 28 days of the transfer of a vehicle.
- The requirement that a person must hold a license when receiving, titling, or transferring any vehicle.
- The requirement that highway use tax be paid at the rate of 3% upon the transfer of a motor vehicle for which a certificate of title is issued. In order to be eligible for the exemption, the agency must transfer the vehicle to a "qualified recipient" within 180 days of receipt of the

certificate of title form from the U.S. Government. A "qualified recipient" is an emergency response unit, a law enforcement agency, or a volunteer fire department. The exemption also applies to the transfer of a motor vehicle by a qualified recipient back to one of the named agencies if the motor vehicle is being returned for the purpose of transferring it to another qualified recipient.

Section 4 of the PCS amends Article 11 Department of Crime Control and Public Safety, of Chapter 143B Executive Organization, by adding a Part establishing the Law Enforcement Support Services Division. G.S. 143B-508 formally establishes the Division and outlines the functions.

EFFECTIVE DATE: The act becomes effective when it becomes law.

Theresa Matula, counsel to House State Government/State Personnel Committee, and Trina Griffin, Counsel to House Finance, substantially contributed to this summary.

H201-SMRF-36(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 352*
PROPOSED COMMITTEE SUBSTITUTE S352-CSSH-22 [v.4]

4/13/2009 4:54:09 PM

Short Title: VSL Non-Family Sick Leave Donations. (Public)

Sponsors:

Referred to:

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NON-FAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a non-family member employee of a State agency. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State

agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a non-family member employee of a public school. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. G.S. 115D-25.3 reads as rewritten:

"**§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges shall adopt rules and policies for the voluntary shared leave program to allow an employee at a community college to donate sick leave to a non-family member employee of a community college. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 4. This act becomes effective January 1, 2010.

SENATE BILL 352:
SPA Sick Leave Transfers

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 13, 2009
Introduced by:	Sen. Kinnaird	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S352-CSSH-22		

SUMMARY: ***This PCS for Senate Bill 352 would allow certain State employees, public school employees, and community college employees to transfer up to 5 days of their sick leave per year to a fellow employee to whom they are not related. No employee could receive more than 30 days of donated sick leave per year from non-families members. The donee could not use the donated sick leave toward retirement credit.***

[As introduced, this bill was identical to H213, as introduced by Reps. Insko, Lucas, Hurley, which is currently in House State Government/State Personnel, if favorable, Education.]

CURRENT LAW: The General Assembly has given the State Personnel Commission the duty to establish policies and rules governing "[h]ours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment." *GS 126-4.*

The statutes concerning sick leave of public school employees are more specific. They say all public school employees must be given at least 5 days sick leave per school term, and that the State Board of Education shall adopt rules for voluntary sick leave banks by local boards, from which employees could withdraw leave in case of emergency or catastrophic illness. *GS 115C-336.*

There are also statutes, GS 126-8.3, 115C-12.2, and 115D-25.3, that require the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to set up a program of Voluntary Shared Leave among family members across agency lines.

The State Personnel Commission, pursuant to its authority, has provided that State employees may give vacation or bonus leave to another employee who is not a relative, but may give sick leave only to a relative.

BILL ANALYSIS: This PCS for SB 352 would direct the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to add to their Voluntary Shared Leave programs rules and policies to allow an employee to transfer up to 5 days of sick leave per year to another non-family employee, regardless of family relation. No one employee could receive more than 30 days per year of sick leave from non-family members. In no case could the transferred leave be used for retirement credit purposes, and employees who donate sick leave must be notified in writing of the consequences of sharing the sick leave.

The PCS puts the sick leave provision in the Voluntary Shared Leave statutes, but does not provide for the cross-agency sharing that those statutes otherwise provide. The sick leave may be shared with non-family members as follows:

- A State employee subject to the State Personnel Act may share sick leave with a non-family member in a State agency.
- A public school employee may share sick leave with a non-family member employed in a public school.
- A community college employee may share sick leave with a non-family member employed in a community college.

EFFECTIVE DATE: Effective January 1, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 430
PROPOSED COMMITTEE SUBSTITUTE S430-PCS55331-RK-8

Short Title: Wilmington Civil Service Rewrite. (Local)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE WILMINGTON CIVIL SERVICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article XI of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the 1981 Session Laws, reads as rewritten:

"ARTICLE XI. CIVIL SERVICE.

"Sec. 11.1. Civil Service Commission established. ~~There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department.~~

~~The employees of the City of Wilmington Fire Department, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The Wilmington Ministerial Association governing body, by a majority vote, shall name one member.~~

~~The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.~~

~~A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term.~~

~~The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.~~

~~The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on~~

~~personnel matters to be handled by the commission. The commission shall within a reasonable time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police and fire department members of actions, reports and recommendations made by the commission.~~

(a) Establishment, Qualifications, and Restrictions. – There is created a civil service commission consisting of five regular members and one nonvoting ex officio member. Each regular member must be a citizen and a resident of the City of Wilmington. No regular member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city, or a former employee of the police or fire department.

(b) Appointment, Term, and Removal of Regular Members. – The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one regular member. The employees of the City of Wilmington Police Department who are subject to this Article, by a majority vote, shall name one regular member. The City Council of the City of Wilmington, by a majority vote, shall name one regular member. The New Hanover County Medical Society governing board, by a majority vote, shall name one regular member. The sitting members of the Civil Service Commission, by a majority vote, shall select one member to be confirmed by the City Council as a regular member of the commission.

The regular members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

(c) Vacancy. – A vacancy on the commission may be caused by the death, resignation, disqualification, or removal of a regular member. Such vacancy shall be filled by the appointing authority authorized to name the member causing the vacancy. If the appointing agency fails to fill the vacancy within 60 days after notification, the senior resident superior court judge of the judicial district that includes New Hanover County shall be notified and shall immediately fill the vacancy. Regular members appointed to fill a vacancy serve for the remainder of the unexpired term.

(d) Compensation, Officers, and Quorum. – The City Council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the regular members of the commission shall elect a chairman and may elect other officers. A majority of the regular members of the commission constitutes a quorum. There shall be a minimum of four regular members present to consider the appeal of a dismissal or demotion under this Article. A quorum will be required to consider nondisciplinary matters.

(e) Secretary. – The city clerk shall act as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, shall be custodian of all papers and records pertaining to the business of the commission, shall notify commission members of meetings, shall administer required oaths, shall be responsible for transmitting to the Superior Court of New Hanover County a complete transcript of all proceedings and papers concerning any commission order appealed to the court, and shall perform other duties as the commission may require.

(f) Ex Officio Member. – The director of human resources shall act as a nonvoting ex officio member of the commission and shall advise the commission on all city and departmental policies, rules, regulations, and procedures. The commission shall, within a reasonable time, supply the director of human resources with notification of any actions, reports, or recommendations made by the commission. The human resources department shall notify affected police and fire department members of actions, reports, and recommendations made by the commission.

"Sec. 11.2. ~~Jurisdiction.~~ Application of Article. ~~The Civil Service Act has jurisdiction over an employee of the Police Department of the City of Wilmington certified in accordance with~~

~~Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty is that of enforcing the criminal laws of the city and State, excluding those employees whose primary responsibility is that of issuing parking tickets or collecting fees. The chief of the police department is not covered by the Civil Service Act.~~

~~The act shall apply to an employee of the Fire Department of the City of Wilmington certified in accordance with Section 11.5 of this act and whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the fire service. The chief of the fire department is not covered by the Civil Service Act.~~

(a) General Application. – The provisions of this Article shall apply only to civil service certified employees of the City of Wilmington police and fire departments as defined in this section.

(b) Police Department. – An employee of the police department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this act; (iii) has received certification as a criminal justice officer by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the police department as a criminal justice officer. Other than Section 11.4 of this act, the provisions of this Article shall not apply to the chief of police. The provisions of this Article shall not apply to any deputy chief or auxiliary police officer appointed to such position after the date of the enactment of this Article.

(c) Fire Department. – An employee of the fire department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this act; (iii) has received certification as either a firefighter or fire inspector by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the fire department in a primary function of protecting life and property through firefighting, including those fire officer positions assigned to supporting services of the fire service. Other than Section 11.4 of this act, the provisions of this Article shall not apply to the fire chief. The provisions of this Article shall not apply to any deputy fire chief appointed to such position after the date of the enactment of this Article.

"Sec. 11.3. Powers and duties. The commission:

~~(a)~~ (1) Shall approve reasonable requirements for employment and for examination of applicants. ~~Positions shall be publicized. Examinations shall be competitive, open, and free to all persons meeting the commission's requirements. Examinations shall be practical in character, shall be limited to matters that fairly test the relative ability of the applicant to discharge the duties of the position and shall include tests of mental and physical qualifications and health. Employment procedures shall be consistent with federal and State regulations and the affirmative action policy as adopted by the city council. The director of personnel shall be responsible for implementing and administering personnel policies and procedures approved by the commission. Any standards for police or fire employees that are established by the State of North Carolina shall be included in the requirements for employment.~~

~~(b)~~ (2) ~~Shall cause to be prepared and kept a register of persons passing the examinations. The established policy of the city will be followed in filing vacancies from the register.~~ Shall only hear and decide appeals of dismissals or demotions filed by civil service certified employees of the police or fire department.

(3) Shall subpoena on behalf of the commission, or any party to a hearing before the commission, witnesses and compel the production of records, books, papers, documents, or tangible things. If a person fails or refuses to obey a subpoena issued pursuant to this subdivision, the commission may apply to the Superior Court of New Hanover County for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to the proper parties.

(4) Shall comply with the provisions of G.S. 160A-168 during the conduct of an appeal hearing before the commission.

~~(c)~~ (5) Shall make an annual report to the city ~~council, city manager,~~ council and city manager. ~~and to the chiefs of the police and fire departments for posting on departmental bulletin boards.~~ The commission may prescribe the form and content of the report.

~~(d)~~ (6) May secure necessary staff services and request assistance in the performance of its duties from the city manager.

~~(e)~~ (7) The commission may use the facilities of the city for holding any of its activities.

(8) May determine its own rules of procedure. The North Carolina Rules of Evidence and the North Carolina Rules of Civil Procedure shall not apply to any hearing before the commission.

"Sec. 11.4. Appointment of chief of fire department and chief of police department. Appointments of the chief of the fire department and chief of the police department shall be made by the city council and in making appointments to chiefs of the fire and police departments, due consideration shall be given to persons already employees of the respective department.

"Sec. 11.5. Probationary police and fire officers. Employees of the police and fire departments may be hired on a probationary basis for a period not to exceed 18 months. During this period the chief of the respective department may dismiss after notifying the city manager. At the end of the probationary period, an employee shall become certified, unless terminated prior thereto by action of the chief, with all rights and privileges contained in this Article.

~~"Sec. 11.6. Disciplinary action. (a) Except as provided in Section 11.5 of this act, an employee of the Police or Fire Department of the City of Wilmington may be dismissed only for cause and with an opportunity to be heard in his or her own defense. Council retains the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city. And furthermore, nothing in this Article shall be so construed as to deprive city council of its control over the finances of the city.~~

~~(b) The chief of the appropriate department may suspend, with or without pay, any employee of the police or fire department charged with violating any rule or regulation of the department, for a period not to exceed 30 calendar days. Within three working days after making any suspension, the chief shall file with the city manager a written statement setting forth the reasons for the suspension in detail. Within the same time, the chief shall give to the suspended officer a signed copy of the statement of the basis for the suspension. Within 10 working days after his suspension, the employee may file with the city manager a written request for a hearing. The city manager shall conduct the hearing within 30 calendar days thereafter.~~

~~If the employee is suspended without pay and the city manager finds that the suspension was not justified, or if the charges are dismissed, the employee shall be fully reimbursed for any loss of pay.~~

~~(c) With the approval of the city manager, the chief of the appropriate department may dismiss or demote any employee for violating any rule or regulation of the department of which the employee is a member. Within three working days after making any dismissal or demotion,~~

~~the chief of the department shall file with the Secretary of the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.~~

~~Within 10 working days after dismissal or demotion, the employee may appeal by first filing with the secretary of the commission a written request for a hearing before the Civil Service Commission. Such request for hearing shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within 60 calendar days after receipt of the request. Hearings shall be administrative in nature. 'Working days' for purposes of this subsection shall mean 8:30 a.m. to 5:00 p.m., Monday through Friday except legal holidays.~~

~~If the commission determines that the employee has not violated a rule or regulation of the department, the commission shall reinstate with appropriate back pay. In the conduct of its investigations, the commission may subpoena witnesses, administer oaths and compel the production of evidence.~~

~~The commission upon finding any employee guilty may sustain the action of the chief or take any other action that may be deemed appropriate.~~

~~Any employee found guilty by the commission may appeal to a court of competent jurisdiction. The trial upon appeal shall be governed by the provisions of Article 4, Chapter 150A, of the General Statutes of North Carolina pertaining to Judicial Review of Decisions of Certain Administrative Agencies except that for purpose of G.S. 150A-45 the person seeking review must file a petition in the Superior Court of New Hanover County.~~

~~A person who may wish to appeal to the superior court shall file with the secretary of the commission a bond in an amount set by the commission, with sufficient surety conditioned that the person shall pay the cost of such appeal in the event such cost shall be levied against the person, and shall pay to the secretary the necessary fee for entering such appeal in the superior court within 10 calendar days after entry of such order or decree appealed from, and upon appeal, the secretary of the Civil Service Commission shall forthwith transmit to the superior court a complete transcript of all papers and proceedings concerning the order or decree or action of the Civil Service commission appealed from, together with the appeal bond and fee.~~

"Sec. 11.6. Dismissal, demotion, and appeal.

(a) General. – A civil service certified employee of the police or fire department of the City of Wilmington may be dismissed or demoted only for cause and with an opportunity to be heard in his or her own defense. Notwithstanding any provision of this Article, the City Council shall retain the authority to demote or terminate positions because of a lack of work or conditions beyond the control of the city and nothing in this Article shall be so construed as to deprive the City Council of its control over the finances of the city. The city manager shall retain all powers and authority granted to the city manager by law, and by the Charter of the City of Wilmington, which are not inconsistent with this Article.

(b) Dismissal and Demotion. – The chief of the appropriate department may, with the prior approval of the city manager, dismiss or demote any civil service certified employee of the police or fire department for violating any rule, regulation, policy, or procedure of the city or of the department of which the employee is a member. Within five working days after making any such dismissal or demotion, the chief of the department shall file with the secretary of the commission a written list of charges supporting the discharge or demotion. A copy of this statement shall be given to the city manager and the employee.

(c) Appeal of Dismissal or Demotion. – No more than 10 working days after the effective date of his or her dismissal or demotion, the employee may appeal such dismissal or demotion to the Civil Service Commission by filing a written notice of appeal and request for a hearing with the secretary of the commission. The notice of appeal and request for a hearing shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within a reasonable time

after receipt of the request. Hearings shall be administrative in nature and shall be conducted in closed session unless an open session is requested by the employee. "Working days" for purposes of this subsection shall mean 8:00 A.M. to 5:00 P.M., Monday through Friday, except legal or city holidays.

(d) Appeal Powers of the Commission. – If, at the completion of its hearing, the commission shall find that:

(1) The employee has not committed the offense or offenses with which he or she has been charged, the commission shall reinstate the employee and direct the city manager to reimburse any lost pay and benefits to the employee.

(2) The employee has committed the offense or offenses with which he or she has been charged, the commission shall sustain the action taken or may impose such other punishment as it deems just and proper.

(e) Review of the Commission Order. – Every decision of the Commission shall be subject to review by the Superior Court of New Hanover County by proceedings in the nature of certiorari. Any petition for review by the superior court by any party to the hearing before the Commission shall be filed with the clerk of superior court within 10 days after the entry of the order, or 10 days after a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Commission at the time of its hearing of the case, if later. The decision of the Commission may be delivered to the aggrieved party either by personal service or by registered mail, or certified mail return receipt requested. Any review by the superior court shall be heard upon the record of proceedings at the hearing before the Commission.

"Sec. 11.7. ~~Enforcement of subpoenas.~~ Testimony before the Commission. ~~In the conduct of hearings or investigations, the members of the commission shall have the right and power to compel by subpoena both the attendance and testimony of witnesses or for the production of evidence that may be relevant to the case to be heard. The commission may apply to a court of competent jurisdiction for an order requiring that its order be obeyed. No testimony of any witness before the commission may be used against the witness on the trial of any criminal prosecution other than for false swearing committed on examination.~~ All persons testifying before the commission shall be administered the appropriate oath by the city clerk. The city clerk or other designated court recorder shall be responsible for recording all proceedings. Any person, while under oath, at an investigation by the commission, willfully swearing falsely, shall be guilty of a misdemeanor.

"Sec. 11.8. ~~Personnel policies.~~ Other city policies. ~~Unless specifically excepted by this act, all other ordinances and policies affecting the employees of the City of Wilmington shall apply to employees under the Civil Service Act.~~ Unless specifically excepted by this Article, all other ordinances, rules, regulations, policies, and procedures affecting the employees of the City of Wilmington shall apply to civil service certified employees."

SECTION 2. This act is effective when it becomes law. Personnel actions based upon conduct committed before the effective date of this act are not abated or affected by this act, and the provisions of the Charter of the City of Wilmington that would be applicable but for this act remain applicable to those actions.

SENATE BILL 430:
Wilmington Civil Service Rewrite

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 13, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Hal Pell, Committee Co-Counsel and Kelly Quick Research Assistant
Analysis of:	PCS to First Edition S430-CSRK-8		

SUMMARY: ***This act amends the Charter of the City of Wilmington with regard to the members and duties of the Civil Service Commission. This act is effective when it becomes law.***

[As introduced, this bill was identical to H729, as introduced by Reps. Justice, McComas, Hughes, which is currently in House Local Government II, if favorable, Judiciary I.]

CURRENT LAW: Wilmington's Charter establishes a Civil Service Commission to approve requirements for employment and for examination of applicants with the city's fire and police departments; to make annual reports to the city council and city manager; and to hear and decide appeals of dismissals or demotions filed by civil service certified employees of the police or fire department.

BILL ANALYSIS: This act:

- Repeals the authority of the Wilmington Ministerial Association governing body to name one member to the Commission; the authority is given to the sitting members of the Civil Service Commission.
- Provides that a minimum of four members of the Commission must be present to consider the appeal of a dismissal or demotion under this Charter.
- Clarifies the definition of "civil service certified employee" of the City of Wilmington police department and fire department to reflect current State standards and City practices.
- Provides that Deputy Police Chiefs and Deputy Fire Chiefs appointed after the date of the adoption of this Act are excluded from the Act, as is the Chief of Police. When the current act was drafted, the positions of Deputy Police Chief and Deputy Fire Chiefs did not exist. Current Deputy Police and Fire Chiefs will be included under the Civil Service Act.
- Authorizes the Wilmington Civil Service Commission to subpoena witnesses and compel the production of records, books, and papers.
- Clarifies that civil service certified employees may only be dismissed or demoted for cause.
- Adds a provision that chiefs must have the prior approval from the city manager before dismissing or demoting any civil service certified employee of the police or fire department.
- Provides that review of Commission decisions is by certiorari to the superior court and not under the Administrative Procedure Act.

EFFECTIVE DATE: This act is effective when it becomes law. Personnel actions based upon conduct committed before the effective date of this act are not abated or affected by this act, and the provisions of the Charter of the City of Wilmington that would be applicable but for this act remain applicable to those actions.

S430-SMTH-4(CSRK-8) v2

SENATE BILL 548

Short Title:	Durham City Manager/Contract Authority.	(Local)
Sponsors:	Senators McKissick; and Atwater.	
Referred to:	State and Local Government.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO SET HEARINGS, GIVE NOTICES, ACCEPT OR REJECT OFFERS, AND TO DECLARE INTENT, AND TO FURTHER DELEGATE CONTRACTING AUTHORITY TO THE CITY MANAGER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 17 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 1249 of the 1979 Session Laws, Chapter 694 of the 1981 Session Laws, Chapter 458 of the 1983 Session Laws, Chapter 532 of the 1991 Session Laws, Chapter 617 of the 1991 Session Laws, Chapter 761 of the 1991 Session Laws, Chapter 121 of the 1993 Session Laws, and Chapter 36 of the 1999 Session Laws, reads as rewritten:

"Sec. 17. **Powers and Duties of the City Manager.** – (a) The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City under his direction and control. It shall be his duty to attend all meetings of the City Council, with the right to take part in the discussion, but without a vote. He shall be entitled to notice of all special meetings. He shall recommend to the City Council from time to time such measures as he shall deem necessary, and shall furnish the City Council with necessary information respecting any of the departments of the City under his direction and control. The City Manager shall not be personally interested in any contract in which the City is a party for supplying the City materials of any kind.

The City Manager shall have power, and it shall be his duty, to see that the laws and ordinances of the City are enforced.

He shall have power and authority to revoke licenses, pending action by the City Council.

(b) Except as otherwise provided in this Charter, the City Manager shall have power to appoint and remove all heads of departments and all subordinate officers and employees of the City. He shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions created herein, or that hereafter may be created by the City Council. He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof, he shall call the attention of the City Council and the City Attorney to the same. ~~He shall make and execute all contracts on behalf of the City in such manner as is authorized or provided by resolutions or ordinances passed by the City Council. The City Council may, on such terms as it deems proper, allow the City Manager to authorize one or more assistant city managers and deputy city managers to make and execute such contracts.~~ He shall prepare and submit to the City Council a proposed annual budget, after

receiving estimates made by the heads or directors of departments or by any board officer, or commissioner not within a department. He shall keep the City Council at all times advised as to the financial needs and condition of the City. He shall from time to time make oral and written reports to the City Council of the condition and efficiency of the various departments of the City government under his direction and control. The Council may in its discretion cause such written reports to be published for the information of citizens. The City Manager shall perform such other duties as may be prescribed by this Charter, or be required of him by ordinance or resolution of the City Council.

(c) The City Manager shall not engage in political campaigns for elective office, nor attempt to influence the result of such campaigns, except by exercising his right to vote. Improper campaign activity as described herein by the City Manager shall be a cause for his immediate suspension or removal from office.

(d) The City Council may delegate authority to the City Manager to purchase real property or any interest in real property, provided:

(1) The money for the purchase of such real property or interest in real property is available in the then current budget; and

(2) The City Manager, within 45 days following the purchase, shall submit to the City Council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of the property or interest in property.

~~(e) The City Council may authorize the City Manager to make, approve, award, and execute any contract for the purchase of apparatus, supplies, materials, or equipment and any contract for construction or repair work provided:~~

~~(1) The amount of the contract shall not exceed one hundred thousand dollars ($100,000);~~

~~(2) The City Manager shall, within 45 days of the award of such contract, report such award to the City Council, provided however, contracts in an amount less than an amount prescribed by the City Council need not be reported;~~

~~(3) The City Manager shall comply with all applicable provisions of Article 8 of Chapter 143 of the General Statutes, and of Section 84 of this Charter. The City Manager may take any action that the City Council is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing such contracts.~~

(f) Where any provision of this Charter or general or local law provides that the City Council may call, fix, or set public hearings or cause public hearings to be called, fixed, or set; give, mail, post, or publish notices or cause notices to be given, mailed, posted, or published; or to accept or reject offers made to the City, the City Council may delegate to the City Manager or the City Manager's designee the authority to perform any or all of these acts. Where any provision of this Charter or general or local law provides that before an act described in this subsection can be performed the City Council must first adopt a resolution stating the City Council's intent to take the action, the City Council may delegate to the City Manager or the City Manager's designee the authority to declare that a resolution of intent has been adopted, and the declaration shall satisfy the requirement that the City Council adopt a resolution of intent. The City Council may delegate authority to the City Manager as provided by this subsection in a resolution or ordinance, which may contain any restrictions or conditions the City Council deems proper.

(g) The City Council may, on terms it deems proper, delegate to the City Manager or the City Manager's designee the authority to solicit and advertise for bids and proposals, to reject bonds, bids, and proposals, to re-advertise to receive bids and proposals, to award contracts, and to execute contracts. The City Council may provide that the City Manager or the

City Manager's designee when acting pursuant to the authority granted by this subsection is authorized to take any action that the City Council is required or authorized to take under the provisions of Article 8 of Chapter 143 of the General Statutes if that action is with respect to advertising, making, approving, awarding, and executing contracts, including complying with the procedures in G.S. 143-129(b) that apply when the lowest responsible bids are in excess of the funds available for the project or purchase. The City Manager or the City Manager's designee acting pursuant to the authority granted by this subsection shall comply with any provisions of law that would otherwise apply to the City Council if it were taking the action. The City Manager or the City Manager's designee shall make and execute any contracts authorized by the provisions of this subsection in the manner authorized or provided by the City Council. The authority granted by this subsection is in addition to, and not in derogation of, any other authority granted by the provisions of this Charter or any other general or local law."

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

SENATE BILL 548:
Durham City Manager/Contract Authority

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 13, 2009
Introduced by:	Sen. McKissick	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***This act would amend the Charter of the City of Durham to authorize the City Council to delegate to the City Manager certain functions and contracting authority. This act is effective when it becomes law.***

[As introduced, this bill was identical to H788, as introduced by Reps. Hall, Wilkins, Michaux, Luebke, which is currently in House Local Government I, if favorable, Judiciary II.]

BILL ANALYSIS:

- The City Council is authorized to delegate to the City Manager or designee the following: (1) to set and give notice of any public hearings; and (2) the to declare that a resolution of intent has been adopted when required as a prerequisite for City Council action. The delegation may be in the form of a resolution or ordinance, with whatever restrictions or conditions the City Council deems proper.
- The City Council is authorized to delegate to the City Manager or designee, the authority to solicit and advertise bids and proposals, and to award and execute contracts. The authorized or required actions are the same as provided by State law for the City Council. The actions by the City Manager or designee must comply with all provisions of law as if the action was being taken by the City Council.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 564
PROPOSED COMMITTEE SUBSTITUTE S564-CSRR-21 [v.1]

4/13/2009 7:14:14 PM

Short Title: Statewide Nuisance Notice Authority. (Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ALL MUNICIPALITIES AND COUNTIES TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THEIR PUBLIC NUISANCE ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-200.1. Annual notice to chronic violators of public nuisance ordinance.**

A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance."

SECTION 2. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-140.2. Annual notice to chronic violators of public nuisance ordinance.**

A county may notify a chronic violator of the county's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the county shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the county gave notice of violation at least three times under any provision of the public nuisance ordinance."

SECTION 3. S.L. 2005-44, S.L. 2007-3, S.L. 2007-254, and S.L. 2008-23 are repealed.

SECTION 4. This act is effective when it becomes law. A municipality or county may adopt an ordinance under G.S. 160A-200.1 G.S. 153A-140.2 or when this act becomes law, but the ordinances may not become effective prior to October 1, 2009. The repeal in this act of any local act does not affect the rights or liabilities of a municipality that arose during the time the act was in effect, or under an ordinance adopted under such an act. If any municipality or county adopted an ordinance under any act repealed by this act, and the ordinance would be permitted under G.S. 160A-200.1 or G.S. 153A-140.2 as enacted by this act, that ordinance shall remain in effect until amended or repealed by that municipality.

SENATE BILL 564:
Statewide Nuisance Notice Authority

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 13, 2009
Introduced by:	Sen. Davis	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S564-CSRR-21		

SUMMARY: The PCS for Senate Bill 564 would authorize all cities and counties to remedy chronic violations of their public nuisance ordinance after providing chronic violators only annual notice. The expense of remedying the violation would become a lien upon the chronic violator's property and be collected as unpaid taxes.

[As introduced, this bill was identical to H699, as introduced by Rep. McLawhorn, which is currently in House Local Government II, if favorable, Judiciary III.]

CURRENT LAW: G.S. 160A-174 grants to cities the authority to adopt ordinances related to the health, safety, or welfare of their citizens. G.S. 160A-175 authorizes cities to enforce their ordinances, and G.S. 160A-193 allows cities to abate situations that are dangerous or prejudicial to the public health and welfare. The cost of abatement may be charged to the violator.

In 2005 the General Assembly enacted S.L. 2005-44, which gave the Town of Matthews the authority to give a "chronic violator" of the municipality's public nuisance ordinance notice on an annual basis. A "chronic violator" is a person who owns property whereupon, in the previous calendar year, the municipality took gave notice of violation at least three times under the nuisance ordinance. Under that local act, if a chronic violator's property is in violation of the ordinance again, the municipality make take action to remedy the violation after giving only the annual notice. The expense of the action would become a lien on the property and would be collected as unpaid taxes. The text of S.L. 2005-44 that applies to Matthews is as follows:

"A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance."

In 2007, the General Assembly added the towns of Cornelius and Davidson, the City of Wilmington, and New Hanover County to the local governments that had the same power as Matthews.

BILL ANALYSIS: SB 564 would allow all cities and all counties to remedy chronic nuisance violations after giving the same kind of annual notice to the chronic violator that Cornelius, Davidson, Wilmington, and New Hanover County are now authorized to use. The bill would repeal the local acts that apply to those local governments.

EFFECTIVE DATE: When becomes law. A new ordinance adopted under the bill could not go into effect until Oct. 1, 2009. There is a saving clause for pre-existing ordinances, so they would not have to be re-enacted.

BACKGROUND: As noted, the General Assembly has passed several local bills allowing local governments to remedy chronic violations of the public nuisance ordinance after only annual notification. Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, and the abatement of nuisances. A court could potentially determine that SB 251 is a local act dealing with the abatement of nuisances and therefore unconstitutional. Making the bill statewide would remove that potential constitutional infirmity. It does not address any issue that might be raised concerning due process.

SENATE BILL 712

Short Title:	State Surplus Property/New Recipient.	(Public)
Sponsors:	Senators Hunt; Apodaca, Berger of Rockingham, Bingham, Blake, Brock, Brown, Brunstetter, Davis, East, Forrester, Goodall, Goss, Jacumin, Preston, Rouzer, Rucho, Stevens, Swindell, and Tillman.	
Referred to:	State and Local Government.	

March 24, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO DISTRIBUTE STATE SURPLUS PROPERTY TO FURBISHERS OF COMPUTERS FOR STUDENTS IN GRADES KINDERGARTEN THROUGH TWELVE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.02(2) reads as rewritten:

"(2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, furbishers of computers for students in grades kindergarten through 12, schools for the mentally retarded, schools for the physically handicapped, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, and civil defense organizations, that have been certified by the Internal Revenue Service as tax-exempt nonprofit organizations under section 501(c)(3) of the United States Internal Revenue Code of 1954."

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

SENATE BILL 712:
State Surplus Property/New Recipient

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 13, 2009
Introduced by:	Sen. Hunt	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 712 adds "furbishers of computers for students in grades K-12" to the definition of nonprofit tax exempt organizations that may receive distributions of State surplus property.***

CURRENT LAW: Part 1 of Article 3A of Chapter 143 of the General Statutes establishes the State Surplus Property Agency in the Department of Administration. The agency is authorized to sell State surplus supplies, materials and equipment, warehouse such property, and distribute such property to tax-supported and nonprofit tax exempt organizations. The agency is also authorized to act as a clearinghouse of information for State agencies and nonprofits to locate property available for acquisition, ascertain the terms and conditions under which the property may be obtained, and aid State agencies and nonprofits in transactions for the acquisition of the property.

BILL ANALYSIS: Senate Bill 712 amends the definition of "Nonprofit tax exempt organization" used in Part 1, Article 3A of Chapter 143. As amended the definition will include "furbishers of computers for students in grades kindergarten through twelve." According to the definition, furbishers of computers for students also must be certified 501(c)(3) organizations to qualify as a nonprofit tax exempt organization for the purpose of receiving distributions of State surplus property.

EFFECTIVE DATE: The act is effective when it becomes law.

S712-SMRF-41(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 618*

Short Title:	Urban Area Revitalization Made Uniform.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	State and Local Government.	

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW ALL MUNICIPALITIES TO PARTICIPATE IN URBAN AREA REVITALIZATION PROJECTS UNDER THE MUNICIPAL SERVICE DISTRICT ACT OF 1973.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-536(c) reads as rewritten:

"(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city ~~whose population exceeds 150,000 according to the most recent annual population statistics certified by the State Budget Officer~~ and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.

(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.

(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.

(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities."

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

SENATE BILL 618:
Urban Area Revitalization Made Uniform

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 3, 2009
Introduced by:	Sen. Hartsell	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***This act eliminates the minimum population requirement for municipal participation in urban area revitalization projects. This act is effective when it becomes law.***

[As introduced, this bill was identical to H342, as introduced by Rep. Daughtry, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: Urban areas that otherwise meet the statutory requirements for participation in urban area revitalization projects must have a population that exceeds 150,000 in order to participate.

BILL ANALYSIS: This act eliminates the minimum population requirement for participation in urban area revitalization projects.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: G.S. 160A-536(b) defines various types of projects that may be undertaken. The list is meant to be illustrative, and not exclusionary:

- Improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements.
- The construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access.
- Reduce the incidence of crime, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area.
- A downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city.
- A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications or the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT

Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, April 15, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **548** Durham City Manager/Contract Authority.
Sequential Referral: None
Recommended Referral: None

S.B. **618** Urban Area Revitalization Made Uniform.
Sequential Referral: None
Recommended Referral: None

S.B. **712** State Surplus Property/ New Recipient.
Sequential Referral: None
Recommended Referral: None

S.B. **1072** SOS/ITS Exemption.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **564** Statewide Nuisance Notice Authority.
Draft Number: PCS75237
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

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

H.B.(CS #2) **201** Add Division of LESS to CCPS.
Draft Number: PCS10859
Sequential Referral: Finance
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 6

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 14, 2009
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Thompson	Parker Poe
Christy Agnew	DOA
Pamela Schore	NCASA
Emily Doyle	NCDAPA
Cady Thomas	NC Assn of REALTORS
Anita Watkins	UNC GA
Erin Schweitzer	UNC GA
Mia Bailey	Electricities of NC, Inc
T. Tetterton	FAC
Jane Patterson	e-NC Authority
David Anders	PFI=PNC

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charles Francis	Sen. Bingham
Elbert Wilson	SOS
Rodney Maddrey	SOSNC
Bruce Garner	SOS NC
Dave Hinton	Purple Elephant Computer Factory for KIDS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Patrick Baffi	NMRC
Jeff Gray	FOP
Mallay Hatcher	MWU
Sarah Becker	NCCASD
Daniel Baum	K+L GATES

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
W H Potter Jr	NCDS & NCPTA
Rick Zechini	NC Assoc. of Realtors

Senate State and Local Government Committee
Tuesday, April 21, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 557	Future Volunteer Firefighters Act.	Representative Folwell Representative Pierce Representative Stevens Representative Guice
HB 613	Federal Reservation Statute.	Representative Mobley Representative Owens, Jr.
SB 475	Amend Carrboro Charter/Conserve Energy/Water.	Senator Kinnaird
SB 479	Fremont Charter Rewrite.	Senator Rouzer
SB 650	Allow Municipalities to Regulate Golf Carts.	Senator Goss
SB 653	Excuse Governing Body from Voting.	Senator Rucho
SB 730	Local Gov't Official Recuse From Voting.	Senator Rucho
SB 800	Allow Unpaid Investigatory Suspensions/DHHS.	Senator Rand
SB 827	Ferry Division Changed to Marine Division.	Senator Jenkins
SB 352	SPA Sick Leave Transfers.	Senator Kinnaird

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, April 21, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on April 21, 2009, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Don East presided.

Senator East called the meeting to order and introduced the pages.

House Bill 557, Future Volunteer Firefighters Act. Was the first bill to be heard by the Committee. Representative Folwell explained and Senator Albertson made a motion to give the bill a Favorable Report and the bill carried. HB 613, Federal Reservation Statue was explained by Senator Jones and comments on the bill were made by Anita Earls of Gates County. The Committee gave House Bill 613 a favorable report. Senator Kinnaird explained Senate Bill 475, Amend Carrboro Charter/Conserve Energy/Water which had a Proposed Committee Substitute along with an amendment. Senator Queen moved to adopt the amendment and Senator McKissick moved that the PCS receive a Favorable Report, Unfavorable to the Original Bill but Favorable to the Committee Substitute. The bill carried. Senate Bill 479, Fremont Charter Rewrite was explained by Senator Rouzer. Senator Davis motioned for a Favorable Report. The bill carried and was referred to The Senate Finance Committee. A Proposed Committee Substitute for Senate Bill 650, Allow Municipalities to Regulate Golf Carts was explained by Senator Steve Goss. A motion was made to give the PCS a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute. The bill carried. Senator Rucho explained Senate Bill 653, Excuse Governing Body from Voting. Senator Berger moved that the bill received a Favorable Report and the Committee concurred. After much discussion among the Committee, Senate Bill 800, Allow Unpaid Investigatory Suspensions/DHHS, Senator Rucho's Bill received an Unfavorable Report. Senate Bill 827, Ferry Division Changed to Marine Division was before the Committee. Senator Jenkins explained the bill and Joanna Reese from the Department of Transportation added comments. Senator Davis moved that the bill receive a Favorable Report and the bill carried. Senator Kinnaird's Senate Bill 352 was the last bill to be heard. Senator Albertson moved to adopt the Proposed Committee Substitute and Senator Berger made the motion to give the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. The PCs was re-referred to Appropriations.

The meeting adjourned at 1:00 pm

Don East
Senator Don East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

HOUSE BILL 557
Committee Substitute Favorable 4/6/09

Short Title: Future Volunteer Firefighters Act. (Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO ENACT THE FUTURE VOLUNTEER FIREFIGHTERS & RESCUE SQUAD MEMBERS ACT OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Future Volunteer Firefighters & Rescue Squad Members Act of North Carolina."

SECTION 2. G.S. 95-25.5 is amended by adding a new subsection to read:

"(n) Nothing in this section prohibits qualified youths under 18 years of age from participating in training through their fire department, the Office of State Fire Marshal, or the North Carolina Community College System. As used in this subsection, the term 'qualified youth under 18 years of age' means an uncompensated fire department or rescue squad member who is over the age of 15 and under the age of 18 and who is a member of a bona fide fire department, as that term is defined in G.S. 58-86-25, or of a rescue squad described in G.S. 58-86-30."

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

HOUSE BILL 557:
Future Volunteer Firefighters Act

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 19, 2009
Introduced by:	Reps. Folwell, Pierce, Guice, Stevens	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 557 enacts the Future Volunteer Firefighters & Rescue Squad Members Act of North Carolina.

CURRENT LAW: Article 2A of Chapter 95 is the Wage and Hour Act. The Commissioner of Labor is charged with enforcement of the Article. The act addresses wage levels, hours of labor, and the well being of minors. It also contains a number of restrictions regarding when and how a youth may be employed. G.S. 95-25.5. Under the act, civil penalties not to exceed $250 for each violation of the youth employment provisions may be imposed.[1] G.S. 95-25.5 and G.S. 95-25.23(a)

BILL ANALYSIS: House Bill 557 clarifies that nothing in the youth employment provisions of the Wage and Hour Act prohibits "qualified youth under 18 years of age" from participating in training through their fire department, the Office of State Fire Marshal, or the North Carolina Community College System.

The term "qualified youth under 18 years of age" means an uncompensated fire department or rescue squad member who is over the age of 15 and under the age of 18 and who is a member of a bona fide fire department or a rescue squad.

EFFECTIVE DATE: This act is effective when it becomes law.

H557-SMRF-53(e2) v1

**Brad Krehely, Counsel to the House Judiciary II committee, contributed to the drafting of this summary.*

[1] Another bill that is currently in the Senate, House Bill 23, would increase the civil penalty for violations of the Wage and Hour Act related to youth employment to $500 for the first violation (is currently $250) and provide that fines for each subsequent violation cannot exceed $1,000. The bill passed second and third readings in the House of Representatives on March 18, 2009, and currently is in Senate Finance.

HOUSE BILL 613

Short Title:	Federal Reservation Statute.	(Public)
Sponsors:	Representatives Owens, Mobley (Primary Sponsors); and Harrison.	
Referred to:	Judiciary I, if favorable, Homeland Security, Military, and Veterans Affairs.	

March 17, 2009

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT CONSENT OF THE STATE IS NOT GRANTED TO THE UNITED STATES FOR ACQUISITION OF LAND FOR AN OUTLYING LANDING FIELD IN A COUNTY OR COUNTIES WHICH HAVE NO EXISTING MILITARY BASE AT WHICH AIRCRAFT SQUADRONS ARE STATIONED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 104-7 reads as rewritten:

"**§ 104-7. Acquisition of lands by the United States for customhouses, courthouses, post offices, forts, arsenals, or armories; cession of jurisdiction; exemption from taxation.**

(a) The consent of the State is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in the State that either is:

(1) Required for customhouses, courthouses, post offices, forts, arsenals, or armories; provided that the total land to be acquired for a particular facility does not exceed 25 acres; or

(2) To be added to Fort Bragg, Pope Air Force Base, Camp Lejeune, New River Marine Corps Air Station, Seymour Johnson Air Force Base, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, or the United States Coast Guard Air Station at Elizabeth City. Any of the land to be added to a military base named in this subdivision shall be contiguous to and within a 25-mile radius of the military base for which the property is acquired.

(a1) Notwithstanding the provisions of subsection (a) above, the consent of the State is not given to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in a county or counties which have no existing military base at which aircraft squadrons are stationed, for the purpose of establishing an outlying landing field to support training and operations of aircraft squadrons stationed at or transient to military bases or military stations located outside of the State. Exclusive jurisdiction in and over any land acquired by the United States without the consent of the State under this subsection is not ceded to the United States for any purpose.

(b) Exclusive jurisdiction in and over any land acquired by the United States with the consent of the State under subsection (a) of this section is hereby ceded to the United States for all purposes for which the United States requests cession of jurisdiction except that jurisdiction in and over these lands with respect to: (i) the service of all civil and criminal process of the courts of this State, (ii) the concurrent power to enforce the criminal law, (iii) the power to

enforce State laws for the protection of public health and the environment and for the conservation of natural resources, and (iv) the entire legislative jurisdiction of the State with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property is reserved to the State. Cession of jurisdiction shall continue only so long as the United States owns the land.

(c) The jurisdiction ceded shall not vest until the United States has acquired title to the land by purchase, condemnation, or otherwise; accepted the cession of jurisdiction in writing; and filed a certified copy of the acceptance in the office of the register of deeds in the county or counties in which the land is located. The acceptance of jurisdiction shall be made by an authorized official of the United States and shall include a precise description of the land involved and a statement of the extent to which cession of jurisdiction is accepted. The register of deeds shall record the acceptance of jurisdiction and index it in both the grantor and the grantee index under the name of the United States and, if title to the land over which jurisdiction is ceded is vested in any entity other than the United States, then the register of deeds shall also index the acceptance of jurisdiction in both the grantor and the grantee index under the name of that entity.

(d) So long as land acquired with the consent of the State under subsection (a) of this section remains the property of the United States, and no longer, the land shall be exempt and exonerated from all State, county, and municipal taxation, assessment, or other charges that may be levied or imposed under the authority of this State.

(e) Persons residing on lands in the State for which any jurisdiction has been ceded under this section shall not be deprived of any civil or political rights, including the right of suffrage, by reason of the cession of jurisdiction to the United States."

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

HOUSE BILL 613:
Federal Reservation Statute

2009-2010 General Assembly

Committee:	House Homeland Security, Military, and Veterans Affairs	**Date:**	April 13, 2009
Introduced by:	Reps. Owens, Mobley	**Prepared by:**	Hal Pell Committee Co-Counsel
Analysis of:	First Edition		

SUMMARY: ***This act provides that the State does not cede exclusive jurisdiction to the United States over certain described lands which the federal government might acquire from the State. This act is effective when it becomes law.***

[As introduced, this bill was identical to S808, as introduced by Sen. Jones, which is currently in Senate State and Local Government.]

BACKGROUND:

The United States Constitution (Art. I, §8, cl. 17) provides that Congress shall have power "to exercise exclusive legislation . . . over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings." Thus, if a state legislature consents to a federal acquisition of land within the state, then the federal government obtains exclusive jurisdiction over the land acquired. A state may qualify its consent or cession by reservations consistent with the governmental purposes for which the property was acquired, and retain partial jurisdiction. If a state does not consent to federal acquisition or cession of jurisdiction, the federal government retains the power to acquire land within a state. Federal law provides that the federal government is not required to obtain exclusive jurisdiction over land or an interest in land which it acquires.

If the federal government acquires state land without the consent of the State, then the federal government may still enact rules and regulations which would override conflicting State rules or regulations. The Property Clause of the U.S. Constitution (Art. I, §3, cl. 2), gives Congress the power to "make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Federal rules or regulations override conflicting State rules or regulations based upon the authority of the Supremacy Clause of the U.S. Constitution (Art. VI, cl. 2.).

Types of Jurisdiction:

- ***Exclusive:*** The state retains no legislative or political authority over that property. The right to serve civil and criminal process is consistent with exclusive jurisdiction.
- ***Concurrent:*** The state has reserved to itself the right to exercise, concurrently with the United States, all of the same authority.
- ***Partial jurisdiction***: The state has reserved to itself the right to exercise, by itself or concurrently with the United States, other authority constituting more than merely the right to serve civil and criminal process.

CURRENT LAW:

North Carolina currently has consented to acquisition of State land as follows:

- Any land in the State required for the sites for customhouses, courthouses, post offices, arsenals, other public buildings, or for any other purposes of government, so long as the total area of the land does not exceed 25 acres
- Any land acquired that is contiguous and within a 25 mile boundary of the described military bases in the statute.

The State has ceded exclusive jurisdiction for the purposes for which the federal government has requested cession of jurisdiction; however, the State has reserved, or maintains partial jurisdiction, for (i) the service of all civil and criminal process of the courts of this State, (ii) the concurrent power to enforce the criminal law, (iii) the power to enforce State laws for the protection of public health and the environment and for the conservation of natural resources, and (iv) the entire legislative jurisdiction of the State with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property.

The jurisdiction ceded continues as long as the United States owns the lands. Lands acquired by the United States for these purposes are exempt from all State, county, and municipal taxation, assessment, or other charges that may be levied or imposed under the authority of this State.

BILL ANALYSIS: The act provides that the State does not consent to, or cede exclusive jurisdiction, to the federal government's acquisition of land that meets all of the following:

(1) Any land in counties or counties where there is no existing military base at which aircraft squadrons are stationed,

(2) For the purpose of establishing an outlying land field to support training and operations of aircraft squadrons,

(3) Which are stationed at, or transient to military bases or stations located outside the State.

The State would retain all its own sovereign rights, including the enforcement of: criminal laws, public health and environmental laws; and conservation of natural resources. The State would retain the legislative jurisdiction of the State with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property. The State would also retain the right to tax privately-owned leasehold interests, improvements, and personal property.

If Congress has conferred authority on the agency controlling the acquired land to enact rules and regulations under the Property Clause, conflicting State rules are overridden. However, the agency could be challenged as to what specific congressional enactments conferred the authority to it to establish the rules and regulations in question:

> Congress may already have conferred such authority. If such authority is lacking, Congress might be induced to provide it. . . . The question of what authority Congress has conferred on the agency would only be an issue once a dispute arises. Still if a challenge is made the agency has to come up with something as a source of authority.[1]

EFFECTIVE DATE: This act is effective when it becomes law.

George Givens, Jennifer McGinniss, and Bill Gilkeson, Staff Attorneys, substantially contributed to this summary.

H613-SMRK-41(e1) v2

[1] Thomas E. Roberts, Prof. of Law, Wake Forest University, *Making the Federal Government Listen to Reason (as defined by the State): Is it Possible?* http://www.abanet.org/statelocal/bulletins/mayroberts.pdf, at page 5.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 475
PROPOSED COMMITTEE SUBSTITUTE S475-CSRR-11 [v.3]

4/20/2009 6:46:36 PM

Short Title: Amend Carrboro Charter/Conserve Energy/Water. (Local)

Sponsors:

Referred to:

March 10, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF CARRBORO TO AUTHORIZE THE BOARD OF ALDERMEN TO ADOPT ORDINANCES THAT PROHIBIT DEED RESTRICTIONS, COVENANTS, EQUITABLE SERVITUDES, OR ANY SIMILAR BINDING AGREEMENTS THAT WOULD PROHIBIT THE INSTALLATION OF SOLAR COLLECTORS, CLOTHESLINES, RAIN BARRELS, GARDEN FENCES, OR ANY OTHER DEVICES DESIGNED TO GENERATE OR CONSERVE ENERGY THROUGH THE USE OF RENEWABLE RESOURCES OR TO CAPTURE, STORE, OR REUSE WATER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, is amended by adding a new section to read:

"**Section 10-2. Prohibiting deed restrictions or similar binding agreements that restrict energy-generating or energy- or water-saving devices.**

(a) The board of aldermen may by ordinance declare void and unenforceable any deed restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit, or have the effect of prohibiting, the installation of a solar collector, clothesline, rain barrel, garden fence, or any other device designed to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device where the device is proposed to be located. Such ordinance may also provide that a property owner shall not be denied permission to install any such device by any entity granted the power or right in any deed restriction, covenant, equitable servitude, or similar binding agreement to approve, forbid, control, or direct the alteration of property. An ordinance adopted pursuant to this section shall not prohibit the adoption or enforcement of any deed restriction, covenant, equitable servitude, similar binding agreement, or any rule or regulation adopted by a property owners association affecting a common area or that is designed to ensure that any such device is installed and maintained in such a manner that it does not pose a risk to the safety of any person. No ordinance adopted pursuant to this section shall apply to any condominium created under Chapter 47A or 47C of the General Statutes.

(b) An ordinance adopted under this section may provide for enforcement using any of the means authorized by G.S. 160A-175."

SECTION 2. This act becomes effective October 1, 2009, and applies to deed restrictions, covenants, or similar binding agreements that run with the land recorded on or after that date.

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SENATE BILL 475: Amend Carrboro Charter/Conserve Energy/Water

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 20, 2009
Introduced by:	Sen. Kinnaird	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S475-CSRR-11		

SUMMARY: This PCS for Senate Bill 475 would authorize the Town of Carrboro to void restrictive covenants on land that would block the use of energy-conservation or water-conservation devices.

[As introduced, this bill was identical to H720, as introduced by Rep. Insko, which is currently in House Local Government II, if favorable, Judiciary I.]

CURRENT LAW: In 2007 the General Assembly enacted GS 22B-20, which declared void any deed restriction, covenant, or similar binding agreement running with the land that would prohibit the installation of solar collectors. The statute became effective October 1, 2007, and applied only to deed restrictions, etc., recorded on or after that date.

BILL ANALYSIS: This PCS for SB 475 would authorize the Carrboro Board of Aldermen to pass an ordinance voiding any deed, restriction, covenant, equitable servitude, or similar binding agreement that runs with the land that would prohibit or have the effect of prohibiting the installation (by a person who otherwise has the property right to do so) either of the following:

1. Any device designed to generate or conserve energy through the use of renewable resources.
2. Any device designed to capture, store, or reuse water.

The bill lists examples of such devices: solar collector, clothesline, rain barrel, garden fence.

If the deed or covenant gives some person control over the alteration of the property, the Town could, in its ordinance, prohibit that person from preventing the property owner from installing such a device.

The Town could not prohibit such a restrictive covenant in a condominium. Nor could the Town prohibit a covenant designed to ensure that the installation of one of these devices does not pose a safety risk.

The Town could enforce its ordinance using any means provided to a municipality in GS 160A-175, which includes fines and misdemeanor criminal prosecution.

EFFECTIVE DATE: October 1, 2009, and applies only to deed restrictions, etc., recorded on or after that date.

The PCS makes the following changes to the original bill:

1. ***Changes the effective date so that only restrictions recorded after October 1, 2009, are affected.***
2. ***Removes a private right of action by an aggrieved party, who would potentially be entitled to attorney's fees.***
3. ***Makes several changes that were adopted or discussed when the bill came before this committee before: Adding a reference to Chapter 47A in the exemption for condominia, adding an exemption for a common area of a residential complex, and removing a reference to "health" in one of the exceptions.***

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 475

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

S475-ARR-9 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
First Edition
S475-CSRR-11 [v.3]

Date _____,2009

Senator _____

moves to amend the bill on page 1, lines 3-9,
by rewriting those lines to read:

"THE BOARD OF ALDERMEN TO ADOPT ORDINANCES FOR THE ORDERLY INSTALLATION OF ENERGY-SAVING AND WATER-SAVING DEVICES."; and

on page 1, lines 13-24
by rewriting those lines to read:

"*Section 10-2. Providing for the Orderly Installation of Energy-Generating or Energy or Water-Saving Devices.*"

(a) The board of aldermen may by ordinance provide for the orderly installation of solar collectors, clotheslines, rain barrels, garden fences, or any further technology designed specifically to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device. The ordinance may provide for review and approval or denial of homeowners association legal documents, including restrictive covenants, for compliance with the ordinance as a part of granting or denying approval of a subdivision. An".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 479*

Short Title:	Fremont Charter Rewrite.	(Local)
Sponsors:	Senator Rouzer.	
Referred to:	State and Local Government.	

March 10, 2009

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"CHARTER OF THE TOWN OF FREMONT.

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

"Sec. 1.1. **Incorporation.** The Town of Fremont in Wayne County, and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Fremont," hereinafter at times referred to as the "Town."

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

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

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Town Governing Body; Composition.** The Mayor and the Town Board of Aldermen, hereinafter at times referred to as the "Board" shall be the governing body of the Town.

"Sec. 2.2. **Town Board of Aldermen; Composition; Terms of Office.** The Board shall be composed of six members to be elected for terms of four years, or until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years.

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with G.S. 160A-70.

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

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

"Sec. 2.7. **Qualifications for Office; Compensation; Vacancies.** The qualifications of the Mayor and Board members shall be in accordance with general law. The Mayor and Board members shall receive compensation as they shall from time to time determine. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in the town every four years beginning in 2011 and quadrennially thereafter, and shall be conducted in accordance with the uniform municipal election laws of North Carolina.

"Sec. 3.2. **Mode of Election.** The town shall be divided into six single-member electoral districts and the qualified voters of each district shall elect one board member who resides in the district, for the seat apportioned to that district.

"Sec. 3.3. **Nonpartisan Elections.** Municipal elections shall be conducted according to the nonpartisan plurality election method as provided by G.S. 163-292.

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

"ARTICLE IV. TAXATION.

"Sec. 4.1. **General Authority to Levy and Collect Taxes.** To raise revenue for defraying expenses incident to the proper government of the Town, the Board may annually levy and collect: (i) a tax on real and personal property and on all other property subject to taxation; (ii) a tax on all businesses, trades, professions, avocations, privileges, and franchises, carried on or enjoyed within the Town; and (iii) any other taxes permitted by general law.

"Sec. 4.2. **Levy, Collection, and Payment of Property Taxes.**

(a) Except as otherwise herein provided, property taxes shall be imposed and collected in the manner provided by general law.

(b) Property taxes shall become due and payable on the date provided by general law. Interest shall be charged for late payment, and discounts may be allowed for prepayment of taxes, in the amounts and during the periods covered by general law.

"Sec. 4.3. **Additional Remedies for Collection of Privilege License Taxes.** In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the Town may employ the remedies of levy upon personal property, attachment and garnishment, in the manner of the subject to the limitations provided in general law.

"Sec. 4.4. **Administration.** The listing and appraisal of property and the levy and collection of property taxes in the Town shall in all respects be governed by the general laws of the State, except as they shall be specifically amended by this Charter.

"ARTICLE V. PUBLIC IMPROVEMENTS.

"Sec. 5.1. **Assessments for Street and Sidewalk Improvements, Petition Unnecessary.**

(a) In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town may make street improvements and assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Town may order street improvements and assess the total cost thereof against the abutting property owners, exclusive of the cost incurred at street intersections, according to one or more of the assessment bases set forth in G.S. 160A-216 et seq., without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 2,000 linear feet; and

(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements; or

(3) That it is in the public interest to connect two streets, or portions of a street already improved; or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

(c) For the purpose of this Article, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

(d) In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in G.S. 160A-216 et seq.; provided however, that regardless of the assessment basis or bases employed, the Town may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by G.S. 160A-216 et seq., except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of G.S. 160A-216 et seq.

"Sec. 5.2. **Power of Eminent Domain.** The procedures provided in G.S. 136-103 et seq., as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, storm drains, waterlines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and G.S. 136-103 et seq., for any of such purposes without being limited to streets constituting a part of the State highway system; provided, however, that the provisions of this section shall not apply with regard to properties owned by a private condemnor except as permitted by G.S. 40A-5(b).

"ARTICLE VI. NUISANCES.

"Sec. 6.1. **Abatement of Public Health Nuisances.** The Town shall have authority to summarily remove, abate, or remedy everything in the Town limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety pursuant to G.S. 160A-193.

"Sec. 6.2. **Chronic Nuisance Violators.** The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town of Fremont gave notice of violation at least

two times under any provision of the public nuisance ordinance. A property owner shall remain a chronic violator until one calendar year after the date of the property owner's last violation.

"Sec. 6.3. **Junked Motor Vehicle.** In applying G.S. 160A-303.2 to the Town, junked motor vehicle means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or removed in the manner in which it was originally intended to move; or

(3) Is more than five years old and appears to be worth less than $500.00."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Fremont and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 244, Private Laws of 1903
Chapter 236, Private Laws of 1913
Chapter 123, Private Laws of 1917
Chapter 203, Private Laws of 1927
Chapter 66, Session Laws of 1957
Chapter 567, Session Laws of 1963
Chapter 113, Session Laws of 1971
Chapter 314, Session Laws of 1981, as to Fremont.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Fremont and all existing rules or regulations of departments or agencies of the Town of Fremont not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Fremont or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act does not affect the terms of office of the current Mayor and Board of Aldermen of the Town of Fremont.

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

SENATE BILL 479:
Fremont Charter Rewrite

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	March 20, 2009
Introduced by:	Sen. Rouzer	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 479 would enact a complete rewrite of the Town Charter of Fremont.

[As introduced, this bill was identical to H403, as introduced by Rep. Sager, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: The Charter of the Town of Fremont was last enacted as a whole in 1913. Since that time a string of local acts have been passed to amend the Charter, but none has done a complete rewrite.

BILL ANALYSIS: The bill would rewrite the entire charter. It would provide for a Mayor and 6 Aldermen. The town would be divided into six aldermanic districts, and each Alderman would be elected by the voters of a district. The rewritten charter would not effect the terms of the current Mayor and Aldermen. The Mayor and Aldermen under the new Charter would be elected for the first time in 2011. They would all be elected to 4-year terms.

The Charter also gives the Town the authority to make street improvements it considers to be in the public interest and assess the cost to the abutting property owners. They Town may do that without the property owners having petitioned for the improvements.

EFFECTIVE DATE: When it becomes law. Since the Charter involves town elections, it may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice. Fremont is in Wayne County, which is one of the 40 NC counties covered by Section 5.

BACKGROUND: Fremont is a town in northern Wayne County, near Goldsboro. In the 2000 Census the town's population was 1,463.

S479-SMRR-24(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 650
PROPOSED COMMITTEE SUBSTITUTE S650-CSRR-23 [v.3]

4/20/2009 5:57:35 PM

Short Title: Regulation of Golf Carts by Local Governmts. (Public)

Sponsors:

Referred to:

March 19, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW ALL UNITS OF LOCAL GOVERNMENT TO REGULATE GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-245. Regulation of golf carts on streets, roads, and highways.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a county may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12a), on any public street, road, or highway where the speed limit is 35 miles per hour or less within the county that is located in any unincorporated areas of the county or on any property owned or leased by the county.

(b) By ordinance, a county may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts. No person less than 16 years of age may operate a golf cart on a public street or highway."

SECTION 2. G.S. 160A-300.5 is repealed.

SECTION 3. Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-300.6. Regulation of golf carts on streets, roads, and highways.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a city may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12a), on any public street, road, or highway where the speed limit is 35 miles per hour or less within its municipal limits or on any property owned or leased by the city.

(b) By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts. No person less than 16 years of age may operate a golf cart on a public street or highway."

SECTION 4. Section 6 of S.L. 2001-356 is repealed.

SECTION 5. Section 1 of S.L. 2003-124, as amended by S.L. 2004-58, S.L. 2007-204, and S.L. 2007-259, reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Towns of Beech Mountain, North Topsail Beach, and Seven Devils, and the City of Conover may, by ordinance, regulate the operation of ~~golf carts and~~ utility vehicles on any public street or road within the City or Town. By ordinance, the City or Town may require the registration of ~~golf~~

~~carts and~~ utility vehicles, specify the persons authorized to operate ~~golf carts and~~ utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the ~~golf carts and~~ utility vehicles."

SECTION 6. Section 1 of S.L. 2005-11, as amended by S.L. 2007-18, is repealed.

SECTION 7. Section 3 of S.L. 2005-11, as amended by S.L. 2006-149, S.L. 2006-152, and S.L. 2007-18, reads as rewritten:

"**SECTION 3.** ~~Section 1 of this act applies only to the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Four Oaks, Rose Hill and Tabor City. Section 2 of this~~This act applies only to Moore County."

SECTION 8. Section 9.4 of the Charter for the Town of Cary, as enacted by Section 1 of S.L. 2005-117, is repealed.

SECTION 9. S.L. 2006-27, S.L. 2006-149, S.L. 2006-152, S.L. 2007-18, S.L. 2007-72, S.L. 2007-336, and S.L. 2008-71 are repealed.

SECTION 10. Section 5.2 of the Charter for the Town of Whispering Pines, as enacted by Section 1 of S.L. 2008-105, is repealed.

SECTION 11. This act becomes effective October 1, 2009. A county may adopt an ordinance under G.S. 153A-245, and a city may adopt an ordinance under G.S. 160A-300.6 when this act becomes law, but the ordinances may not become effective prior to October 1, 2009. The repeal herein of any act does not affect the rights or liabilities of a local government that arose during the time the act was in effect, or under an ordinance adopted under such an act. If any county or city had adopted an ordinance under any act repealed by this act, and the ordinance would be permitted under G.S. 153A-245 or G.S. 160A-300.6 as enacted by this act, that ordinance shall remain in effect until amended or repealed by that county or city.

SENATE BILL 650:
Regulating Golf Carts by Local Governmts.

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 20, 2009
Introduced by:	Sen. Goss	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S650-CSRR-23		

SUMMARY: This PCS for Senate Bill 650 would authorize all municipal and county governments to regulate the operation of golf carts on any public street, road, or highway within the respective municipality or county. The PCS would provide, however, that golf carts could be permitted only on streets with speed limits of 35 mph or less, and that no one under 16 years old could drive one.

[As introduced, this bill was identical to H1157, as introduced by Rep. Martin, which is currently in House Local Government II, if favorable, Finance.]

Vehicles intended to be operated on the streets and highways of the State must be registered (G.S. 20-50). Golf carts may not be registered (G.S. 20-54) and, therefore, may not operate on the streets and highways. A "golf cart" is defined as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. (G.S. 20-4.01(12a)).

G.S.160A-300.5 authorizes several local jurisdictions (see **BACKGROUND** below) to regulate by ordinance the operation of golf carts on any public street or highway within the respective municipality or county, or on any property owned or leased by the municipality or county. This statute authorizes the listed jurisdictions to require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

In addition, under current local laws, several other local jurisdictions (see **BACKGROUND** below) are authorized to regulate the operation of golf carts.

BILL ANALYSIS: SB 650 is a statewide bill that would give all local governments the authority to regulate golf carts within their corporate limits. (The PCS makes technical changes.)

Section 1 of the bill authorizes all counties to regulate by ordinance the operation of golf carts on any public street, road, or highway within the county that is located in any unincorporated areas of the county, or on any property owned or leased by the county. Golf carts could be permitted only on streets with speed limits of 35 mph or less, and that no one under 16 years old could drive one.

Section 3 authorizes all cities to regulate by ordinance the operation of golf carts on any public street, road, or highway within their limits, or on any property owned or leased by the city. Golf carts could be permitted only on streets with speed limits of 35 mph or less, and that no one under 16 years old could drive one.

The city and county ordinances authorized by this bill may require the registration of golf carts, require a fee for their registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

Remaining sections of the bill repeal or rewrite local acts to conform to the changes made in this bill.

EFFECTIVE DATE: October 1, 2009. The bill contains a saving clause that would prevent local governments that already have a golf cart ordinance , authorized by a local act, from having to re-enact it, as long as the ordinance met the standards of the statute, including the 35 mph and 16-year-old limits.

BACKGROUND: G.S. 160A-300.5 authorizes the following jurisdictions to regulate the operation of golf carts: New Hanover County; Cities of Locust, Saluda, and Wilmington; Towns of Badin, Beulaville, Butner,

Carolina Beach, Emerald Isle, Erwin, Faison, Fremont, Hobgood, Indian Beach, Kings Mountain, Kure Beach, Mayodan, Morrisville, Mount Olive, Oakboro, Oriental, Pineville, Shelby, Wrightsville Beach; Village of Pinehurst.

In addition to the municipalities and the county listed in G.S. 160A-300.5, the following jurisdictions have authority granted by local act to regulate golf carts:

- Bald Head Island S.L. 2002-129
- Beech Mountain S.L. 2003-124
- Benson S.L. 2006-149
- Bladenboro S.L. 2005-11
- Cary S.L. 2005-117
- Caswell Beach S.L. 2006-149
- Chadbourn S.L. 2006-149, S.L. 2007-18
- Clarkton S.L. 2006-152, S.L. 2007-18
- Conover S.L. 2007-259
- Elizabethtown S.L. 2005-11, S.L. 2007-18
- Faison S.L. S.L. 2006-27
- Four Oaks S.L. 2007-18
- Lake Waccamaw S.L. 2001-356
- Lake Royale community in Franklin and Nash Counties S.L. 1999-11
- North Topsail Beach S.L. 2007-204
- Rose Hill S.L. 2005-11, S.L. 2007-18
- Seven Devils S.L. 2004-58
- Seven Lakes community in Moore County S.L. 2002-82
- Tabor City S.L. 2006-149, S.L. 2007-18
- Whispering Pines S.L. 2002-82

The following local bills to allow regulating golf carts have been introduced this session:

- Grover (HB 11)
- Holly Ridge (HB 31)
- Marvin (HB 73, SB 63)
- Camden County (HB 77)
- Swansboro (HB 113)
- Morganton (HB 117)
- River Bend (HB 121)
- Pikeville (HB 127, SB 480)
- Winterville (HB 152, SB 197)
- Bethel (HB 165, SB 145)
- Troutman (HB 234)
- Marshville (HB 244)
- Hendersonville (HB 276, SB 288)
- Denton (HB 474)
- Currituck County (HB 662)
- Deep Run (HB 973)
- Rutherford County (HB 1008)
- Stanfield (SB 28)
- Stallings (SB 103)
- Swansboro/Holly Ridge (SB 176)

Four bills have been introduced this session to give all municipalities and counties the authority to regulate golf carts. Two of them, this bill and HB 1157 (Rep. Grier Martin), contain the 35 mph and age 16 limitations. Two others, SB 563 (Sen. Don Davis) and HB 830 (Reps. Wil Neumann and Tim Moore) do not. One of the local bills, HB 121 (introduced for River Bend by Rep. Alice Underhill) was converted into a statewide bill without the 35/16 limits, passed the House, and is in this committee.

SENATE BILL 653

Short Title:	Excuse Governing Body from Voting.	(Public)
Sponsors:	Senator Rucho.	
Referred to:	State and Local Government.	

March 19, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW A MEMBER OF THE GOVERNING BODY OF A MUNICIPALITY TO BE EXCUSED FROM VOTING WHEN THE MEMBER HAS A CONFLICT OF INTEREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-75 reads as rewritten:

"**§ 160A-75. Voting.**

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official ~~conduct or~~conduct, on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1).~~160A-388(e1), or on matters which the member believes he or she has a conflict of interest even if a conflict of interest does not in fact exist. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

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

SENATE BILL 653:
Excuse Governing Body from Voting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 19, 2009
Introduced by:	Sen. Rucho	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: Senate Bill 653 would allow a member of a city to council to excuse himself or herself if the member believed that they had a conflict of interest, even though a conflict does not exist.

CURRENT LAW: G.S. 160A-75 requires a member of the city council to vote on all matters unless the member has a financial or other conflict of interest that prohibits the member from voting. A member's failure to vote when physically present in the council chamber or when the member has withdrawn without being excused, is recorded as an affirmative vote.

The statutes referenced regarding conflicts include G.S. 14-234, which prohibits a public officer from directly benefiting from a public contract, G.S. 160A-381(d), lwhich prohibits a city council member from voting on a zoning map or text amendment where the outcome is likely to have a direct, substantial and readily identifiable financial impact on the member, and G.S. 160A-388(e1), which prohibits a member of a board of adjustment, or other body exercising the function of the board, from voting on any quasi-judicial matter if it would violate a person's constitutional right to an impartial decision maker.

BILL ANALYSIS: Senate Bill 653 would allow a member of a city council to be excused from voting on a matter in which the member believes that he or she has a conflict of interest, even if the conflict does not actually exist.

EFFECTIVE DATE: The act is effective when it becomes law.

S653-SMRF-52(e1) v2

SENATE BILL 730

Short Title:	Local Gov't Official Recuse From Voting.	(Public)
Sponsors:	Senator Rucho.	
Referred to:	State and Local Government.	

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CERTAIN LOCAL GOVERNMENT OFFICIALS TO RECUSE THEMSELVES FROM VOTING IN CERTAIN INSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-53. Voting.**

(a) The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under this section, G.S. 14-234, 153A-340(g), or 153A-345(e1).

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board.

(c) For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 2. G.S. 153A-44 reads as rewritten:

"**§ 153A-44. Members excused from voting.**

(a) The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under this section, G.S. 14-234, 153A-340(g), or 153A-345(e1).

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board.

(c) For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 3. G.S. 160A-75 reads as rewritten:

"**§ 160A-75. Voting.**

(a) No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e1). In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and

allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council.

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board."

SECTION 4. This act becomes effective January 1, 2010.

SENATE BILL 730:
Local Gov't Official Recuse From Voting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 20, 2009
Introduced by:	Sen. Rucho	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***This act provides the circumstances upon which school board members, county commissioners, and city council members may be excused from voting on matters. This act becomes effective January 1, 2010.***

BILL ANALYSIS:

Section 1 of the act enacts a new statute which does the following:

- Authorizes a school board to excuse a board member from voting only:

  (1) Upon questions involving the member's own financial interest or official conduct, or

  (2) On matters on which the member is prohibited from voting under G.S.14-234 (public employees benefiting from public contracts), G.S. 153A-340(g)(zoning matters affecting member), or G.S. 153A-345(e1)(member of board of adjustment voting on quasi-judicial matter) and

- Prohibits a school board member from voting on a matter if that member has accepted political contributions under Chapter 163 of the General Statutes (Elections) which:

  (1) Total more than $50 in an election cycle from an individual with any matter before the board,

  (2) The matter would result in a direct financial benefit or loss to that individual.

  If the member returns the contribution, the member may vote on the matter before the board.

For the purposes of the section, the question of compensation and allowances of the board members does not involve a member's own financial interest or official conduct.

Sections 2 and 3 of the act provide the following excusal provisions on members on county commissioners and members of city councils, respectively:

- No member may vote if

  (1) The member has accepted political contributions under G.S. Chapter 163 totaling more than $50 in an election cycle from an individual with any matter before the board, and

  (2) The matter would result in a direct financial benefit or loss to that individual.

If the member returns the contribution, the member may vote on the matter before the board.

EFFECTIVE DATE: This act becomes effective January 1, 2010.

SENATE BILL 800

Short Title:	Allow Unpaid Investigatory Suspensions/DHHS.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State and Local Government.	

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN PERMANENT EMPLOYEES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE PLACED ON INVESTIGATORY SUSPENSION WITHOUT PAY AND WITHOUT WARNING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-181 is amended by adding a new subsection to read:

"(d) Notwithstanding G.S. 115C-325, the Department may place any permanent employee of any facility or school operated by the Secretary pursuant to subsection (a) of this section on investigatory suspension without pay and without warning if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge, in order to protect the safety of persons or property or other serious reasons. The Department shall provide the employee with written reasons for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the suspension. Within 15 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 126-35 or G.S. 115C-325, as applicable. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of the investigatory suspension without pay, and all records of the suspension shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 2. G.S. 143B-146.21 is amended by adding a new subsection to read:

"(f) Notwithstanding G.S. 115C-325, the Department may place any permanent employee of any facility or school operated by the Secretary pursuant to G.S. 143B-164.10 and G.S. 143B-216.40 on investigatory suspension without pay and without warning if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge, in order to protect the safety of persons or property or other serious reasons. The Department shall provide the employee with written reasons for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the suspension. Within 15 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 126-35 or G.S. 115C-325, as applicable. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of the

investigatory suspension without pay, and all records of the suspension shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 3. This act is effective October 1, 2009, and applies to charges of abuse, neglect, or exploitation made on or after that date against permanent employees of facilities or schools operated by the Secretary of Health and Human Services.

SENATE BILL 800:
Allow Unpaid Investigatory Suspensions/DHHS

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 20, 2009
Introduced by:	Sen. Rand	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 800 allows the Department of Health and Human Services to put permanent employees at any facility or school operated by the Department on investigatory suspension without pay if the employee is accused of abuse, neglect, or exploitation of a patient, client, student or other person in the Department's charge.

CURRENT LAW: G.S. 126-35 provides for the suspension of a State employee without warning for causes relating to personal conduct detrimental to State Service in order to avoid disruption at work or to protect the safety of persons or property, or for other serious reasons. G.S. 126-35. Employees may be placed on "Investigation Status" with pay for up to 30 days (with a potential 30 day extension). 25 N.C.A.C. 01J .0615.

Under the laws providing for the employment of public school teachers, if a superintendent believes that cause exists for dismissing a career employee and that immediate suspension is necessary, the employee may be suspended without pay. G.S. 115C-325. The law also provides that before suspending the teacher, the superintendent must meet with the employee and give the employee written notice of the charges, an explanation of the basis for the charges and an opportunity to respond. Within 5 days of the suspension, the superintendent must begin a dismissal, demotion, or disciplinary suspension without pay. If no grounds are found for the negative action, the employee is to be immediately reinstated, paid for the period of the suspension, and records of the suspension removed.

BILL ANALYSIS: Senate Bill 800 amends G.S. 122C-181, setting forth the jurisdiction of the Secretary of Health and Human Services over State Facilities, including psychiatric hospitals, developmental centers, alcohol and drug treatment centers and residential programs for children, and G.S. 143B-146.21, dealing with the adoption of policies by the Secretary for the Governor Morehead School and the schools for the deaf. The bill would allow the Department of Health and Human Services (DHHS) to place a permanent employee at a school or facility operated by DHHS on investigatory suspension without pay and without warning if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person in the Department's care. A written explanation of the reason for the suspension must be given to the employee not later than the 2nd day of the suspension. Within 15 days DHHS must initiate procedures for dismissal, demotion or a disciplinary suspension without pay. If it is finally determined that there are no grounds for adverse action, the employee shall be immediately reinstated, paid for the period of suspension without pay, and records of the suspension removed from the employee's personnel file.

Placement of an employee on investigatory suspension will not affect the employee's health insurance, retirement, State service credits, longevity credits, or other earned benefits during the suspension.

EFFECTIVE DATE: The act becomes effective October 1, 2009, and applies to charges of abuse, neglect, or exploitation made on or after that date.

SENATE BILL 827

Short Title:	Ferry Division Changed to Marine Division.	(Public)
Sponsors:	Senator Jenkins.	
Referred to:	State and Local Government.	

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE FERRY DIVISION OF THE DEPARTMENT OF TRANSPORTATION TO THE MARINE DIVISION AND TO DEFINE THE MARINE DIVISION'S RESPONSIBILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Ferry Division of the Department of Transportation shall be renamed the Marine Division. In addition to any other responsibilities of the Division, it may participate in maintaining all navigable waterways and excesses in this State.

SECTION 2. G.S. 136-16.10 reads as rewritten:

"**§ 136-16.10. Allocations by Department Controller to eliminate overdrafts.**

The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation for State Construction, State Funds to Match Federal Highway Aid, State Maintenance, and ~~Ferry~~ Marine Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations shall not be diverted to other purposes."

SECTION 3. G.S. 136-28.1(c) reads as rewritten:

"(c) The construction, maintenance, and repair of Marine Division ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes, the State Budget Act. In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived."

SECTION 4. G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

The Director of the Budget shall include in the "Current Operations Appropriations Bill" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, and State parks road systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system.

All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations

of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, and ~~ferry~~ Marine Division operations shall be enumerated in the budget.

The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. No federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first reported to the Joint Legislative Commission on Governmental Operations. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

The "Current Operations Appropriations Bill" shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this paragraph. The Director of the Budget may allocate part or all of the excess among reserves for access and public roads, for unforeseen events requiring prompt action, or for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.

The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 5.(a) The title of Article 6 of Chapter 136 of the General Statutes reads as rewritten:

"Article 6.

Marine Division, Ferries, etc., and Toll Bridges."

SECTION 5.(b) G.S. 136-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ~~ferries.~~the Marine Division.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of a Marine Division to oversee ferries connecting the parts of the State highway system, whenever in its discretion the public good may so require, and to prescribe and collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered. In addition to the operation of vessels, boats, terminals, or other facilities, the Marine Division may participate in maintaining all navigable waterways and excesses within this state.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 6. G.S. 136-89 reads as rewritten:

"**§ 136-89. Safety measures; guard chains or gates.**

Each and every person, firm or corporation, owning or operating a public ferry upon any sound, bay, river, creek or other stream, shall have securely affixed and attached thereto, at each end of the same, a detachable steel or iron chain, or in lieu thereof a steel or iron gate, and so affixed and arranged that the same shall be closed or fastened across the opposite end from the approach, whenever any motor vehicle, buggy, cart, wagon, or other conveyance shall be driven upon or shall enter upon the same; and shall be securely fastened or closed at each end of the ferry after such motor vehicle, buggy, cart, wagon, or other conveyance shall have been driven or shall have entered upon the same. And the said gates or chains shall remain closed or fastened, at each end, until the voyage across the stream upon which said ferry is operated shall have been completed. The Marine Division of the Department of Transportation, as to ferries under its supervision, and the respective boards of county commissioners, as to other ferries, shall fix and determine a standard weight or size of chain, and a standard size, type, or character of gate, for use by said ferries, leaving optional with the said owner or operator the use of chains or gates.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor."

SECTION 7. G.S. 143B-350(f2) reads as rewritten:

"(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft from the Equipment Fund or a Marine Division ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations."

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

SENATE BILL 827:
Ferry Division Changed to Marine Division

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 20, 2009
Introduced by:	Sen. Jenkins	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***This act renames the Ferry Division of the Department of Transportation as the Marine Division, and defines the Division's responsibilities. This act is effective when it becomes law.***

BILL ANALYSIS: This act renames the Ferry Division as the Marine Division, and makes conforming changes to the statutes. The act also sets for the Division's responsibilities, to include:

- Overseeing ferries connecting parts of the state highway system, and to collect tolls.
- Operating vessels, boats, terminals, or other facilities.
- Participating in maintaining all navigable waterways and excesses within this State.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 352*
PROPOSED COMMITTEE SUBSTITUTE S352-CSSH-22 [v.4]

4/13/2009 4:54:09 PM

Short Title: VSL Non-Family Sick Leave Donations. (Public)

Sponsors:

Referred to:

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NON-FAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a non-family member employee of a State agency. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State

agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a non-family member employee of a public school. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. G.S. 115D-25.3 reads as rewritten:

"**§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges shall adopt rules and policies for the voluntary shared leave program to allow an employee at a community college to donate sick leave to a non-family member employee of a community college. A donor of sick leave to a non-family member recipient shall not donate more than five days of sick leave per year to any one non-family member recipient. The combined total of sick leave donated to a recipient from non-family member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 4. This act becomes effective January 1, 2010.

SENATE BILL 352:
SPA Sick Leave Transfers

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 13, 2009
Introduced by:	Sen. Kinnaird	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S352-CSSH-22		

SUMMARY: ***This PCS for Senate Bill 352 would allow certain State employees, public school employees, and community college employees to transfer up to 5 days of their sick leave per year to a fellow employee to whom they are not related. No employee could receive more than 30 days of donated sick leave per year from non-families members. The donee could not use the donated sick leave toward retirement credit.***

[As introduced, this bill was identical to H213, as introduced by Reps. Insko, Lucas, Hurley, which is currently in House State Government/State Personnel, if favorable, Education.]

CURRENT LAW: The General Assembly has given the State Personnel Commission the duty to establish policies and rules governing "[h]ours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment." *GS 126-4.*

The statutes concerning sick leave of public school employees are more specific. They say all public school employees must be given at least 5 days sick leave per school term, and that the State Board of Education shall adopt rules for voluntary sick leave banks by local boards, from which employees could withdraw leave in case of emergency or catastrophic illness. *GS 115C-336.*

There are also statutes, GS 126-8.3, 115C-12.2, and 115D-25.3, that require the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to set up a program of Voluntary Shared Leave among family members across agency lines.

The State Personnel Commission, pursuant to its authority, has provided that State employees may give vacation or bonus leave to another employee who is not a relative, but may give sick leave only to a relative.

BILL ANALYSIS: This PCS for SB 352 would direct the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to add to their Voluntary Shared Leave programs rules and policies to allow an employee to transfer up to 5 days of sick leave per year to another non-family employee, regardless of family relation. No one employee could receive more than 30 days per year of sick leave from non-family members. In no case could the transferred leave be used for retirement credit purposes, and employees who donate sick leave must be notified in writing of the consequences of sharing the sick leave.

The PCS puts the sick leave provision in the Voluntary Shared Leave statutes, but does not provide for the cross-agency sharing that those statutes otherwise provide. The sick leave may be shared with non-family members as follows:

- A State employee subject to the State Personnel Act may share sick leave with a non-family member in a State agency.
- A public school employee may share sick leave with a non-family member employed in a public school.
- A community college employee may share sick leave with a non-family member employed in a community college.

EFFECTIVE DATE: Effective January 1, 2010.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, April 21, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	**479**	Fremont Charter Rewrite.	
		Sequential Referral:	Finance
		Recommended Referral:	None
S.B.	**653**	Excuse Governing Body from Voting.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	**827**	Ferry Division Changed to Marine Division.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**557**	Future Volunteer Firefighters Act.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	**613**	Federal Reservation Statute.	
		Sequential Referral:	None
		Recommended Referral:	None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B.	**352**	SPA Sick Leave Transfers.	
		Draft Number:	PCS85199
		Sequential Referral:	Appropriations/Base Budget
		Recommended Referral:	None
		Long Title Amended:	No
S.B.	**475**	Amend Carrboro Charter/Conserve Energy/Water.	
		Draft Number:	PCS35291
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

S.B. **650** Allow Municipalities to Regulate Golf Carts.

Draft Number:	PCS85198
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE

S.B. **730** Local Gov't Official Recuse From Voting.

Sequential Referral:	None
Recommended Referral:	None

TOTAL REPORTED: 9

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Don East, Co-Chair
Senator Malcolm Graham, Co-Chair

CORRECTED REPORT

Wednesday, April 22, 2009.

Senator EAST,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **800** Allow Unpaid Investigatory Suspensions/DHHS.

Draft Number:	PCS15246
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anita Earls	SCSJ, Durham, NC
Kenneth Jernigan	Gates Co Commission
Phil Faison	CAMDEN Co. Commissioner
Tom West	Poyner Spruill LLP
Khanor Walker	French / West / Vaughan
TIM BRADLEY	NC DOT
Johanna Reese	DOT
Henry Jones	Attorney - Raleigh
Linda Dunston	NCAE
John McMillan	MF+S
Michelle Frazier	MF+S

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Pamela Schore	NCASA
Kerry McDuffie	Town of Fremont
Devone Jones	Town of Fremont
Chuck Stone	SEANC
Mia D. Bailey	ElectriCities of NC, Inc.
David Starling	NC DST
Erin Schuellpfly	UNC-GA
Jennifer Willis	NCCCS
Jessi Hayes	NC HBA
Lisa Martin	NCHBA
GERRY COHEN	Bill Drafting

VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

April 21, 2009
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Doyle	NCPAPA
Anita Watkins	UNC GA
Evelyn Newsome	PENC
Sarah Clapp	WRC
Antwan Austin	NEACE
Kelli Kulma	NCLM
E. Rick Copeland	Self

Senate State and Local Government Committee
Tuesday, April 28, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 521	Lincoln County/911 Fund Uses.	Senator Forrester
SB 528	Kings Mt. Overgrown Vegetation Ordinance.	Senator Clary
SB 968	Mountain Resources Planning.	Senator Queen

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, April 28, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on April 28, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Don East presided.

Senator East called the meeting to order and introduced the pages.

Senate Bill 521, Lincoln County/911 Fund Uses was the first bill on the agenda. Senator Forrester explained the Proposed Committee Substitute which was adopted by the Committee. Richard Taylor, Executive Director of D911 Funds, also spoke to the Committee. An Amendment was added and Senator Apodaca moved to give the PCS a Favorable Report as amended. The amendment would be rolled into the Proposed Committee Substitute. The next bill to be heard was Senate Bill 528, Kings Mt. Overgrown Vegetation Ordinance which had a Proposed Committee Substitute. Senator Jones moved to adopt the PCS and Senator Clary explained the Bill. Senator Weinstein moved for a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute. The Proposed Committee Substitute for Senate Bill 968, Mountain Resources Planning was adopted on the motion of Senator Jones. Senator Queen explained the bill and the committee gave the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS.

The meeting adjourned at 12:20 pm.

Don East
Senator Don East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 521*

Short Title:	Lincoln County/911 Fund Uses.	(Local)
Sponsors:	Senator Forrester.	
Referred to:	State and Local Government.	

March 11, 2009

A BILL TO BE ENTITLED

AN ACT EXPANDING PERMITTED USES OF 911 FUNDS IN LINCOLN COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-46 reads as rewritten:

"**§ 62A-46. Fund distribution to PSAPs.**

...

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 ~~system.~~system, and the lease or purchase of an additional communications tower, a multisite simulcast system, microwave connectivity between the sites, site monitoring and alarm system, base stations, and grounding and lightning protection.

...."

SECTION 2. This act applies to Lincoln County only.

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

SENATE BILL 521:
Lincoln County/911 Fund Uses

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 27, 2009
Introduced by:	Sen. Forrester	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 521 expands the permitted uses of the 911 Funds by Public Safety Answering Points for Lincoln County.***

[As introduced, this bill was identical to H546, as introduced by Rep. Rhyne, which is currently in House Public Utilities, if favorable, Finance.]

CURRENT LAW: G.S. 62A-46 provides for the uses that Public Safety Answering Points (PSAPs) may make of the funds allocated to them from the fees collected by the State 911 Board. These are the fees paid by telephone subscribers to help fund the cost of the local call centers (the PSAPs) that receive the 911 calls, identify the location and type of emergency, and pass the call on to the appropriate responder. PSAPs are limited to three basic types of expenses from 911 Board funds:

1. Telephone and computer equipment that receives and identifies the location from which the call originates, as well as databases and addressing to assist this function.
2. Training related to the operation and maintenance of the 911 system, as well as call intake and related call taking quality assurance and improvement.
3. Charges related to the PSAP's service supplier recurring charges, including installation and servicing of equipment such as telephone and computer equipment.
4. **BILL ANALYSIS:** Senate Bill 521 would expand the permitted uses of 911 fees by PSAPs in Lincoln County to include an additional communications tower, multisite simulcast system, microwave connectivity, a site monitoring, and alarm system and grounding and lightning protection.

EFFECTIVE DATE: The act is effective when it becomes law.

BACKGROUND:

§ 62A-46. Fund distribution to PSAPs.

....

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.

(2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, and training associated with call taking, and emergency medical, fire, or law enforcement procedures. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state.

Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.

(3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

Heather Fennel, counsel to House Public Utilities, substantially contributed to this summary.

S521-SMRF-63(e1) v2

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 521 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
Sen.) Davis

moves to amend the bill on page 1, line 20

( ) WHICH CHANGES THE TITLE

by rewriting that line to read

"SECTION 2. This act applies to Lincoln County and ~~Greene~~ Wayne County only."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 528*
Corrected Copy 3/17/09
PROPOSED COMMITTEE SUBSTITUTE S528-CSMA-7 [v.1]

3/25/2009 2:31:23 PM

Short Title: Forest City/Lake Lure ABC Distributions. (Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF FOREST CITY AND LAKE LURE TO ALLOCATE GENERAL FUND PROCEEDS DISTRIBUTED TO THE TOWN FROM A LOCAL ABC BOARD TO SCHOOLS WITHIN THE MUNICIPALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 18B-805, or any other law to the contrary, the Towns of Forest City and Lake Lure may allocate any General Fund proceeds distributed to the town from a local ABC Board to schools within their respective municipalities.

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

SENATE BILL 528:
Forest City/Lake Lure ABC Distributions

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	April 27, 2009
Introduced by:	Sen. Clary	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to Second Edition S528-CSMA-7		

SUMMARY: ***This Proposed Committee Substitute for Senate Bill 528 would authorize the Towns of Forest City and Lake Lure to allocate Alcoholic Beverage Control revenues to schools within the towns.***

[As introduced, this bill was identical to H575, as introduced by Rep. Moore, which is currently in House Local Government I, if favorable, Finance. The original bill would have allowed Kings Mountain to give annual notice for violations of an overgrown weed ordinance, which is made moot by enactment of S452, giving that authority to all local governments. This PCS is identical to H868, introduced by Rep. England, which is now in the House ABC Committee.]

CURRENT LAW: The Alcoholic Beverage Control statutes give municipalities considerable leeway to distribute ABC proceeds.

But there have been court decisions saying that a municipality or county requires specific statutory authority to distribute money to individual schools within a school system. *Hughey v. Cloninger*, 297 N.C. 86 (1979). *Watauga County Board of Education v. Town of Boone*, 106 N.C. App. 270 (1992).

BILL ANALYSIS: The PCS would grant to the towns of Forest City and Lake Lure the authority to allocate any General Fund proceeds distributed to the town from a local ABC Board to schools within their respective municipalities.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Forest City and Lake Lure are both municipalities in Rutherford County. Each has a separate ABC system. The public schools within those municipalities are all part of the Rutherford County School System, governed by the Rutherford County Board of Education.

S528-SMRR-79(CSMA-7) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 968
PROPOSED COMMITTEE SUBSTITUTE S968-CSRF-35 [v.2]

4/27/2009 6:41:14 PM

Short Title: Mountain Resources Planning. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 153B.**

"**Mountain Resources Planning Act.**

"**§ 153B-1. Short title; findings; purpose.**

(a) Short Title. – This Chapter shall be known and may be cited as the "Mountain Resources Planning Act."

(b) Findings. – The General Assembly finds that:

(1) The beauty and abundant natural resources of the mountain region of western North Carolina are prized by all North Carolinians. Millions of tourists travel to the mountain region of western North Carolina to see and experience the natural beauty of the mountains, including the vistas near national parks, national forests, State parks, and State forests. This tourism is vitally important to the economy of western North Carolina.

(2) The United States Congress has recognized the natural abundance and cultural heritage of the mountain region of western North Carolina by creating the Blue Ridge National Heritage Area, which, in turn, has established a precedent for successful collaborative planning in the stewardship of important mountain resources.

(3) The same beauty and natural abundance that is valued by North Carolina residents, tourists, and the United States Congress is being adversely affected by land-use practices that are negatively impacting the public's enjoyment of the important mountain resources of the mountain region of western North Carolina, including publicly owned lands. The mountain region of western North Carolina is subject to challenges and pressures specific to the topography and environment of the mountains. The mountain region of western North Carolina has experienced accelerating trends that are adversely affecting important mountain resources, and local governments face challenges as they adapt to new and difficult changes to the landscape.

(c) Purpose. – It is the purpose of this Chapter to encourage quality growth and development while preserving the natural resources, open spaces, and farmland of the mountain region of western North Carolina.

"**§ 153B-2. Definitions.**

The following definitions apply in this Article:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Technical Advisory Council.

(3) Fund. – The Mountain Area Resources Fund created by this Chapter.

(4) Important mountain resources. – The natural and cultural resources of the mountain region of western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(5) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(6) Secretary. – The Secretary of the Department of Environmental and Natural Resources.

"**§ 153B-3. Mountain Resources Fund; State support of local and regional programs.**

(a) Fund Established. – There is established the Mountain Resources Fund in the Office of the State Treasurer to be used to develop local and regional plans and programs for the protection of the important mountain resources of the mountain region of western North Carolina. It is the intent of the General Assembly that the Fund shall be used to develop local and regional plans and programs and be used to supplement, not supplant, existing funding to develop local and regional plans and programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year.

"**§ 153B-4. Mountain Resources Commission.**

(a) Creation. – The Mountain Resources Commission is hereby established. The Commission is a permanent body corporate of the State composed of members from the mountain region of western North Carolina. The Commission shall be located administratively in the Department of Environment and Natural Resources but shall exercise its statutory powers and duties independently of the Department of Environment and Natural Resources. The Commission shall meet in western North Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) Purpose. – The purposes and functions of the Mountain Resources Commission are to do all of the following:

(1) Identify and evaluate issues affecting important mountain resources and recommend policies and programs to address those issues.

(2) Coordinate with existing local and regional efforts to address threats to important mountain resources and work undertaken by Councils of Government and the jurisdictions they serve in the mountain region of western North Carolina.

(3) Provide a forum for discussion of issues affecting important mountain resources.

(4) Promote communication, coordination, and education among stakeholders within the mountain region of western North Carolina.

(5) Allocate funds from the Mountain Resources Fund to support the development of local and regional plans and programs for the protection of important mountain resources.

(6) Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important mountain resources and (ii) efforts to encourage quality growth to protect such important mountain resources.

(7) Determine whether new strategies or tools would be helpful to address pressures on important mountain resources and whether and how such strategies or tools should be implemented to protect such resources.

(8) Provide guidance and make recommendations to local, State, and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of important mountain resources.

(c) Authority. – To achieve its purposes, the Commission shall have all of the following powers and duties:

(1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this item shall be effective upon an affirmative vote by a majority of the Commission members.

(2) To establish standing and ad hoc committees. The Commission shall determine the purpose of each standing or ad hoc committee.

(3) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The Commission may accept or expend funds only after an affirmative vote by a majority of the members of the Commission.

(4) To exercise the powers of a body corporate, including the power to sue and be sued, and adopt and use a common seal and alter the same.

(5) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.

(6) To designate a fiscal agent.

(7) To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.

(d) Membership. – The Commission shall consist of 17 members as follows:

(1) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Speaker of the House of Representatives.

(2) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the President Pro Tempore of the Senate.

(3) Six representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Governor including:

a. Four who shall at the time of appointment be actively connected with or have experience in local government within the mountain region of Western North Carolina.

b. One who shall at the time of appointment be actively associated with a land trust organization working in Western North Carolina.

c. One who shall at the time of appointment have experience in tourism or tourism development in the mountain region of western North Carolina.

(4) One member to represent the North Carolina National Parks, Parkway, and Forest Development Council.

(5) Five members to represent each of the following regional councils of government as appointed by those councils: the Southwestern North Carolina Planning and Economic Development Commission, the Isothermal Planning and Development Commission, the High Country Council of Governments, the Western Piedmont Council of Governments, and the Land of Sky Regional Council.

(6) One representative appointed by the board of the Blue Ridge National Heritage Area.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority.

(e) Salary; expenses. – Members of the Commission shall receive no salary for their service on the Commission, but shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate: All expenses shall be paid from funds appropriated or otherwise available to the Commission through the Mountain Resources Fund.

(f) Staff Support. – The North Carolina Department of Environment and Natural Resources shall provide staff support and facilities to the Commission within the existing programs of the agency. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission, within available resources.

(g) State Agency Cooperation. – All agencies of the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources or the Secretary's designee shall serve as the liaison between the Secretary's agency and the Commission. The Commission may obtain information and data upon request from all officers, agents, agencies, and departments of the State of North Carolina or of local governments while in discharge of its duties.

(h) The Commission shall work in partnership with the Blue Ridge National Heritage Area to protect the important mountain resources across the mountain region of western North Carolina.

(i) The role of the Commission is advisory in nature and in no way shall the Commission be construed to have regulatory authority.

"**§ 153B-5. Mountain Resources Technical Advisory Council.**

(a) Creation. – There is hereby created a council to be known as the Mountain Resources Technical Advisory Council.

(b) The Council shall consist of not more than 13 members appointed by the Mountain Resources Commission to include environmental, engineering, planning, and State and local government professionals with expertise and experience to contribute to the work of the Commission.

(c) Functions and Duties. – The Council shall assist the Commission in an advisory capacity. The Council shall meet on such schedule and provide such assistance as may be requested of it by the Commission.

(d) Members. – Multiple Offices. – Membership on the Mountain Resources Technical Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation. – The members of the Advisory Council who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

SECTION 2. This act becomes effective July 1, 2009.

SENATE BILL 968:
Mountain Resources Planning

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	April 27, 2009
Introduced by:	Sen. Queen	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	S968-CSRF-35 [v.2]		

SUMMARY: ***Senate Bill 968 establishes the Mountain Resources Commission for the purpose of encouraging quality growth and development while preserving the natural resources of the mountain region of North Carolina. It also creates the Mountain Resources Fund for the purpose of developing local and regional plans for the protection of the important mountain resources of Western North Carolina. The bill does not contain an appropriation for the work of the Commission.***

The proposed committee substitute makes technical corrections to the provisions of the bill providing for per diem, subsistence and travel allowances to members of the Commission.

BILL ANALYSIS: Senate Bill 968 creates a 17 member Mountain Resources Commission as a permanent body corporate of the State located administratively in the Department of Environment and Natural Resources. The Commission will exercise its powers and duties independently of the Department. Membership includes:

- Two members from the public at large who are residents of the mountain region appointed by the Speaker.
- Two members from the public at large who are residents of the mountain region appointed by the President Pro Tem.
- Six members from the public, residents of the mountain region, appointed by the Governor;
  - Four who are actively connected or have experience in local government in the mountain region.
  - One who is actively associated with a land trust organization working in the mountain region.
  - One who has experience in tourism/tourism development in the mountain region.
- One member to represent the NC National parks, Parkway, and Forest Development Council.
- Five members representing the various regional councils of governments.
- One member appointed by the board of the Blue Ridge national Heritage Area.

The Commission shall identify and evaluate issues affecting important mountain resources, coordinate with local and regional efforts to address threats those resources, provide a forum for discussing issues affecting important mountain resources; promote communication, coordination and education among stakeholders, allocate money from the Mountain Resources Fund, collect research and information from NC and other states regarding State and regional approaches coordinating provision of infrastructure for the protection of resources, and efforts to encourage quality growth, investigate new strategies to address pressure on important mountain resources, and provide guidance to local, State, and federal legislative and administrative bodies and others, regarding the use, stewardship, and enhancement of mountain resources.

To achieve its purposes the Commission shall develop rules for the conduct of its business, may seek, apply and expend gifts, grants, and donations, exercise the powers of a body corporate, enter into contracts, designate a fiscal agent, and perform any lawful acts necessary or appropriate to achieve its purposes.

Members of the Commission shall receive no salary but shall receive per diem, subsistence, and travel allowances as provide by statute. DENR shall provide staff support and facilities. Additional staff may be hired through funds raised by or provided to it. All agencies of the State are to cooperate with the Commission and on request, assist the Commission in fulfilling its responsibilities. The Secretary of DENR or his designee shall serve as liaison between DENR and the Commission.

Senate Bill 968 also establishes the Mountain Resources Fund in the Office of State Treasurer. The fund is to be used to develop local and regional plans and programs for the protection of the important mountain resources of the mountain region of Western NC. The bill provides that it is the intent of the General Assembly to supplement, and not supplant, existing funding to develop local and regional plans. The State Treasurer shall hold the monies in the Fund separate from other money and accounts and shall invest the money in accordance with G.S. 147-69.2 and 69.3. Investment earnings on the fund become part of the Fund. Balances remaining at the end of the fiscal year shall be carried forward.

Senate Bill 968 further creates the Mountain Resources Technical Advisory Council which shall consist of up to 13 members appointed by the Mountain Resources Commission. The members shall include environmental, engineering, planning and State and local government professionals who have expertise and experience to contribute to the work of the Commission. The Advisory Council shall assist the Commission in an advisory capacity. Membership on the Advisory Council is an office that may be held concurrently with other elective or appointive offices (except the office of Commission member). .Members of the Council who are not State employees shall receive per diem, subsistence and travel expenses in accordance with G.S. 138-5.

EFFECTIVE DATE: The act is effective when it becomes law.

S968-SMRF-64(e1) v3

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Thursday, April 30, 2009

Senator EAST,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **521** Lincoln County/911 Fund Uses.

Draft Number:	PCS85202
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **528** Kings Mt. Overgrown Vegetation Ordinance.

Draft Number:	PCS55348
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **968** Mountain Resources Planning.

Draft Number:	PCS75239
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 3

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — April 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DJ Gerken	29 N. Market St, Suite 604 Asheville NC 28801 Southern Environmental Law Center
Brittany Farrell	NCFPC
RON ADAMS	NC 911 BOARD
RICHARD TAYLOR	NC 911 BOARD
Dwight Allen	Allen Law Offices, PLLC
Britton Allen	"
David McDonald	NC Rating
Jessica Hayes	NC HBA
Elizabeth Biser	DENR
Mia Bailey	Electric Cities of NC Inc.
BILL BROOKS	NCFPC

Senate State and Local Government Committee
Tuesday, May 5, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 252	Strengthen Local Emergency Management.	Senator Snow
SB 253	Statutorily Establish Division of Emerg. Mgmt.	Senator Snow
SB 254	Allows Mutual Aid Between State & Local Gov.	Senator Snow
SB 255	Authorize Emergency Mgmt. Certification Prog.	Senator Snow
SB 257	Expand Division of Emergency Mgmt. Authority.	Senator Snow
SB 1083	Little Tennessee River Basin Advisory Comm.	Senator Snow
SB 1086	Correctional/Probation Training Commission.	Senator Snow

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, May 5, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on May 5, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

Senate Bill 252, Strengthen Local Emergency Management was the first item on the agenda. Senator Albertson moved to adopt a Proposed Committee Substitute. Senator Snow explained the bill. Doug Hoyle was available to answer questions. Senator Davis made a motion to give the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. The Bill carried. The next bill to be heard was Senate Bill 253, Statutorily Establish Division of Emerg. Mgmt. Senator Stevens moved to adopt a Proposed Committee Substitute and Senator Snow explained the bill. Senator Dorsett moved for a favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. Senate Bill 254, Allows Mutual Aid Between State & Local Gov. was explained to the Committee by Senator Snow and Senator Stevens moved to give the bill a Favorable Report. The bill carries. Senate Bill 255, Authorize Emergency Mgmt. Certification Prog. was the next bill before the Committee. Senator Apodaca moved to accept the Proposed Committee Substitute and Senator Snow explained the bill. Senator Dorsett moved for a Favorable Report, Unfavorable to the original Bill but Favorable to the PCS with an amendment rolled into the Proposed Committee Substitute. Senator McKissick moved to accept the PCS for Senate Bill 257, Expand Division of Emergency Mgmt. Comm. and Senator Snow explained the bill. Senator Apodaca moved to give the PCS a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute. Senate Bill 1083, Little Tennessee River Basin Advisory Comm. was the next bill to be heard. Senator Davis moved to accept a PCS for the bill and Senator Snow Explained the bill and Senator McKissick moved to give the PCS a Favorable Report, Unfavorable to the Original but Favorable to the PCS.

The meeting adjourned at 12:30 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 252*
PROPOSED COMMITTEE SUBSTITUTE S252-PCS55352-RK-34

Short Title: Strengthen Local Emergency Management. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN LOCAL EMERGENCY MANAGEMENT CAPABILITIES, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
4. The allocation of the National Pharmaceutical Stockpile.
5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
6. Immunization procedures.
7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.

c. Promulgation of standards and requirements for local plans and ~~programs,~~programs consistent with federal and State laws and

regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this sub-subdivison shall be reviewed by the Division of Emergency Management at least biannually and updated as necessary.

d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.

f. Coordination of the use of any private facilities, services, and property.

g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network."

SECTION 2. G.S. 166A-7 reads as rewritten:

"**§ 166A-7. County and municipal emergency management.**

(a) The governing body of each county is responsible for emergency management, as defined in G.S. 166A-4, within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(1) The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-2.

(2) The governing body of each county which establishes an emergency management agency pursuant to this authorization will appoint a coordinator who will have a direct responsibility for the organization, administration and operation of the county program and will be subject to the direction and guidance of such governing body.

(3) In the event any county fails to establish an emergency management agency, and the Governor, in his discretion, determines that a need exists for such an emergency management agency, then the Governor is hereby empowered to establish an emergency management agency within said county.

(b) All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county. ~~Joint agencies composed of a county and one or more municipalities within its borders may be formed.~~

(b1) Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(c) Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, whose use is not otherwise restricted by law.

(d) In carrying out the provisions of this Article each political subdivision is authorized:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article;

(2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the ~~State;~~Division of Emergency Management, consistent with federal and State laws and regulations;

(3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision; and

(4) To delegate powers in a local state of emergency under G.S. 166A-8 to an appropriate official.

(e) Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial ~~assistance.~~assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance ~~for the maintenance and operation of a county emergency management program will not exceed one thousand dollars ($1,000) for any fiscal year and~~ is subject to an appropriation being made for this purpose. ~~Eligibility of each county will be determined annually by the State.~~ Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division of Emergency Management. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient resources to meet the standards and requirements promulgated by the Division."

SECTION 3. This act becomes effective October 1, 2009.

SENATE BILL 255:
Authorize Emergency Mgmt. Certification Prog

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S255-CSRK-35		Committee Counsel

SUMMARY: SUMMARY: ***House Bill 377 directs the Division of Emergency Management to establish a voluntary emergency management certification program. The bill also authorizes the creation of an Emergency Management Training and Standards Advisory Board to oversee the program, review applications, and issue and renew certifications.***

This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S377, as introduced by Rep. Martin and Rep Wainwright, which is currently in Senate State and Local Government.]

BILL ANALYSIS:

Section 1 of the bill amends the North Carolina Emergency Management Act to include the development of the Certification Program under the State emergency management program.

Section 2 creates a new Article and directs the Division of Emergency Management to establish a voluntary Emergency Management Certification Program. The Division sets the standards and guidelines for the Program and may consult and cooperate on the development of the program with political subdivisions, other agencies, and with public and private colleges and universities. The Division is also directed to make reports and recommendations to the Secretary on training, educational, technical assistance and equipment needs of State and local emergency management agencies.

The Secretary of Crime Control and Public Safety is directed to establish an Emergency Management Training and Standards Advisory Board, which shall include emergency management experts from the State, localities and private industry. The duties of the Board include:

- Oversight of the Emergency Management Certification Program.
- Review of applications for certification.
- Issuance of certifications.

The Board must issue certification to any in-State applicant who demonstrates completion of the requirements. The Board has authority to issue certification to a person in another State if it determines that the person's qualifications are substantially equivalent to the North Carolina requirements. Certifications must be renewed within 5 years and the Board may approve reinstatement of an expired certification for good cause.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.

S255-SMRK-82(CSRK-35) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 255*
PROPOSED COMMITTEE SUBSTITUTE S255-PCS55353-RK-35

Short Title: Authorize Emergency Mgmt. Certification Prog. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3)d. reads as rewritten:

"d. Development and presentation of training ~~programs~~ programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need."

SECTION 2. Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Emergency Management Certification Program.

"**§ 166A-54. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Crime Control and Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies.

"**§ 166A-55. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

(1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

(2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.

(3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.

(4) Curricula, syllabi, and other educational materials.

(5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges, community colleges, and other institutions, public or private, concerning the development of the program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Crime Control and Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, and technical assistance needs, and equipment needs of State and local emergency management agencies.

"**§ 166A-56. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Crime Control and Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

(1) Oversight of the Emergency Management Certification Program.

(2) Review of applications for certification.

(3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary.

"**§ 166A-57. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have expired for more than five years shall not be reinstated."

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

SENATE BILL 252:
Strengthen Local Emergency Management

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S252-CSRK-34		Committee Counsel

SUMMARY: ***Senate Bill 252 is a public bill that would strengthen local emergency management capabilities as recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.***

[As introduced, this bill was identical to H380, as introduced by Rep. Martin, which is currently in Senate State and Local Government.]

CURRENT LAW: Article 1 of Chapter 166A of the General Statutes is the Emergency Management Act. The State emergency management program includes preparations for, response to, and recovery from war or peacetime disasters. The Governor has general direction and control of the State emergency management program, but may delegate or subdelegate that authority. The Secretary of Crime Control and Public Safety is responsible to the Governor for emergency management activities and may subdelegate this authority to a member of the Secretary's department. G.S. 166A-5. The Division of Emergency Management (DEM) is part of the Department of Crime Control and Public Safety.

The governing board of each county is responsible for emergency management within its geographical limits. Each county coordinates its emergency management efforts, including the activities of the municipalities within the counties. The governing board of each county may establish an emergency management agency and may appoint a coordinator of the agency. The law permits the formation of joint agencies (currently defined as "a county and one or more municipalities within its borders"). To carry out emergency management functions, each county and municipality may make appropriations and fund them through revenues, such as property taxes. G.S. 166A-7.

BILL ANALYSIS: Senate Bill 380 does all of the following:

- Clarifies that the promulgation of standards for local plans must be consistent with federal and State laws and regulations.
- Requires DEM to review biannually and update as necessary the standards for local plans and programs.
- Expands the types of joint agencies that counties and municipalities may form to include any of the following combinations:
    - A county and one or more municipalities within the county's borders.
    - Two or more counties.
    - Two or more counties and one or more municipalities within the borders of those counties.
- Clarifies that counties which establish an emergency management agency may be eligible to receive State and federal assistance for various emergency management purposes.
    - Removes the $1,000 per fiscal year cap on funding from the State for the operation of a county emergency management program.

- Provides that where the appropriation does not allocate funds *between* counties, DEM determines the amount allocated to each county.
    - The size of the allocation is based in part on the degree to which local programs meet State standards and requirements promulgated by DEM. Where appropriate, DEM shall consider whether a county lacks sufficient resources to meet its standards.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: During the 2008 Short Session, the General Assembly directed DEM, in consultation with the North Carolina Association of County Commissioners, to study ways to strengthen North Carolina's emergency management capabilities, especially at the local government level. (S.L. 2008-162). DEM reported the results of its study to the Joint Select Committee on Emergency Preparedness in November of 2008. The Joint Select Committee on Emergency Preparedness made a number of legislative proposals to the 2009 General Assembly, including Senate Bill 252.

Brad Krehely and Ben Popkin, Staff Attorneys, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 253*
PROPOSED COMMITTEE SUBSTITUTE S253-PCS15255-RK-36

Short Title: Statutorily Establish Division of Emerg. Mgmt. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO STATUTORILY ESTABLISH THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-475(a) is amended by adding a new subdivision to read:

"(11) Emergency Management Division, Department of Crime Control and Public Safety. – The purpose of this subdivision is to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(2a) Division. – The Division of Emergency Management established in Part 7 of Article 11 of Chapter 143B of the General Statutes."

SECTION 3. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. Emergency Management Division.

"**§ 143B-508. Division of Emergency Management of the Department of Crime Control and Public Safety.**

(a) There is established, within the Department of Crime Control and Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) To exercise the powers and duties exercised prior to the enactment of this section, in accordance with G.S. 143B-475(a)(11).

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law.'

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

SENATE BILL 253:
Statutorily Establish Division of Emerg. Mgmt

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S253-CSRK-36		Committee Counsel

SUMMARY: Senate Bill 253 would establish in the North Carolina General Statutes the Division of Emergency Management within the Department of Crime Control and Public Safety.

[As introduced, this bill was identical to H378, as introduced by Reps. Martin, Wainwright, which is currently in Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget.]

CURRENT LAW: Article 11 of Chapter 143B of the General Statutes sets out the general provisions for the Department of Crime Control and Public Safety (Department). It is the duty of the Department, generally, to protect the public against crime and against natural and man-made disasters.

Article 1 of Chapter 166A of the General Statutes creates the North Carolina Emergency Management Act of 1977. Some of the purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action.

BILL ANALYSIS:

Section 1 would amend G.S. 143B-475 (a) to add the Emergency Management Division, Department of Crime Control and Public Safety to the list of subunits of departments whose "functions, powers, duties, and obligations" are transferred to and vested in the Department of Crime Control and Public Safety. The effect of this transfer would be to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise.

Section 2 would amend G.S. 166A-4 by adding the Division of Emergency Management to the definitions section of the North Carolina Emergency Management Act.

Section 3 would amend Article 11 (Department of Crime Control and Public Safety) of Chapter 143B (Executive Organization Act of 1973) by inserting a new Part 7 "Emergency Management Division". This new Part 7 would clearly establish the Division of Emergency Management, within the Department of Crime Control and Public Safety and provide it with the following powers and duties:

- To exercise the powers and duties exercised prior to the enactment of this section;
- To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes; and
- To exercise any other powers vested by law.

EFFECTIVE DATE: The act would become effective when it becomes law.

BACKGROUND: Senate Bill 253 is a recommendation of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

Ben Popkin, Counsel to the Homeland Security, Military, and Veterans Affairs Committee, contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 254*

Short Title:	Allows Mutual Aid Between State & Local Gov.	(Public)
Sponsors:	Senators Snow, Atwater, Goss, Nesbitt; and Swindell.	
Referred to:	State and Local Government.	

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW MUTUAL AID AGREEMENTS BETWEEN THE STATE AND POLITICAL SUBDIVISIONS OF THE STATE, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-10 reads as rewritten:

"**§ 166A-10. Establishment of mutual aid agreements.**

(a) The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(a1) The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(b) The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(c) The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(d) Mutual aid agreements may include but are not limited to the furnishing or exchange of such supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel and similar items; and on such terms and conditions as deemed necessary."

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

SENATE BILL 254:
Allows Mutual Aid Between State & Local Gov

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***This act adds amends the statute which provides for mutual aid agreements to authorize such agreements between the State and local governments. This act is effective when it becomes law.***

[As introduced, this bill was identical to H379, as introduced by Reps. Martin, Wainwright, which is currently in Senate State and Local Government.]

CURRENT LAW:

The Governor, who has direction and control of the State emergency management program, may enter into mutual aid agreements with the federal government, and with other states. Chief executive officers of political subdivisions may enter into such agreements with each other on behalf of the local government. Any such agreements entered into with jurisdictions outside of the State require the Governor's approval. During a state of disaster, with the concurrence of the Council of State, the Governor has the authority to procure, by purchase, condemnation, seizure or by other means, to construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency management without regard to the limitation of any existing law.

BILL ANALYSIS:

This act amends the statute which sets out the authority for the entry into mutual aid agreements. The amendment would authorize the Governor to enter into mutual aid agreements with local government subdivisions, with the concurrence of a local government subdivision's governing body. The agreements must be consistent with the State's emergency management program and plans.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 255*
PROPOSED COMMITTEE SUBSTITUTE S255-PCS55353-RK-35

Short Title: Authorize Emergency Mgmt. Certification Prog. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3)d. reads as rewritten:

"d. Development and presentation of training ~~programs~~ programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need."

SECTION 2. Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Emergency Management Certification Program.

"**§ 166A-54. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Crime Control and Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies.

"**§ 166A-55. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

(1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

(2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.

(3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.

(4) Curricula, syllabi, and other educational materials.

(5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges, community colleges, and other institutions, public or private, concerning the development of the program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Crime Control and Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, and technical assistance needs, and equipment needs of State and local emergency management agencies.

"**§ 166A-56. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Crime Control and Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

(1) Oversight of the Emergency Management Certification Program.

(2) Review of applications for certification.

(3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary.

"**§ 166A-57. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have expired for more than five years shall not be reinstated."

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

SENATE BILL 255:
Authorize Emergency Mgmt. Certification Prog

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S255-CSRK-35		Committee Counsel

SUMMARY: ***Senate Bill 255 directs the Division of Emergency Management to establish a voluntary emergency management certification program. The bill also authorizes the creation of an Emergency Management Training and Standards Advisory Board to oversee the program, review applications, and issue and renew certifications.***

This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S377, as introduced by Rep. Martin and Rep Wainwright, which is currently in Senate State and Local Government.]

BILL ANALYSIS:

Section 1 of the bill amends the North Carolina Emergency Management Act to include the development of the Certification Program under the State emergency management program.

Section 2 creates a new Article and directs the Division of Emergency Management to establish a voluntary Emergency Management Certification Program. The Division sets the standards and guidelines for the Program and may consult and cooperate on the development of the program with political subdivisions, other agencies, and with public and private colleges and universities. The Division is also directed to make reports and recommendations to the Secretary on training, educational, technical assistance and equipment needs of State and local emergency management agencies.

The Secretary of Crime Control and Public Safety is directed to establish an Emergency Management Training and Standards Advisory Board, which shall include emergency management experts from the State, localities and private industry. The duties of the Board include:

- Oversight of the Emergency Management Certification Program.
- Review of applications for certification.
- Issuance of certifications.

The Board must issue certification to any in-State applicant who demonstrates completion of the requirements. The Board has authority to issue certification to a person in another State if it determines that the person's qualifications are substantially equivalent to the North Carolina requirements. Certifications must be renewed within 5 years and the Board may approve reinstatement of an expired certification for good cause.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.

S255-SMRK-82(CSRK-35) v1

SENATE BILL 255:
Authorize Emergency Mgmt. Certification Prog

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S255-CSRK-35		Committee Counsel

SUMMARY: SUMMARY: ***House Bill 377 directs the Division of Emergency Management to establish a voluntary emergency management certification program. The bill also authorizes the creation of an Emergency Management Training and Standards Advisory Board to oversee the program, review applications, and issue and renew certifications.***

This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S377, as introduced by Rep. Martin and Rep Wainwright, which is currently in Senate State and Local Government.]

BILL ANALYSIS:

Section 1 of the bill amends the North Carolina Emergency Management Act to include the development of the Certification Program under the State emergency management program.

Section 2 creates a new Article and directs the Division of Emergency Management to establish a voluntary Emergency Management Certification Program. The Division sets the standards and guidelines for the Program and may consult and cooperate on the development of the program with political subdivisions, other agencies, and with public and private colleges and universities. The Division is also directed to make reports and recommendations to the Secretary on training, educational, technical assistance and equipment needs of State and local emergency management agencies.

The Secretary of Crime Control and Public Safety is directed to establish an Emergency Management Training and Standards Advisory Board, which shall include emergency management experts from the State, localities and private industry. The duties of the Board include:

- Oversight of the Emergency Management Certification Program.
- Review of applications for certification.
- Issuance of certifications.

The Board must issue certification to any in-State applicant who demonstrates completion of the requirements. The Board has authority to issue certification to a person in another State if it determines that the person's qualifications are substantially equivalent to the North Carolina requirements. Certifications must be renewed within 5 years and the Board may approve reinstatement of an expired certification for good cause.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.

S255-SMRK-82(CSRK-35) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 257*
PROPOSED COMMITTEE SUBSTITUTE S257-CSRF-39 [v.1]

5/1/2009 5:11:39 PM

Short Title: Expand Division of Emergency Mgmt. Authority. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE POWERS OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-4(4) reads as rewritten:

"(4) Emergency Management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(5a) Hazard Risk Management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources."

SECTION 3. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

SENATE BILL 257:
Expand Division of Emergency Mgmt. Authority

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 1, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to First Edition S257-CSRF-39		

SUMMARY: ***Senate Bill 257 amends the Emergency Management Act to expand the role of the Department of Crime Control and Public Safety, Division of Emergency Management in planning for and coordinating efforts with regard to emergency management and particularly hazard risk management. This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery. This act is effective when it becomes law.***

The PCS clarifies that the Division of Emergency Management will work with other State agencies that may have primary responsibility for adoption of hazard risk standards.

CURRENT LAW: The Governor has general authority over the State emergency management program, which includes all aspects of preparation for, response to, and recovery from war or peacetime disasters.

The Secretary of Crime Control and Public Safety is responsible for carrying out the Governor's plans with regard to emergency management activities. The Secretary has sub-delegated this function to the Division of Emergency Management.

BILL ANALYSIS: House Bill 381 adds a definition of the term "Hazard Risk Management" which involves the identification, assessment and control of risk associated with hazards affecting human health, safety, and property.

The bill also adds several new functions under the State Emergency Program, including:

- Administration of federal and State grant funds.
- Serving as the lead State agency for the coordination of information and resources for hazard risk management.
- Using and maintaining technology that improves communication among all levels of government when involved in emergency management activities.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.

S257-SMRF-73(CSRF-39) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1083
PROPOSED COMMITTEE SUBSTITUTE S1083-CSRR-31 [v.1]

5/4/2009 12:42:27 PM

Short Title: Little Tennessee River Basin Advisory Comm. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LITTLE TENNESSEE RIVER BASIN ADVISORY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Article 8 of Chapter 77 of the General Statutes reads as rewritten:

"Article 8.

"River Basins Advisory Commissions.

"Part 1. North Carolina/South Carolina River Basin Advisory Commissions."

SECTION 2. G.S. 77-110 reads as rewritten:

"**§ 77-110. Definitions.**

The following definitions apply in this ~~Article~~ Part:

...."

SECTION 3. G.S. 77-111 reads as rewritten:

"**§ 77-111. Commissions established; purposes.**

There is established the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be constituted as described in this ~~Article~~ Part and there shall be a separate commission for each river basin. The commissions shall be permanent bodies composed of members from the State of North Carolina and the State of South Carolina. The purpose of each commission shall be to:

...."

SECTION 4. G.S. 77-118 reads as rewritten:

"**§ 77-118. Termination.**

The General Assembly of North Carolina may terminate the commissions by repealing this ~~Article.~~ Part. The commissions shall terminate if the General Assembly of South Carolina repeals the provisions of the South Carolina Code of Laws that are comparable to this ~~Article.~~ Part."

SECTION 5. Article 8 of Chapter 77 of the General Statutes is amended by adding a new Part to read:

"Part 2. North Carolina/Tennessee/Georgia River Basin Advisory Commission.

"**§ 77-120. Definitions.**

The following definitions apply in this Part:

(1) "Commission" means the Little Tennessee River Basin Advisory Commission.

(2) "River basin" or "river basins" means that land area designated as the Little Tennessee River Basin by the North Carolina Department of Environment and Natural Resources pursuant to G.S. 143-215.22G, the Georgia Department of Natural Resources, and the Tennessee Department of Environment and Conservation.

"**§ 77-121. Commission established; purposes.**

There is established the Little Tennessee River Basin Advisory Commission. The commission shall be constituted as described in this Part. The commission shall be a permanent body composed of members from the State of North Carolina, the State of Tennessee, and the State of Georgia. The purpose of the commission shall be to:

(1) Provide guidance and make recommendations to local, state, and federal legislative and administrative bodies, and to others as it considers necessary and appropriate, for the use, stewardship, and enhancement of the water and other natural resources for all citizens within the river basins.

(2) Provide a forum for discussion of issues affecting the river basin's water quantity and water quality and issues affecting other natural resources.

(3) Promote communication, coordination, and education among stakeholders within the river basin.

(4) Identify problems and recommend appropriate solutions.

(5) Undertake studies related to water quantity, water quality, and other natural resources in the river basin based on existing data available from agencies located in any of the member states and provide for the distribution and dissemination of information garnered from those studies.

(6) Determine the optimum approach to comprehensively and collaboratively provide recommendations for integrated river management including, but not limited to, the total assimilative capacity of the river basin.

"**§77-122. Powers and duties.**

(a) The authority granted to the commission shall be advisory in nature and in no way shall the commission be construed to have any regulatory authority.

(b) The commission shall not have any authority to obligate or otherwise bind the State of North Carolina, the State of Tennessee, the State of Georgia, or any agency or subdivision of any of the member states.

(c) To achieve its purposes, the commission shall have all of the following powers and duties:

(1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the commission members.

(2) To establish standing and ad hoc committees, which shall be constituted in a manner to ensure a balance between recognized interests and states. The commission shall determine the purpose of each standing or ad hoc committee.

(3) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The commission may accept or expend funds only after an affirmative vote by a majority of the members of the commission.

(4) To exercise the powers of a body corporate, including the power to sue and be sued, and adopt and use a common seal and alter the same.

(5) To establish a nonprofit corporation to assist in administration and in fund-raising.

(6) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the commission.
(7) To designate a fiscal agent.
(8) To perform any lawful acts necessary or appropriate to achieve the purposes of the commission.

"**§ 77-123. Membership; terms of office; eligibility for appointment; meetings.**

(a) The Little Tennessee River Basin Advisory Commission shall be composed of 26 members as follows:

(1) One member of the North Carolina House of Representatives whose district includes a part of the North Carolina portion of the river basin, to be appointed by the Speaker of the North Carolina House of Representatives.
(2) One member of the North Carolina Senate whose district includes a part of the North Carolina portion of the river basin, to be appointed by the President Pro Tempore of the North Carolina Senate.
(3) One member of the Tennessee House of Representatives whose district includes a part of the Tennessee portion of the river basin, to be appointed by the Speaker of the Tennessee House of Representatives.
(4) One member of the Tennessee Senate whose district includes a part of the Tennessee portion of the river basin, to be appointed by the Speaker of the Tennessee Senate.
(5) One member of the Georgia House of Representatives whose district includes a part of the Georgia portion of the river basin, to be appointed by the Speaker of the Georgia House of Representatives.
(6) One member of the Georgia Senate whose district includes a part of the Georgia portion of the river basin, to be appointed by the President Pro Tempore of the Georgia Senate.
(7) One person, to be appointed by the respective board of county commissioners, from each of the following four counties in the State of North Carolina:
  a. Graham County.
  b. Jackson County.
  c. Macon County.
  d. Swain County.
(8) One person, to be appointed by the respective county commission, from each of the following three counties in the State of Tennessee:
  a. Blount County.
  b. Loudon County.
  c. Monroe County.
(9) One person, to be appointed by the Rabun County Commission, from Rabun County Georgia.
(10) Two members of the Eastern Band of the Cherokee Indians, to be appointed by the Tribal Government.
(11) One person from the Tennessee Valley Authority, to be appointed by the Board of Directors of the Tennessee Valley Authority.
(12) One person from North Carolina representing a water or sewer municipal utility, appointed by the Governor of North Carolina.
(13) One person from Tennessee representing a water or sewer municipal utility, appointed by the Governor of Tennessee.
(14) One person from Georgia representing a water or sewer municipal utility, appointed by the Governor of Georgia.

(15) One person from North Carolina representing the agricultural community, appointed by the Governor of North Carolina.

(16) One person from Tennessee representing the agricultural community, appointed by the Governor of Tennessee.

(17) One person from Georgia representing the agricultural community, appointed by the Governor of Georgia.

(18) One person from a nonprofit basin interest group that operates within the North Carolina portion of the basin, appointed by the Governor of North Carolina.

(19) One person from a nonprofit basin interest group that operates within the Tennessee portion of the basin, appointed by the Governor of Tennessee.

(20) One person from a nonprofit basin interest group that operates within the Georgia portion of the basin, appointed by the Governor of Georgia.

(b) Each member appointed to the commission pursuant to subdivisions (1) and (2) of subsection (a) of this section shall serve at the pleasure of the appointing authority so long as the member remains a Representative or Senator. Each member appointed to the commission pursuant to subdivisions (3) and (4) of subsection (a) of this section shall serve as provided by the Tennessee General Assembly. Each member appointed to the commission pursuant to subdivisions (5) and (6) of subsection (a) of this section shall serve as provided by the Georgia General Assembly. Each member appointed to the commission pursuant to subdivision (11) of subsection (a) of this section shall serve for so long as the member continues in the qualifying position or, if the member is a designee, at the pleasure of the designating authority. Each member appointed to the commission pursuant to subdivision (7) of subsection (a) of this section shall serve a term of two years and may be reappointed to serve no more than three consecutive full terms or 84 consecutive months, whichever is greater. Each member appointed to the commission pursuant to subdivisions (12), (15), and (18) of subsection (a) of this section shall serve a term of two years and may be reappointed to serve no more than three consecutive full terms or 84 consecutive months, whichever is greater. The term of a member who is appointed to the commission pursuant to subdivision (8), (13), (16), or (19) of subsection (a) of this section shall serve as provided by the Tennessee General Assembly. The term of a member who is appointed to the commission pursuant to subdivision (9), (14), (17), or (20) of subsection (a) of this section shall serve as provided by the Georgia General Assembly. The term of a member who is appointed to the commission pursuant to subdivision (10) of subsection (a) of this section shall serve as provided by the Tribal Government of the Eastern Band of the Cherokee Indians. An appointment to fill a vacancy on the commission shall be for the unexpired portion of the term. A vacancy on the commission shall be filled in the same manner as the original appointment. Members of the commission who are appointed from or reside in North Carolina may be removed by the Governor of North Carolina for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

(c) The legislative members of the commission may appoint additional members to the commission to serve as advisory members as the legislative members consider necessary.

(d) The members of the commission shall elect a Chair, Vice-Chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. The Chair and the Vice-Chair shall not be from the same state, and the Chair shall be rotated between the States of North Carolina, Tennessee, and Georgia.

(e) The commission shall meet upon the call of the Chair. A majority of the commission shall constitute a quorum for the transaction of business.

(f) The legislative members of the commission from each state may meet separately to discuss river basin-related issues affecting their state and may report their findings independently of the commission.

"§ 77-124. Standing and advisory committees.

The commission may establish standing or advisory committees to facilitate communication among stakeholders in the basin and to maximize participation among all interested parties. The commission may appoint members to standing or advisory committees in accordance with guidelines adopted by the commission.

"§ 77-125. Staffing; meeting facilities; assistance by agencies.

(a) The North Carolina Department of Environment and Natural Resources, the Tennessee Department of Environment and Conservation, and the Georgia Department of Natural Resources shall provide staff support and facilities to the commission within the existing programs of the respective agencies. Additional staff may be hired or contracted by the commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the commission, within available resources.

(b) All agencies of the State of North Carolina, the State of Tennessee, and the State of Georgia shall cooperate with the commission and, upon request, shall assist the commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources, the Commissioner of the Tennessee Department of Environment and Conservation, and the Commissioner of the Georgia Department of Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the commission.

(c) The commission may obtain information and data upon request from all state officers, agents, agencies, and departments of the State of North Carolina, the State of Tennessee, and the State of Georgia while in discharge of their duties.

"§ 77-126. Funding.

(a) The commission shall annually adopt a budget that shall include the estimated income and expenses of the commission. Funding for the commission shall be shared and apportioned between the State of North Carolina, the State of Tennessee, and the State of Georgia as each state may provide through its regular appropriations process.

(b) The accounts and records of the commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the Auditor of North Carolina, the Tennessee Director of State Audit, and the Georgia State Auditor prescribe. The accounts and records of the commission shall be subject to an annual audit by the Auditor of North Carolina, the Tennessee Director of State Audit, and the Georgia State Auditor or their legal representatives. The cost of the annual audits shall be borne by the commission. The results of the audits shall be delivered to the Joint Legislative Commission on Governmental Operations of the General Assembly of North Carolina, the Tennessee General Assembly as the Tennessee General Assembly shall provide, and to the Georgia General Assembly as the Georgia General Assembly shall provide.

"§ 77-127. Compensation and expenses of commission members.

(a) Members of the commission who are appointed from or reside in North Carolina shall receive no salary for their service on the commission but may be paid, within available resources, per diem, subsistence, and travel expenses as follows:

(1) Members of the commission who are members of the General Assembly at the rate established in G.S. 120-3.1.

(2) Members of the commission who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.

(3) All other members of the commission at the rate established in G.S. 138-5.

(b) Members of the commission who are appointed from or reside in Tennessee shall be compensated as provided by the Tennessee General Assembly.

(c) Members of the commission who are appointed from or reside in Georgia shall be compensated as provided by the Georgia General Assembly.

(d) All expenses shall be paid from funds appropriated or otherwise available to the commission.

"**§ 77-128. Annual report.**

The commission shall submit an annual report, including any recommendations, on or before October 1 of each year to the Governor of North Carolina and the Environmental Review Commission of the General Assembly of North Carolina; the Governor of Tennessee and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or the Commissioner of the Tennessee Department of Environment and Conservation shall provide; and to the Governor of Georgia and the Georgia General Assembly, as the Governor, the General Assembly of Georgia, or the Conservation Commissioner of the Georgia Department of Natural Resources shall provide.

"**§ 77-129. Termination.**

The General Assembly of North Carolina may terminate the commission by repealing this Part. The commission shall terminate if the Tennessee General Assembly and the Georgia General Assembly both repeal the provisions of the Tennessee Annotated Code and the Official Code of Georgia Annotated that are comparable to this Part."

SECTION 6. The Little Tennessee River Basin Advisory Commission shall submit the first report pursuant to G.S. 77-128, as enacted by Section 5 of this act, on or before October 1, 2011.

SECTION 7. This act shall not be construed to obligate the General Assembly of North Carolina, the Tennessee General Assembly, or the Georgia General Assembly to appropriate any funds to implement the provisions of this act.

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

SENATE BILL 1083:
Little Tennessee River Basin Advisory Comm

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1083-CSRR-31		

SUMMARY: This PCS for Senate Bill 1083 would create a Little Tennessee River Basin Advisory Commission. The Commission would consist of 26 members from the States of North Carolina, Georgia, and Tennessee. Its function would be to advise federal, state, and local governments on the management and stewardship of the Little Tennessee River Basin, which has parts in all 3 states.

CURRENT LAW: Currently, Article 8 of GS Chapter 77 contains two interstate river basin advisory commissions. One is for the Catawba/Wateree River Basin and one is for the Yadkin/PeeDee River Basin. Both involve the states of North and South Carolina. Article 7 of Chapter 77 contains the Roanoke River Basin Bi-State Commission, involving NC and Virginia.

BILL ANALYSIS: Senate Bill 1083 would create the Little Tennessee River Basin Advisory Commission to advise federal, state, and local governments on the management and stewardship of the Little Tennessee River Basin.

The Commission would consist of 26 members. Nine of them would be appointed from NC, eight from Tennessee, and six from Georgia. In addition, two would be appointed by the Tribal Government of the Eastern Band of Cherokees, and one would be from the Tennessee Valley Authority. The nine NC members would be as follows:

- One member of the State House whose district is in the Basin.
- One member of the State Senate whose district is in the Basin.
- One person each from the counties of Graham, Jackson, Macon, and Swain, to be appointed by the county commissioners of that county.
- One person representing a water or sewer municipal utility, appointed by the Governor.
- One person representing the agricultural community, appointed by the Governor.
- One person from a nonprofit basin interest group that operates in the Little Tennessee Basin, appointed by the Governor.

There would be equivalent appointments from the other states, except that Tennessee would have one representative each from three counties, and Georgia would have a representative from one county.

The Commission would be staffed by the NC Department of Natural and Economic Resources and the equivalent departments in Tennessee and Georgia. The Commission would be funded through the regular appropriations processes of each state. Section 7 of the bill would provide that the act shall not obligate any of the three states' legislatures to appropriate money to implement its provisions.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The Little Tennessee River begins in the Blue Ridge Mountains in Georgia. It flows through the Southwestern NC counties of Macon, Swain, and Graham. Flowing into Tennessee, it

empties into the main Tennessee River near Knoxville. The Cullasaja River empties into the Little Tennessee at Franklin, NC. One of the main features of the Little Tennessee River is Fontana Lake. The Little Tennessee River Basin is one of 17 river basins of which North Carolina is a part. The Little Tennessee basin covers 1,800 square miles in NC. Most of that is in the counties of Macon, Jackson, Swain, and Graham, but parts of Clay and Cherokee counties are also in the basin. The basin includes the Qualla Boundary land of the Eastern Band of Cherokees and most of the Great Smoky Mountains National Park.

The creation of the advisory commission was requested by an organization called the Little Tennessee Watershed Association. Part of the concern had to do with interest expressed by Georgia officials to take water from the basin to relieve the shortages in the Atlanta area. Also of concern was the purchase by Rabun County, GA, of the sewage treatment plant of a closed textile mill, raising the prospect of the discharge of sewage into the basin.

Apparently no action on a commission has yet been taken by the legislatures of Tennessee or Georgia.

S1083-SMRR-92(CSRR-31) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1086
PROPOSED COMMITTEE SUBSTITUTE S1086-CSRR-33 [v.1]

5/4/2009 5:16:38 PM

Short Title: Correctional/Probation Training Commission. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA CORRECTIONAL AND PROBATION OFFICER EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 17F.**

"**North Carolina Correctional and Probation Officer Education and Training Standards Commission.**

"**§ 17F-1. Findings and policy.**

The General Assembly finds and declares that the administration of criminal justice is of statewide concern, and that proper administration is important to the health, safety, and welfare of the people of the State and is of such nature as to require education and training of a professional nature. It is in the public interest that such education and training be made available to persons who seek to become correctional officers and probation officers, to persons who are serving as such officers in a temporary or probationary capacity, and to persons already in regular service.

"**§ 17F-2. Definitions.**

Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

(1) "Commission" means the North Carolina Correctional and Probation Officer Education and Training Standards Commission.

(2) "Correctional Officer" means an employee of the Division of Prisons of the Department of Correction whose primary duties are the custody, supervision, and treatment to control and rehabilitate criminal offenders in the custody of the Department.

(3) "Probation Officer" means an employee of the Division of Community Corrections of the Department of Correction whose primary duties are to stay informed concerning the conduct and condition of each person on probation or parole under the officer's supervision by visiting, requiring reports, and other methods, and reporting on that conduct and condition in writing as required by the court or the Division.

"**§ 17F-3. North Carolina Correctional and Probation Officer Education and Training Standards Commission established: members; terms; vacancies.**

(a) There is hereby established the North Carolina Correctional and Probation Officer Training Standards Commission. The Commission shall be composed of 21 members as follows:

(1) Correctional Officers. – Ten representatives of the Division of Prisons, with two representing each of the Division's five regional divisions, as delineated by the Department of Correction, appointed by the Secretary of Correction.

(2) Probation Officers. – Four representatives of the Division of Community Corrections, with one representing each of the Division's four regional divisions, as delineated by the Department of Correction, appointed by the Secretary of Correction.

(3) Secretary of the Department of Correction or designee.

(4) Attorney General. – The Attorney General of the State of North Carolina or designee.

(5) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives pursuant to G.S. 120-121 and one person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate pursuant to G.S. 120-121.

(6) Others. – The President of the University of North Carolina or the President's designee, the President of the Community Colleges System or the President's designee, and the Dean of the School of Government at the University of North Carolina at Chapel Hill or the Dean's designee shall be ex officio, nonvoting members of the Commission.

(b) Terms. – Members shall be appointed for staggered terms. Beginning September 1, 2009, five members representing the Division of Prisons and two members representing the Division of Community Corrections shall be appointed to three-year terms; five members representing the Division of Prisons and two members representing the Division of Community Corrections shall be appointed to three-year terms. The two appointees of the General Assembly shall serve a terms of two years. After the initial terms established herein have expired, all members appointed to the Commission shall be appointed to terms of three years.

(c) Vacancies. – If any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member.

(d) Officers. – The chair shall be elected from among the membership. The Commission shall select its other officers from among the membership as it deems necessary. All officers serve for one year, or until successors are qualified.

(e) Removal. – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

(f) The Commission has power to adopt its own rules of procedure. The Commission shall meet no less than four times a year. It shall also meet on the call of the chair or vice-chair, or any four members of the Commission.

(g) The Commission may appoint any resident of the State to an adjunct or special committee created or appointed by it to study or make recommendations or reports on any subject matter related to the duties of correctional or probation officers.

"**§ 17F-4. Compensation.**

(a) Members of the Commission who are State officers or employees shall receive no compensation for serving on the Commission but may be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Commission but may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Commission may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

(b) The chair of the Commission may appoint such ad hoc members of the Commission's standing and select committees as are necessary to carry out the business of the Commission, and such service shall be reimbursed as provided in subsection (a) of this section, subject to the approval of the Attorney General.

"**§ 17F-5. Chair; vice-chair; other officers; meetings; reports.**

(a) The Commission shall elect one of the members of the Commission as chair at the first regular meeting after July 1 of each year. The ex officio members shall not be eligible for election as Chair.

(b) The Commission shall select a vice-chair and such other officers and committee chair from among its members as it deems desirable at the first regular meeting of the Commission after its creation and at the first regular meeting after July 1 of each year thereafter. Nothing in this subsection, however, shall prevent the creation or abolition of committees or offices of the Commission, other than the office of vice-chair, as the need may arise at any time during the year.

(c) The Commission shall hold at least four regular meetings per year upon the call of the chair. Special meetings shall be held upon the call of the chair or the vice-chair, or upon the written request of five members of the Commission. Such special meetings must be held within 30 days.

(d) The Commission shall present regular and special reports and recommendations to the Attorney General or the General Assembly, or both, as the need may arise or as the Attorney General or General Assembly may request.

"**§ 17F-6. Powers of Commission.**

(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules, certification procedures, or the provisions of G.S. 17F-10:

(1) Adopt rules for the administration of this Chapter, which may require (i) the submission by the Department of Correction of information with respect to the employment, education, retention, and training of its correctional officers and probation officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Chapter.

(2) Establish minimum educational and training standards that must be met in order to qualify for entry-level employment and retention as a correctional officer or probation officer in temporary or probationary status or in a permanent position.

(3) Certify and recertify, pursuant to the standards that it has established for that purpose, persons as qualified under the provisions of this Chapter to be employed at entry level and retained as correctional officers and probation officers.

(4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Chapter.

(5) Certify and recertify, pursuant to the standards that it has established for that purpose, criminal justice training schools and programs or courses of instruction that are required by this Chapter.

(6) Establish minimum standards and levels of education and experience for all criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Chapter.

(7) Certify and recertify, pursuant to the standards that it has established for the purpose, criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Chapter.

(8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and individuals are complying with the provisions of this Chapter.

(9) Adopt and amend bylaws, consistent with law, for its internal management and control.

(10) Enter into contracts incident to the administration of its authority pursuant to this Chapter.

(11) Establish minimum standards for in-service training for correctional officers and probation officers.

(b) The Commission shall have the following powers, which are advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

(1) Identify types of criminal justice positions in the Department of Correction, other than entry level positions, for which advanced or specialized training and education are appropriate, and establish minimum standards for the certification of persons as being qualified for those positions on the basis of specified education, training, and experience; however, compliance with these minimum standards shall be discretionary on the part of criminal justice agencies with respect to their correctional officers and probation officers;

(2) Certify, pursuant to the standards that it has established for the purpose, correctional officers and probation officers for those criminal justice agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;

(3) Study and make reports and recommendations concerning criminal justice education and training in North Carolina;

(4) Conduct and stimulate research by public and private agencies that shall be designed to improve education and training in the administration of criminal justice;

(5) Study, obtain data, statistics, and information regarding, and make reports concerning, best practices in the recruitment, selection, education, retention, and training of persons serving criminal justice agencies and make recommendations for improvement in methods of recruitment, selection, education, retention, and training of persons serving criminal justice agencies;

(6) Make recommendations concerning any matters within its purview pursuant to this Chapter;

(7) Appoint such advisory committees as it may deem necessary;

(8) Do such things as may be necessary and incidental to the administration of its authority pursuant to this Chapter;

(9) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of criminal justice agencies consistent with its rules;

(10) Maintain liaison among local, State, and federal agencies with respect to criminal justice education and training;

(11) Promote the planning and development of a systematic career development program for criminal justice professionals.

"**§ 17F-7. Functions of the Department of Justice.**

(a) The Attorney General shall provide such staff assistance as the Commission shall require in the performance of its duties.

(b) The Attorney General shall have legal custody of all books, papers, documents, or other records and property of the Commission.

(c) Any papers, documents, or other records which become the property of the Commission that are placed in the criminal justice officer's personnel file maintained by the Commission shall be subject to the same disclosure requirements as set forth in Chapters 126, 153A, and 160A of the General Statutes regarding the privacy of personnel records.

"**§ 17F-8. System established.**

The North Carolina Correctional and Probation Officer Education and Training Standards Commission shall establish a North Carolina Correctional and Probation Officer Education and Training System. The system shall be a cooperative arrangement among criminal justice agencies, both State and local, and criminal justice education and training schools, both public and private, to provide education and training to the officers and employees of the criminal justice agencies of the State of North Carolina and its local governments. Members of the system shall include the North Carolina Justice Academy as well as such other public or private agencies or institutions within the state, that are engaged in criminal justice education and training and desire to be affiliated with the system for the purpose of achieving greater coordination of criminal justice education and training efforts in North Carolina.

"**§ 17F-9. Correctional and Probation Officer Standards Division of the Department of Justice established; appointment of director; duties.**

(a) There is hereby established within the Department of Justice, the Correctional and Probation Officer Standards Division, hereinafter referred to as "the Division," which shall be organized and staffed in accordance with applicable laws and within the limits of authorized appropriations.

(b) The Attorney General shall appoint a director for the Division chosen from a list of three nominees submitted to him by the Commission who shall be responsible to and serve at the pleasure of the Attorney General and the Commission.

(c) The Division shall administer such programs as are assigned to it by the Commission. The Division shall also administer such additional related programs as may be assigned to it by the Attorney General or the General Assembly. Administrative duties and responsibilities shall include, but are not limited to, the following:

(1) Administering any and all programs assigned to the Division by the Commission and reporting any violations of or deviations from the rules of the Commission as the Commission may require;

(2) Compiling data, developing reports, identifying needs, and performing research relevant to beneficial improvement of the criminal justice agencies;

(3) Developing new and revising existing programs for adoption consideration by the Commission;

(4) Monitoring and evaluating programs of the Commission;

(5) Providing technical assistance to relevant agencies of the criminal justice system to aid them in the discharge of program participation and responsibilities;

(6) Disseminating information on Commission programs to concerned agencies and/or individuals;

(7) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities;

(8) The director may divulge any information in the Division's personnel file of a correctional officer, probation officer, or applicant for certification to the head of the criminal justice agency employing the officer or considering the applicant for employment when the director deems it necessary and essential to the retention or employment of said officer or applicant. The information

may be divulged whether or not such information was contained in a personnel file maintained by a State or by a local government agency.

"**§ 17F-10. Required standards.**

(a) The General Assembly finds, and it is declared to be the policy of this Chapter, that such correctional officers and probation officers as defined in G.S. 17F-2 have satisfied such entry-level requirements by their experience. It is the intent of the Chapter that all correctional officers and probation officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter. All correctional officers and probation officers who are exempted from the required entry-level standards by this subsection shall be subject thereafter to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17F-6(a) in order to retain certification.

If any correctional officer or probation officer exempted from the required standards by this provision fails to serve as a correctional officer or probation officer for a 12-month period, said officer shall be required to comply with the required entry-level standards established by the Commission pursuant to the authority otherwise granted in this section and in G.S. 17F-6(a).

(b) The Commission shall provide, by regulation, for a period of probationary employment and certification for correctional officers and probation officers. The Commission may prescribe such training requirements as are required for the award of either probationary or permanent certification of officers, in addition to the pre-employment requirements authorized in G.S. 17F-6(a). Any correctional officer or probation officer appointed on a temporary or probationary basis who does not comply with the training provisions of this Chapter is not authorized to exercise the powers of a correctional officer or probation officer to include the power of arrest. If, however, a correctional officer or probation officer has enrolled in a Commission-approved preparatory program of training that concludes later than the end of the officer's probationary period, and the Commission does not require such training to be completed prior to the award of probationary certification, the Commission may extend, for good cause shown, the probationary period for a period not to exceed six months.

Upon separation of a correctional officer or probation officer from a criminal justice agency within the prescribed period of temporary or probationary appointment, the officer's probationary certification shall be terminated by the Commission. Upon the reappointment to the same agency or appointment to another criminal justice agency of an officer who has separated from an agency within the probationary period, the officer shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete the Commission's requirements. Upon reappointment to the same agency or appointment to another agency of an officer who has separated from an agency within the probationary period and who has remained out of service for more than one year after the date of separation, the officer shall be allowed another probationary period to satisfy the Commission's requirements.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules, shall fix other qualifications for the employment, training, and retention of correctional officers and probation officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of correctional officers and probation officers, and the Commission shall prescribe the means for presenting evidence of fulfillment of these requirements.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this section to any applicant who presents such evidence as may be required by its rules of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the Commission for approved criminal justice education and training programs in this State.

"**§ 17F-11. Compliance; enforcement.**

(a) Any correctional officer or probation officer who the Commission determines does not comply with this Chapter or any rules adopted under this Chapter shall not exercise the powers of a correctional officer or probation officer and shall not exercise the power of arrest unless the Commission waives that certification or deficiency. The Commission shall enforce this section by the entry of appropriate orders effective upon service on either the criminal justice agency or the criminal justice officer.

(b) Any person who desires to appeal the proposed denial, suspension, or revocation of any certification authorized to be issued by the Commission shall file a written appeal with the Commission not later than 30 days following notice of denial, suspension, or revocation.

(c) The Commission may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto; specifically, the performance of correctional officer or probation officer functions by officers or individuals who are not in compliance with the standards and requirements of G.S. 17F-6(a) and G.S. 17F-10. A single act of performance of a correctional officer or probation officer function by an officer or individual who is performing such function in violation of this Chapter is sufficient, if shown, to invoke the injunctive relief of this section.

"**§ 17F-12. Grants under the supervision of Commission and the State; donations and appropriations.**

(a) The Commission may accept for any of its purposes and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. Any arrangements pursuant to this section shall be detailed in an annual report of the Commission. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission.

(b) The Commission, by rules, shall provide for administration of the grant program authorized by this section. In promulgating such rules, the Commission shall promote the most efficient and economical program of criminal justice training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(c) The Commission may provide grants as a reimbursement for actual expenses incurred by the State or political subdivision thereof for the provisions of training programs of officers from other jurisdictions within the State.

"**§ 17F-13. Pardons.**

When a person presents competent evidence that he has been granted an unconditional pardon for a crime in this State, any other state, or the United States, the Commission may not deny, suspend, or revoke that person's certification based solely on the commission of that crime or for an alleged lack of good moral character due to the commission of that crime."

SECTION 2. G.S. 17C-2 reads as rewritten:

"**§ 17C-2. Definitions.**

Unless the context clearly otherwise requires, the following definitions apply in this Chapter:

(1) Commission. – The North Carolina Criminal Justice Education and Training Standards Commission.

(2) Criminal justice agencies. – The State and local law-enforcement agencies, ~~the State correctional agencies, other~~ correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General ~~Statutes.~~Statutes or correctional officers and probation officers governed by Chapter 17F of the General Statutes.

(3) Criminal justice officers. -- The administrative and subordinate personnel of all the departments, agencies, units or entities comprising the criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest; ~~State correctional officers; State probation/parole officers; State probation/parole officers surveillance;~~ officers, supervisory and administrative personnel of local confinement facilities; State juvenile justice officers; chief court counselors; and juvenile court counselors.

(4) Entry level. – The initial appointment or employment of any person by a criminal justice agency, or any appointment or employment of a person previously employed by a criminal justice agency who has not been employed by a criminal justice agency for the 12-month period preceding this appointment or employment, or any appointment or employment of a previously certified criminal justice officer to a position which requires a different type of certification."

SECTION 3. G.S. 17C-3(a) reads as rewritten:

"**§ 17C-3. North Carolina Criminal Justice Education and Training Standards Commission established; members; terms; vacancies.**

(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called "the Commission." The Commission shall be composed of ~~33~~ 28 members as follows:

(1) Police Chiefs. – Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

(2) Police Officers. – Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.

(3) Departments. -- The Attorney General of the State of North Carolina; the Secretary of Crime Control and Public Safety; ~~the Secretary of Correction;~~ the President of the North Carolina Community Colleges System; the Secretary of Juvenile Justice and Delinquency Prevention.

(3a) Repealed by Session Laws 2001-440, s. 1.2, effective June 30, 2001.

(4) At-large Groups. – One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.

(5) Citizens and Others. – The President of The University of North Carolina; the Dean of the School of Government at the University of North Carolina at Chapel Hill; and two citizens, one of whom shall be selected by the

Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint four persons, two upon the recommendation of the Speaker of the House of Representatives and two upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall be for two-year terms to conclude on June 30th in odd-numbered years.

~~(6) Correctional Officers. Four correctional officers in management positions employed by the Department of Correction shall be appointed, two from the Division of Community Corrections upon the recommendation of the Speaker of the House of Representatives and two from the Division of Prisons upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years. The Governor shall appoint one correctional officer employed by the Department of Correction and assigned to the Office of Staff Development and Training. The Governor's appointment shall serve a three-year term.~~"

SECTION 4. This act becomes effective September 1, 2009.

SENATE BILL 1086:
Correctional/Probation Training Commission

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 4, 2009
Introduced by:	Sen. Snow	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1086-CSRR-33		

SUMMARY: ***This PCS for Senate bill 1086 would create a separate NC Correctional and Probation Officer Education and Training Standards Commission to be the licensing board for correctional and probation officers. Currently, the licensing board for correctional and probation officers is the NC Criminal Justice Education Training and Standards Commission.***

CURRENT LAW: Currently, the NC Criminal Justice Education Training and Standards Commission functions as a licensing board for an array of law enforcement officers. Included are sworn law enforcement officers at the State and local level, juvenile justice officers and court counselors, correctional officers, and probation/parole officers. The one major exception is sheriff's deputies, who are covered by a separate NC Sheriffs' Education and Training Standards Commission.

The statutory chapters governing the Criminal Justice commission and the Sheriffs' commission have parallel provisions. The commissions are responsible for setting training and certification standards, and for granting certifications. Because certification is required for employment by public law enforcement agencies, the commissions are tantamount to occupational licensing boards.

The NC Criminal Justice Education Training and Standards Commission is composed of 33 member, many of whom are required to be different kinds of law enforcement officers. Four of the 33 are required to be correctional officers employed by the Department of Correction in management positions. Two of them must be appointed on the recommendation of the Speaker of the House from the Division of Community Corrections, and two of them must be appointed on the recommendation of the Senate President Pro Tem from the Division of Prisons.

BILL ANALYSIS: The bill would set up a separate NC Correctional and Probation Officer Education and Training Standards Commission to serve the same function the NC Criminal Justice Education Training and Standards Commission now serves for correctional officers and probation officers. This would be done in a new GS Chapter 17F. Like Chapter 17E, which created the separate NC Sheriffs' Education and Training Standards Commission, Chapter 17F would have wording basically parallel to Chapter 17C, which set up the Criminal Justice commission.

The new commission in Chapter 17F would have 21 members, as follows:

- 10 representatives of the Division of Prisons with 2 representing each of the Division's 5 regional divisions, appointed by the Secretary of Correction
- 4 representatives of the Division of Community Corrections, representing each of the Division's 4 regional divisions, appointed by the Secretary of Correction.
- The Secretary of Correction, or designee.
- The Attorney General, or designee.
- 2 appointees of the General Assembly, one each upon the recommendation of the Speaker and the President Pro Tem.

- 3 non-voting members: The President of UNC or designee, the President of the Community College System or designee, and the Dean of the UNC School of Government or designee.

The new GS Chapter is enacted in Section 1 of the bill. Sections 2 and 3 remove correctional officers and probation/parole officers from NC Criminal Justice Education Training and Standards Commission.

EFFECTIVE DATE: September 1, 2009.

S1086-SMRR-96(CSRR-33) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT

Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, May 05, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **254** Allows Mutual Aid Between State & Local Gov.
- Sequential Referral: None
- Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **252** Strengthen Local Emergency Management.
- Draft Number: PCS55352
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

S.B. **253** Statutorily Establish Division of Emerg. Mgmt.
- Draft Number: PCS15255
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

S.B. **255** Authorize Emergency Mgmt. Certification Prog.
- Draft Number: PCS55359
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

S.B. **257** Expand Division of Emergency Mgmt. Authority.
- Draft Number: PCS35306
- Sequential Referral: Appropriations/Base Budget
- Recommended Referral: None
- Long Title Amended: No

S.B. **1083** Little Tennessee River Basin Advisory Comm.
- Draft Number: PCS85207
- Sequential Referral: Appropriations/Base Budget
- Recommended Referral: None
- Long Title Amended: No

TOTAL REPORTED: 6

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 5, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Donnelly	NCEM-GTN
Melanie Williams	Div. Water Quality
Tom Reeder	DWR
ANTHONY ALLEN	NCAE
Debra DeCamillis	UNC-IOG
Paul Meyer	NCLM
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Annette Newkirk	Office of the Governor

VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

May 5, 2009
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lao Rubert	CYPC
[signature]	DOC
Gwen Norville	DOC
Mildred Spearman	NCDOC

Senate State and Local Government Committee
Tuesday, May 12, 2009, 1:00 - 3:00 PM
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 215	22nd Senatorial District Local Act.	Senator Blake
SB 222	Red Light Cameras in Wilmington.	Senator Boseman
SB 430	Wilmington Civil Service Rewrite.	Senator Boseman
SB 540	Pleasant Garden/Voters Elect Mayor.	Senator Dorsett
SB 556	Asheville City Civil Service Board.	Senator Nesbitt, Jr.
SB 560	Greenville Housing Authority.	Senator Davis
SB 596	Filling Vacancies in Local Offices.	Senator Clodfelter
SB 941	Eligibility Requirements/Public Assistance.	Senator Rouzer
SB 976	Establish NC Office of Management Innovation.	Senator Bingham
SB 1018	Reduce Plastic Bag Use.	Senator Stein
SB 1027	Zoning Change/Abutting Prop. Owner Notice.	Senator Rand
SB 1086	Correctional/Probation Training Commission.	Senator Snow
SB 730	Local Gov't Official Recuse From Voting.	Senator Rucho

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, May 12, 2009 at 1:00 - 3:00 PM
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 1:00 - 3:00 PM on May 12, 2009, in Room 1124 of the Legislative Building. Twelve members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

Senate Bill 222, Red Light Cameras in Wilmington was the first item of Business. Senator Weinstein moved to accept a proposed committee substitute for the bill and Senator Boseman explained the bill. Senator Dorsett made a motion to give the PCS a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute. Senate Bill 540, Pleasant Garden/Voters Elect Mayor received a PCS on the motion of Senator Albertson and Senator Dorsett explained the bill. Senator Albertson moved to give the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the Proposed Committee Substitute. The bill carried. Senator Apodaca made a motion to accept the Proposed Committee Substitute for Senate Bill 215, Robbins Deannexation. Senator East explained the Bill for Senator Blake, the Bill Sponsor. Senator Stevens moved to give the PCS a Favorable Report. The bill carried and was re-referred to The Senate Committee on Finance. Senate Bill 560, Greenville Housing Authority received a Proposed Committee Substitute on the motion of Senator Weinstein and Senator Davis explained the bill and Senator Weinstein made a motion for the PCS to receive a Favorable Report. Senator Dorsett moved that a Proposed Committee Substitute be accepted for Senate Bill 1018, Ban Certain Single-Use Bags. Stein explained the bill and Senator Apodaca moved to give the PCS a Favorable Report and the bill carried. The next Bill to be heard was Senate Bill 430. Wilmington Civil Service/Amendments. Senator Albertson moved to accept a proposed Committee Substitute for the bill and Senator Boseman explained the bill. Senator Apodaca moved to give the PCS a Favorable Report and the Bill carried. Senate Bill 556, Asheville City Civil Service Board received a proposed Committee Substitute and was adopted on the motion from Senator Apodaca. The PCS received a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. Senate Bill 941, Eligibility Requirements/Public Assistance was pulled from the Agenda. Senator McKissick moved to adopt a PCS for Senate Bill 976, Establish NC Office of Management Innovation. Senator Bingham explained the bill and the committee gave the PCS a Favorable Report. Senator Snow explained the PCS for Senate Bill 1086, Correctional/Probation Training Comm. Study, which was adopted by the committee. Senator Apodaca moved for a Favorable Report for the PCS. The bill carried and was referred to Appropriations/Base Budget. After much discussion Senate Bill 730, Local Gov't Official Recuse From Voting was postponed indefinitely. The last bill to be heard was Senate Bill 1027, Zoning Change/Property Owner Notice. Senator Weinstein moved for adoption of a PCS and Senator Rand explained the bill. Senator Hartsell made a motion to give the PCS a Favorable Report and the bill Carried.

The meeting adjourned at 2:15 pm.

Senator Jones, Presiding

Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 215
PROPOSED COMMITTEE SUBSTITUTE S215-CSRW-30 [v.2]

5/4/2009 3:31:04 PM

Short Title: Robbins Deannexation. (Local)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO DEANNEX TWO DESCRIBED PARCELS FROM THE CORPORATE LIMITS OF THE TOWN OF ROBBINS AND TO ENTER INTO AN AGREEMENT FOR PAYMENTS IN LIEU OF RE-ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Robbins are reduced by deannexing the following described parcels:

Lying and being in Bensalem Township, Moore County, Robbins, North Carolina, and being more particularly described as follows:

TRACT ONE: Beginning at the center of the intersection of Highways #27 and #705, leading to Robbins, N.C., running thence as Highway #27 South 88 East 263 feet to a point in the center of said highway; thence North 3 East 186.5 feet to an iron stake; then South 81 1/4 West 333 feet to the center of Highway #705; thence as the center of said highway South 20 East 136.5 feet to the beginning, containing 1 acre, more or less.

TRACT TWO: On the north side of Highway No. 27, Beginning at a stake by a pine pointer, and runs thence South 84 West 3.33 chains to a stake; thence South 1 West 57 links to a stake, thence South 80 East 1.43 chains to an iron stake; thence South 3 West 2.84 chains to the center of Highway No. 27; thence with the center of said Highway South 86 East 1.95 chains, thence North 1 East 4.03 chains to the beginning, containing .8 acres, more or less.

For further reference see Deed Book 134, Page 160 in the Moore County Registry.

SECTION 2. This act shall not affect the duty to pay taxes for any prior year and shall not eliminate any liens for taxes for prior years.

SECTION 3. Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Robbins is granted certain contract powers as follows:

(1) The Town of Robbins may, by agreement, limit the circumstances under which that certain property described in Section 1 (the "Property") of this act may be involuntarily annexed by the Town under the General Statutes as they now exist or may be subsequently amended. The Town of Robbins shall not seek to repeal this act upon its approval by the General Assembly. Nothing in this act impairs the right of the General Assembly to annex the property by special local act. That agreement may include, among others, these provisions: that the Town of Robbins provide utility services to the Property at non-resident out-of-town rates; that so long as the Property is not annexed to the Town of Robbins the owner of the Property will pay to the Town an amount equivalent to the property tax that would be paid if the Property were in the city limits of the Town, including any other taxes normally collected

with the property tax, including but not limited to the Fire District tax and ALS tax; and that the agreement is perpetual and binding on the owner of the Property, the Town, and their successors and assigns, and may be recorded in the Moore County Registry.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this act to be commercial and proprietary in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the Board of Commissioners of the Town of Robbins during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

SECTION 4. The Town of Robbins may accept, as consideration for such agreement, "payments in lieu of taxes" and may agree to provide to the Property on-going response and protection by the Robbins Police Department. The jurisdiction of the Robbins Police Department shall extend to the Property.

SECTION 5. The agreement under subdivision (1) of Section 3 of this act shall apply to the Property described in Section 1 of this act.

SECTION 6. No portion of the Property shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority by the Town of Robbins or any other town or municipality or consolidated government during the term of the agreement referred to in Section 1 of this act, but payments in lieu of taxes do not constitute being subject to the power of municipal taxing authority.

SECTION 7. This act is effective when it becomes law.

SENATE BILL 215:
Robbins Deannexation.

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 8, 2009
Introduced by:	Sen. Blake	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S215-CSRW-30		

SUMMARY: This PCS for Senate Bill 215 would deannex two parcels of land from the town limits of Robbins and enter into an agreement for payments in lieu of re-annexation.

CURRENT LAW: North Carolina law provides for involuntary annexation in some circumstances.

BILL ANALYSIS:

Section 1 of the bill would deannex two tracts of territory, described in the bill, from the town limits of Robbins. Together they consist of about 1.8 acres.

Section 2 of the bill would specify that the deannexation would not affect past tax bills.

Section 3 would empower the Town of Robbins to enter into agreements limiting its power to re-annex involuntarily the deannexed tracts. The bill specifies some of the things the agreement may provide. They could include:

- The town's providing utility services to the people in the tracts at non-resident out-of-town rates.
- Payment of the equivalent of in-town property tax, including other taxes usually collected with it.
- A provision that the agreement is perpetual and binding on the parties.

Section 4 would provide that the town could accept "payments in lieu of taxes" in consideration for the agreement, and may agree to provide ongoing protection by the Robbins Police.

Section 5 would provide that the agreement would apply to the specified two deannexed tracts.

Section 6 would prohibit re-annexation of the tracts during the term of the agreement.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Robbins is a town of about 1,200 people in northern Moore County.

S215-SMRR-105(CSRW-30) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1086
PROPOSED COMMITTEE SUBSTITUTE S1086-CSRR-42 [v.1]

5/11/2009 2:31:03 PM

Short Title: Correctional/Probation Training Comm. Study. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENTS OF CORRECTION AND JUSTICE TO STUDY THE ESTABLISHMENT OF A NORTH CAROLINA CORRECTIONAL AND PROBATION OFFICER EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Department of Correction and the North Carolina Department of Justice shall study all of the following:

(1) Issues that impede the timely certification of correctional officers and probation/parole officers and ways to expedite the certification process.

(2) The current minimum education and training requirements for correctional and probation/parole officers and whether those requirements are necessary and appropriate for certified employees of the Department of Correction.

(3) Inconsistencies between rules promulgated by the North Carolina Criminal Justice Education and Training Standards Commission and applicable State and federal laws, and ways to resolve those inconsistencies.

(4) The current process of certifying criminal justice training schools and programs or courses of instruction and whether that process could be expedited.

(5) Ways to improve communication and cooperation between the Criminal Justice Standards Division and the Department of Correction regarding the employment, education, training, and retention of correctional officers and probation/parole officers.

(6) Ways to expedite and enhance the technical assistance the Criminal Justice Standards Division provides to the Department of Correction pursuant to Chapter 17C.

(7) The feasibility and advisability of establishing a separate training and standards commission for State correctional officers and probation/parole officers.

SECTION 2. The Department of Correction and the Department of Justice shall report their findings and recommendations no later than April 1, 2010, to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

SECTION 3. This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 222
PROPOSED COMMITTEE SUBSTITUTE S222-PCS15269-RF-48

Short Title: Red Light Cameras in Wilmington. (Local)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO USE RED LIGHT CAMERAS FOR SAFETY, FOR SCHOOLS, BUT NOT FOR PROFIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2007-341 reads as rewritten:

"**SECTION 3.** Section 1 of this act applies to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Locust, ~~and Rocky Mount~~Rocky Mount, and Wilmington and to the municipalities in Union County."

SECTION 2. This act becomes effective October 1, 2009.

SENATE BILL 222:
Red Light Cameras in Wilmington

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 11, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 222 is a local act for the City of Wilmington that amends the legislation authorizing the use of cameras to identify and penalize persons who violate the red light statute. The bill raises the civil penalty, changes provisions regarding notice to the violator, specifies the deductions the municipality may make from the civil penalty in arriving at the amount that must be paid to the local school board as required by the North Carolina Constitution, and authorizes the assessment of a collection assistance fee that may collected from a violator in certain circumstance.***

The proposed committee substitute changes the effective date to October 1, 2009.

[As introduced, this bill was identical to H967, as introduced by Rep. Hughes, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: G.S. 160A-300.1 authorizes certain municipalities to use traffic control photographic systems to enforce the State law prohibiting a driver from entering an intersection when a traffic light is emitting a steady red signal. G.S. 20-158. The owner is notified of the violation and must pay the civil penalty of $50.00 in the time specified by the ordinance. If the penalty is not paid within the time specified, it is increased to $100.00 and the right to contest the citation is forfeited. (The municipality is required to establish a nonjudicial administrative hearing process to allow the citation and penalty to be contested.) There is no provision in the statute regarding the constitutional requirement that the clear proceeds of such penalties must be paid to the local school board. (Article IX, Section 7.)

BILL ANALYSIS: SB 222 amends G.S. 160A-300.1(c) as follows:

- Raises the civil penalty from $50.00 to $75.00.
- Requires the citation to state when the penalty is due.
- Specifies that the increase in the civil penalty and the loss of appeal rights occurs if payment is not made within 30 days after the citation is served or mailed.
- Specifies that the clear proceeds must be paid to the local school board, subject only to deductions for costs of materials and postage directly related to the printing and mailing of required notices and computer services directly related to the production and mailing of the notices. The deductions may not exceed 10% of the $75.00 civil penalty.
- Authorizes the assessment of a "collection assistance fee," not to exceed 20% of the $75.00 civil penalty, if the civil penalty has not been paid 30days after a second notice.
- Requires the collection assistance fees to be placed in a separate fund to be used only for collection expenses related to civil penalties that remain unpaid after the second notice.

EFFECTIVE DATE: Effective October 1, 2009 and applies to offenses committed on or after that date.

BACKGROUND: The amendments above to the red light camera legislation were enacted for the Cities of Albemarle, Charlotte, Durham, Fayetteville, Locust, and Rocky Mount and the municipalities in Union County.

Cindy Avrette, counsel to Senate Finance, substantially contributed to this summary.

S222-SMRF-94(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 430
PROPOSED COMMITTEE SUBSTITUTE S430-PCS15267-RK-46

Short Title: Wilmington Civil Service/Amendments. (Local)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE WILMINGTON CIVIL SERVICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 11.1 and 11.2 of Article XI of the Charter of the City of Wilmington, being Chapter 495 of the 1977 Session Laws, as amended by Chapter 342 of the 1981 Session Laws, read as rewritten:

"ARTICLE XI. CIVIL SERVICE.

"Sec. 11.1. Civil Service Commission established. ~~There is created a Civil Service Commission consisting of five members. Each member must be a citizen and a resident of the City of Wilmington. No member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city or a former employee of the police or fire department.~~

~~The employees of the City of Wilmington Fire Department, by a majority vote, shall name one member. The employees of the City of Wilmington Police Department, by a majority vote, shall name one member. The City Council of the City of Wilmington, by a majority vote, shall name one member. The New Hanover County Medical Society governing board, by a majority vote, shall name one member. The Wilmington Ministerial Association governing body, by a majority vote, shall name one member.~~

~~The members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.~~

~~A vacancy is caused by death, resignation, disqualification, or removal. A vacancy is filled by the agency authorized to name the member causing the vacancy. If the agency fails to fill the vacancy within 60 days after notification, the resident senior superior court judge of the judicial district that includes New Hanover County shall immediately fill the vacancy. Members appointed to fill a vacancy serve for the remainder of the unexpired term.~~

~~The city council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the commission shall elect a chairman and may elect other officers. A majority of the members of the commission constitutes a quorum. The commission may determine its own rules of procedure.~~

~~The city clerk shall be designated as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, keep custody of commission records and notify members of meetings. The director of personnel shall act as an ex officio member of the commission representing the city on personnel matters to be handled by the commission. The commission shall within a reasonable~~

~~time, supply the director of personnel with notification of any actions, reports, or recommendations made by the commission. The personnel office shall notify affected police and fire department members of actions, reports and recommendations made by the commission.~~

(a) Establishment, Qualifications, and Restrictions. – There is created a civil service commission consisting of five regular members and one nonvoting ex officio member. Each regular member must be a citizen and a resident of the City of Wilmington. No regular member shall be an officer or employee of the city, or be a member of the immediate family of an employee of the city, or a former employee of the police or fire department.

(b) Appointment, Term, and Removal of Regular Members. – The employees of the City of Wilmington Fire Department who are subject to this Article, by a majority vote, shall name one regular member. The employees of the City of Wilmington Police Department who are subject to this Article, by a majority vote, shall name one regular member. The City Council of the City of Wilmington, by a majority vote, shall name one regular member. The New Hanover County Medical Society governing board, by a majority vote, shall name one regular member. The sitting members of the Civil Service Commission, by a majority vote, shall select one member to be confirmed by the City Council as a regular member of the commission.

The regular members of the commission shall serve a term of three years unless removed by the appointing authority. A member may be removed by a majority vote of all members of the agency appointing that member.

(c) Vacancy. – A vacancy on the commission may be caused by the death, resignation, disqualification, or removal of a regular member. Such vacancy shall be filled by the appointing authority authorized to name the member causing the vacancy. If the appointing agency fails to fill the vacancy within 60 days after notification, the senior resident superior court judge of the judicial district that includes New Hanover County shall be notified and shall immediately fill the vacancy. Regular members appointed to fill a vacancy serve for the remainder of the unexpired term.

(d) Compensation, Officers, and Quorum. – The City Council shall set the compensation for allowances, if any, to be paid the members of the commission. In November of each year, the regular members of the commission shall elect a chairman and may elect other officers. A majority of the regular members of the commission constitutes a quorum. There shall be a minimum of four regular members present to consider the appeal of a dismissal or demotion under this Article. A quorum will be required to consider nondisciplinary matters.

(e) Secretary. – The city clerk shall act as permanent recording secretary to the Civil Service Commission. The recording secretary shall maintain the minutes of commission meetings and hearings, shall be custodian of all papers and records pertaining to the business of the commission, shall notify commission members of meetings, shall administer required oaths, shall be responsible for transmitting to the Superior Court of New Hanover County a complete transcript of all proceedings and papers concerning any commission order appealed to the court, and shall perform other duties as the commission may require.

(f) Ex Officio Member. – The director of human resources shall act as a nonvoting ex officio member of the commission and shall advise the commission on all city and departmental policies, rules, regulations, and procedures. The commission shall, within a reasonable time, supply the director of human resources with notification of any actions, reports, or recommendations made by the commission. The human resources department shall notify affected police and fire department members of actions, reports, and recommendations made by the commission.

"Sec. 11.2. ~~Jurisdiction.~~ Application of Article. ~~The Civil Service Act has jurisdiction over an employee of the Police Department of the City of Wilmington certified in accordance with Section 11.5 of this act and who is clothed with the full power of arrest and whose primary duty~~

~~is that of enforcing the criminal laws of the city and State, excluding those employees whose primary responsibility is that of issuing parking tickets or collecting fees. The chief of the police department is not covered by the Civil Service Act.~~

~~The act shall apply to an employee of the Fire Department of the City of Wilmington certified in accordance with Section 11.5 of this act and whose primary function is that of protecting life and property through fire fighting, including those fire officers assigned to supporting services of the fire service. The chief of the fire department is not covered by the Civil Service Act.~~

(a) General Application. – The provisions of this Article shall apply only to civil service certified employees of the City of Wilmington police and fire departments as defined in this section.

(b) Police Department. – An employee of the police department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this Article; (iii) has received certification as a criminal justice officer by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the police department as a criminal justice officer. Other than Section 11.4 of this Article, the provisions of this Article shall not apply to the chief of police. The provisions of this Article shall not apply to any deputy chief or auxiliary police officer appointed to such position after the date of the enactment of this Article.

(c) Fire Department. – An employee of the fire department shall be civil service certified only if that employee: (i) is a full-time regular employee of the City of Wilmington; (ii) has successfully completed the probationary period of employment as set forth in Section 11.5 of this Article; (iii) has received certification as either a firefighter or fire inspector by the State of North Carolina; and (iv) continues to maintain such State certification while employed by the fire department in a primary function of protecting life and property through firefighting, including those fire officer positions assigned to supporting services of the fire service. Other than Section 11.4 of this Article; the provisions of this Article shall not apply to the fire chief. The provisions of this Article shall not apply to any deputy fire chief appointed to such position after the date of the enactment of this Article."

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

SENATE BILL 430:
Wilmington Civil Service Rewrite

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 11, 2009
Introduced by:	Sen. Boseman	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S430-CSRK-46		Committee Counsel

SUMMARY: ***This act amends the Charter of the City of Wilmington with regard to the members and duties of the Civil Service Commission. This act is effective when it becomes law.***

[As introduced, this bill was identical to H729, as introduced by Reps. Justice, McComas, Hughes, which is currently in House Local Government II, if favorable, Judiciary I.]

BILL ANALYSIS: This act:

- Repeals the authority of the Wilmington Ministerial Association governing body to name one member to the Commission and gives the authority instead to the sitting members of the Civil Service Commission.
- Provides that a minimum of four members of the Commission must be present to consider the appeal of a dismissal or demotion under this Charter.
- Clarifies the definition of "civil service certified employee" of the City of Wilmington police department and fire department to reflect current State standards and City practices.
- Provides that Deputy Police Chiefs and Deputy Fire Chiefs appointed after the date of the adoption of this Act are excluded from the Act, as is the Chief of Police. When the current act was drafted, the positions of Deputy Police Chief and Deputy Fire Chiefs did not exist. Current Deputy Police and Fire Chiefs will be included under the Civil Service Act.

EFFECTIVE DATE: This act is effective when it becomes law.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

SENATE BILL 540

Short Title:	Pleasant Garden/Voters Elect Mayor.	(Local)
Sponsors:	Senator Dorsett.	
Referred to:	State and Local Government.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF PLEASANT GARDEN TO ALLOW FOR THE ELECTION OF THE MAYOR BY THE QUALIFIED VOTERS OF THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter III of the Charter of the Town of Pleasant Garden, being S.L. 1997-344, reads as rewritten:

"CHAPTER III.
"GOVERNING BODY.

"Sec. 3-1. **Structure of the Governing Body; Number of Members.** The governing body of the Town of Pleasant Garden is the Town ~~Council which has five members.~~Council, which shall have four members and a Mayor.

...

"Sec. 3-3. **Term of Office of Council Members.** Members of the Council are elected to four-year terms. ~~In 1999, five~~Beginning in 2011, four members shall be elected to the Council. The ~~three~~ two members receiving the highest number of votes shall serve four-year terms. The two receiving the next highest number of votes shall serve two-year terms. In ~~2001,~~2013 and quadrennially thereafter, two members shall be elected to the Council. In ~~2003,~~2015 and quadrennially thereafter, ~~three~~ two members shall be elected to the Council.

"Sec. 3-4. **Mayor; Term of ~~Office.~~Office; Duties.** ~~The Mayor shall be selected by the Council from among its membership to serve at its pleasure.~~ The qualified voters of the entire Town shall elect the Mayor. Beginning in 2011 and biennially thereafter, the Mayor shall be elected for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Pleasant Garden, and shall have the right to vote as a member of the Town Council on all matters before the Town Council, but shall have no right to break a tie vote in which the Mayor has participated."

SECTION 2. Section 4-1 of the Charter of the Town of Pleasant Garden, being S.L. 1997-344, reads as rewritten:

"Sec. 4-1. **Method.** ~~Council members~~Elections shall be ~~elected~~ conducted on a nonpartisan primary basis and the results determined in accordance with G.S. 163-294."

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

SENATE BILL 540:
Pleasant Garden/Voters Elect Mayor

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 7, 2009
Introduced by:	Sen. Dorsett	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to First Edition S540-CSRF-32		

SUMMARY: ***Senate Bill 540 amends the Charter for the Town of Pleasant Garden to change the staggering of terms for the members of the town council***

CURRENT LAW: The governing body of Pleasant Garden used to consist of 5 members and the town council would select the mayor from among its membership. The provisions of the charter were changed to provide for the election of the mayor at large. This left one member of the council being elected in 2009 and 3 in 2011.

BILL ANALYSIS: Senate Bill 540 restaggers the terms of the Pleasant Garden town council so that by 2013, 2 persons will be elected to the town council in each election cycle.

EFFECTIVE DATE: The act is effective when it becomes law.

S540-SMRF-89(CSRF-32) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 556
PROPOSED COMMITTEE SUBSTITUTE S556-CSRF-33 [v.4]

Short Title: Asheville City Civil Service Board. (Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAWS RELATING TO THE ASHEVILLE CIVIL SERVICE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303 and S.L. 2004-13, reads as rewritten:

"Section 2. (a) The Civil Service Board shall consist of five members as follows: (i) two members who shall be chosen by the City Council at a meeting of the Council and they shall serve at the pleasure of the Council; (ii) two members who shall be elected by the members of the classified service of the City, as defined in this Act, at an election held for that purpose and on a normal City workday not less than 10 nor more than 30 days after written notice of the date of the election is provided to each member of the classified service; and (iii) one member who shall be selected by majority vote of the four other members already selected or elected at a meeting held within 30 days after the members elected by the classified service have taken office. If a member is not elected by majority vote of the four other members, the City Council shall appoint a member to the Board. Members of the Board shall serve two-year terms. All members of the Board shall be eligible for successive terms, in the same manner in which they were initially selected or elected and may serve beyond the end of their respective terms until their successors take office. The chair of the Civil Service Board shall be appointed annually by the City Council, or more often as needed, from among the membership of the Board. The members of the Board shall serve without compensation but may be reimbursed for expenses pursuant to policies adopted by the City.

The City Council shall, by ordinance not inconsistent with this act, establish the procedure for the election of the representatives of the employees in the classified service, and provide for meeting the expense for such elections. The members of the Civil Service Board must all be qualified voters of the City of Asheville, not employed by the ~~city~~ City or serving on the City Council. In the event of a vacancy on the Board, such vacancy shall be filled by the body or group, choosing the member, a successor to whom is to be chosen, and in the manner herein provided for the selection of such member.

(b) Former employees of the City of Asheville shall be eligible to serve as a member of the Asheville Civil Service Board provided they have been separated from City employment for a period of not less than 10 consecutive years prior to becoming a member of the Board. No person shall be eligible to serve as a Civil Service Board member if such person directly, or indirectly through any corporation, partnership or other entity, or contract, subcontract or otherwise benefits financially from a business relationship with the City, or if such person has

an immediate family member or spouse of the immediate family member who directly, or indirectly through any corporation, partnership or other entity, or contract, subcontract or otherwise benefits financially from a business relationship with the City. No person shall engage or benefit directly or indirectly from any contractual work or employment with the City for a period of not less than two years following the expiration date of that person's term of office as a member of the Civil Service Board. The foregoing restrictions shall not be retroactively applied to anyone currently serving on the Board at the time this subsection is enacted.

(c) The Asheville Civil Service Board Secretary shall perform all required ministerial functions and duties for the Board including, but not limited to, the electronic recording of and the preparation of minutes of all Civil Service Board meetings and hearings, the custody of all Board records and the posting and issuing of meeting notices to Board members and to the public in accordance with the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. To assist the Secretary in performing the functions and duties, all Civil Service Board meetings shall be electronically recorded and transcripts thereof made available to the Board members upon request without charge. All other persons shall be entitled to the Civil Service Board's recordings and records upon request made pursuant to the Public Records Act, Chapter 132 of the General Statutes.

(d) Regular meetings of the Asheville Civil Service Board shall be held at least once every month at a time and place to be determined by Board members. The deadline for receiving items for the regular monthly Board's meetings shall be seven days prior to the meeting. Special meetings may be called by the chairman and shall be called upon written request signed by two or more Board members and submitted to the Board Secretary not less than seven days prior to the date of the requested special meeting. The notice for all meetings shall contain a meeting agenda which shall include a section for other business to hear and consider any other matters related to the Board's function and duties and which may be addressed by any member of the Board and by any person in attendance.

(e) No uniform employees of the City of Asheville shall be prohibited, directed, or discouraged in any manner by a supervisor from wearing that employee's uniform while in attendance at any Civil Service Board meeting."

SECTION 2. Section 4 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303 and S.L. 2004-13, reads as rewritten:

"Section 2. The Civil Service Board shall make, and may amend substantive rules for promoting efficiency in the classified service of the City as provided in Section 5 of this Act. Such rules and any amendment thereto, shall be submitted to the Council for approval, and shall be open to public inspection, when filed with the Council for approval. The City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the Council, shall be in full force and effect. The Civil Service Board shall also make, and may amend, procedural rules for the conduct of its official proceedings and functions as provided for by this Act. The Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.".

SECTION 3. Section 5 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303 and S.L. 2004-13, reads as rewritten:

"Section 5. Such rules, as authorized in Section 4 of this Act, among other things, may provide:

(1) For the standardization and classification of all positions and employment in the classified service of the City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities, and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions. The City Manager of his

or her designee shall consult representative employee in the Police and Fire Departments to establish criteria to be used to fill each position within those respective departments, including lateral entry positions. If only one respective employee is consulted, he or she shall be a representative chosen by the employees of the respective departments. If a group of two or more employees is established for purposes of this subdivision, at least one-half of the employees shall be chosen by the employees of the respective department. The Civil Service Board shall have the authority to approve any criteria established and the criteria shall apply only to persons promoted or hired after the effective date of the approval. This provision shall not apply to hiring or promotional processes initiated prior to the effective date of this Act.

(2) For temporary or part-time employment to meet the transitory or seasonal needs of the City, except no temporary or part-time employment may occur or continue in violation of applicable state or federal law.

(3) For the establishment of a probationary period for new City employees prior to employees becoming members of the classified service, except not probationary period or any extension thereof may exceed one year in the aggregate.

(4) For suspension for purpose of discipline, with or without pay, for not longer than 90 days.

(5) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he or she so request, been presented by the person responsible for his or her appointment with the reasons therefore specifically stated in writing and has been given an opportunity to be publicly heard in his or her own defense by the Civil Service Board, in accordance with Section 8 of this Act. The written reasons for the discharge or reduction and any reply in writing thereto by any such officer or employee shall be filed with the ~~Department of Civil Service.~~ Secretary of the Civil Service Board for use and consideration by Board members in the performance of their official functions and duties.

(6) For investigation and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities."

SECTION 4. Section 7 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303 and S.L. 2004-13, reads as rewritten:

"Section 7. The Council, the City Manager, the Chair of the Civil Service Board, or any ~~person designated by any of them,~~ two or more Civil Service Board members may make official investigations concerning the facts in respect to the operation and enforcement of the provisions of this Act and of the rules established thereunder, and concerning the condition of the Civil Service of the City or and branch thereof and may refer such matters to the Civil Service Board for hearing in accordance with Section 8 of this Act, or for further investigation as appropriate. At any person, or persons, making any investigation authorized or required by this section, shall have the power to subpoena and require the attendance of witnesses. Such subpoenas shall be issued by the Clerk of the Superior Court Division of the General Court of Justice for Buncombe County upon the written request of any party authorized hereinabove to make official investigations. A copy of the report of the investigation shall be filed with the City Clerk for transmittal to the City Council of Asheville and be open for public inspection, subject to the provisions of the Personnel Privacy Act or other laws governing the disclosure of records in this State."

SECTION 5. Section 8 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303 and S.L. 2004-13, reads as rewritten:

"Section 8. (a) Whenever any member of the classified service of the City is discharge, suspended, reduced in rank, transferred against his or her will, or is denied any promotion or raise in pay which he or she would be entitled to, that member shall be entitled to a hearing before the Civil Service Board to determine whether or not the action complained of is justified. The Board may also conduct hearings and render decisions on such matters as may be referred to it pursuant of Section 7 of this Act.

(b) Any member of the classified service of the City who desires a hearing shall file his or her request for hearing with the City Clerk within 10 days after learning of the act or omission of which her or she complains but not before the member shall have exhausted his or her remedy provided by the grievance procedures established by ordinance or policy of the City and the grievance procedure shall be concluded within 30 days. If the grievance procedure is not concluded with 30 days, the member may proceed as provided in this section. Upon receipt of notice as required in this section, the City Clerk shall set the matter for hearing before the Civil Service Board at a date not less than five nor more than fifteen days from the Clerk's receipt of such notice. Except for the time for filing the initial request for hearing with the Board, the Board may extend the time for taking action under this section for cause or by agreement of the parties to the proceeding.

(c) Any member of the classified service of the City who requests a hearing pursuant to the Act shall be entitled to be represented by its attorney at any such hearing.

(d) For such hearings, upon the written request of any party the Board is authorized to issue subpoenas for the attendance of witnesses or the production of documents.

~~(d)~~ (e) At such hearing, the burden of proving the justification of the act or omission complained of shall be upon the City and the member requesting the hearing shall be entitled to inspect any copy any records upon which the City plans to rely at the hearing if the records are requested in writing by the member or his or her attorney prior to the day set for the hearing.

~~(d)~~ (f) The Civil Service Board shall render its decision in writing within five days after the conclusion of the hearing. If the Board determines that the act or omission complained of is not justified, the Board shall order to rescind whatever action the Board has found to be unjustified and may order the City to take such steps as are necessary for a just conclusion of the matter before the Board. Upon reaching its decision, the Board shall, in writing, immediately inform the City Clerk and the member requesting the hearing of the Board's decision.

~~(f)~~ (g) Within then days of the receipt of notice of the decision of the Board, either party may appeal to the Superior Court Division of the General Court of Justice for Buncombe County for a trial de novo. The appeal shall be effected by filing with the Clerk of the Superior Court of Buncombe County a petition for trial in superior court, setting out the fact upon which the petitioner relies for relief. If the petitioner desires a trial by jury, the petition shall so state. Upon the filing of the petition, the Clerk of the Superior Court shall issue a civil summons as in regular civil action, and the sheriff of Buncombe County shall serve the summons and petition on all parties who did not join in the petition for trial. It shall be sufficient service upon the City for the sheriff to serve the petition and summons upon the clerk of the City. Therefore, the matter shall proceed to trial as any other civil action."

SECTION 6: Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303, is amended by adding a new section to read:

"Section 8.1. By a majority vote of those members present and voting at any of its official meetings, the Asheville Civil Service Board may designate independent legal counsel of its choice to advise or represent the Board, or both, on such occasions and in such matters as the majority of those Board members present and voting deem to be appropriate and necessary. The City shall be responsible for the payment of such professional legal services. In order to avoid the appearance of any possible conflict of interest, the Office of the City Attorney shall

serve as legal advisor to or attorney for the Board, or both, only for those matters or proceedings when specifically requested to do so in a writing that has been signed by no fewer than four members of the Board."

SECTION 7. Section 10 of Chapter 757 of the 1953 Session Laws, as amended, and as rewritten by S.L. 1999-303, reads as rewritten:

"Section 10. It shall be the duty of the Civil Service Board to supervise the execution of the foregoing civil service provisions of this Act and of the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Willful or deliberate violation of the Asheville Civil Service Law (this act) or Civil Service Rules by any person shall constitute a misdemeanor punishable by a fine not to exceed the sum of five hundred dollars ($500.00). Any City employee or any City official who threatens or intimidates other employees from exercising their rights under the Asheville Civil Service Law (this act) or Civil Service Rules shall be subject to discipline by the City, including dismissal of employment with the City."

SECTION 8. If any section, subsection, subdivision, sentence, clause, or phrase of this act shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

SECTION 9. All laws, rules, or clauses in conflict with the provisions of this act are hereby superseded or repealed as appropriate.

SECTION 10. This act is effective when it becomes law.

SENATE BILL 556:
Asheville City Civil Service Board

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 10, 2009
Introduced by:	Sen. Nesbitt	**Prepared by:**	Barbara Riley
Analysis of:	PCS to First Edition S556-CSRF-33		Committee Counsel

SUMMARY: Senate Bill 556 makes various amendments to the Asheville Civil Service Board.

BILL ANALYSIS: Senate Bill 556 makes the following changes to the law governing the Asheville Civil Service Board.

Section 1 amends Section 2 of the Civil Service Act. It provides that:

- Former Asheville city employees may serve as a member of the Board 10 years or more after separation from employment with the city.
- No person may serve if they directly or indirectly benefit financially from a business relationship with the city.
- No person shall engage or benefit, directly or indirectly, from contract work or employment with the city for 2 years after the expiration of their service on the Board.
- The Board Secretary's duties are outlined to include
    - Electronic recording and preparing minutes
    - Custody of Board records.
    - Issuing and posting notices of meetings.
- The Board shall meet at least once a month.
- Deadline for receipt of items for the agenda is 7 days prior to the meeting. Notices of all meeting shall contain a meeting agenda.
- Special meetings may be called by the Chair and shall be called on the written request of 2 or more members.
- Uniform employees may wear their uniforms to Board meetings and shall not be discouraged from doing so by a supervisor.

Section 2 of the Bill amends Section 4 of the Civil Service Board law and provides that the Board may adopt procedural rules for the Board as well as substantive rules for promoting efficiency in the city civil service.

Section 3 of the Bill amends Section 5 of the Civil Service law which sets forth what the substantive rules of the Board may cover. In particular, it provides for the filing of written reasons for discharge and any response with the Secretary of the Civil Service Board (was with the Department o Civil Service).

Section 4 of the Bill amends Section 7 of the Civil Service law to add that official factual investigations into the operation and enforcement of the Civil Service act and the condition of the city's civil service may be made by 2 or more members of the Board. Subpoenas for such investigations shall be issued by the Clerk of the Superior Court of Buncombe County. A copy of the report shall be filed with the City Clerk for transmittal to the City Council.

Section 5 of the Bill amends Section 8 of the Civil Service act to add authority for the Board to conduct hearings on matters referred to it involving investigations into the Civil Service under Section 7. For such hearings the Board may issue subpoenas for the attendance of witnesses and production of documents.

Section 6 of the Bill adds a new section 8.1 to the Civil Service law providing authority for the Board, upon a majority vote of members present at an official meeting, to designate independent legal counsel to represent the Board. The City is responsible for payment for the legal services. To avoid the appearance of conflict of interest, the City Attorney shall serve as legal advisor to or attorney for the Board only for those matters when specifically requested n writing signed by at least 4 members of the Board.

Section 7 of the Bill amends Section 10 of the Civil Service act to provide that willful violation of the act is a misdemeanor punishable by a fine of up to $500. A city employee or city official who threatens or intimidates other employees from exercising their rights under the civil service law are subject to discipline, including dismissal.

EFFECTIVE DATE: The act is effective when it becomes law.

S556-SMRF-93(CSRF-33) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 560
PROPOSED COMMITTEE SUBSTITUTE S560-CSRR-35 [v.2]

5/8/2009 1:17:58 PM

Short Title: Greenville Housing Authority. (Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY COUNCIL OF THE CITY OF GREENVILLE TO APPOINT SOME OF THE CITY'S HOUSING AUTHORITY COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 157-5 reads as rewritten:

"**§ 157-5. Appointment, qualifications and tenure of commissioners.**

(a) An authority shall consist of not less than five nor more than eleven ~~commissioners appointed by the mayor and the mayor shall designate the first chair.~~commissioners. One commissioner shall be appointed by the mayor, and all other commissioners shall be appointed by the city council. No commissioner may be a city official. At least one of the commissioners appointed shall be a person who is directly assisted by the public housing authority. However, there shall be no requirement to appoint such a person if the authority: (i) operates less than 300 public housing units, (ii) provides reasonable notice to the resident advisory board of the opportunity for at least one person who is directly assisted by the authority to serve as a commissioner, and (iii) within a reasonable time after receipt of the notice by the resident advisory board, has not been notified of the intention of any such person to serve. The ~~mayor~~ city council shall appoint the person directly assisted by the authority unless the authority's rules require that the person be elected by other persons who are directly assisted by the authority. If the commissioner directly assisted by the public housing authority ceases to receive such assistance, the commissioner's office shall be abolished and another person who is directly assisted by the public housing authority shall be appointed by the ~~mayor.~~city council.

...

(d) The mayor shall designate overlapping terms of not less than one nor more than five years for the commissioners first appointed. Thereafter, the term of office shall be five years. A commissioner shall hold office until his or her successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. A majority of the commissioners shall constitute a quorum. ~~The~~ Where the appointment is made by the mayor, the mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. Where the appointment is made by the city council, the city council shall adopt a resolution or motion of appointment or reappointment of any commissioner, and the resolution or record of the official act shall be conclusive evidence of the due and proper appointment of the commissioner. Where the appointment is made by the city council, nominations to the city council for the appointment shall be made by city council members on a rotating basis in accordance with a procedure adopted by the city council that provides each

city council member, on an equitable basis, an assigned position in the rotation to make a nomination for an appointment when the time for appointment occurs. A commissioner shall receive no compensation for his or her services but he or she shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his or her duties.

...."

SECTION 2. This act applies to the City of Greenville only.

SECTION 3. This act is effective when it becomes law and applies to appointments and reappointments commencing on or after that date.

SENATE BILL 560:
Greenville Housing Authority

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 8, 2009
Introduced by:	Sen. Davis	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S560-CSRR-35		

SUMMARY: ***This PCS for Senate Bill 560 would authorize the Greenville City Council to make appointments to the board of commissioners of the Greenville Housing Authority.***

[As introduced, this bill was identical to H638, as introduced by Reps. E. Warren, McLawhorn, Williams, which is currently in House Local Government II, if favorable, Judiciary III.]

CURRENT LAW: Currently, G.S. 157-5 provides that the board of commissioners of a city housing authority shall be appointed by the mayor.

BILL ANALYSIS: The PCS would change the uniform method of appointment for housing authority commissioners for Greenville only. It would provide that the mayor of Greenville would appoint one commissioner and the city council would appoint the rest of them. The city council would be required to adopt an equitable rotation method for allowing each council member to nominate someone for each of the council's appointments.

EFFECTIVE DATE: When it becomes law.

BACKGROUND:

S560-SMRR-103(CSRR-35) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 941
PROPOSED COMMITTEE SUBSTITUTE S941-CSRK-47 [v.1]

5/11/2009 7:41:56 PM

Short Title: Eligibility Requirements/Public Assistance. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT REQUIRING APPLICANTS FOR PUBLIC ASSISTANCE TO UNDERGO DRUG TESTING AND DEMONSTRATE THAT THE APPLICANT IS EMPLOYED, FURTHERING THE APPLICANT'S EDUCATION, OR PERFORMING COMMUNITY SERVICE BEFORE THE APPLICANT IS ELIGIBLE FOR PUBLIC ASSISTANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following section to read:

"**§ 108A-25.4. Eligibility for assistance.**

(a) Except as otherwise prohibited by federal law, to be eligible for program assistance under this Article an applicant shall undergo drug testing as administered by the county department of social services in the county in which the applicant resides or, in the case of residents of Electing Counties, administered by the public or private entity designated by the board of county commissioners. If the applicant passes the drug test, the applicant shall submit evidence to the entity administering program assistance that the applicant meets at least one of the following requirements:

(1) Is currently employed in a part-time job;

(2) Is furthering the applicant's education in a secondary or postsecondary educational setting approved by the entity administering program assistance; or

(3) Is performing community service approved by the entity administering program assistance.

If the applicant fails to pass the drug test, the applicant shall be required to undergo substance abuse treatment in accordance with G.S. 108A-29.1.

(b) Except as provided in this subsection, an applicant meeting the requirements of subsection (a) of this section shall be eligible for program assistance under this Article. Nothing in this section shall prevent an applicant from receiving program assistance when the applicant is not able to meet any of the requirements set forth in subsection (a), subdivisions (1) through (3) of this section, due to disability.

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

SENATE BILL 941:
Eligibility Requirements/Public Assistance

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 11, 2009
Introduced by:	Sen. Rouzer	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition S941-CSRK-47		Committee Counsel

SUMMARY: ***This act would require applicants for public assistance to undergo drug testing and meet other eligibility requirements. This act is effective when it becomes law.***

BILL ANALYSIS: This act would require applicants for public assistance to undergo drug testing as administered by:

- The county department of social services in the county in which the applicant resides, or
- A public or private entity designated by the board of county commissioners.

An applicant passing the drug test must meet one of the following requirements in order to obtain public assistance:

- Current employment in a part-time job.
- Enrolled in a secondary or post-secondary educational setting that is approved by the entity administering program assistance.
- Performing community service approved by the entity administering public assistance.

An applicant will not be denied program assistance if the applicant cannot perform any of the above due to disability.

An applicant who fails the drug test must undergo substance abuse treatment in accordance with provisions for qualifying for Work First benefits.

EFFECTIVE DATE: This act is effective when it becomes law.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 976
PROPOSED COMMITTEE SUBSTITUTE S976-CSRR-37 [v.4]

5/11/2009 1:03:16 PM

Short Title: Establish NC Office of Management Innovation. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA OFFICE OF MANAGEMENT INNOVATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-746(a) reads as rewritten:

"**§ 143-746. Internal auditing required.**

(a) Requirements. – A State agency shall establish a program of internal auditing that:

(1) Implements an effective system of internal controls that safeguards public funds and assets and minimizes incidences of fraud, waste, and abuse.

(2) Ensures programs and business operations are administered in compliance with federal and state laws, regulations, and other requirements.

(3) Reviews the effectiveness and efficiency of agency and program operations and service ~~delivery.~~ delivery, in consultation with the Office of Management Innovation.

(4) Periodically audits the agency's major systems and controls, including:

a. Accounting systems and controls.

b. Administrative systems and controls.

c. Electronic data processing systems and controls."

SECTION 2. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 3E.

"Office of Management Innovation.

"**§ 147-33.120. Office of Management Innovation established.**

The North Carolina Office of Management Innovation (Office) is established within the Office of State Budget and Management to provide training and support for State agencies to implement best practices in management in order to give agencies the tools necessary to improve efficiency and economy.

"**§ 147-33.121. Duties.**

The Office shall have the following duties:

(1) Train State agencies to identify ways to improve the effectiveness, efficiency, and quality of agency and program operations and services.

(2) Train and assist state agencies to adopt a systems approach to management. This may include, but is not limited to, adopting elements of the following management systems:

a. Lean Management

b. Total Quality Management
c. Theory of Constraints
d. Competence-based Strategic Management

(3) Encourage State agencies to adopt managerial accounting methods to assist managers in decision making.

(4) Develop and implement a train-the-trainer process

(5) Develop an incentive plan to encourage state agencies to adopt best practices in management and present the plan to the Legislative Program Evaluation Oversight Committee for review.

(6) Develop strategies for disseminating best practices developed by the Office.

(7) Provide input related to the proposals regarding new or revised legislation, regulations, and related changes which have a direct impact over implementation.

(8) Lead the development of alliances and partnerships with the business community, associations, consultants, and other stakeholders to enhance external support and advance the implementation of best practices in state government.

(9) Lead relations with the General Assembly and staff to build support for and understanding of best management practices in state government.

(10) Develop an Internet Web site for status reporting on office initiatives and for providing information on Web-based training for agencies. The Web site may also be used for agencies to showcase their successes.

In carrying out its duties, the Office shall consult with and coordinate with the Program Evaluation Division of the Legislative Services Office.

The members of the core staff of the Office are encouraged to consult with the academic community to further their understanding of best management practices and the systems approach to public administration.

The Office shall make semiannual progress reports to the Governor and the Joint Legislative Program Evaluation Oversight Committee. The Program Evaluation Division of the Legislative Services Office shall review the report and present its evaluation of the report with regards to the progress made by the Office of Management Innovation to the Joint Legislative Program Evaluation Oversight Committee at its next meeting.

"**§ 147-33.122. Director; appointment and qualifications.**

The Governor shall appoint a Director for the Office. The Director of the Office shall report directly to the Governor and shall serve at the pleasure of the Governor. The Director shall have a minimum of a Doctorate degree in a business management related field from an accredited college or university, with at least a basic understanding of systems approach to management, and a minimum of 7 years of practical experience. The Director shall have good balance of experience conducting research and practical experience in business management.

"**§ 147-33.123. Office staff.**

The Director shall hire staff to carry out the duties of the Office. The core staff of the Office shall consist of individuals with understanding in:

(1) Systems approach to management.

(2) Lean Management, Total Quality Management, and Organizational Development.

(3) Operations management, with a focus on the Theory of Constraints.

(4) Certified managerial accounting.

(5) Activity-based costing.

(6) Management Information systems

(7) Human resources

(8) Marketing.

Members of the core staff shall have a minimum of a masters degree and good balance of experience in academia and practical private sector experience in their respective fields. The Director may hire additional administrative staff to support the core staff."

SECTION 3. Part 2 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-34.2. Institute of Management Innovation established.**

The Board of Governors of the University of North Carolina shall establish the Institute of Management Innovation within the Department of Political Science and Public Affairs at Western Carolina University to conduct research regarding best practices in management and act as a resource for the North Carolina Office of Management Innovation, established in Article 3E of Chapter 147."

SECTION 4. There is appropriated from the General Fund to the Office of State Budget and Management the sum of one million sixty-eight thousand dollars ($1,068,000) for the 2009-2010 fiscal year and the sum of one million sixty-eight thousand dollars ($1,068,000) for the 2010-2011 fiscal year for the support of the Office of Management Innovation. There is appropriated from the General Fund to the University of North Carolina the sum of two hundred fifty thousand dollars ($250,000) for the 2009-2010 fiscal year and the sum of two hundred fifty thousand dollars ($250,000) for the 2010-2011 fiscal year for the support of the Institute of Management Innovation at Western Carolina University.

SECTION 4. This act becomes effective July 1, 2009.

SENATE BILL 976:
Establish NC Office of Management Innovation

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 8, 2009
Introduced by:	Sen. Bingham	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S976-CSRR-37		

SUMMARY: ***This PCS for Senate Bill 976 would create an Office of Management Innovation to train and support State agencies in various management strategies and objectives. It would require State agencies to consult the Office when conducting their internal audits. The bill would appropriate $1,318,000 for both years of the biennium for the Office. $250,000 of that money would go for the ancillary Institute of Management Innovation at Western Carolina University, which the bill would also create.***

CURRENT LAW: Currently, every State agency must establish a program of internal auditing that implements internal controls to minimize waste, fraud, and abuse and that periodically does internal audits of those controls.

BILL ANALYSIS: The bill would create a NC Office of Management Innovation. It would be placed within the Office of State Budget and Management, but the Director of the new Office would be appointed by, serve at the pleasure of, and report directly to the Governor. The Director would have a number of qualifications, including a relevant doctorate and at least seven years of practice experience in management.

The basic duty of the Office would be to provide training and support for State agencies to implement best practices in management in order to give agencies the tools necessary to improve efficiency and economy.

The Office would have the following specific duties:

1. Train State agencies to find ways to improve effectiveness, efficiency, and quality of operations and services.
2. Train and assist State agencies to adopt a systems approach to management, including Lean Management, Total Quality Management, Theory of Constraints, and Competence-Based Strategic Management.
3. Encourage State agencies to adopt management accounting methods.
4. Develop and implement a train-the-trainer process.
5. Develop an incentive plan to encourage State agencies to adopt best management practices.
6. Develop strategies for disseminating best practices.
7. Provide input into proposed changes in law and rules.
8. Lead the development of alliances with relevant groups to advance best practices.
9. Work with the General Assembly and staff to build support for best practices.
10. Have a useful website.

The bill would also establish within the Political Science and Public Affairs Department at Western Carolina University an Institute of Management Innovation to do research on best practices in management and be a resource for the Office.

The bill would appropriate $1,318,000 in each year of the coming biennium to OSMB for the Office. $250,000 of that would be allocated to the Institute at WCU.

EFFECTIVE DATE: When it becomes law.

S976-SMRR-104(CSRR-37) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1018
PROPOSED COMMITTEE SUBSTITUTE S1018-CSMH-2 [v.7]

5/7/2009 10:33:53 AM

Short Title: Ban Certain Single-Use Bags. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO REDUCE PLASTIC AND NON-RECYCLED PAPER BAG USE ON NORTH CAROLINA'S OUTER BANKS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2F. Plastic Bag Management.

"**§ 130A-309.100. Findings.**

The General Assembly makes the following findings:

(1) Distribution of plastic bags by retailers to consumers for use in carrying, transporting, or storing purchased goods has a detrimental effect on the environment of the State.

(2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife and marine life, degrade the beaches and other natural landscapes of North Carolina's coast, and, in many cases, require consumption of oil and natural gas during the manufacturing process.

(3) It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags.

(4) Environmental degradation is especially burdensome in counties with barrier islands where soundside and ocean pollution are more significant, where removing refuse from such isolated places is more difficult and expensive, where such refuse deters tourism, and where the presence of a National Wildlife Refuge or National Seashore shows that the federal government places special value on protecting the natural environment in that vicinity.

(5) The barrier islands are most relevant in that they are where sea turtles come to nest. North Carolina has some of the most important sea turtle nesting areas on the East Coast, due to the proximity of the islands to the Gulf Stream. Plastic bag debris can be harmful to sea turtles and other land and marine life. The waters adjacent to the barrier islands, because they serve as habitat for the turtles, are particularly sensitive to waterborne debris pollution.

(6) Inhabitated barrier islands are visited by a high volume of tourists and therefore experience a high consumption of bags relative to their permanent population due to large numbers of purchases from restaurants, groceries, beach shops, and other retailers by the itinerant tourist population.

(7) Barrier islands are small and narrow, and therefore the comparative impact of plastic bags on the barrier islands is high.

"**§ 130A-309.101. Definitions.**

As used in this Part, the following definitions apply:

(1) Plastic bag. – A carryout bag that is less than 2.25 mils in thickness and composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.

(3) Recycled paper bag. – A paper bag that meets all of the following requirements:

a. The bag is manufactured from one hundred percent (100%) postconsumer recycled content.

b. The bag displays the words "made from recycled material" and "recyclable."

(4) Retail chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

(5) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.

(6) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse or a bag made of cloth or other machine washable fabric with handles.

"**§ 130A-309.102. Certain plastic bags banned.**

No retailer shall provide customers with plastic bags unless the bag is a reusable bag, or the bag is used solely to hold sales to an individual customer of otherwise unpackaged portions of the following items:

(1) Fresh fish or fresh fish products.

(2) Fresh meat or fresh meat products.

(3) Fresh poultry or fresh poultry products.

(4) Fresh produce.

"**§ 130A-309.103. Substitution of paper bags restricted.**

A retailer subject to G.S. 130A-309.102 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

(1) The paper bag is a recycled paper bag.

(2) The retailer offers a refund equal to the cost to the retailer of providing an equivalent number of recycled paper bags to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer.

"**§ 130A-309.104. Required signage.**

A retailer subject to G.S. 130A-309.102 shall display a sign in a location viewable by customers containing the following notice: "[county name] County discourages the use of single use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use." The name of the county where the retailer displaying the sign is located should be substituted for "[county name]" in the language set forth in this section.

"**§ 130A-309.105. Applicability.**

This act applies only in a county that

(1) Has a barrier island with permanent inhabitation separated from the mainland by a sound.

(2) Contains either a National Wildlife Refuge or a portion of a National Seashore."

SECTION 2. G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for a violation of the ban on certain plastic bags set forth in G.S. 130A-309.102. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

...."

SECTION 3. This act becomes effective September 1, 2009, and applies to retail sales made on or after that date.

SENATE BILL 1018:
Reduce Plastic Bag Use

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 11, 2009
Introduced by:	Sen. Stein	**Prepared by:**	Barbara Riley
Analysis of:	PCS to First Edition S1018-CSMH-2		Committee Counsel

SUMMARY: Senate Bill 1018 would prohibit retailers from providing customers with plastic bags unless the bag is reusable or is used solely to hold sales of otherwise unpacked portions or fresh (1) fish or fish products,(2) meat or meat products, (3) poultry or poultry products, or (4) produce. Paper bags may be substituted for plastic bags if it is a recycled paper bag and the retailer offers a refund equal to the cost of providing an equivalent number of recycled paper bags to any customer who uses their own reusable bag. Penalties for violation of the provisions of the act are $100 for a first violation, $200 for a second violation within 12 months of the first, and $500 for subsequent violations within the 12 month time period.

The act is applicable only to counties that (1) have a barrier island with permanent inhabitation separated from the mainland by a sound and (2) contain either a National Wildlife Refuge or a portion of a National Seashore. (Dare, Currituck and Hyde Counties.)

[As introduced, this bill was identical to H810, as introduced by Reps. Harrison, Martin, which is currently in House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.]

BILL ANALYSIS: Section 1 of Senate Bill 1018 creates new Part 2F, Plastic Bag Management, in Article 9 of Chapter 130A of the General Statutes dealing with Solid Waste Management.

New **G.S. 130A-309.100** sets forth findings by the General Assembly on the detrimental impact of plastic bags on the environment of the State. The findings also note that the negative impact of plastic bag use on the barrier islands is exacerbated by the high number of visitors to the islands and the small size and narrowness of the islands.

New **G.S. 130A-309.101** sets forth definitions for the new Part 2F.

- "Plastic bag" is defined as a carry out bag less than 2.25 mils thick and composed primarily of thermoplastic synthetic polymer material, which is provided by a store to a customer at point of sale, incidental to the purchase of goods.
- "Recycled paper bag" contains 40% postconsumer recycled content and displays the words "made from recycled material" and "recyclable".
- "Retailer" means a person who offers goods for sale and provides single use plastic bags to customers and who has more than 5,000 square feet of retail or wholesale space or is part of a retail chain.
- "Retail chain" means 5 or more stores located in the State that are engaged in the same general field of business and conduct business under the same name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.
- "Reusable bag" means a durable plastic bag with handles that is at least 2.25 mils thick and specifically designed for multiple use, or a cloth bag with handles.

New **G.S. 130A-102** bans the use of plastic bags unless the bag is reusable or is used solely to hold sales of otherwise unpacked portions or fresh (1) fish or fish products, (2) meat or meat products (3) poultry or poultry products or (4) produce.

New **G.S. 130A-103** allows the substitution of paper bags if the bag is a recycled paper bag and the retailer offers a refund equal to the cost of providing an equivalent number of recycled paper bags to any customer who uses their own reusable bag.

New **G.S. 130A-309.104** limits the application of Part 2F to counties that (1) have a barrier island with permanent inhabitation separated from the mainland by a sound and (2) contain either a National Wildlife Refuge or a portion of a National Seashore. This would be Dare, Currituck and Hyde Counties.

Section 2 of the bill amends G.S. 130A-22(a) providing for administrative penalties for violation of Article 9 of Chapter 130A, the Solid Waste Management Act.. The amendment authorizes penalties for violations of Part 2Fof $100 for a first violation, $200 for a second violation within 12 months of the first, and $500 for subsequent violations within the 12 month time period.

EFFECTIVE DATE: The act becomes effective September 1, 2009 and applies to retail sales made on or after that date.

S1018-SMRF-95(CSMH-2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1027
PROPOSED COMMITTEE SUBSTITUTE S1027-CSRR-41 [v.5]

5/11/2009 6:21:55 PM

Short Title: Zoning Change/Property Owner Notice. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT RELATING TO THE NOTIFICATION OF PROPERTY OWNERS UPON THE FILING OF AN APPLICATION FOR A ZONING MAP AMENDMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-343 reads as rewritten:

"(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons ~~mailing such notices~~ required to provide notice shall certify to the Board of Commissioners that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud."

SECTION 2. G.S. 160A-384(a) reads as rewritten:

"(a) The city council shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, in accordance with the provisions of this Article. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a city-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the city

council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons ~~mailing such notices~~ required to provide notice shall certify to the City Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud."

SECTION 3. This act is effective when it becomes law and applies to any application for a zoning map amendment made on or after that date.

SENATE BILL 1027:
Zoning Change/ Property Owner Notice

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 11, 2009
Introduced by:	Sen. Rand	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1027-CSRR-41		

SUMMARY: ***This PCS for Senate Bill 1027 would require that the applicant for a zoning map change, if that person is not the owner of the affected land, must certify that the owner of land subject to the proposed change has received actual notice of the proposed change and a copy of notice of the public hearing on the change.***

CURRENT LAW: Currently, both the city and county zoning statutes require that the owners of land subject to a proposed change to the zoning map and the owners of land abutting that property be notified of the public hearing on the proposed change by first class mail.

The notice must be mailed at least 10 days before the hearing but not more than 25 days before it.

BILL ANALYSIS: The bill would require that, if the person applying for a change to the zoning map affecting a piece of land is not the owner of that land, the applicant must certify that the owner has received actual notice of the proposed change and a copy of the notice of the public hearing on the change. This would not apply if the city or county itself was proposing the change.

EFFECTIVE DATE: When it becomes law, and applies to any application for zoning map amendment made on or after that date.

S1027-SMRR-112(CSRR-41) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1086
PROPOSED COMMITTEE SUBSTITUTE S1086-CSRR-42 [v.1]

5/11/2009 2:31:03 PM

Short Title: Correctional/Probation Training Comm. Study. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENTS OF CORRECTION AND JUSTICE TO STUDY THE ESTABLISHMENT OF A NORTH CAROLINA CORRECTIONAL AND PROBATION OFFICER EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Department of Correction and the North Carolina Department of Justice shall study all of the following:

(1) Issues that impede the timely certification of correctional officers and probation/parole officers and ways to expedite the certification process.

(2) The current minimum education and training requirements for correctional and probation/parole officers and whether those requirements are necessary and appropriate for certified employees of the Department of Correction.

(3) Inconsistencies between rules promulgated by the North Carolina Criminal Justice Education and Training Standards Commission and applicable State and federal laws, and ways to resolve those inconsistencies.

(4) The current process of certifying criminal justice training schools and programs or courses of instruction and whether that process could be expedited.

(5) Ways to improve communication and cooperation between the Criminal Justice Standards Division and the Department of Correction regarding the employment, education, training, and retention of correctional officers and probation/parole officers.

(6) Ways to expedite and enhance the technical assistance the Criminal Justice Standards Division provides to the Department of Correction pursuant to Chapter 17C.

(7) The feasibility and advisability of establishing a separate training and standards commission for State correctional officers and probation/parole officers.

SECTION 2. The Department of Correction and the Department of Justice shall report their findings and recommendations no later than April 1, 2010, to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

SECTION 3. This act becomes effective July 1, 2009.

SENATE BILL 1086:
Correctional/Probation Training Comm Study

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	May 11, 2009
Introduced by:	Sen. Snow	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1086-CSRR-42		

SUMMARY: This PCS to Senate Bill 1086 would direct the Departments of Correction and Justice to study issues concerning the certification of probation/parole officers, including whether a separate training and standards commission for probation/parole officers should be created.

CURRENT LAW: Currently, the NC Criminal Justice Education Training and Standards Commission functions as a licensing board for an array of law enforcement officers. Included are sworn law enforcement officers at the State and local level, juvenile justice officers and court counselors, correctional officers, and probation/parole officers. The one major exception is sheriff's deputies, who are covered by a separate NC Sheriffs' Education and Training Standards Commission.

The statutory chapters governing the Criminal Justice commission and the Sheriffs' commission have parallel provisions. The commissions are responsible for setting training and certification standards, and for granting certifications. Because certification is required for employment by public law enforcement agencies, the commissions are tantamount to occupational licensing boards.

The NC Criminal Justice Education Training and Standards Commission is composed of 33 member, many of whom are required to be different kinds of law enforcement officers. Four of the 33 are required to be correctional officers employed by the Department of Correction in management positions. Two of them must be appointed on the recommendation of the Speaker of the House from the Division of Community Corrections, and two of them must be appointed on the recommendation of the Senate President Pro Tem from the Division of Prisons.

BILL ANALYSIS: This PCS would direct the Departments of Correction and Justice to study all of the following:

1. Impediments to the timely certification of probation/parole officers.
2. The appropriateness of current education and training standards.
3. Inconsistencies between rules of the NC Criminal Justice Education and Training Standards Commission and applicable State and federal laws.
4. Impediments to the timely certification of criminal justice training schools and programs.
5. Ways to improve communication between the 2 departments concerning correctional and probation/parole officers.
6. Ways to improve the technical assistance DOJ provides to DOC in this area.
7. The feasibility and advisability of establishing a separate training and standards commission for probation/parole officers.

The departments would report their findings and recommendations by April 1, 2010, to the Justice and Public Safety appropriations chairs and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

EFFECTIVE DATE: July 1, 2009.

BACKGROUND: The original bill would have created a separate NC Correctional and Probation Officer Education and Training Standards Commission to serve the same function the NC Criminal Justice Education Training and Standards Commission now serves for correctional officers and probation officers.

S1086-SMRR-111(CSRR-42) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 730

Short Title:	Local Gov't Official Recuse From Voting.	(Public)
Sponsors:	Senator Rucho.	
Referred to:	State and Local Government.	

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CERTAIN LOCAL GOVERNMENT OFFICIALS TO RECUSE THEMSELVES FROM VOTING IN CERTAIN INSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-53. Voting.**

(a) The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under this section, G.S. 14-234, 153A-340(g), or 153A-345(e1).

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board.

(c) For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 2. G.S. 153A-44 reads as rewritten:

"**§ 153A-44. Members excused from voting.**

(a) The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under this section, G.S. 14-234, 153A-340(g), or 153A-345(e1).

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board.

(c) For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 3. G.S. 160A-75 reads as rewritten:

"**§ 160A-75. Voting.**

(a) No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e1). In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and

allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council.

(b) No member may vote if that member has accepted contributions under Chapter 163 of the General Statutes totaling more than fifty dollars ($50.00) in an election cycle from an individual with any matter before the board that would result in a direct financial benefit or loss to that individual. If the member returns the contribution under G.S. 163-278.16B, the member may vote on the matter before the board."

SECTION 4. This act becomes effective January 1, 2010.

SENATE BILL 730:
Local Gov't Official Recuse From Voting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 11, 2009
Introduced by:	Sen. Rucho	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***This act provides the circumstances upon which school board members, county commissioners, and city council members may be excused from voting on matters. This act becomes effective January 1, 2010.***

BILL ANALYSIS:

Section 1 of the act enacts a new statute which does the following:

- Authorizes a school board to excuse a board member from voting only:

  (1) Upon questions involving the member's own financial interest or official conduct, or

  (2) On matters on which the member is prohibited from voting under G.S.14-234 (public employees benefiting from public contracts), G.S. 153A-340(g)(zoning matters affecting member), or G.S. 153A-345(e1)(member of board of adjustment voting on quasi-judicial matter) and

- Prohibits a school board member from voting on a matter if that member has accepted political contributions under Chapter 163 of the General Statutes (Elections) which:

  (1) Total more than $50 in an election cycle from an individual with any matter before the board,

  (2) The matter would result in a direct financial benefit or loss to that individual.

  If the member returns the contribution, the member may vote on the matter before the board.

For the purposes of the section, the question of compensation and allowances of the board members does not involve a member's own financial interest or official conduct.

Sections 2 and 3 of the act provide the following excusal provisions on members on county commissioners and members of city councils, respectively:

- No member may vote if

  (1) The member has accepted political contributions under G.S. Chapter 163 totaling more than $50 in an election cycle from an individual with any matter before the board, and

  (2) The matter would result in a direct financial benefit or loss to that individual.

If the member returns the contribution, the member may vote on the matter before the board.

EFFECTIVE DATE: This act becomes effective January 1, 2010.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, May 12, 2009

Senator JONES,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B.	**215**	22nd Senatorial District Local Act.	
		Draft Number:	PCS35323
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes
S.B.	**222**	Red Light Cameras in Wilmington.	
		Draft Number:	PCS15269
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No
S.B.	**430**	Wilmington Civil Service Rewrite.	
		Draft Number:	PCS15267
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes
S.B.	**540**	Pleasant Garden/Voters Elect Mayor.	
		Draft Number:	PCS15268
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes
S.B.	**556**	Asheville City Civil Service Board.	
		Draft Number:	PCS75258
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No
S.B.	**560**	Greenville Housing Authority.	
		Draft Number:	PCS75259
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

S.B. **976** Establish NC Office of Management Innovation.

Draft Number:	PCS85226
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

S.B. **1027** Zoning Change/Abutting Prop. Owner Notice.

Draft Number:	PCS15273
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **1086** Correctional/Probation Training Commission.

Draft Number:	PCS15272
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 9

Committee Clerk Comments:

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday. May 12, 2009

Senator JONES,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1018** Reduce Plastic Bag Use.

Draft Number:	PCS85223
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roger Hutchings	NCALE
Bill Chandler	NC ALE
Becki Gray	John Locke Foundation
Amy McConkey	Smith Anderson
Katie Burkett	NC DENR
Lisa Martin	NC Home Builders
Jessi Hays	NC HBA
Sandy Carmany	Town of Pleasant Garden
Annchica	Town of Pleasant Garden
James Bond	City of Wilmington
Mia Bailey	Electric Cities of NC, Inc.

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VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

May 12, 2009
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Hayes	Civitas
David Anders	PFFPNC
Richard O'Brien	PFFPNC
Tom Crowell	NCBA
Jamie Cox	NCBA
Chris Brown	NCFA
Paul Aptaker	Indian Trail
Jim Blackburn	County Commissioners Assoc.
Jack Cozort	Womble

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	GLS
Andy Eller	NCRMA
Elizabeth Dilts	NCRA
JOHN MIDGETTE	NCPBA
Cody Thomas	NC Assn of REALTORS
David Boag	MWC
Dana Sutis	Sen. Blake's intern
Gwen Norville	Department of Correction
Tracy Little	NCDOC
Dean Simpson	DSS
Sara Mims	DSS
Sherry Bradsher	DSS

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Allison Weller	Charlotte Chamber
David Farrell	NCCTA
[signature]	HEW
Shereaah Wilson	DHHS
Boyd Cauble	City of Charlotte
[signature]	MCIC
Steven Waters	Living Streets
Shannon Parsons	DHHS | DSS

Senate State and Local Government Committee
Tuesday, May 19, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 52	Haywood School Board Filing Date.	Representative Rapp Representative Haire
HB 120	Public Municipal Campaigns.	Representative Goodwin Representative Harrison Representative Glazier Representative Wilkins, Jr.
HB 170	Secretary of State Notify Electors.	Representative Tarleton Representative Spear
HB 186	Local Government Objections to ABC Stores.	Representative Folwell Representative Parmon Representative Womble Representative McGee
HB 220	Write-In Candidate Rule.	Representative Floyd
HB 221	Oversight of Licensing Boards.	Representative Jones Representative Goodwin Representative Moore
HB 227	Winston-Salem/Acquire Substandard Dwellings.	Representative Parmon Representative Womble
HB 254	Beaufort School Board Vacancies.	Representative Williams, III
HB 260	Mayor of Ahoskie Term of Office.	Representative Mobley
HB 411	Comm. of Indian Affairs Interim Appointments.	Representative Sutton
HB 435	Lee Vacancies.	Representative Love, Sr.

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, May 19, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on May 19, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Ed Jones, presided.

Senator Jones called the meeting to order and introduced the pages.

House Bill 52, Haywood School Board Filing Date was explained to the committee by Representative Rapp. Senator Queen moved for a Favorable Report and the bill carried. Also receiving a Favorable Report as Amended, on the motion of Senator Stevens, was House Bill 170, Secretary of State Notify Electors. The amendment was a technical correction (See insert). House Bill 186, Local Government Objections to ABC Stores was explained and received a Favorable Report from the committee. House Bill 220, Write-In Candidate Rule, was explained by Representative Floyd. Senator Dorsett made a motion to give the bill a Favorable Report and the bill carried. House Bill 221, Oversight of Licensing Boards also received a Favorable Report on the motion by Senator Dorsett. Senator Brunstetter explained House Bill 227, Winston-Salem/Acquire Substandard Dwellings for Representative Parmon. Senator Stevens made a motion to give the bill a Favorable Report and the bill carried. House Bill 254, Beaufort School Board Vacancies was explained to the committee and Senator Queen moved for a Favorable Report. House Bill 260, Mayor of Ahoskie Term of Office was the next bill on the agenda. Representative Mobley explained the bill and Senator Dorsett moved to give the bill a Favorable Report. The committee agreed. Representative Sutton explained HB 411, Comm. Of Indian Affairs Interim Appointments. Senator Berger made a motion for a Favorable Report and the bill carried. House Bill 435, Lee Vacancies was explained to the Committee by Representative Love, Sr. and the bill received a Favorable Report on the motion of Senator Queen. Representative Glazier explained House Bill 120, Public Municipal /Campaigns to the committee. After some discussion and comments from Dallas Woodhouse, Representative for Americans For Prosperity, Senator Dorsett made a motion for the bill to receive a Favorable Report and the bill carried.

The meeting adjourned at 12:45 pm.

Senator Jones, Presiding

Anne Misenheimer, Committee Clerk

H 1

HOUSE BILL 52

Short Title:	Haywood School Board Filing Date.	(Local)
Sponsors:	Representatives Haire and Rapp (Primary Sponsors).	
Referred to:	Rules, Calendar, and Operations of the House.	

February 4, 2009

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

SECTION 1. The last three sentences of Section 4 of Chapter 126, Session Laws of 1963, as amended by Chapter 22, Session Laws of 1977, and as rewritten by Chapter 89 of the 1979 Session Laws, read as rewritten:

"All candidates for membership of the consolidated school system for the various districts shall file a notice of such candidacy no earlier than the first Monday in July (except the next business day if the first Monday in July is July 4), and no later than 12:00 noon on the third Friday in ~~August~~ July preceding the general election and each candidate shall pay a filing fee of ten dollars ($10.00) and shall certify in writing the election district for which he is filing and that he is a bona fide resident and qualified voter thereof. The election of members for the consolidated school system shall be held, conducted and supervised by the Haywood County Board of Elections and, except as otherwise provided herein, such election shall be held in accordance with the laws and regulations for the election of county officers. Absentee ballots shall be permitted in the election."

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

HOUSE BILL 52:
Haywood School Board Filing Date

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Reps. Haire, Rapp	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 52 would shorten the filing period for candidates for the Haywood County School Board.

CURRENT LAW: The filing period for candidates for the Haywood County Board of Education runs from the first Monday in July through the third Friday in August. With variations from year to year, the period runs roughly a month and a half.

BILL ANALYSIS: House Bill 52 would move back the filing deadline from the third Friday in August to the third Friday in July. That would shorten the filing period by more than half.

The bill would leave opening day of the filing period the same, the first Monday in July, except that the bill would provide that if the first Monday in July is July 4, filing would open on the next business day.

EFFECTIVE DATE: Effective when it becomes law.

BACKGROUND: The new filing date would make the Haywood School Board filing period almost the same as the municipal election filing period. The municipal filing period runs from the first Friday in July to the third Friday in July. The bill would run the school board filing period from the first Monday in July to the third Friday in July. So under the bill the school board filing period would start 2 days earlier than the municipal one, but they would end on the same day.

Several years ago the State Board of Elections successfully sought legislation to end the municipal filing period earlier to accommodate the need of the boards of elections to compose the ballot and make absentee ballots available to military and other overseas voters.

H52-SMRR-115(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 3

HOUSE BILL 170
Committee Substitute Favorable 3/19/09
Committee Substitute #2 Favorable 4/9/09

Short Title: Secretary of State Notify Electors. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE SECRETARY OF STATE SHALL NOTIFY PARTIES OF THE REQUIREMENT TO NOMINATE FIRST AND SECOND ALTERNATE ELECTORS, NOTIFY PARTIES AND ELECTORS OF THE DUAL-OFFICE HOLDING RULE, AND TO ALLOW PRESIDENTIAL ELECTORS TO HOLD THAT OFFICE IN ADDITION TO THE NUMBER OF APPOINTIVE OFFICES ALLOWED BY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-209.2. Elector may be held in addition to other appointive offices.**

The office of elector may be held in addition to the maximum number of appointive offices allowed by G.S. 128-1.1."

SECTION 2. G.S. 163-209 reads as rewritten:

"**§ 163-209. Names of presidential electors not printed on ~~ballots.~~ ballots; notification.**

(a) The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.

(b) Upon receiving the filing of a name as a candidate for elector under this section, the Secretary of State shall notify that candidate of the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office."

SECTION 3. Article 18 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-209.1. Notification of political parties of dual-office holding rules.**

During January of each year in which electors are elected, the Secretary of State shall notify each political party authorized to nominate electors of (i) the requirement under G.S. 163-1(c) to nominate first and second alternate electors under G.S. 163-1(c), and (ii) the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office."

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

HOUSE BILL 170:
Secretary of State Notify Electors

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Reps. Tarleton, Spear	**Prepared by:**	Barbara Riley
Analysis of:	Third Edition		Committee Counsel

SUMMARY: House Bill 170 would:

- ***Permit the office of presidential elector to be held in addition to the maximum number of appointive offices allowed by statute.***
- ***Require the Secretary of State to notify political parties prior to nomination of electors, and candidates for electors upon receipt of candidates' names, of the dual-office holding requirements.***
- ***Require the Secretary of State to notify political parties of the requirement under G.S. 163-1(c) to nominate first and second alternate electors.***

CURRENT LAW:

G.S. 163-209 provides that the names of candidates for electors of President and Vice-president must be filed with the Secretary of State but shall not be printed on the ballot. Instead, the names of the candidates for President and Vice-president are printed on the ballot. A vote for the candidates named on the ballot is a vote for the electors of the party or unaffiliated candidate who nominated the electors.

G.S. 163-1(c) provides for the election of electors for President and Vice President. The law provides that the State convention of each party shall each nominate first and second alternate electors.

Article VI, § 9 of the North Carolina Constitution prohibits multiple office holding as follows:

- No person who holds any office, or place of trust or profit under the United States or any department thereof, or any other state or government, is eligible to hold any office in this State filled by election of the people.
- No person shall hold concurrently two offices in this State filled by election by the people.
- No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly provides by general law.

G.S. 128-1.1 provides for dual office holding as follows:

- Any person holding an appointive office, place of trust or profit in State government or local government may concurrently hold one other appointive office, place of trust or profit, or elective office in State or local government.
- Any person who holds an elective office in State or local government may concurrently hold one other appointive office, place of trust or profit in either State or local government.
- Elective office is defined as "any office filled by election by the people when the election is conducted by a county or municipal board of elections under the supervision of the State Board of Elections."

BILL ANALYSIS: HB 170 would:

1) Permit the elective office of elector to be held in additional to the maximum number of appointive offices allowed by G.S. 128-1.1 (allowing two concurrent appointive offices).

2) Require the Secretary of State to notify:

- Each political party authorized to nominate electors in January of each year in which electors are elected, and
- Candidates for electors upon receipt of the candidates' names,

of the dual-office holding requirements of the North Carolina Constitution and General Statutes, including specifically the requirement that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office.

EFFECTIVE DATE: House Bill 170 would become effective when it becomes law.

BACKGROUND: The North Carolina Supreme Court has held that when an individual holding a first office under the State accepts a second office under either the State or the United States without surrendering the first office in violation of the North Carolina Constitution prohibition on dual office holding, the individual automatically and instantly vacates the first office. Edwards v. Board of Educ. of Yancey County, 235 N.C. 345, 351, 70 S.E.2d 170, 175 (1952).

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Kara McCraw, counsel to House Election Law and Campaign Finance Reform, substantially contributed to this summary.

H170-SMRF-100(e3) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 170

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

H170-ARF-4 [v.1]

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

Date _____, 2009

Senator _____

moves to amend the bill on page 2, line 3, by deleting the phrase:
"under G.S. 163-1(c)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 186
Committee Substitute Favorable 3/11/09

Short Title: Local Government Objections to ABC Stores. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW LOCAL GOVERNMENTS TO OBJECT TO THE LOCATION OF ALCOHOLIC BEVERAGE CONTROL STORES IF THE LOCAL GOVERNMENT HAS HELD A PUBLIC HEARING, TAKEN EVIDENCE, AND PASSED A RESOLUTION OBJECTING TO THE LOCATION OF AN ALCOHOLIC BEVERAGE CONTROL STORE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-801 is amended by adding a new subsection to read:

"(b1) Notwithstanding subsection (b) of this section, no local board may establish an ABC store at any location within the corporate limits of a municipality if the governing body of the municipality has passed a resolution objecting to the location of the proposed ABC store and the resolution is based upon information and evidence presented to the governing body of the municipality at a public hearing. If a municipality objects to the location of a proposed ABC store, the local board may request the Commission to approve the proposed ABC store location notwithstanding the objection of the municipality. The Commission shall have final authority to determine if the operation of an ABC store at the contested proposed location is suitable.

Upon notice given to the Commission by an affected municipality, any statutory and administrative time limits allowed for objections to, or public hearings concerning the location of, an ABC store shall be extended by 45 days to allow a municipality sufficient time to conduct a public hearing and submit its objection and resolution to the Commission."

SECTION 2. This act becomes effective October 1, 2009, and applies to ABC store locations announced on or after that date.

HOUSE BILL 186:
Local Government Objections to ABC Stores

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Reps. Parmon, Womble, McGee, Folwell	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***House Bill 186 would prevent a local ABC board from establishing an ABC store at a location within a municipality if, based upon evidence taken at a public hearing, the governing body of the municipality has passed a resolution objecting to the location of the ABC store. The ABC Commission, however, would have the final authority to determine if the location is suitable for an ABC store.***

CURRENT LAW: Under G.S. 18B-801, a local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the ABC Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely affected; and

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

Under rules adopted by the ABC Commission, the opening of a new ABC store will not be approved by the Commission unless at least 30 days notice is given to the Chair of the Commission as to the intended location of the store, and until a public notice has been posted at the intended location for at least 30 days. 04 NCAC 02R .1203. The Commission will consider objections to the opening of a new ABC store upon a showing that the local board has either considered and overruled or ignored the objections. 04 NCAC 02R .1202. The rules also provide that new stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where there is not sufficient parking to avoid traffic congestion. 04 NCAC 02R .1204.

BILL ANALYSIS: House Bill 186 would prohibit a local ABC board from establishing an ABC store at a location within a municipality if:

- The governing body of the municipality holds a public hearing and receives information and evidence concerning the suitability of the location; and
- The governing body of the municipality has passed a resolution objecting to the location of the proposed ABC store.

The bill provides, however, that notwithstanding the objection of the municipality the local ABC board may request approval of the ABC Commission for the store. The ABC Commission would have final authority to determine the suitability of the location. The bill would provide an additional 45-day period to allow a municipality sufficient time to conduct a public hearing and submit its objection and resolution to the ABC Commission.

EFFECTIVE DATE: The bill would become effective October 1, 2009 and apply to any ABC store locations announced on or after that date.

Brenda Carter, counsel to the Alcohol Beverage Control Committee, substantially contributed to this summary.

H186-SMRF-101(e2).v2

HOUSE BILL 220
Committee Substitute Favorable 4/1/09

Short Title: Write-In Candidate Rule. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE PLEDGE TAKEN BY PRIMARY CANDIDATES CONCERNING WRITE-IN CANDIDACY TO REFLECT THE WRITE-IN ELIGIBILITY STATUTE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-106(a) reads as rewritten:

"(a) Notice and Pledge. – No one shall be voted for in a primary election without having filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

"Date _____

I hereby file notice as a candidate for nomination as _____ in the _____ party primary election to be held on _____, _____ I affiliate with the _____ party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the _____ party.)

I pledge that if I am defeated in the primary, I will not run for ~~any~~ the same office as a write-in candidate in the next general election.

Signed

(Name of Candidate)

Witness:

_____

_____

(Title of witness)"

Each candidate shall sign the notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which the candidate files. In the alternative, a candidate may have the candidate's signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail or deliver by commercial courier service the candidate's notice of candidacy to the appropriate board of elections.

In signing the notice of candidacy the candidate shall use only that candidate's legal name and may use any nickname by which he is commonly known. A candidate may also, in lieu of that candidate's legal first name and legal middle initial or middle name (if any) sign a nickname, provided that the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way that

candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections."

SECTION 2. This act becomes effective January 1, 2010, and applies with respect to primaries and elections held on or after that date.

HOUSE BILL 220:
Write-In Candidate Rule

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Rep. E. Floyd	**Prepared by:**	William R. Gilkeson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***The Second Edition of House Bill 220 would rewrite the pledge that candidates for party nomination sign on their notice of candidacy. Instead of pledging if defeated in the primary not to run as a write-in for any office in the general election, the candidate would pledge not to run as a write-in for the same office. The bill would make the pledge reflect the write-in eligibility statute.***

CURRENT LAW: Anyone filing a notice of candidacy in a party primary must sign this pledge:"I pledge that if I am defeated I the primary, I will not run for any office as a write-in candidate in the next general election." *GS 163-106(a).*

However, the statute that governs who is eligible to be a write-in candidate in a general election, GS 163-123, does not go that far. It only prohibits a primary candidate from being a write-in candidate that year for the same office.

BILL ANALYSIS: The bill would rewrite the pledge on the candidate notice to reflect the eligibility statute. The candidate would pledge not to run as a write-in for the same office.

EFFECTIVE DATE: January 1, 2010, applying with respect to all primaries and elections held on or after that date, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice.

BACKGROUND: In most NC partisan general elections, the boards of elections may not count votes for write-in candidates unless the candidates have filed a declaration of intent to be a candidate and collected a small number of signatures on petitions. The concept is to prevent boards from having to count write-in votes that are cast frivolously, cast for people who do not intend to be candidates, or even cast for non-existent persons such as Donald Duck. The write-in qualification requirement does not apply in municipal elections. No write-in votes are county in party primaries.

In election law parlance, prohibitions against defeated primary candidates running in the general election are often called "sore-loser prohibitions."

There is a parallel to the sore-loser prohibition for write-ins in the statute governing the eligibility of unaffiliated candidates. *GS 163-122.* It says a person whose name appeared on a party primary ballot is not eligible to appear that year on the general election ballot as an unaffiliated candidate for the same office.

There is no sore-loser prohibition for nominations by new parties. A party that has newly gained official status does not nominate its candidates in a primary. It is required by GS 163-98 to nominate them in a convention and to do so by a deadline of July 1, after the established parties' primaries. There is no law to prevent a new party from nominating a person who was defeated in the primary of an established office. Beginning this year, however, there is a requirement that the nominee of the new party be registered as a voter with the new party at the time of nomination.

As introduced, HB220 would have changed the eligibility statute to reflect the pledge. But it was amended in the House to make the reverse change.

H220-SMRR-117(e2) v1

HOUSE BILL 221*
Committee Substitute Favorable 4/6/09

Short Title: Oversight of Licensing Boards. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO REVIEW THE ACTIVITIES OF OCCUPATIONAL LICENSING BOARDS, TO REQUIRE THAT CERTAIN LICENSING BOARDS BE AUDITED ANNUALLY, TO SPECIFY A DATE FOR FILING OF REPORTS, TO ESTABLISH SANCTIONS FOR FAILURE TO FILE REPORTS, AND TO REQUIRE THAT BOARD MEMBERS RECEIVE TRAINING, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.101 reads as rewritten:

"**§ 120-70.101. Purpose and powers of Committee.**

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

(1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.

(2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.

~~(3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.~~

(3a) To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created. This review shall not include decisions concerning board personnel matter or determinations on individual licensing applications or individual disciplinary actions.

(4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.

(5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.

(6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.

(7) To review any other concerns about administrative law to determine if statutory changes are needed.

(8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes."

SECTION 2. G.S. 93B-2 reads as rewritten:

"**§ 93B-2. Annual reports required; contents; open to ~~inspection.~~ inspection, sanction for failure to report.**

(a) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1) The address of the board, and the names of its members and officers.

(2) The number of persons who applied to the board for examination.

(3) The number who were refused examination.

(4) The number who took the examination.

(5) The number to whom initial licenses were issued.

(6) The number who applied for license by reciprocity or comity.

(7) The number who were granted licenses by reciprocity or comity.

(7a) The number of official complaints received involving licensed and unlicensed activities.

(7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

(8) The number of licenses suspended or revoked.

(9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.

(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

(11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

(b) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous ~~12-month period.~~ fiscal year.

(c) The reports required by this section shall be open to public inspection.

(d) Failure of a board to comply with the reporting requirements of this section shall result in a suspension of the board's authority to collect fees until such time as the board files the required reports. Suspension of a board's authority to collect fees under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law."

SECTION 3. G.S. 93B-4 reads as rewritten:

"**§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

The cost of all audits shall be paid from funds of the occupational licensing board audited.

(b) Each occupational licensing board with a budget of at least fifty thousand dollars ($50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor."

SECTION 4. G.S. 93B-5 reads as rewritten:

"**§ 93B-5. ~~Compensation and employment~~ Compensation, employment, and training of board members.**

(a) Board members shall receive as compensation for their services per diem not to exceed one hundred dollars ($100.00) for each day during which they are engaged in the official business of the board.

(b) Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a) for officers and employees of State departments. Actual expenditures of board members in excess of the maximum amounts set forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the State Director of Budget is obtained and such approved expenditures are within the established and published uniform standards and criteria of the State Director of Budget authorized under G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State officers and employees, whenever such charges are the result of required official business of the Board.

(c) Repealed by Session Laws 1981, c. 757, s. 2.

(d) Except as provided herein board members shall not be paid a salary or receive any additional compensation for services rendered as members of the board.

(e) Board members shall not be permanent, salaried employees of said board.

(f) Repealed by Session Laws 1975, c. 765, s. 1.

(g) Within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training, either from the board's staff, including its legal advisor, or from an outside educational institution such as the School of Government of the University of North Carolina, on the statutes governing the board and rules adopted by the board, as well as the following State laws, in order to better understand the obligations and limitations of a State agency:

(1) Chapter 150B, The Administrative Procedure Act.
(2) Chapter 132, The Public Records Law.
(3) Article 33C of Chapter 143, The Open Meetings Act.
(4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.
(5) Chapter 138A, The State Government Ethics Act.
(6) Chapter 120C, Lobbying.

Completion of the training requirements contained in Chapter 138A and Chapter 120C of the General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

SECTION 5. G.S. 120-70.103 is repealed.

SECTION 6. This act becomes effective October 1, 2009.

HOUSE BILL 221:
Oversight of Licensing Boards

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Reps. Goodwin, Moore, Jones	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 221 authorizes the Joint Legislative Administrative Procedure Oversight Committee (APO) to review the activities of occupational licensing boards and to determine if the boards are still needed. The bill also (1) specifies a filing date for reports from licensing boards and establishes sanctions for failure to file the reports; (2) requires that certain licensing boards be audited annually; and (3) requires that licensing board members receive training in specified areas of the law.

[As introduced, this bill was identical to S303, as introduced by Sen. Nesbitt, which is currently in Senate Judiciary I.]

CURRENT LAW:

Currently, there are approximately 55 independent occupational licensing boards authorized by North Carolina statutes. There is no general executive or legislative oversight of licensing boards and there is wide variance among them in statutory authority and administrative rules.

The Legislative Committee on New Licensing Boards reviews proposals to create new licensing boards and issues an assessment report relating to the need for the board. A bill making such a proposal cannot be considered in a standing committee until it has received an assessment report. However, it is not necessary that the report be favorable for the bill to proceed.

Once enacted, the licensing board is required to comply with the statute which created it and certain general rules for licensing boards contained in Chapter 93B of the General Statutes. Chapter 93B includes provisions applicable to all licensing boards, such as a prohibition against lobbying, being subject to audits by the State Auditor, and filing annual reports with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee. The law does not authorize the Secretary of State or the Attorney General to review the reports or to exercise any oversight. The law also does not set forth a time by which the reports must be filed or any sanction for failure to file the report.

BILL ANALYSIS:

Section 1 of House Bill 221 amends the law governing the Joint Legislative Administrative Procedure Oversight Committee to give it specific authority to review the activities of occupational licensing boards in order to determine whether the boards are operating in accordance with law and are still needed. However, the review will not include decisions concerning Board personnel matters, or determinations on individual licensing applications or individual disciplinary actions.

Section 2 amends Chapter 93B to require that annual and financial reports be filed no later than October 31 of each year. This section also provides that failure to comply with the requirements will result in a suspension of the board's authority to collect fees until the reports are filed. The Board, however, must continue to issue and renew licenses and the validity of any application or license will not be affected by the suspension. This section also requires Boards to include in their annual reports the number of complaints received and the number of disciplinary actions taken.

Section 3 amends Chapter 93B to direct the State Auditor to conduct audits on licensing boards from time to time to ensure their proper operation. This section also directs each licensing board with an annual budget of at least $50,000 to obtain an annual financial audit.

Section 4 adds a new provision requiring licensing board members to obtain training within six months of the member's initial appointment and at least once within every two calendar years thereafter. The board may use its own staff, including its legal advisor, or an outside educational institution, such as the School of Government to provide the training. The board members must be trained on the statutes governing the board and any rules adopted by the board, as well as several State laws applicable to all State governmental entities. Receipt of the training required by the State Ethics Act and the Lobbying Act satisfies the requirement for training in those areas under this section.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: This bill was recommended by the Joint Legislative Administrative Procedure Oversight Committee.

Karen Cochrane-Brown, counsel to House State Government/State Personnel, substantially contributed to this summary.

H221-SMRF-102(e2) v1

HOUSE BILL 227
Committee Substitute Favorable 3/25/09

Short Title: Winston-Salem/Acquire Substandard Dwellings. (Local)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF WINSTON-SALEM AND THE CITY OF ROCKY MOUNT TO EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE CERTAIN SUBSTANDARD RESIDENTIAL PROPERTY TO PROVIDE HOUSING FOR LOW AND MODERATE INCOME PERSONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes is amended by adding the following new section to read:

"**§ 160A-450.1. Acquisition of property by eminent domain.**

For the purpose of providing housing for low and moderate income persons, a municipality shall have the power of eminent domain to acquire vacant dwellings that have been closed for human habitation as a result of housing code violations for a minimum period of two years and to acquire the lot or tract upon which the vacant dwellings are situated. Any conveyance by the city of property acquired pursuant to this section shall contain a restriction limiting the use of that property to the provision of housing for low and moderate income persons as defined in this section. For purposes of this section, the phrase "low and moderate income" means annual gross income equal to or less than eighty percent (80%) of the median household income for the Metropolitan Statistical Area (MSA) of which the municipality is a part, adjusted for household size, and as that phrase may be revised periodically by the United States Department of Housing and Urban Development. In the exercise of its authority of eminent domain for the acquisition of property to provide housing for low and moderate income persons, the municipality shall follow the procedures prescribed in Chapter 40A of the General Statutes. The governing body of the municipality shall adopt a plan to use condemned property for low or moderate income housing prior to exercising the powers authorized under this section. The power of eminent domain under this section may be used only when the vacant dwelling would otherwise be demolished under the municipality's housing code."

SECTION 2. This act applies to the City of Winston-Salem and the City of Rocky Mount only.

SECTION 3. This act becomes effective October 1, 2009.

HOUSE BILL 227:
Winston-Salem/Acquire Substandard Dwellings

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 15, 2009
Introduced by:	Reps. Womble, Parmon	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 227 would authorize the cities of Winston-Salem and Rocky Mount to use eminent domain to acquire certain vacant dwellings that violate the city's housing code, in order to provide housing for low and moderate income persons. This act becomes effective October 1, 2009.

CURRENT LAW:

- Municipalities can use eminent domain to acquire property for the purposes listed in G.S. 40A-3, including streets, public enterprises, parks, sewers, hospital, cemeteries, libraries, public buildings, drainage projects, some historic properties, and public wharves.
- City housing authorities, under G.S. 157-11, can acquire property by eminent domain for housing authority projects.
- Municipal redevelopment commissions have authority under G.S. 160A-503 to use eminent domain to acquire blighted parcels that are part of an urban redevelopment project.

BILL ANALYSIS: HB 227 would authorize Winston-Salem and Rocky Mount, for the purpose of providing housing for low and moderate income persons, to acquire vacant dwellings that meet the following conditions two conditions:

- They have been closed for human habitation because of housing code violations for at least 2 years.
- They would otherwise be demolished under the City's housing code.

The bill would require the city council to adopt a plan for the use of the condemned property prior to using eminent domain under this act. Any conveyance by the city of land acquired under this new authority would have to contain the restriction that the property be used to provide housing for low and moderate income persons.

"Low and moderate income" is defined for the purposes of this act to be: "annual gross income equal to or less than eighty percent (80%) of the median household income for the Metropolitan Statistical Area (MSA) of which the municipality is a part, adjusted for household size, and as that phrase may be revised periodically by the United States Department of Housing and Urban Development."

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: The City of Greensboro was granted similar authority by S.L. 1989-466.

In S.L. 2008-46, the City of Winston-Salem was given the authority to use restrictive covenants when it disposed of property.

Bill Gilkeson, Staff Attorney, substantially contributed to this summary.

H227-SMRK-115(e2) v1

HOUSE BILL 254

Short Title:	Beaufort School Board Vacancies.	(Local)
Sponsors:	Representative Williams.	
Referred to:	Local Government I.	

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT VACANCIES IN THE BEAUFORT COUNTY BOARD OF EDUCATION SHALL BE FILLED IN ACCORDANCE WITH GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5(i) of Chapter 55 of the 1993 Session Laws reads as rewritten:

"(i) Vacancies on the Permanent Board shall be filled by appointment by the remaining members of the Permanent Board. Any person appointed ~~to fill an unexpired term on the Permanent Board~~ must be at the time of the appointment and must remain a resident of the district for which he/she is appointed. Appointments to fill vacancies on the Permanent Board shall be ~~for the remainder of the unexpired term.~~filled in accordance with G.S. 115C-37(f)."

SECTION 2. This act becomes effective with respect to vacancies occurring on or after the date this act becomes law.

HOUSE BILL 254:
Beaufort School Board Vacancies

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 15, 2009
Introduced by:	Rep. Williams	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 254 would make the filling of vacancies on the Beaufort County School Board subject to the general law on filling school board vacancies. It would have the appointee to the vacancy face a mid-term election, rather than fill out the remainder of the term.***

CURRENT LAW: G.S. 115C-37(f) provides the general method for filling vacancies on nonpartisan school boards. It is as follows:

> "All vacancies . . . by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election."

The local act establishing the Beaufort County School Board contains a vacancy provision that is similar, but is different in one important aspect: It says the vacancy appointee remains in office, not just until the next election for board members, but until the end of the vacating member's term. The local act says:

> "Vacancies on the Permanent Board shall be filled by appointment by the remaining members of the Permanent Board. Any person appointed to fill an unexpired term on the Permanent Board must be at the time of the appointment and must remain a resident of the district for which he/she is appointed. Appointments to fill vacancies on the Permanent Board shall be for the remainder of the unexpired term."

BILL ANALYSIS: The bill amends the local act to provide that the vacancy shall be filled in accordance with 115C-37(f), the general law.

EFFECTIVE DATE: Effective when it becomes law, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice. Beaufort County is one of the 40 NC counties covered by Section 5.

Bill Gilkeson, Staff Attorney, substantially contributed to this summary.

H254-SMRK-116(e1) v1

HOUSE BILL 254:
Beaufort School Board Vacancies

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 15, 2009
Introduced by:	Rep. Williams	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 254 would make the filling of vacancies on the Beaufort County School Board subject to the general law on filling school board vacancies. It would have the appointee to the vacancy face a mid-term election, rather than fill out the remainder of the term.***

CURRENT LAW: G.S. 115C-37(f) provides the general method for filling vacancies on nonpartisan school boards. It is as follows:

> "All vacancies . . . by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election."

The local act establishing the Beaufort County School Board contains a vacancy provision that is similar, but is different in one important aspect: It says the vacancy appointee remains in office, not just until the next election for board members, but until the end of the vacating member's term. The local act says:

> "Vacancies on the Permanent Board shall be filled by appointment by the remaining members of the Permanent Board. Any person appointed to fill an unexpired term on the Permanent Board must be at the time of the appointment and must remain a resident of the district for which he/she is appointed. Appointments to fill vacancies on the Permanent Board shall be for the remainder of the unexpired term."

BILL ANALYSIS: The bill amends the local act to provide that the vacancy shall be filled in accordance with 115C-37(f), the general law.

EFFECTIVE DATE: Effective when it becomes law, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice. Beaufort County is one of the 40 NC counties covered by Section 5.

Bill Gilkeson, Staff Attorney, substantially contributed to this summary.

H254-SMRK-116(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 260
Committee Substitute Favorable 3/19/09

Short Title: Mayor of Ahoskie Term of Office. (Local)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE TERM OF OFFICE OF THE MAYOR OF AHOSKIE FROM TWO YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Ahoskie, being Chapter 609 of the 1963 Session Laws, is amended by adding a new section to read:

"Sec. 4.3A. **Elections of Mayor.** Notwithstanding the provisions of Section 4.2 of this Charter, the Mayor shall be elected for a four-year term in 2011 and quadrennially thereafter by all the qualified voters of the town."

SECTION 2. This act does not affect the term of office of the Mayor elected in 2009.

SECTION 3. This act becomes effective January 1, 2011.

HOUSE BILL 260:
Mayor of Ahoskie Term of Office

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 15, 2009
Introduced by:	Rep. Mobley	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***This act amends the Town Charter of Ahoskie to change the term of office for the Mayor from two years to four years, and would not affect the term of the current mayor. This act becomes effective January 1, 2011.***

EFFECTIVE DATE: This act becomes effective January 1, 2011.

Erika Churchill, counsel to House Local Government II, substantially contributed to this summary.

H260-SMRK-117(e2) v1

HOUSE BILL 411

Short Title:	Comm. of Indian Affairs Interim Appointments.	(Public)
Sponsors:	Representatives Sutton; and Hughes.	
Referred to:	Federal Relations and Indian Affairs.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE DESIGNATION OF INTERIM MEMBERS TO SERVE ON THE COMMISSION OF INDIAN AFFAIRS IN THE EVENT THAT A TRIBE OR GROUP IS TEMPORARILY UNABLE TO FILL A VACANCY ON THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-407(b) reads as rewritten:

"(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. The initial appointment of the Occaneechi Band of the Saponi Nation shall expire June 30, 2005. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

In the event that a vacancy occurs among the membership representing Indian tribes and groups and the vacancy temporarily cannot be filled by the tribe or group for any reason, the Commission membership may designate a tribal or group member to serve on the Commission on an interim basis until the tribe or group is able to select a permanent member to fill the vacancy. The service of the interim member shall terminate immediately upon appointment by the tribe or group of a member to fill the vacancy in its membership."

SECTION 2. This act becomes effective July 1, 2009.

HOUSE BILL 411:
Comm. of Indian Affairs Interim Appointments

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 15, 2009
Introduced by:	Rep. Sutton	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***This act provides for the appointment of interim members to the Commission on Indian Affairs in the absence of appointment by the procedure provided by statute. This act becomes effective July 1, 2009.***

CURRENT LAW: Members of the Commission on Indian Affairs are appointed by the General Assembly and various State agencies, as well as selected by the tribes or groups designated by statute. The tribes or groups select a total of 21 members.

BILL ANALYSIS: This act provides that if the tribes or groups do not fill a vacant position, or any reason, then the Commission has the authority to appoint a tribe or group member until the position is filled in the normal manner. The interim appointee would serve until the new tribe or group member is selected.

EFFECTIVE DATE: This act becomes effective July 1, 2009.

BACKGROUND: The Commission on Indian Affairs' duties includes the following:

- To study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs.
- To investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such needs.
- To confer with appropriate officials of local, State and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North Carolina.
- To cooperate with and secure the assistance of the local, State and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such programs.
- To act as trustee for any interest in real property that may be transferred to the Commission for the benefit of State-recognized Indian tribes in accordance with a trust agreement approved by the Commission. The Commission shall not hold any interest in real property for the benefit of federally recognized Indian tribes.
- To review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North Carolina.

H 1

HOUSE BILL 435

Short Title:	Lee Vacancies.	(Local)
Sponsors:	Representative Love.	
Referred to:	Local Government I, if favorable, Election Law and Campaign Finance Reform.	

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT IN FILLING VACANCIES ON THE LEE COUNTY BOARD OF COMMISSIONERS AND IN THE OFFICE OF SHERIFF OF LEE COUNTY, THE PERSON RECOMMENDED BY THE PARTY EXECUTIVE COMMITTEE OF THE VACATING MEMBER BE APPOINTED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-27.1(h) reads as rewritten:

"(h) This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Cumberland, Dare, Davidson, Davie, Forsyth, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Moore, Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, Wake, and Yancey."

SECTION 2. G.S. 162-5.1 reads as rewritten:

"**§ 162-5.1. Vacancy filled in certain counties; duties performed by coroner or chief deputy.**

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lee, Lincoln, Madison, McDowell, Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Richmond, Rockingham, Rutherford, Sampson, Stanly, Stokes, Surry, Transylvania, Wake, and Yancey."

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

HOUSE BILL 435:
Lee Vacancies

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 18, 2009
Introduced by:	Rep. Love	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 435 would provide that vacancies in the office of county commissioner and sheriff in Lee County would be required to be filled by the person recommended by the executive committee of the political party of the vacating member.

CURRENT LAW: County commissioners and sheriffs in all 100 counties are elected in partisan elections. For each office, the statutes provide alternative methods of filling vacancies in office. For each office, one alternative is for the appointing authority to have discretion to make the appointment without being bound by the recommendation of the executive committee of party of the vacating official. The other alternative is for the appointing authority to be bound by the party recommendation, if it is made within 30 days of the occurrence of the vacancy.

In the case of a commissioner vacancy, the appointing authority is the remaining commissioners. In the case of the sheriff, the appointing authority is the board of county commissioners.

For both county commissioner and sheriff vacancies, Lee County is governed by the statute that says the appointing authority is not bound by the party.

BILL ANALYSIS: House Bill 435 would provide that the appointing authority for vacancies for both county commissioner and sheriff in Lee County would be bound by the party recommendation.

EFFECTIVE DATE: When the bill becomes law, but may not be implemented until the session law has received "preclearance" approval under Section 5 of the Voting Rights of 1965 by the U.S. Department of Justice. Lee County is one of the 40 NC counties covered by Section 5.

H435-SMRR-116(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 5

HOUSE BILL 120

Committee Substitute Favorable 3/4/09
Committee Substitute #2 Favorable 3/16/09
Committee Substitute #3 Favorable 4/1/09
Fifth Edition Engrossed 4/21/09

Short Title: Public Municipal Campaigns. (Public)

Sponsors:

Referred to:

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PILOT PROGRAM FOR PUBLIC FINANCING OF MUNICIPAL ELECTION CAMPAIGNS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-499.1, as enacted by Section 2 of S. L. 2007-222, reads as rewritten:

"**§ 160A-499.1. Uniform, nondiscriminatory program of public financing of election campaigns.**

(a) A governing body of a city may appropriate funds for a public campaign financing program as defined in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section for city office in that city's jurisdiction if the city has held at least one public hearing on the program before adopting it and the program is approved by the State Board of Elections. The State Board of Elections shall develop guidelines for the basic components needed in a program to meet the criteria set forth in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section and shall approve a city's program that meets the criteria. The guidelines shall require that participating candidates shall file all disclosure reports with the State Board of Elections and that the State Board of Elections shall certify and authorize the issuance of public funds to eligible candidates participating in the program. Any city exercising authority under this section shall provide full notice to the county board of elections in any county in which it has territory.

(b) The governing body of a city appropriating funds as provided by this section shall prepare a report no later than six months after the second election in which it appropriates funds under this section that analyzes its experience in implementing a public campaign financing program by that date, including percent of candidates participating in a program, sources and amounts of funding, litigation involving a program, administrative issues, and recommendations for changes in this statute. The report shall be presented by that date to the ~~Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the Legislative Services Office, and to the committees in the House of Representatives and Senate to which election related bills are primarily referred.~~State Board of Elections.

(c) The term 'public campaign financing program' means a uniform program of a governmental entity that offers support for the campaigns of candidates for elective office within the jurisdiction of that governmental entity under the following conditions:

(1) The candidates participating in the program must demonstrate public support and voluntarily accept strict fund-raising and spending limits in accordance with a set of requirements drawn by that government.

(2) The requirements are drawn to further the public purpose of free and fair elections and do not discriminate for or against any candidate on the basis of race, creed, position on issues, status of incumbency or nonincumbency, or party affiliation.

(3) Any public funds provided to candidates are restricted to use for campaign purposes according to guidelines drawn by the State Board of Elections.

(4) Unspent public funds are required to be returned to that governmental entity.

(5) If the program provides for matching funds for electioneering communications for certified candidates when funds in opposition to a certified candidate or in support of an opponent to that candidate exceed a certain amount, the State Board of Elections shall determine which candidate, if any, is entitled to receive matching funds as a result of the communication. The State Board of Elections shall authorize issuance of matching funds based on the communication only if it ascertains that the communication is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making its determination, the State Board of Elections shall not consider evidence external to the communication itself of the intent of the sponsor or the effect of the communication.

Funds paid by a city pursuant to such a program are not subject to the contribution limitations of G.S. 163-278.13 and the prohibitions on corporate contributions of G.S. 163-278.15 or G.S. 163-278.19 but shall be reported as if they were contributions in all campaign reports required by law to be filed by the campaigns receiving the payments.

(d) This section applies to the Town of Chapel Hill and any municipality with a total population of more than 50,000 that is selected by the State Board of Elections for participation in a pilot program for the public financing of municipal campaigns. The population shall be determined by the most recent federal decennial census. The State Board of Elections shall select for the pilot program only municipalities whose governing boards have submitted proposals that comply with the criteria of subsection (a) of this section. In selecting those municipalities, the State Board shall seek diversity of population size, regional location, and demographic composition. The State Board shall limit the number of municipalities selected according to its own resources to administer the pilot program. The State Board of Elections shall not select municipalities that use the partisan method of election. The State Board of Elections shall closely monitor the pilot program and report its findings and recommendations by June 30, 2016, to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the Legislative Services Office, to the Joint Legislative Elections Oversight Committee, and to the committees in the House of Representatives and Senate to which election-related bills are primarily referred. The State Board shall provide interim reports to those same entities by June 30, 2012, and June 30, 2014.

(e) This section expires July 1, 2016."

SECTION 2. Sections 1, 3, and 4 of S. L. 2007-222 are repealed.

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

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, May 19, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B.	**52**	Haywood School Board Filing Date.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #3)	**120**	Public Municipal Campaigns.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**186**	Local Government Objections to ABC Stores.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**220**	Write-In Candidate Rule.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**221**	Oversight of Licensing Boards.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**227**	Winston-Salem/Acquire Substandard Dwellings.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	**254**	Beaufort School Board Vacancies.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	**260**	Mayor of Ahoskie Term of Office.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	**411**	Comm. of Indian Affairs Interim Appointments.	
		Sequential Referral:	None
		Recommended Referral:	None

H.B. **435** Lee Vacancies.

Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS #2) **170** Secretary of State Notify Electors.

Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 11

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 19, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Francis DeLuca	Civitas
Chris Hayes	Civitas
Damon Circosta	NC Voter ED
Chris Hollis	K&L Gates
Daniel Auburn	ElectriCities
Dale Dawson	State Board of Examiners
Jessica Dawson	Intern / Sen. East
Tahitia Lewis	Intern / Sen. Jones
Amy McConkey	Smith Anderson
Jeff Gray	NRA, PA
Carson Carmichael	Bailey & Dixon, LLP

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 19, 2009
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cady Thomas	NC Assn of REALTORS
Rick Zechini	"
Sara Riggins	John Locke Foundation
Chase Porter	NCVC
[illegible]	MINC
Christina Appenzeller	Medical Board
Jeff Mixon	Civitas
Dallas Woodhouse	AFP-NC
Jay Robertson	AP
Kelli Kulma	NCLM
Betsy Bailey	PENC

VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

May 19, 2009
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Christy Agner	DOA
Chris Nichols	Rep. Glazier

Senate State and Local Government Committee
Tuesday, May 26, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 25	Clarify SCFAC Appointments.	Representative Insko
HB 550	Denton Mayor's Term.	Representative Dockham
HB 551	Davidson/Taking of Foxes.	Representative Dockham
HB 617	Limit Outside Work for DENR/Local Staff.	Representative Allen
HB 622	Extend Louisburg Exemptn for Competitive Bids.	Representative Allen
HB 676	Law Enforcement Jurisdiction in Iredell Co.	Representative McCormick Representative Howard Representative Setzer
HB 867	Junked & Abandoned Vehicles.	Representative Wray
HB 970	Granville County Hunting.	Representative Crawford, Jr.

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, May 26, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on May 26, 2009, in Room 1124 of the Legislative Building. Twelve members of the committee were present. Senator Don East presided.

Senator East called the meeting to order and introduced the pages.

House Bill 25, Clarify SVFAC Appointments, was the first bill to be heard by the committee. Representative Insko explained the bill and Senator Weinstein made a motion to give the bill a Favorable Report. Representative Dockham explained House Bill 550, Denton Mayor's Term, and the committee gave the bill a Favorable Report. House Bill 551, Davidson/Taking Foxes, was explained to the committee by Represented Dockham and Senator Weinstein moved for a Favorable Report and the bill carried. House Bill 676, Law Enforcement Jurisdiction in Iredell Co. was the next bill to be heard by the committee. Representative McCormick explained the bill and Senator Apodaca made a motion to give the bill a Favorable Report. The bill carried. Senator Jones explained the Proposed Committee Substitute including a technical amendment for House Bill 867, Community Development Target Areas. Senator Weinstein Moved to give the PCS a favorable report as amended. The bill was reported out as Unfavorable to the Original Bill but Favorable as to the Proposed Committee Substitute as amended. House Bill 622, Extend Louisburg Exemptn for Competitive Bids, was explained by Representative Allen. Senator Apodaca sent forth an amendment and Senator Weinstein made a motion for the committee to support the amendment. Senator Albertson moved to give the bill as amended a Favorable Report, Unfavorable to the Original Bill but Favorable to the Bill as Amended. Representative Crawford, Jr. explained House Bill 970, Granville County Hunting, and the bill received a Favorable Report on the motion of Senator Weinstein. Senator East announced that Senate Bill 427, Restore Contract Rights to State/Local Staff, would be explained by Senator Kinnaird and would be only for discussion. There would be no motions or votes on the bill at that time. Rick Armstrong of the Raleigh Police Department and Dr. Barber also made comments to the committee on the bill.

The meeting adjourned at 12:35 pm.

Don East
Senator East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 25
Committee Substitute Favorable 5/6/09

Short Title: Clarify SCFAC Appointments. (Public)

Sponsors:

Referred to:

February 2, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PROCESS FOR APPOINTMENTS TO THE STATE CONSUMER AND FAMILY ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-171(b) reads as rewritten:

"**§ 122C-171. State Consumer and Family Advisory Committee.**

...

(b) The State CFAC shall be composed of 21 members. The members shall be composed exclusively of adult consumers of mental health, developmental disabilities, and substance abuse services; and family members of consumers of mental health, developmental disabilities, and substance abuse services. The terms of members shall be three years, and no member may serve more than two consecutive terms. Vacancies shall be filled by the appointing authority. The members shall be appointed as follows:

(1) Nine by the Secretary. The Secretary's appointments shall reflect each of the disability groups. The terms shall be staggered so that terms of three of the appointees expire each year.

(2) Three by the ~~General Assembly upon the recommendations of the~~ President Pro Tempore of the Senate, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.

(3) Three by the ~~General Assembly upon the recommendations of the~~ Speaker of the House of Representatives, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.

(4) Three by the Council of Community Programs, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.

(5) Three by the North Carolina Association of County Commissioners, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.

...."

SECTION 2. This act becomes effective January 1, 2010.



HOUSE BILL 25:
Clarify SCFAC Appointments

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 26, 2009
Introduced by:	Rep. Insko	**Prepared by:**	Barbara Riley
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 25 changes the appointment process to the State Consumer and Family Advisory Committee (CFAC) for appointees currently governed by Article 16 of Chapter 120 of the General Statutes.***

CURRENT LAW: G.S. 120-121(a) provides in any case where the General Assembly is called upon by law to appoint a member to any board or commission, that appointment shall be made by enactment of a bill.

BILL ANALYSIS: House bill 25 amends G.S. 122C-171(b) to remove the provisions of Article 16 of Chapter 120 of the North Carolina General Statutes for the appointments to the State CFAC made by the Senate President Pro Tempore and the Speaker of the House of Representatives.

EFFECTIVE DATE: This act becomes effective January 1, 2010.

BACKGROUND:

SL 2006-142 established within the General Statutes the State Consumer and Family Advisory Committee as a self governing and self directed organization that advise the Department of Health and Human Services and the General Assembly on the planning and management of the State's public mental health, developmental disabilities, and substance abuse services system. The State CFAC is composed of 21 members who are parents of consumers or adult consumers of mental health, developmental disabilities, and substance abuse services. The Secretary, the General Assembly, the Council of Community Programs, and the North Carolina Association of County Commissioners have specific appointing authority.

The State CFAC is responsible for:

- Reviewing and monitoring the State Plan for MH-DD-SAS
- Identifying service gaps and underserved populations
- Making recommendations regarding service array
- Reviewing the State budget for MH-DD-SAS
- Participating in quality improvement measures
- Receiving findings from the local Consumer and Family Advisor Committee
- Provide Technical Assistance to local CFACS in implementing their duties

Shawn Parker, counsel to House Health, substantially contributed to this summary.

H25-SMRF-109(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 550
Committee Substitute Favorable 4/13/09

Short Title: Denton Mayor's Term. (Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE TERM OF OFFICE OF THE MAYOR OF DENTON FROM TWO TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Denton, being Chapter 497 of the 1965 Session Laws, reads as rewritten:

"(a) The members of the board of commissioners shall serve for terms of four years, and the mayor shall serve for a term of ~~two~~ four years, except as provided in Article IV, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter. Provided, the mayor and members of the board of commissioners shall serve until their successors are elected and qualify."

SECTION 2. The last sentence of Section 4.1(a) of the Charter of the Town of Denton, being Chapter 497 of the 1965 Session Laws, is repealed.

SECTION 3. This act is effective when it becomes law and shall apply to the election of the Mayor in 2009.

HOUSE BILL 550:
Denton Mayor's Term

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 21, 2009
Introduced by:	Rep. Dockham	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***HB 550 would increase the term of office for the mayor of Denton from two to four years.***

CURRENT LAW: S.L. 1965-497, the Charter of the Town of Denton, provides for a two-year term of office for mayor.

BILL ANALYSIS: HB 550 would amend S.L. 1965-497 to provide for a four-year term of office for the mayor.

EFFECTIVE DATE: When it becomes law, applying to the election for mayor beginning in 2009.

BACKGROUND: Denton is a town of about 1,700 people in southern Davidson County.

Kara McCraw and Erika Churchill, attorneys in the Research Division, contributed significantly to this summary.

H550-SMRR-119(e2) v1

HOUSE BILL 551

Short Title:	Davidson/Taking of Foxes.	(Local)
Sponsors:	Representatives Dockham; and Brown.	
Referred to:	Wildlife Resources.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES WITH WEAPONS AND BY TRAPPING IN DAVIDSON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes with weapons and by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. This act applies only to Davidson County.

SECTION 4. This act becomes effective October 1, 2009.

HOUSE BILL 551:
Davidson/Taking of Foxes

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 22, 2009
Introduced by:	Rep. Dockham	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 551 establishes a season for taking foxes with weapons and by trapping in Davidson County.***

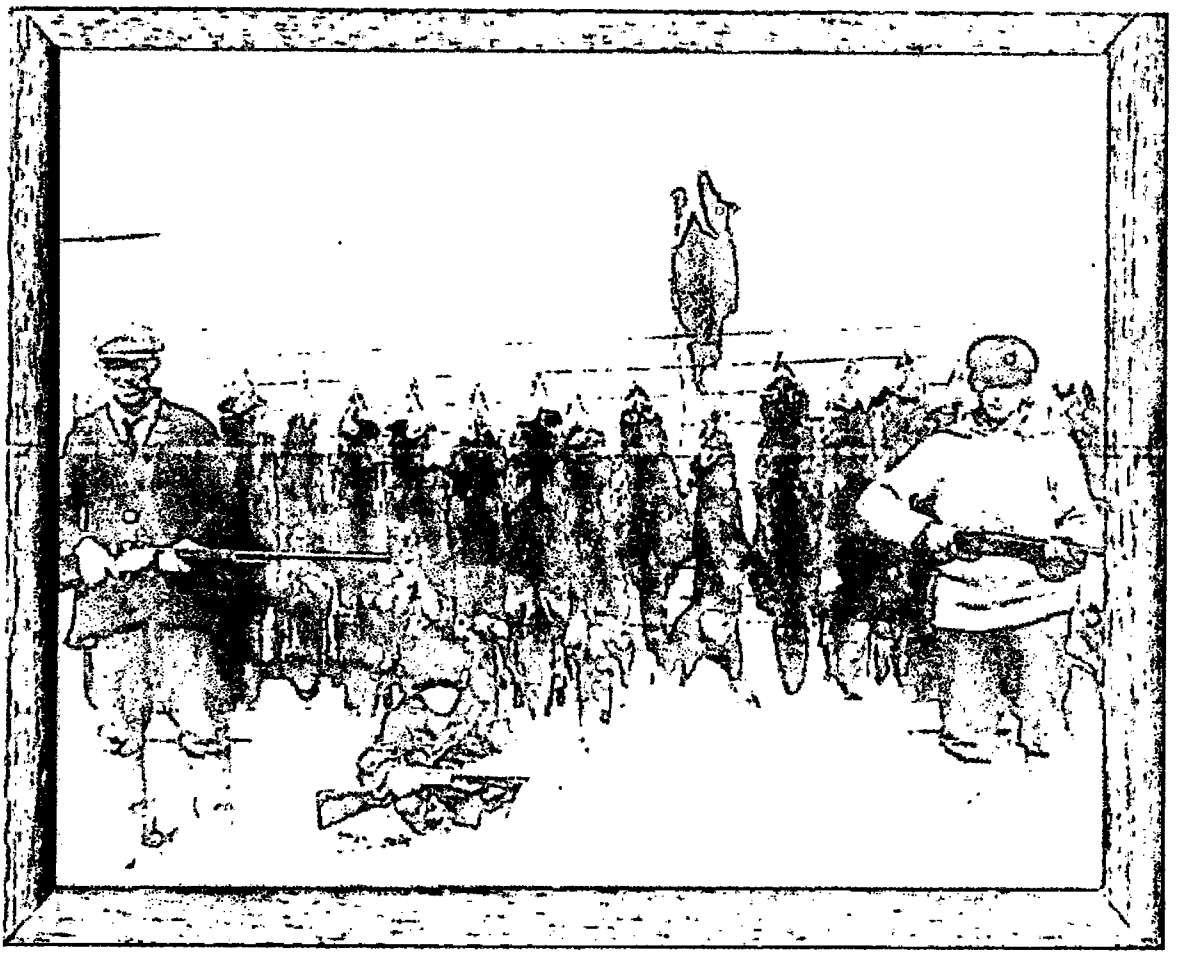
BILL ANALYSIS: House Bill 551 establishes an open season for taking foxes with weapons and by trapping during the trapping season set by the Wildlife Resources Commission each year. There are no tagging requirements prior to or after sale and there are no bag limits applied to foxes taken under this act.

This act applies only to Davidson County

EFFECTIVE DATE: This act becomes effective October 1, 2009.

Susan Sitze, counsel to House Wildlife Resources, substantially contributed to this summary.

H551-SMRF-108(e1) v1



This picture was provided by Dan Dockham Jr of Gilmanton NH. It shows the mixed bag catch of fifteen fox, two coon, and a skunk taken from a trapline run November 1st thru 8th of 1918 by his grandfather Charles Leland Dockham and two sons. The sons who were Dan's uncles would be Victor Dockham age nine seated in the middle, and Charlie Dockham age sixteen on the right. Their younger brother who was about 2 years old at the time was Dan's father. Dan Dockham Sr, his two older brothers, and their father are all deceased now. The picture was taken at the Old Dockham Homestead in Gilford, NH. Leland Dockham was well known locally as a fox and mink trapper, a deer hunting guide in the fall, and also as a Lake Winnipesaukee fishing guide.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 622

Short Title:	Extend Louisburg Exemptn for Competitive Bids.	(Local)
Sponsors:	Representative Allen.	
Referred to:	Local Government I.	

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE EXEMPTION FOR THE TOWN OF LOUISBURG FROM THE COMPETITIVE BIDDING REQUIREMENTS FOR THE LOUISBURG ECONOMIC DEVELOPMENT PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2007-216 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law. Section 3 of this act shall expire January 1, ~~2009.~~2011."

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

HOUSE BILL 622:
Extend Louisburg Exemptn for Competitive Bids

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 26, 2009
Introduced by:	Rep. Allen	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 622 extends the competitive bidding exemption for the Louisburg Economic Development Project to January 1, 2011. This act is effective when it becomes law.

CURRENT LAW: Section 3 of S.L. 2007-216 exempted the Town of Louisburg's contract for the construction of the Louisburg Economic Development Project from the competitive bidding provisions of G.S. 143-128, -129, -131, and -132. The exemption expired January 1, 2009.

BILL ANALYSIS: House Bill 622 extends the exemption described above to January 1, 2011.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, Staff Attorney, substantially contributed to this summary.

H622-SMRK-126(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 622

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

H622-ARK-12 [v.1]

Page 1 of 1

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

Date _____ ,2009

Senator _____

moves to amend the bill on page 1, lines 4 through 9, by rewriting the lines to read:

"DEVELOPMENT PROJECT AND TO EXTEND THE APPLICATION OF THE 2006 BUILDING CODE FOR AN ONSLOW PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2007-216 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law. Section 3 of this act shall expire January 1, ~~2009.~~2011."

SECTION 2. Notwithstanding any expiration dates to the contrary, there shall be a extension for the Onslow County Administrative Complex to permit under the 2006 North Carolina State Building Codes (Building, Energy Conservation, Fire, Fuel Gas, Mechanical, and Plumbing) until August 1, 2009, at which time the applicable Code shall apply.

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

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

H622-ARK-12-V-1

HOUSE BILL 676

Short Title:	Law Enforcement Jurisdiction in Iredell Co.	(Local)
Sponsors:	Representatives McCormick, Howard, and Setzer (Primary Sponsors).	
Referred to:	Ways and Means/Broadband Connectivity, if favorable, Judiciary III.	

March 19, 2009

A BILL TO BE ENTITLED

AN ACT TO INSTITUTE TRADITIONAL JURISDICTIONAL BOUNDARIES FOR LAW ENFORCEMENT AGENCIES IN IREDELL COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 330 of the 1971 Session Laws is repealed.

SECTION 2. This act is effective when it becomes law. Prosecutions for offenses occurring outside the territorial jurisdiction of a local law enforcement agency before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

HOUSE BILL 867
Committee Substitute Favorable 5/6/09

Short Title: Junked & Abandoned Vehicles. (Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT AFFECTING THE REGULATION OF ABANDONED OR JUNKED MOTOR VEHICLES IN ALL MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-303(b2) reads as rewritten:

"(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than one hundred dollars ~~($100.00);~~($100.00) or is more than five years old and worth less than five hundred dollars ($500.00) as provided by the municipality in an ordinance adopted under this section; or

~~(3a) Is more than five years old and worth less than five hundred dollars ($500.00); this subdivision applies only to the Cities of Belmont, Bessemer City, Cherryville, Eden, Gastonia, Greensboro, Henderson, High Point, Mount Holly, and Reidsville and the Towns of Aboskie, Ayden, Cornelius, Cramerton, Dallas, Davidson, Farmville, Huntersville, LaGrange, Matthews, Mint Hill, Louisburg, Spring Lake, and Stanley; or~~

(4) Does not display a current license plate."

SECTION 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143.

For purposes of this section, the term "junked motor vehicle" means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than one hundred dollars ~~($100.00);~~($100.00) or is more than five years old and appears to be worth less than five hundred dollars ($500.00) as provided by the municipality in an ordinance adopted under this section.

~~(4) Is more than five years old and appears to be worth less than five hundred dollars ($500.00). This subdivision applies only to the Cities of Belmont, Bessemer City, Cherryville, Eden, Gastonia, Greensboro, High Point, Monroe, Mount Holly, and Reidsville and the Towns of Ahoskie, Ayden, Cornelius, Cramerton, Dallas, Davidson, Farmville, Huntersville, LaGrange, Mint Hill, Louisburg, Spring Lake, and Stanley.~~"

SECTION 3. This act is effective when it becomes law. A municipality may adopt an ordinance under G.S. 160A-303(b2)(3) or G.S. 160A-303.2(a)(3) when this act becomes law, but the ordinance may not become effective prior to October 1, 2009.

HOUSE BILL 867:
Junked & Abandoned Vehicles

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 25, 2009
Introduced by:	Rep. Wray	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: The Second Edition of House Bill 867 would allow all municipalities to provide, by ordinance, whether a junked motor vehicle is one that is more than five years old and worth less than $100 or is more than five years old and worth less than five hundred dollars $500.

CURRENT LAW: G.S. 160A-303 allows a city, by ordinance, to prohibit the abandonment of motor vehicles on public streets or on public or private property within the city. It provides that the city may enforce the ordinance by removing and disposing of junked or abandoned vehicles according to prescribed procedures.

G.S. 160A-303.2 allows a municipality, by ordinance, to regulate junked motor vehicles on public grounds and on private property. The municipality may enforce the ordinance by removing or disposing of junked motor vehicles according to prescribed procedures.

Each of those General Statutes has a general definition of "junked motor vehicle" that says it is partly dismantled or wrecked, cannot be moved as it was originally intended to move, does not display a current license plate, and is more than 5 years old and less than $100. But each of those statutes also has an alternative definition that says a junked vehicle is more than 5 years old and less than $500. The alternative definition applies to certain named municipalities.

BILL ANALYSIS: HB 867 allows any municipality to provide, by ordinance, whether a junked motor vehicle is (1) more than five years old and worth less than $100 or (2) is more than five years old and worth less than $500. Thus, it takes the alternative definition of "junked motor vehicle" in the current statutes and allows any municipality to choose that definition rather than the standard definition.

EFFECTIVE DATE: When it becomes law. A municipality may adopt an ordinance under G.S. 160A-303(b2)(3) or G.S. 160A-303.2(a)(3) when this act becomes law, but the ordinance may not become effective prior to October 1, 2009.

BACKGROUND: Article II, Section 24 of the North Carolina Constitution prohibits the General Assembly from enacting local acts relating to health, sanitation, or the abatement of nuisances. As introduced, HB 867 raised a constitutional concern because it was a local act related to the abatement of nuisances. (It would have added the Town of Warrenton to the list of municipalities to which the alternative definition of "junked motor vehicles" applied.) The Second Edition of HB 867 alleviates that constitutional concern by making the bill statewide.

Brad Krehely, an attorney in the Research Division, contributed significantly to this summary.

H867-SMRR-122(e2) v1

HOUSE BILL 970
Committee Substitute Favorable 4/22/09
Committee Substitute #2 Favorable 5/6/09

Short Title: Granville County Hunting. (Local)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO REGULATE HUNTING IN GRANVILLE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful for a person to release a dog or dogs onto the property of another for the purpose of hunting deer, without the written consent of the landowner or lessee, if the property:

(1) Is posted as provided in Article 22A of Chapter 14 of the General Statutes;

(2) Has been registered and posted as provided in Article 21A of Chapter 113 of the General Statutes; or

(3) Has been registered and posted as provided in Chapter 159 of the 1991 Session Laws, as amended by Chapter 152 of the 1995 Session Laws.

SECTION 2. Violation of this act is a Class 2 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Granville County.

SECTION 5. This act becomes effective October 1, 2009, and applies to acts committed on or after that date.

HOUSE BILL 970:
Granville County Hunting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 21, 2009
Introduced by:	Rep. Crawford	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Third Edition		

SUMMARY: The Third Edition of House Bill 970 would prohibit the releasing of a dog or dogs onto someone's property for the hunting of deer in Granville County.

CURRENT LAW: Article 22A of G.S. Chapter 14 (the Criminal Law) contains posting requirements are designed to notify others of what type of hunting is prohibited. The posting requirements govern how large the signs must be (i.e. not less than 120 square inches) and where the signs must be placed on the property (i.e. not more than 200 yards apart close to and along the boundaries).

G.S. 14-159.6 makes it a Class 2 misdemeanor for a person to go on the property of another to hunt, fish, or trap if the proper notices have been posted.

BILL ANALYSIS: House Bill 970 would make it unlawful to release a dog or dogs onto the property of another for the purpose of hunting deer. The prohibition would apply only in Granville County.

This restriction applies as long as the property complies with **any** of the following:

- Meets the posting requirements of Article 22A of Chapter 14.
- Has been registered with the Wildlife Resources Commission and meets posting requirements of Article 21A of Chapter 113.
- Has been registered with the sheriff of Granville County and meets posting requirements set of a 1991 local act for Granville County.

A violation of the act is a Class 2 misdemeanor. The act is enforceable by the law enforcement officers of the Wildlife Resources Commission, sheriffs and deputy sheriffs, and other peace officers with subject matter jurisdiction.

EFFECTIVE DATE: This act becomes effective October 1, 2009, and applies to acts committed on or after that date.

Susan Sitze and Brad Krehely, attorneys for the Research Division, contributed significantly to this summary.

H970-SMRR-120(e3) v4

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

CORRECTED REPORT

Tuesday, May 26, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **25** Clarify SCFAC Appointments.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **550** Denton Mayor's Term.
Sequential Referral: None
Recommended Referral: None

H.B. **551** Davidson/Taking of Foxes.
Sequential Referral: None
Recommended Referral: None

H.B. **676** Law Enforcement Jurisdiction in Iredell Co.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **970** Granville County Hunting.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **622** Extend Louisburg Exemptn for Competitive Bids.
Draft Number: PCS30402
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

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

H.B.(CS #1) **867** Junked & Abandoned Vehicles.

Draft Number:	PCS70442
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 7

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 26, 2009
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
S.A. Glover	SEANC
BARBARA B. ALOTIS	HOPE
Francis J. Coyle	HOPE
Susan R. Brietzor	NC HOPE
Sharon Hucks	SEANC/NC HOPE
NANCY SHAKIR	NC HOPE / CUMBERLAND COUNTY PROGRESSIVES
Jeffrey Letter	NC HOPE, AAUP
David Zondeman	HOPE/AAUP
JOHN HEUER	HOPE/NAACP
Rick Dowdle	Jordell staff office.
Karen Ray	

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 26, 2009
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
James Andrews	NC State AFL-CIO
Ayana Dillahunt	NC Justice Center
T. David Anderson	PFFPNC
Donald Ragnacke	PFFPNC
Mary Beth McMillan	NC AFL-CIO
Rick Armstrong	Teamster Local 391
Ruth Zalph	HOPE - WILPF-ELDERS 4 PEACE
Richard Paddock	WILPF - Triangle Green Party
Miriam Thompson	NAACP Chapel Hill/Carrboro
Lori Hoyt	Peace + Justice Committee Community Church, Chapel Hill
Annie Dove	UE150.

Senate State and Local Government Committee
Tuesday, June 2, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 969	Granville/Registered Land.	Representative Crawford, Jr.
HB 213	VSL Nonfamily Sick Leave Donations.	Representative Lucas Representative Hurley Representative Insko
HB 221	Oversight of Licensing Boards.	Representative Jones Representative Goodwin Representative Moore
HB 459	Rocky Mount/Fair Housing Ordinance.	Representative Bryant Representative Farmer-Butterfield Representative Stewart
HB 633	Yancey Commissioners Election.	Representative Rapp
HB 701	Avery Tax Collector Appointive.	Representative Frye
HB 747	Asheville Force Account.	Representative Goforth Representative Whilden
HB 833	Winston-Salem/Forsyth School Board Elections.	Representative Fisher Representative Parmon Representative Womble
HB 870	Stanly County Boards.	Representative Burr
HB 888	County Bow Hunting.	Representative Spear
HB 927	ABC Capital Project/County Funds.	Representative Owens, Jr.
HB 955	Expand Membership/Currituck Game Commission.	Representative Owens, Jr.
HB 406	West. Just. Acad./Wildlife Res. Firing Range.	Representative Justus Representative Guice

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 2, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 2, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

The first bill to be heard was House Bill 833, Winston-Salem/ Forsyth School Board Elections. Senator Garrou explained the bill to the committee and Senator Brunstetter spoke on the bill. Senator Apodaca offered an amendment. After much discussion among the committee, division was called and the amendment failed. Senator Apodaca then moved that the bill receive a Favorable Report. The committee gave the bill a favorable Report and the bill carried. The Second bill to be heard was House Bill 969, Granville/Registered Land, and Senator McKissick moved that the bill be properly before the committee. Representative Crawford explained the bill and Senator Soles made a motion to give the bill a Favorable Report. The bill carried. House Bill 221 (CS # 1), Oversight of Licensing Boards, was the next bill to be heard. Senator Weinstein moved to adopt a proposed committee substitute and Representative Goodwin explained the bill. Senator Dorsett made a motion to give the bill a Favorable Report, Unfavorable to the Original Bill but Favorable to the PCS. Next on the agenda was HB 459 (CS #2), Rocky Mount/Fair Housing Ordinance was heard by the committee. Representative Bryant explained the bill and an amendment was adopted .Senator McKissick moved for a Favorable Report with the amendment rolled into a PCS. The bill was reported out Unfavorable as to Committee Substitute Bill No.2, But Favorable as to Senate Committee Substitute Bill. The Bill carried. Representative Rapp explained House Bill 633, Yancey Commissioners Election, to the committee. Senator Berger made a motion to give the bill a Favorable Report and the bill carried. Representative Frye explained House Bill 701, Avery Tax Collector Appointive. An amendment was put before the committee and adopted and Senator Apodaca moved that the PCS be given a Favorable Report, Unfavorable to the Original Bill, But Favorable As To Senate Committee Substitute Bill. House Bill 747, Asheville Force Account, was before the committee. Senator McKissick moved to adopt a Proposed Committee Substitute and Representative Goforth explained the bill. Senator Mckissick moved to give the PCS a Favorable Report and the bill carried. Representative Spear explained House Bill (CS #2) 888, County Bow Hunting. A Proposed Committee Substitute was passed out to the committee and was adopted. Senator Albertson moved for a Favorable Report, Unfavorable to the Committee Substitute Bill No.2 But Favorable to Senate Committee Substitute. The bill carried. House Bill 927(CS #1), ABC Capital Project/ County Funds, was explained by Representative Owens. The bill received a Favorable Report on the motion of Senator Weinstein as did House Bill 955 (CS #1, Expand Membership/Currituck Game, Representative Owen's bill. Representative Justus explained House Bill 406, (CS #1), West. Just/ Acad. /Wildlife Res. Firing Range. An amendment was adopted on the motion of Senator Apodaca. The bill was reported out as Unfavorable to the

Committee Substitute Bill No. 1, But Favorable to the Senate Committee Substitute Bill with the amendment rolled into the Senate Committee Substitute Bill.
The meeting adjourned at 12:45 pm.

Senator Jones, Presiding

Anne Misenheimer, Committee Clerk

HOUSE BILL 969

Short Title:	Granville/Registered Land.	(Local)
Sponsors:	Representative Crawford.	
Referred to:	Wildlife Resources, if favorable, Judiciary II.	

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW PROHIBITING THE DISCHARGE OF FIREARMS ON REGISTERED LAND IN GRANVILLE COUNTY BY ALLOWING THE TRACTS OF REGISTERED LAND TO BE RECORDED IN THE GEOGRAPHIC INFORMATION SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (f) of Section 2 of Chapter 159 of the 1991 Session Laws, as amended by Chapter 152 of the 1995 Session Laws, reads as rewritten:

"(f) By September 1 each year, the sheriff must:

(1) File with the Register of Deeds of Granville County a listing of all tracts of land accepted by him for registration during the ensuing year. This listing must contain an abbreviated description of the location of each tract of land so accepted.

(2) File with the Register of Deeds a copy of the full description of the boundaries of each tract accepted for registration that year under subsection (b). As to the remaining applications accepted, the sheriff must indicate in his filing with the Register of Deeds the year in which a full description was filed for that tract that met the requirements of subdivision (2) of subsection (b).

(3) File with the North Carolina Wildlife Resources Commission all of the material required to be filed with the Register of Deeds under subdivisions (1) and (2). The sheriff must also furnish the North Carolina Wildlife Resources Commission with a copy of the signature of each registrant and agent newly authorized to issue entry permits during the ensuing year, and a listing of agents no longer authorized to issue entry permits. In addition, throughout the year as registrants make changes with respect to their authorized agents or there are amended applications that substitute registrants, the sheriff must as soon as feasible inform the Commission of the changes and file with the Commission a copy of the signatures of new registrants and agents.

~~(4) Release for publication by appropriate media with coverage in Granville County the listing described in subdivision (1).~~

(5) Compile and maintain throughout the ensuing year in his office, so that the information is freely available to the public, all of the information covered by this subsection.

(6) The sheriff shall not be required to meet the filing requirements of subdivisions (1) and (2) of this subsection if all tracts accepted for

registration hereunder are shown as a layer in Granville County's Geographic Information System in a manner that is accessible to the public and the Wildlife Resources Commission free of charge."

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

HOUSE BILL 969:
Granville/Registered Land

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2009
Introduced by:	Rep. Crawford	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 969 amends the law prohibiting the discharge of firearms on registered land in Granville County by allowing the tracts of registered land to be recorded in the geographic information system.

CURRENT LAW: Chapter 159 of the 1991 Session Laws, as amended by Chapter 152 of the 1995 Session Laws, provides for a system in Granville County where landowners or lessees may register their land with the Sheriff of Granville County. This registration provides that others may not hunt on the land without permission from the landowner or lessee. In addition to getting permission, an individual would have to get an entry permit before hunting on registered land.

Hunting or possessing a weapon on registered land is a misdemeanor punishable by a fine not to exceed fifty dollars or imprisonment not to exceed 30 days.

BILL ANALYSIS:

House Bill 969 amends Section 2(f) of Chapter 159 of the 1991 Session Laws, as amended by Chapter 152 of the 1995 Session Laws, to provide that if all tracts accepted for registration are shown as a layer in Granville County's Geographic Information System, in a manner that is accessible to the public and the Wildlife Resources Commission free of charge, the sheriff does not have to file the following with the Register of Deeds by September 1 of each year:

- A listing of all tracts of land accepted for registration that year with an abbreviated description of the location of each tract of land.
- A copy of the full description of the boundaries of each tract accepted for registration that year on which the owner or lessee agrees to grant entry-permits to any person given permission to hunt, or to possess a firearm or bow and arrow on the land.

The bill also removes the requirement that the sheriff release for publication by appropriate media with coverage in Granville County the list of tracts accepted for registration.

EFFECTIVE DATE: This act is effective when it becomes law.

Susan Sitze contributed substantially to the drafting of this summary.

H969-SMRK-134(e1) v1

HOUSE BILL 213

Committee Substitute Favorable 5/4/09
Committee Substitute #2 Favorable 5/12/09

Short Title: VSL Nonfamily Sick Leave Donations. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave. Departments and agencies with employees who are not subject to the provisions of this section may extend the voluntary shared leave benefit to those employees."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's

immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. G.S. 115D-25.3 reads as rewritten:

"**§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges shall adopt rules and policies for the voluntary shared leave program to allow an employee at a community college to donate sick leave to a nonfamily member employee of a community college. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 4. This act becomes effective January 1, 2010.

HOUSE BILL 213:
VSL Nonfamily Sick Leave Donations

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Reps. Insko, Lucas, Hurley	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***The Third Edition of House Bill 213 would allow State employees, public school employees, and community college employees to transfer up to 5 days of sick leave per year to an employee who is a non-family member. No employee could receive more than 30 days per year of sick leave donated by non-family members. Donated sick leave could not be used for retirement purposes, and the donor would have to be notified in writing of the State retirement credit consequences of donating sick leave.***

[As introduced, this bill was identical to S352, as introduced by Sen. Kinnaird, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: G.S. 126-8.3, G.S. 115C-12.2 and G.S. 115D-25.3 require the State Personnel Commission, the State Board of Education and the State Board of Community Colleges to adopt rules to allow employees of State agencies, public schools, and community colleges to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency.

The statutes above speak to the sharing of leave generally and do not specify vacation leave or sick leave. But policies have generally only permitted the sharing of sick leave between family members.

BILL ANALYSIS: House Bill 213 would direct the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to add to their Voluntary Shared Leave programs rules and policies to allow an employee to donate up to 5 days of sick leave per year to another employee who is not a family member.

The State Personnel Act is amended in Section 1 of the bill, the Public Education Act in Section 2, and the Community Colleges Act in Section 3. Those sections are parallel, except that Section 1 has a line authorizing departments and agencies of State government with employees who are not subject to the provisions of the State Personnel Act to extend the voluntary shared leave benefit to those employees.

All three provisions have certain limitations:

- This provision for donating sick leave to non-family members does not allow the cross-agency donations that the provisions for donating to family members allow.
- No employee could receive more than 30 days per year of sick leave from non-family members.
- Donated sick leave could not be used for retirement purposes, and employees who donate sick leave would have to be notified in writing of the State retirement credit consequences of donating sick leave.

EFFECTIVE DATE: The act would become effective January 1, 2010.

Dr. Shirley Iorio, a legislative analyst with the Research Division, contributed significantly to this summary.

HOUSE BILL 221*
Committee Substitute Favorable 4/6/09

Short Title: Oversight of Licensing Boards. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO REVIEW THE ACTIVITIES OF OCCUPATIONAL LICENSING BOARDS, TO REQUIRE THAT CERTAIN LICENSING BOARDS BE AUDITED ANNUALLY, TO SPECIFY A DATE FOR FILING OF REPORTS, TO ESTABLISH SANCTIONS FOR FAILURE TO FILE REPORTS, AND TO REQUIRE THAT BOARD MEMBERS RECEIVE TRAINING, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.101 reads as rewritten:

"**§ 120-70.101. Purpose and powers of Committee.**

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

(1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.

(2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.

~~(3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.~~

(3a) To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created. This review shall not include decisions concerning board personnel matter or determinations on individual licensing applications or individual disciplinary actions.

(4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.

(5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.

(6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.

(7) To review any other concerns about administrative law to determine if statutory changes are needed.

(8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes."

SECTION 2. G.S. 93B-2 reads as rewritten:

"**§ 93B-2. Annual reports required; contents; open to ~~inspection.~~ inspection, sanction for failure to report.**

(a) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1) The address of the board, and the names of its members and officers.

(2) The number of persons who applied to the board for examination.

(3) The number who were refused examination.

(4) The number who took the examination.

(5) The number to whom initial licenses were issued.

(6) The number who applied for license by reciprocity or comity.

(7) The number who were granted licenses by reciprocity or comity.

(7a) The number of official complaints received involving licensed and unlicensed activities.

(7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

(8) The number of licenses suspended or revoked.

(9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.

(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

(11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

(b) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous ~~12 month period.~~ fiscal year.

(c) The reports required by this section shall be open to public inspection.

(d) Failure of a board to comply with the reporting requirements of this section shall result in a suspension of the board's authority to collect fees until such time as the board files the required reports. Suspension of a board's authority to collect fees under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law."

SECTION 3. G.S. 93B-4 reads as rewritten:

"**§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

The cost of all audits shall be paid from funds of the occupational licensing board audited.

(b) Each occupational licensing board with a budget of at least fifty thousand dollars ($50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor."

SECTION 4. G.S. 93B-5 reads as rewritten:

"**§ 93B-5. ~~Compensation and employment~~ Compensation, employment, and training of board members.**

(a) Board members shall receive as compensation for their services per diem not to exceed one hundred dollars ($100.00) for each day during which they are engaged in the official business of the board.

(b) Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a) for officers and employees of State departments. Actual expenditures of board members in excess of the maximum amounts set forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the State Director of Budget is obtained and such approved expenditures are within the established and published uniform standards and criteria of the State Director of Budget authorized under G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State officers and employees, whenever such charges are the result of required official business of the Board.

(c) Repealed by Session Laws 1981, c. 757, s. 2.

(d) Except as provided herein board members shall not be paid a salary or receive any additional compensation for services rendered as members of the board.

(e) Board members shall not be permanent, salaried employees of said board.

(f) Repealed by Session Laws 1975, c. 765, s. 1.

(g) Within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training, either from the board's staff, including its legal advisor, or from an outside educational institution such as the School of Government of the University of North Carolina, on the statutes governing the board and rules adopted by the board, as well as the following State laws, in order to better understand the obligations and limitations of a State agency:

(1) Chapter 150B, The Administrative Procedure Act.

(2) Chapter 132, The Public Records Law.

(3) Article 33C of Chapter 143, The Open Meetings Act.

(4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.

(5) Chapter 138A, The State Government Ethics Act.

(6) Chapter 120C, Lobbying.

Completion of the training requirements contained in Chapter 138A and Chapter 120C of the General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

SECTION 5. G.S. 120-70.103 is repealed.

SECTION 6. This act becomes effective October 1, 2009.

HOUSE BILL 221:
Oversight of Licensing Boards

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Reps. Goodwin, Moore, Jones	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to Second Edition H221-CSRO-49		

SUMMARY: ***House Bill 221 authorizes the Joint Legislative Administrative Procedure Oversight Committee (APO) to review the activities of occupational licensing boards and to determine if the boards are still needed. The bill also (1) specifies a filing date for reports from licensing boards and establishes sanctions for failure to file the reports; (2) requires that certain licensing boards be audited annually; and (3) requires that licensing board members receive training in specified areas of the law.***

The proposed committee substitute changes the sanctions for failure to file required annual reports and provides that failure to file shall result in a suspension of a Board's authority to expend funds until such time as the required report is filed.

[As introduced, this bill was identical to S303, as introduced by Sen. Nesbitt, which is currently in Senate Judiciary I.]

CURRENT LAW:

Currently, there are approximately 55 independent occupational licensing boards authorized by North Carolina statutes. There is no general executive or legislative oversight of licensing boards and there is wide variance among them in statutory authority and administrative rules.

The Legislative Committee on New Licensing Boards reviews proposals to create new licensing boards and issues an assessment report relating to the need for the board. A bill making such a proposal cannot be considered in a standing committee until it has received an assessment report. However, it is not necessary that the report be favorable for the bill to proceed.

Once enacted, the licensing board is required to comply with the statute which created it and certain general rules for licensing boards contained in Chapter 93B of the General Statutes. Chapter 93B includes provisions applicable to all licensing boards, such as a prohibition against lobbying, being subject to audits by the State Auditor, and filing annual reports with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee. The law does not authorize the Secretary of State or the Attorney General to review the reports or to exercise any oversight. The law also does not set forth a time by which the reports must be filed or any sanction for failure to file the report.

BILL ANALYSIS:

Section 1 of House Bill 221 amends the law governing the Joint Legislative Administrative Procedure Oversight Committee to give it specific authority to review the activities of occupational licensing boards in order to determine whether the boards are operating in accordance with law and are still needed. However, the review will not include decisions concerning Board personnel matters, or determinations on individual licensing applications or individual disciplinary actions.

Section 2 amends Chapter 93B to require that annual and financial reports be filed no later than October 31 of each year. This section also provides that failure to comply with the requirements will result in a

suspension of the board's authority to expend funds until the reports are filed. The Board, however, must continue to issue and renew licenses and the validity of any application or license will not be affected by the suspension. This section also requires Boards to include in their annual reports the number of complaints received and the number of disciplinary actions taken.

Section 3 amends Chapter 93B to direct the State Auditor to conduct audits on licensing boards from time to time to ensure their proper operation. This section also directs each licensing board with an annual budget of at least $50,000 to obtain an annual financial audit.

Section 4 adds a new provision requiring licensing board members to obtain training within six months of the member's initial appointment and at least once within every two calendar years thereafter. The board may use its own staff, including its legal advisor, or an outside educational institution, such as the School of Government to provide the training. The board members must be trained on the statutes governing the board and any rules adopted by the board, as well as several State laws applicable to all State governmental entities. Receipt of the training required by the State Ethics Act and the Lobbying Act satisfies the requirement for training in those areas under this section.

Section 5 repeals G.S. 120-70.103 requiring the keeping of notebooks containing administrative rules.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: This bill was recommended by the Joint Legislative Administrative Procedure Oversight Committee.

Karen Cochrane-Brown, counsel to House State Government/State Personnel, substantially contributed to this summary.

H221-SMRF-122(CSRO-49) v2

HOUSE BILL 459*
Committee Substitute Favorable 3/25/09
Committee Substitute #2 Favorable 4/14/09

Short Title: Rocky Mount/Fair Housing Ordinance. (Local)

Sponsors:

Referred to:

March 9, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF ROCKY MOUNT TO ALLOW THE CITY TO ENACT A FAIR HOUSING ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Rocky Mount, being S.L. 2003-327, is amended by adding a new Article to read as follows:

"ARTICLE IX. FAIR HOUSING.

"Section 520. **Provisions.**

(a) The City shall have the power to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of real estate brokerage services, or in the availability of residential real estate related transactions. The ordinances may regulate or prohibit any act, practice, activity, or procedure related, directly or indirectly, to the sale or rental of public or private housing, that affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to a court for appropriate legal and equitable remedies, including mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, and punitive damages, and the court shall have jurisdiction to grant the remedies.

(b) The City shall have the power to amend any ordinance adopted pursuant to the provisions contained in subsection (a) of this Article to ensure that the ordinance remains substantially equivalent to the federal Fair Housing Act (42 U.S.C. § 3601, et seq.) and consistent with subsection (a). Any ordinance enacted pursuant to this Article prohibiting discrimination on the basis of familial status shall not apply to housing for older persons, as defined in the federal Fair Housing Act (42 U.S.C. § 3601, et seq.).

(c) Any ordinance enacted pursuant to this Article may provide for exemption from its coverage:

(1) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations.

(2) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.

(3) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.

(4) With respect to discrimination based on religion to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, the sale, rental, or occupancy of the housing accommodation being limited or preference being given to persons of the same religion, unless membership in the religion is restricted because of race, color, national origin, or sex.

(5) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance.

(d) The City may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this Article. The committee may be granted any authority deemed necessary by the City Council for the proper enforcement of any fair housing ordinance, including the power to:

(1) Promulgate rules for the receipt, initiation, investigation, and conciliation of complaints of violations of the ordinance.

(2) Require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinance; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation.

(3) Apply to a court, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring the person to respond or comply.

(4) Upon finding reasonable cause to believe that a violation of the ordinance has occurred, to petition a court for appropriate civil relief on behalf of the aggrieved person or persons.

(e) The City may provide that neither complaints filed with any committee pursuant to the ordinance nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of what is now Chapter 132 of the General Statutes.

(f) The City may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any committee authorized to enforce the ordinance to the extent that the committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance."

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

HOUSE BILL 459:
Rocky Mount/Fair Housing Ordinance

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 29, 2009
Introduced by:	Reps. Bryant, Farmer-Butterfield, Stewart	**Prepared by:**	Hal Pell
Analysis of:	Third Edition		Committee Counsel

SUMMARY: House Bill 459 would amend the Charter of the City of Rocky Mount to add a new Article on fair housing.

[As introduced, this bill was identical to S459, as introduced by Sen. Swindell, which is currently in Senate State and Local Government.]

CURRENT LAW: Under the State Fair Housing Act (Chapter 41A of the General Statutes), it is unlawful for any person in a real estate transaction to discriminate against a person because of race, color, religion, sex, national origin, handicapping condition, or familial status. Fair housing complaints may be filed with the North Carolina Human Relations Commission for investigation. G.S. 41A-7(c) provides that whenever another unit of government with equal authority to investigate has jurisdiction over the subject matter of a complaint, the Commission shall be divested of jurisdiction over the complaint.

BILL ANALYSIS: House Bill 459 would allow the City of Rocky Mount to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in real estate transactions. The bill would also do all of the following:

- Permit civil and criminal penalties for violations of the ordinances.
- Allow the City to amend the ordinances to keep them substantially equivalent to the federal Fair Housing Act.
- Authorize exemptions for certain types of housing that are lessor-occupied, single sex dormitories, owned and operated for religious or non-profit institutions, or for remedying past discrimination.
- Allow the City to create a committee that would enforce the ordinances and would have other adjudicatory powers.
- Exempt some of the Committee's work from public records and open meetings requirements.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The North Carolina General Assembly has enacted similar legislation in the past. S.L. 2007-475 authorized the City of High Point to enact a fair housing ordinance, and S.L. 2000-26 made a similar change to the City of Charlotte's charter. House Bill 459 is modeled after and almost identical to the legislation adopted for High Point and Charlotte.

Brad Krehely and Bill Gilkeson,, Staff attorneys, contributed significantly to this summary.

H459-SMRK-137(e3) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 459*

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

H459-ARK-16 [v.1]

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

Date _____,2009

Senator _____

moves to amend the bill on page 1, lines 15 and 16, by deleting the words,

"may provide that violations constitute a criminal offense;".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 633

Short Title:	Yancey Commissioners Election.	(Local)
Sponsors:	Representative Rapp.	
Referred to:	Local Government I, if favorable, Election Law and Campaign Finance Reform.	

March 18, 2009

A BILL TO BE ENTITLED

AN ACT RELATING TO THE MANNER OF ELECTION AND ORGANIZATION OF THE BOARD OF COMMISSIONERS OF YANCEY COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Effective on the first Monday in December of 2010, the Board of Commissioners of Yancey County is expanded from three to five members, elected as follows:

(1) In 2010 there shall be elected five members, the two persons receiving the highest numbers of votes are elected for four-year terms, and the three persons receiving the next highest numbers of votes are elected to two-year terms.

(2) In 2012 and biennially thereafter, there shall be elected three members, the two persons receiving the highest numbers of votes are elected for four-year terms, and the person receiving the next highest number of votes is elected to a two-year term.

SECTION 2. Beginning with the 2010 general election, the office of chairman of the Board of Commissioners of Yancey County is abolished as a separately elective office. Instead, effective on the first Monday in December of 2010, the selection of chairman shall be in accordance with G.S. 153A-39.

SECTION 3. Chapter 127 of the General Statutes, Public-Local Acts of 1923, is repealed.

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

HOUSE BILL 633:
Yancey Commissioners Election

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Rep. Rapp	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 633 would expand from three to five the number of Yancey County Board of Commissioners. The bill would phase in a staggered election system, so that eventually 3 commissioners would be elected every two years – 2 to a four-year term and one to a two-year term. The bill would also end the system of electing the commissioners' chair as a separate office, instead having the commissioners elect one of their number as chair every two years.

CURRENT LAW: Currently, Yancey County has three county commissioners. All have two-year terms. Two are elected in a multi-seat race. The chairmanship is a separately elected office.

G.S. 153A-39 provides a uniform method of choosing the chair and vice chair of boards of commissioners. The method is that the full board chooses one of its number to be chair and one to be vice chair. It does so at the first meeting in December every even-numbered year. This uniform statute does not apply to boards, such as Yancey, for which a local act of the General Assembly sets a different method of selecting the chair.

BILL ANALYSIS: House Bill 633 would change the Yancey County Board of Commissioners in the following ways:

- Add 2 members, raising the number from three to five.
- Phase in a staggered election system. In 2010, five commissioners would be elected in a multi-seat race (meaning all candidates would be in the same item on the ballot, rather than being elected to separate seats). The top two voter getters would be elected to four-year terms, and the next three would be elected to two year terms. In 2012, the three who had been elected to two-year terms in 2010 would face another election. In the 2012 election, the top two voter getters would be elected to four-year terms, and the next one down would be elected to a two-year term. Every two years thereafter, the election would follow the same pattern – three elected, with the top two getting four-year terms and the third winner getting a two-year term. At any given time after 2012, four commissioners would be serving 4-year terms and one would be serving a 2-year term. At any given time, three of the five commissioners would be facing election in less than 2 years.
- Stop electing the chair as a separate office. Instead rely on the uniform statute and have the board choose a chair and vice chair every two years.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Most counties have five commissioners. Quite a few have more. But a handful of small mountain counties have three.

H633-SMRR-129(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 701

Short Title:	Avery Tax Collector Appointive.	(Local)
Sponsors:	Representative Frye.	
Referred to:	Local Government I, if favorable, Election Law and Campaign Finance Reform.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE THE OFFICE OF TAX COLLECTOR IN AVERY COUNTY APPOINTIVE RATHER THAN ELECTIVE.

The General Assembly of North Carolina enacts:

SECTION 1. Effective upon the earlier of (i) the end of the current term of office in 2012 or (ii) the occurrence of a vacancy in that office, the office of tax collector of Avery County shall no longer be elective, but shall be appointed by the Avery County Board of Commissioners in accordance with G.S. 105-349.

SECTION 2. The appointive tax collector of Avery County shall serve a two-year term beginning July 1 of each odd-numbered year. The initial appointed tax collector shall serve a term to expire July 1, 2013, except that if a vacancy occurs prior to July 1, 2011, the Avery County Board of Commissioners may appoint a tax collector to serve until July 1, 2011, and a successor to serve until July 1, 2013, or may instead appoint the initial appointive tax collector to serve until July 1, 2013.

SECTION 3 This act is effective when it becomes law.

HOUSE BILL 701:
Avery Tax Collector Appointive

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Rep. Frye	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 701 would make the Tax Collector in Avery County an appointive rather than an elective office.

CURRENT LAW: Avery County is the only county left where the tax collector is elected.

The general law, G.S. 105-349, provides that county tax collectors shall be appointed by the board of county commissioners for a term to be determined by the commissioners.

BILL ANALYSIS: The bill would make the Avery County Tax Collector an appointive rather than an elective office. The first appointment would take place at the end of the current elective Tax Collector's term in 2012, or at the time of a vacancy in the elective office, whichever occurs first.

The bill would phase in a 2-year term for the appointive Tax Collector, beginning July 1 of every odd-numbered year.

EFFECTIVE DATE: When it becomes law.

Bill Gilkeson, counsel to House Local Government 1, substantially contributed to this summary.

H701-SMRF-121(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 701

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

H701-ARF-6 [v.1]

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

Date _____,2009

Senator Blake

moves to amend the bill on page 1, Line 3 by rewriting that line to read:

"APPOINTIVE RATHER THAN ELECTIVE; AND BY AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS FOR MOORE COUNTY TO DELEGATE THE AUTHORITY TO ISSUE PYROTECHNICS PERMITS TO THE COUNTY FIRE MARSHALL.; And

Further amends the bill on page 1, between lines 14 and 15 by adding new sections to read:

"**SECTION 3.** G.S. 14-410(a) reads as rewritten:

'(a) It shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any pyrotechnics of any description whatsoever within the State of North Carolina: provided, however, that it shall be permissible for pyrotechnics to be exhibited, used or discharged at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts who have previously secured written authority from the board of county commissioners of the county, the county fire marshal, if such authority has been delegated pursuant to G.S. 14-413(a), or the city if authorized under G.S. 14-413(a1), in which said pyrotechnics are to be exhibited, used or discharged. Written authority from the board of ~~commissioners~~ commissioners, the county fire marshal, or city is not required, however, for a concert or public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill, but such exhibition, use, or discharge of pyrotechnics shall be under supervision of experts who have previously secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill. Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business. The requirements of G.S. 14-413(b) and G.S. 14-413(c) apply to this section.'

"**SECTION 4.** G.S. 14-413(a) reads as rewritten:

'(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to

subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. The board of county commissioners may delegate its authority under this article to issue permits for pyrotechnical displays to the county fire marshal. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.'

SECTION 5. Sections 3 and 4 of this act shall apply to Moore County only."; And

By renumbering the remaining section.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 747
PROPOSED SENATE COMMITTEE SUBSTITUTE H747-CSRK-61 [v.1]

6/1/2009 3:02:10 PM

Short Title: Asheville and Dallas Force Account. (Local)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT INCREASING THE FORCE ACCOUNT LIMIT FOR THE CITY OF ASHEVILLE AND BUNCOMBE COUNTY AND FOR THE TOWN OF DALLAS FOR CONSTRUCTION OR REPAIR PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-135 reads as rewritten:

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000);~~two hundred fifty thousand dollars ($250,000); provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed two hundred thousand dollars ($200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars ($100,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article.

SECTION 1.(b) This section applies only to Marjorie Street, Valley Street, College Street, and Davidson Street projects in the areas of the Buncombe County jail annex.

SECTION 1.(c) This section applies only to the City of Asheville and County of Buncombe.

SECTION 1.(d) This section expires July 1, 2010.

SECTION 2.(a) G.S. 143-135 reads as rewritten:

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

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty-five thousand dollars ($125,000) or the total cost of labor on the project does not exceed fifty thousand dollars ($50,000);~~five hundred thousand dollars ($500,000); provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed two hundred thousand dollars ($200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars ($100,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

SECTION 2.(b) This section applies only to the police department renovation.

SECTION 2.(c) This section applies only to the Town of Dallas.

SECTION 2.(d) This section expires July 1, 2011.

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

HOUSE BILL 747:
Asheville Force Account

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2009
Introduced by:	Reps. Fisher, Goforth, Whilden	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 747 raises the force account limit for a specified project of the City of Asheville and Buncombe County.***

CURRENT LAW: The main competitive bidding requirements for local governments are found in Article 8 of Chapter 143. These statutes apply to the expenditure of public money within established dollar limits and for two categories of contracts: (1) contracts for the purchase of apparatus, supplies, materials, or equipment, and (2) contracts for construction or repair work. The second category (contracts for construction or repair work) includes construction of roads, utilities, buildings, and other infrastructure.

"Force account labor" is the direct use of agency employees, materials, and equipment to do construction or repair work (i.e. using your own forces). There are generally three types of force account expenses: employee labor, including fringe benefits; equipment use or time; and the use of materials from the agency's inventory.

G.S. 143-135 currently exempts a public construction or repair contract from the formal bidding for public contract requirements for work undertaken by the local government where the work is performed by force account labor and where:

- The total cost of the project is not more than $125,000, or
- The total cost of labor on the project is not more than $50,000.00.

BILL ANALYSIS: House Bill 747 would permit the City of Asheville and Buncombe County to enter into a construction or repair contract for the Marjorie Street, Valley Street, College Street, and Davidson Street project in the area of the Buncombe County jail complex, to be performed by their employees, and without meeting otherwise applicable statutory requirements, if the total cost of the project will not exceed $250,000.

EFFECTIVE DATE: The bill would be effective when it becomes law, and expire July 1, 2010.

H747-SMRK-135(e1) v1

**Giles Perry, Counsel to House Local Government I, and Heather Fennell, Counsel to Senate Finance, significantly contributed to this summary.*

HOUSE BILL 833

Short Title:	Winston-Salem/Forsyth School Board Elections.	(Local)
Sponsors:	Representatives Womble, Parmon (Primary Sponsors); and Earle.	
Referred to:	Election Law and Campaign Finance Reform, if favorable, Local Government I.	

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF THE WINSTON-SALEM/FORSYTH COUNTY BOARD OF EDUCATION AND TO STAGGER THE ELECTION CYCLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a)(5)(iii) of Chapter 112, Session Laws of 1961, as amended by Chapter 466, Session Laws of 1985, and by Section 2 of Chapter 696 of the 1991 Session Laws, reads as rewritten:

"(iii) Notwithstanding the provisions of G.S. 115C-37, the Winston-Salem/Forsyth County Board of Education shall be elected on a nonpartisan basis at the time of the general election in each even-numbered year as terms expire. The names of the candidates shall be printed on the ballot without reference to any party affiliations. The nonpartisan primary and election method shall be used with the results determined as provided in G.S. 163-294, and the primary shall be held on the date provided by G.S. 163-1 for county partisan primaries. Except as provided by this act, the election shall be conducted in accordance with the applicable provisions of Chapters 115C and 163 of the General Statutes. Candidates shall file their notice of candidacy with the county board of elections under the same schedule provided by G.S. 163-106(c).

~~Candidates for election to the Winston-Salem/Forsyth County Board of Education shall be nominated by their respective political parties at the same time and in the same manner as other county officers. Each candidate for nomination for the office of membership on the Winston-Salem/Forsyth County Board of Education shall, at the time of filing his notice of candidacy, certify in writing the exact location of his residence and that he is a bona fide resident thereof.~~

~~For:~~

~~(1) At large seats, three candidates of each party, shall be declared the nominees of their party in accordance with law; and~~

~~(2) Each district seat, the candidates of each party shall be declared the nominees of their party in accordance with law.~~"

SECTION 2. Section 2(a)(5)(ii) of Chapter 112, Session Laws of 1961, as rewritten by Chapter 466, Session Laws of 1985 and Chapter 696 of the 1991 Session Laws, reads as rewritten:

"(ii) Effective on the first Monday in December 1986, the Winston-Salem/Forsyth County Board of Education shall be composed of nine members. In the ~~1994 election and quadrennially thereafter,~~ 2010 election, nine persons shall be elected to the Winston-Salem/Forsyth County Board of Education for four-year terms. In 2010:

(1) Two persons shall be elected from District 1. The person receiving the highest number of votes is elected to a four-year term, and the person receiving the next highest number of votes is elected to a two-year term.

(2) Four persons shall be elected from District 2. The two persons receiving the two highest numbers of votes are elected to a four-year term, and the two persons receiving the two next highest numbers of votes are elected to two-year terms.

(3) Three members shall be elected at large from all of Forsyth County. The person receiving the highest number of votes is elected to a four-year term, and the two persons receiving the two next highest numbers of votes are elected to two-year terms.

Successors to those elected in 2010 shall serve four-year terms.

~~In the 1992 election four persons shall be elected to the Winston-Salem/Forsyth County Board of Education for two-year terms. Persons shall be elected to those seats as follows:~~

~~(1) In 1992 two persons shall be elected each from Districts 1 and 2.~~

~~(2) In 1994 and quadrennially thereafter, two persons shall be elected from District 1, four persons shall be elected from District 2, and three persons shall be elected at large from all of Forsyth County.~~

For an at-large seat, any qualified voter of Forsyth County is eligible to vote. For the district seats, only residents of the district shall be eligible to be candidates and only qualified voters of the district shall be eligible to vote.

The districts as established for the purpose of this subparagraph are for the 2010 election those established under G.S. 115C-37(i), which are subject to change for the election in 2012 after the return of the 2010 census. ~~as follows:~~

~~District 1: Forsyth County: Broadbay #1 *, Middlefork #2 *, Middlefork #3 *, Ashley Middle School *, Brown/Douglas Recreation *, Brunson Elementary School *, Carver High School *, East Winston Library *, Easton Elementary School *, Forest Hill Fire Station *, Forest Pk. Elementary School *, 14th Street Recreation Center *, Hanes Community Center *, Happy Hill Recreation Center *, Hill Middle School *, Kennedy Middle School *, Lowrance Middle School *, M. L. King Recreation Center *, Memorial Coliseum *, Mineral Springs F. St *, Mt. Sinai Church *, New Hope United Methodist Church *, Old Town Presbyterian Church *, St. Andrews United Methodist *, Trinity Moravian Church *, Winston Lake Family YMCA *.~~

~~District 2: Forsyth County: Abbotts Creek #1 *, Abbotts Creek #2 *, Abbotts Creek #3 *, Belews Creek *, Bethania #1 *, Bethania #2 *, Bethania #3 *, Broadbay #2 *, Clemmonsville #1 *, Clemmonsville #2 *, Clemmonsville #3 *, Kernersville #1 *, Kernersville #2 *, Kernersville #3 *, Kernersville #4 *, Lewisville #1 *, Lewisville #2 *, Lewisville #3 *, Old Richmond *, Old Town #2 *, Old Town #3 *, Salem Chapel #1 *, Salem Chapel #2 *, South Fork #2 *, South Fork #3 *, Vienna #1 *, Vienna #2 *, Vienna #3 *, Ardmore Baptist Church *, Bethabara Moravian Church *, Bible Wesleyan Church *, Bishop McGuinness *, Bolton Swimming Center *, Calvary Baptist Church *, Christ Moravian Church *, Country Club Fire St. *, Covenant Presbyterian Church *, First Christian Church *, Forsyth Tech W. Camp. *, Greek Orthodox Church *, Jefferson Elementary School *, Latham Elementary School *, Messiah Moravian Church *, Miller Park Recreation Center *, Mt. Tabor High School *, Parkland High School *, Parkway United Church *, Philo Middle School *, Polo Park Recreation Center *, Reynolds High School Gym *, Sherwood Forest Elementary School *, South Fork Elem School *, St. Anne's Episcopal Church *, Summit School *, Trinity United Methodist Church *, Whitaker Elementary School *.~~

~~District boundaries shall be as reported by the United States Bureau of the Census under Public Law 94-171 for the 1990 census, under the IVTD version of the TIGER files.~~"

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

HOUSE BILL 833:
Winston-Salem/Forsyth School Board Elections

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Reps. Womble, Parmon	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***HB 833 would change the election of the Winston-Salem/Forsyth County Board of Education as follows:***

- ***Conduct school board elections as nonpartisan elections.***
- ***Phase in a staggered election cycle for the nine members.***
- ***Provide that the districts to be used are those revised as required by statute to account for population imbalance or newly annexed or removed territory. (The current districts would be used in 2010.)***

CURRENT LAW: S.L. 1961-112, as amended by S.L. 1985-466 and S.L. 1991-696, establishes the structure and procedure for election of the Winston-Salem/Forsyth Board of Education (Board). The Board is composed of 9 members, who are elected on a partisan basis for terms of four years. All members are elected at the same time. Two members of the Board are elected from District 1, four from District 2, and three are elected at-large from all of Forsyth County. For the district seats, only residents of the district are eligible to be candidates in that district, and only qualified voters of the district are eligible to vote for the district candidate. The precincts composing District 1 and District 2 are set out in the session law.

G.S. 115C-37(i) provides that local boards of education shall revise electoral district boundaries from time to time. When district boundaries are set by a local act that does not provide a method of revision, the local board shall revise the district boundaries solely for the purpose of 1) accounting for territory annexed to or excluded from the school administrative unit, or 2) correcting population balances among districts shown by a new federal census or caused by exclusions or annexations. Once revised, the local board shall not revise the boundaries again until there is a new U.S. Census or annexation/exclusion of territory, unless required by a court order.

BILL ANALYSIS: HB 833 would amend the local acts as follows:

- **Nonpartisan Elections:** The bill would eliminate the partisan election of Board members. It would require that Board members be elected on a nonpartisan basis. This would occur at the time of the general election in even-numbered years, as terms expire. The nonpartisan primary and election method shall be used, with the primary held on the date provided for county partisan primaries. The function of a nonpartisan primary is to reduce the field of candidates down to twice the number to be elected. If no more than twice the number to be elected file as candidates, there is no primary. (Several city councils and all judges are elected using this method.)
- **Creation of Staggered Terms:** The bill would eliminate the election of all board members at the same time, and instead would divide the Board into a group of 4 and a group of 5. The group of 4 would be elected in 2012 and every 4 years thereafter. The group of 5 would be elected in 2014 and every 4 years thereafter. The numbers of members elected from each district would remain unchanged. To begin the phasing in of the staggered system, all 9 seats would be filled as follows in 2010:
  - 2 members would be elected from District 1. The person receiving the highest number of votes would serve a 4-year term. The person receiving the second-highest number of votes would serve a two year term.
  - 4 members would be elected from District 2. The two persons receiving the two highest number of votes would serve 4-year terms. The two persons receiving the two next highest number of votes will serve 2-year terms.

- 3 members will be elected at-large from all of Forsyth County. The person receiving the highest number of votes will serve a 4 year term. The two persons receiving the two next highest number of votes will serve two year terms.

Successors to members elected in 2010 would all serve 4 year terms. Thus the phase-in of the staggered system would be completed.

- **Revision of District Lines:** The bill would delete the language added in S.L. 1991-696 setting out the precincts in District 1 and District 2. Instead it would provide that the districts for the 2010 election are those established under G.S. 115C-37(i), the statute requiring local boards of education to revise boundaries to correct population balances, and that those districts are subject to change following the return of the 2010 census. The current district lines were revised following the 2000 census. So the bill would not require a change of district lines until the 2012 election.

EFFECTIVE DATE: HB 833 would become effective when it becomes law.

BACKGROUND: Of 115 local school boards in NC, 15 are still chosen in partisan elections. They are Alleghany, Anson, Bladen, Brunswick, Duplin, Graham, Greene, Harnett, Jones, Lenoir, New Hanover, Swain, Vance, Washington, and Winston-Salem/Forsyth.

Kara McCraw, an attorney for the Research Division, contributed significantly to this summary.

H833-SMRR-128(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 833

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H833-ALB-40 [v.1]

failed 6-3-09

6/2/09 Page 1 of 1

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

Date ~~5/5~~ ,2009

Senator Apodaca
~~Representative Folwell~~

moves to amend the bill on page 2, line 51, by rewriting that line to read:

"**SECTION 3.** Sections 1 and 2 of this act shall become effective only if approved by the qualified voters of Forsyth County in a referendum to be conducted by the Forsyth County Board of Elections on May 4, 2010, which shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question on the voting systems and ballot shall be:

"[ ] FOR [ ] AGAINST

Nonpartisan election of the Winston-Salem/Forsyth County Board of Education and staggering the terms of members."

SECTION 4. Section 1 of this act becomes effective beginning with the 2012 election. Section 2 of this act becomes effective beginning with the 2010 election. The remainder of this act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ~~5-6-5-1~~ DIVISION TABLED _____

MAY 5 2009

FAILED

H833-ALB-40-V-1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 3

HOUSE BILL 888
Committee Substitute Favorable 4/13/09
Committee Substitute #2 Favorable 4/22/09

Short Title: County Bow Hunting. (Local)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO REGULATE BOW HUNTING ON THE LANDS OF ANOTHER IN HYDE COUNTY AND TO REGULATE HUNTING WITH GUNS, DOGS, OR BOW AND ARROW ON THE LANDS OF ANOTHER IN WAYNE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 420 of the 1985 Session Laws reads as rewritten:

"**Section 1.** It is unlawful to hunt with guns or dogs or to hunt with a bow and arrow or crossbow upon the lands of another without permission from the owner or ~~lessor~~lessee of the land."

SECTION 2. Section 4 of Chapter 420 of the 1985 Session Laws reads as rewritten:

"Sec. 4. This act applies only to Hyde County and Wayne County. "

SECTION 3. This act becomes effective October 1, 2009, and applies to acts committed on or after that date.

HOUSE BILL 888:
County Bow Hunting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Rep. Spear	**Prepared by:**	William R. Gilkeson
Analysis of:	Third Edition		Committee Counsel

SUMMARY: House Bill 888 would regulate bow hunting on the lands of another in Hyde County. It would also regulate hunting with guns, dogs, or bow and arrow on the lands of another in Wayne County.

CURRENT LAW: Chapter 420 of the Session Laws of 1985 reads as follows:

> *" Section 1. It is unlawful to hunt with guns or dogs upon the lands of another without permission from the owner or lessor of the land.*
>
> *Sec. 2. Violation of this act is a misdemeanor punishable by a fine of fifty dollars ($50.00) or imprisonment not to exceed 30 days.*
>
> *Sec. 3. This act is enforceable by enforcement officers of the North Carolina Wildlife Resources Commission, by deputy sheriffs, and by other peace officers with general subject matter jurisdiction.*
>
> *Sec. 4. This act applies only to Hyde County.*
>
> *Sec. 5. This act shall become effective 30 days after ratification."*

BILL ANALYSIS:

Add Bows & Crossbows to Dogs & Guns. T. The bill would amend Section 1 of Chapter 420 of the 1985 Session Laws to provide that it is unlawful to hunt with a bow and arrow or crossbow upon the lands of another without permission from the owner or lessee of the land. ***Section 1 of the bill.***

Add Wayne County to Hyde. The bill would amend Section 4 of Chapter 420 to make the Session Law apply also to Wayne County. Currently, the Session Law only applies to Hyde County. ***Section 2 of the bill.***

EFFECTIVE DATE: October 1, 2009, and applies to acts committed on or after that date.

Susan Sitze, an attorney in the Research Division, contributed significantly to this summary.

H888-SMRR-131(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 927
Committee Substitute Favorable 4/27/09

Short Title: ABC Capital Project/County Funds. (Local)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW TYRRELL COUNTY TO TRANSFER FUNDS BACK TO THE LOCAL ALCOHOLIC BEVERAGE CONTROL BOARD THAT HAD BEEN HELD BY THE COUNTY IN TRUST TO BE USED TO BUILD A NEW ALCOHOLIC BEVERAGE CONTROL STORE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 18B-805, or any other law to the contrary, Tyrrell County is authorized to make a onetime transfer to the Tyrrell County Alcoholic Beverage Control Board of funds previously paid by the Tyrrell County Alcoholic Beverage Control Board to Tyrrell County and held in trust by Tyrrell County for the construction of a new ABC store within Tyrrell County. The Tyrrell County Alcoholic Beverage Control Board is authorized to use the funds returned to it by Tyrrell County pursuant to this act for the construction of a new ABC store within Tyrrell County.

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

HOUSE BILL 927:
ABC Capital Project/County Funds

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2009
Introduced by:	Rep. Owens	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 927 is a local act that would permit Tyrrell County to transfer back to the local Alcoholic Beverage Control Board funds previously paid by the ABC Board to the County to be held in trust for the purpose of building a new ABC store.***

CURRENT LAW: Under G.S. 18B-805, local ABC boards are required to distribute their gross receipts in a certain order among various classes of expenses. Under G.S.18B-805, subsections (b) and (c), the local ABC Board is required to first pay operating expenses, taxes, and make various other quarterly distributions. Under G.S. 18B-805(d), any gross receipts remaining after these prior distributions have been made can be set aside, with approval of the County Board of Commissioners, for the purpose of funding capital projects.

BILL ANALYSIS: For a number of years, the Tyrrell County ABC Board has paid Tyrrell County surplus funds remaining after making other required distributions of its gross receipts, and the County has held these funds in trust for use in constructing a new ABC store. House Bill 927 would authorize Tyrrell County to return those funds to the local ABC Board and would authorize the local ABC Board to use those funds to build a new ABC store.

EFFECTIVE DATE: The bill would be effective when it becomes law.

Bill Patterson and Brenda Carter, Staff Attorneys, substantially contributed to this summary.

H927-SMRK-136(e2) v1

H 2

HOUSE BILL 955
Committee Substitute Favorable 4/27/09

Short Title: Expand Membership/Currituck Game Commission. (Local)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MEMBERSHIP AND CHANGE THE MANNER OF CHOOSING THE MEMBERS OF THE CURRITUCK COUNTY GAME COMMISSION, TO MAKE CHANGES TO THE COMPENSATION PROVIDED TO MEMBERS OF THE COMMISSION AND THE CLERK OF THE COMMISSION, AND TO PROVIDE THAT NO FLOAT BLINDS MAY BE TIED WITHIN THREE HUNDRED YARDS OF A RESIDENCE IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of Chapter 1436 of the 1957 Session Laws, as amended by Chapter 622 of the 1981 Session Laws and by Section 1 of S.L. 2003-16, reads as rewritten:

"Sec. 5. A Game Commission of Currituck County is hereby created which Commission shall consist of ~~five~~ seven members, each of whom shall be thoroughly acquainted with migratory water fowl shooting both ashore and afloat. The Game Commission shall be selected and appointed by the Board of County Commissioners of Currituck County, but no member shall be removed except upon the unanimous vote of all the members of the board of commissioners. ~~One member shall be chosen from each of the four townships of Currituck County and one member~~One member shall be chosen from each of the five county commissioner residency districts, and two members shall be appointed to serve at large. In the event of a vacancy, successors to the members of the Commission shall be similarly appointed.

The members of said Game Commission shall be appointed by the board of county commissioners on the first Monday in July, 1957 and thereafter on the first Monday of June of each year as terms expire, and shall hold their offices for terms of two years, or until their successors are appointed and qualified, provided the terms of those appointed on the first Monday of July, 1957, shall expire on the first Monday of June, 1959, and provided that present members serving on date of ratification shall finish their terms.

The said Game Commission acting with the North Carolina Wildlife Resources Commission shall have charge of the enforcement of this and all migratory wild fowl game laws in Currituck County, and the said Game commission acting with the North Carolina Wildlife Resources Commission shall have the power and authority to prescribe rules and regulations for the enforcement of such game laws and the protection of wild fowl life in said county, not inconsistent with the provisions of this Act. It is expressly provided that said Game Commission may establish sanctuaries or rest areas in which no wild fowl may be shot, hunted or disturbed."

SECTION 2. Section 18 of Chapter 1436 of the 1957 Session Laws, as rewritten by Section 9 of Chapter 622 of the 1981 Session Laws and by Section 3 of S.L. 1997-163, reads as rewritten:

"Sec. 18. The Game Commission of Currituck County is empowered to pay the necessary fees of attorneys, surveyors, and accountants; the costs of printing license forms for hunting blind licenses to be furnished to the clerk to the Game Commission; and other necessary expenses of carrying out the duties imposed by this act. Each member shall be paid a per diem of ten dollars ($10.00) and travel expenses of ~~fifteen cents (15¢) per mile~~the allowable business standard mileage rate as set by the Internal Revenue Service while engaged in official business of the Game Commission. ~~the~~The Chairman of the Game Commission shall be paid ~~one thousand dollars ($1,000)~~one thousand five hundred dollars ($1,500) per year in addition to per diem and travel for the fulfillment of his duties as chairman, in such installments as the Commission may direct. Each Game Commission member shall ~~be paid five hundred dollars ($500.00)~~receive an annual salary of one thousand dollars ($1,000) per year in addition to per diem and travel in such installments as the Game Commission may direct. The clerk to the Game Commission shall receive an annual salary of ~~five hundred dollars ($500.00)~~one thousand dollars ($1,000) for the performance of his duties for the Game Commission in addition to his fees for issuing licenses.

In addition, the Game Commission may disburse excess funds generated from fees to an organization established as a nonprofit corporation under North Carolina law for the purpose of conservation, habitat enhancement, and waterfowl protection in Currituck County. The board of directors of this corporation shall be appointed by the Currituck County Board of Commissioners and shall include a representative designated by the Wildlife Resources Commission as a nonvoting member.

Prior to the beginning of the Game Commission's fiscal year it shall file a copy of its budget for that year with the North Carolina Wildlife Resources Commission. Within 30 days following receipt of the audit report made after the close of a fiscal year, the Game Commission shall file a copy of the audit report with the Wildlife Commission."

SECTION 3. Section 20 of Chapter 1436 of the 1957 Session Laws, as amended by Section 10 of Chapter 622 of the 1981 Session Laws, reads as rewritten:

"Sec. 20. Every blind of any kind shall be located not less than five hundred (500) feet from any blind of any kind. No float blinds shall be tied within 300 yards of any residence.

This section shall not apply to blinds closer together than five hundred (500) yards on the effective date of this Act, but shall be applicable to any such blinds as, and when, one of said blinds becomes vacant."

SECTION 4. This act becomes effective July 1, 2009.

HOUSE BILL 955: Expand Membership/Currituck Game Commission

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2009
Introduced by:	Rep. Owens	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***HB 955 makes changes to the authorizing legislation for the Currituck County Game Commission. The bill increases the membership to seven members, changes the reimbursement rate for travel, increases the remuneration of the board members and the clerk, and adds a provision prohibiting tying float blinds within 300 yards of a residence.***

CURRENT LAW: The Currituck County Game Commission was created in 1957 and operates in concert with the North Carolina Wildlife Resources Commission. It focuses on regulations related to migratory water fowl hunting and protection. Current membership is five members, one from each township and one at large. There are also provisions for travel expenses and salary payments to members and the clerk. Current law provides that no blind shall be less than 500 yards from another blind.

BILL ANALYSIS: The membership of the Game Commission is increased from five to seven, with one member chosen from each of the five county commissioner residency districts and two members at large.

The 15 cent per mile travel expense rate is changed to the IRS business standard mileage rate, currently 55 cents per mile. The chairman's annual salary is increased from $1,000 to $1,500; the other commission members' salaries increase from $500 per year to $1,000 per year; the commission clerk's salary increases from $500 to $1,000 per year.

A provision is added that no float blinds shall be tied within 300 yards of any residence.

EFFECTIVE DATE: Effective July 1, 2009.

Steve Rose, Staff Attorney, substantially contributed to this summary.

H955-SMRK-133(e2) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 406*
Committee Substitute Favorable 5/6/09

Short Title: W.Just.Acad./Wldlife Res. Firing/Arch Range. (Public)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF JUSTICE AND THE WILDLIFE RESOURCES COMMISSION TO DEVELOP JOINTLY A PLAN FOR CONSTRUCTION OF A FIRING RANGE FOR USE BY CRIMINAL JUSTICE OFFICERS ATTENDING THE WESTERN JUSTICE ACADEMY, LAW ENFORCEMENT OFFICERS OF THE WILDLIFE RESOURCES COMMISSION AND OTHERS AND FOR A FIRING AND ARCHERY RANGE OPEN AND ACCESSIBLE FOR PUBLIC USE; AND TO PROVIDE THAT ANY FIRING RANGE CONSTRUCTED ON THE GROUNDS OF THE LARRY T. JUSTUS WESTERN JUSTICE ACADEMY SHALL BE AN INDOOR FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Justice and the Wildlife Resources Commission shall develop jointly a plan for the construction and operation of a firing range on land owned by the Wildlife Resources Commission in Polk County. The plan shall identify a tract of land comprising approximately 10 acres located in the Big Hungry section of the Green River game land approved by the Wildlife Resources Commission for this purpose. The plan shall provide for a firing range that can accommodate the needs of the criminal justice officers attending the Larry T. Justus Western Justice Academy, federal, State, and local agencies, community college law enforcement training, and the law enforcement officers of the Wildlife Resources Commission, as well as provide a facility for hunter safety classes supervised and conducted by the Wildlife Resources Commission. The plan shall further provide for a public firing and archery range, open and accessible for public use, to be operated by the Wildlife Resources Commission.

SECTION 2. Any firing range constructed by the Department of Justice on or adjacent to the grounds of the Larry T. Justus Western Justice Academy shall be built as an indoor facility.

SECTION 3. Funds appropriated to the Department of Justice for the 2007-2009 fiscal biennium for a firing range at the Western Justice Academy shall be used to plan and construct the firing range developed in accordance with Section 1 of this act.

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

HOUSE BILL 406:
W.Just.Acad./Wldlife Res. Firing/Arch Range

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 2, 2009
Introduced by:	Reps. Justus, Guice	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 406 would direct the Department of Justice and the Wildlife Resources Commission to develop a plan for construction of (i) a firing range for use by criminal justice officers and others in law enforcement and (ii) a firing and archery range for use by the public.***

House Bill 406 has a serial referral to Wildlife Resources and, if favorable, to Appropriations.

[As introduced, this bill was identical to S401, as introduced by Sen. Apodaca, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: G.S. 17D-2 established the North Carolina Justice Academy in the Department of Justice. The Academy has, but is not limited to, the following functions:

- Providing training programs for criminal justice personnel.
- Providing technical assistance upon request to criminal justice agencies to aid them in the discharge of their responsibilities.
- Developing, publishing, and distributing educational and training materials.
- Taking other actions as may be necessary or appropriate to carry out its assigned duties and responsibilities.

S.L. 2003-289 designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus's dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

G.S. 143-240 created the Wildlife Resources Commission of the Department of Environment and Natural Resources. G.S. 143-239 sets out the Commission's function, purpose, and duty to manage, restore, develop, cultivate, conserve, protect, and regulate the wildlife resources of the State, and to administer the laws relating to game, game and freshwater fishes, and other wildlife resources enacted by the General Assembly.

BILL ANALYSIS: The Department of Justice (Department) and the Wildlife Resources Commission (Commission) would be required to jointly develop a plan for the construction and operation of a firing range on land owned by the Commission in Polk County. The plan would include the following elements:

- Identification of a 10 acre tract of land in the Big Hungry section of the Green River game land approved by the Commission for this purpose.
- Accommodation of the needs of the criminal justice officers attending the Larry T. Justus Western Justice Academy, federal, State, and local agencies, community college law enforcement training, and the law enforcement officers of the Commission, as well as providing a facility for hunter safety classes supervised and conducted by the Commission.
- Provisions for a firing and archery range, open and accessible for public use, to be operated by the Commission.

SL 2007-323 (the Budget Bill) appropriated $1,974,103 to the Department of Justice (Department) for a Western Justice Academy Firing Range. These funds would be used for planning and building the firing range developed by the plan required by House Bill 406.

EFFECTIVE DATE: The act would become effective when it becomes law.

Shirley Iorio, Legislative Analyst, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

CORRECTED REPORT

Wednesday, June 03, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **633** Yancey Commissioners Election.
Sequential Referral: None
Recommended Referral: None

H.B. **833** Winston-Salem/Forsyth School Board Elections.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **927** ABC Capital Project/County Funds.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **955** Expand Membership/Currituck Game Commission.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **701** Avery Tax Collector Appointive.
Draft Number: PCS10988
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

H.B. **747** Asheville Force Account.
Draft Number: PCS10989
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

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

H.B.(CS #1) **221** Oversight of Licensing Boards.
Draft Number: PCS50722
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

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

H.B.(CS #1) **406** West. Just. Acad./Wildlife Res. Firing Range.

Draft Number:	PCS80455
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

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

H.B.(CS #2) **459** Rocky Mount/Fair Housing Ordinance.

Draft Number:	PCS70451
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

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

H.B.(CS #2) **888** County Bow Hunting.

Draft Number:	PCS70448
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 10

Committee Clerk Comments:
Senator Running Bill on Senate Floor:
HB 633 - Senator Queen
HB 833 - Senator Garrou
HB 927 and HB 955 - Senator Jones
HB 701 - Senator Blake
HB 747 - Senator Nesbitt
HB 221 - Senator Dorsett
HB 406 - Senator Apodaca
HB 459 - Senator Swindell
HB 888 - Senator Weinstein

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hobart Jones	change
Sharee Fowler	CHANGE
Darryl Aaron	Change
Ellen Sizemore Yarborough	CHANGE
Steve Scroggin	CHANGE
Doysi Aldana P.	change.
FRANK LORD	CHANGE
Olivia Swinton	CHANGE
Ann Wintin	CHANGE Winston Salem
Jennifer Wilkins	NCCB

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amanda Arrington	ASG
Ann McLain	CHANGE
ALAIN LAMARQUE	CHANGE
JOAN DAWSON	CHANGE Winston Salem
Colleen Kochanek	AANC
Susan Kanegay	State Board of Opticians
Dana Sutis	Sen. Blake Intern
JANE Cole	forsyth Co. NC
Lisa Johnson	DSS
Cody Thomas	NC Assn of REALTORS
Carol Brockett	NCSBA

VISITOR REGISTRATION SHEET

Senate State & Local Government — **Name of Committee**

June 2, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Susan E. Dyer	409 S. Peace Haven Road Winston-Salem, N.C. 27103
Jesse Cammarota	CHANGE, Winston-Salem NC
Herbert Ricks	CHANGE, WINSTON-SALEM NC
Marsha McMillan	NC AFL-CIO
Rob Black	Teamsters
Mark Hoover	CHANGE
Laura Elliott	CHANGE
Betsy Bailey	Professional Engineers of NC
Mary Foreman	NC AE
Linda Sutton	CHANGE
Virginia Newell	CHANGE
Walter C. Joyce	CHANGE

Rev. Ryan M. Eller
Rev. Laura M. Spangler

CHANGE
CHANGE

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 2, 2009
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thom Mansfield	NC Medical Board
Steve Boyd	CHANGE, W-S, NC
Barry Bowen	Change W.S. N.C.
Rachel P. Jackson	Change WS NC
Darrell Kaye	Change WSNC
[illegible]	[illegible]
Gordon Myer	NCWRC
Sarah Clapp	NCWRC
Disha Ganani	
Carson Carmichael	Bailey & Dixon, LLP
Jeff Gray	RRW Atty.s, PA

Senate State and Local Government Committee
Tuesday, June 9, 2009, 12:00 Noon
1124 LB
AGENDA

Welcome and Opening Remarks
Introduction of Pages
BILLS

HB 213	VSL Nonfamily Sick Leave Donations.	Representative Lucas Representative Hurley Representative Insko
HB 721	Carrboro/Housing Discrimination.	Representative Insko
HB 402	No Elected Off. Recomm./Certain Co./Notaries.	Representative Alexander
~~HB 488~~	First Craven Sanitary District Validation.	Representative Underhill Representative Wainwright
HB 502	Local Government Property Transactions.	Representative Goforth Representative Whilden Representative Fisher
HB 702	Amendments to the Sullivan Act.	Representative Goforth Representative Whilden Representative Fisher
HB 767	Craven Road Hunting.	Representative Underhill Representative Wainwright
HB 924	Mecklenburg County/Reimbursement Agreements.	Representative Carney
HB 1088	DHHS/Procurement Methods.	Representative Braxton
HB 1021	Designate U.S. Highway 17 Scenic Byway.	Representative Cleveland Representative Hall Representative Stam Representative Tucker
HB 377	Authorize Emergency Mgmt. Certification Prog.	Representative Martin Representative Wainwright
HB 378	Statutorily Establish Division of Emerg. Mgmt.	Representative Martin Representative Wainwright
HB 379	Allows Mutual Aid Between State & Local Gov.	Representative Martin Representative Wainwright
HB 380	Strengthen Local Emergency Management.	Representative Martin Representative Wainwright
HB 381	Expand Division of Emergency Mgmt. Authority.	Representative Martin Representative Wainwright
HB 464	Raleigh Energy Efficiency.	Representative Martin Representative Ross Representative Weiss Representative Harrell
HB 631	Wearing of Medals by Public Safety Personnel.	Representative Martin Representative Killian Representative Warren

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 9, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 9, 2009, in Room 1124 of the Legislative Building. Ten members of the committee were present. Senator Don East presided.

Senator called the meeting to order and introduced the pages.

House Bill (C.S. #1) 377, Authorize Emergency Mgmt. Certification Prog., Was explained by Representative Martin to the committee. Senator Weinstein made a motion to give the bill a Favorable Report and the bill carried. Senator Jones moved to adopt a proposed Committee Substitute for House Bill 378 (CS#1), Statutorily Establish Division of Emerg Mgmt. Representative Martin explained the bill and Senator Dorsett moved to give the bill a Favorable Report, Unfavorable to Committee Substitute Bill No 1. But Favorable to Senate Committee Substitute Bill. The bill carried. The next bill to be heard was House Bill 379, Allows Mutual Aid Between State & Local Gov. Representative Martin explained the bill and Senator Albertson moved for a Favorable Report. The bill carried. Senator Jones moved that a PCS be adopted for House Bill (CS #1) 380, Strengthen Local Emergency Management. Representative Martin explained the bill. Senator Weinstein made a motion to give the bill a Favorable Report, Unfavorable to committee Substitute Bill No. 1, But Favorable to Senate Committee Substitute Bill. The bill carried. Next bill to be heard was House Bill (CS#1) 381, Expand Division of Emergency Mgmt Authority. Representative Martin explained the bill and Senator Weinstein moved for a Favorable Report. The bill carried. Representative Martin explained House Bill (C.S. #1)464 Raleigh Energy Efficiency. An amendment was adopted to add Winston Salem to the bill and Senator Davis moved to give the PCS a Favorable Report with the amendment rolled into the PCS, Unfavorable as to the Committee Substitute Bill No. 1, but Favorable to Senate Committee Substitute Bill. The bill carried. Next on the agenda was House Bill (CS #) 631, Wearing of Medals by Public Safety Personnel. Representative Martin explained the bill and Senator Apodaca moved for a Favorable Report. The bill carried. Representative Insko explained House Bill (CS #2) 213, VSL Nonfamily Sick Leave Donations. Senator Davis made a motion to give the bill a Favorable and the committee concurred. Next Bill on the agenda was House Bill (CS #2), Carrboro/Housing Discrimination, explained by Representative Insko. Senator McKissick made a motion to give the bill a Favorable Report and the bill carried. Representative Wainwright explained House Bill (CS#1) 767, Craven Road Hunting and Senator Apodaca moved for a Favorable Report. The bill carried. House 502, Local Government Property Transactions, was explained by Senator Apodaca and Senator Blake made a motion to give the bill a Favorable Report. The bill carried. A PCS was adopted for House Bill 924, Mecklenburg County/Reimbursement Agreements on the motion of Senator Jones. Representative Samuelson explained the bill and Senator Hartsell made a motion to give the bill a Favorable Report, Unfavorable to Bill but Favorable to Senate Committee Substitute Bill. House Bill (CS #1) 702, Amendments to The Sullivan Act was explained by Senator Apodaca. Senator Albertson moved to give the bill a Favorable Report. The bill carried. Representative Tucker explained House Bill (CS #1) 1021, Designate U. S. Highway 17 Scenic Byway to the committee and added an amendment with two technical changes to the bill. Senator Davis moved

to adopt the amendment and moved to give the bill a Favorable Report, Unfavorable to Committee Substitute No. 1 But Favorable to Senate Committee Substitute with the amendment rolled in. The bill carried. The Last bill to be heard was House Bill 1088, DHHS/Procurement Methods. Representative Braxton explained the bill and Senator Jones moved for a Favorable Report. The bill carried.

The meeting adjourned at 12:50 pm.

Don East
Senator East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 3

HOUSE BILL 213
Committee Substitute Favorable 5/4/09
Committee Substitute #2 Favorable 5/12/09

Short Title: VSL Nonfamily Sick Leave Donations. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave. Departments and agencies with employees who are not subject to the provisions of this section may extend the voluntary shared leave benefit to those employees."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's

immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. G.S. 115D-25.3 reads as rewritten:

"**§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges shall adopt rules and policies for the voluntary shared leave program to allow an employee at a community college to donate sick leave to a nonfamily member employee of a community college. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 4. This act becomes effective January 1, 2010.

HOUSE BILL 213:
VSL Nonfamily Sick Leave Donations

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 1, 2009
Introduced by:	Reps. Insko, Lucas, Hurley	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***The Third Edition of House Bill 213 would allow State employees, public school employees, and community college employees to transfer up to 5 days of sick leave per year to an employee who is a non-family member. No employee could receive more than 30 days per year of sick leave donated by non-family members. Donated sick leave could not be used for retirement purposes, and the donor would have to be notified in writing of the State retirement credit consequences of donating sick leave.***

[As introduced, this bill was identical to S352, as introduced by Sen. Kinnaird, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: G.S. 126-8.3, G.S. 115C-12.2 and G.S. 115D-25.3 require the State Personnel Commission, the State Board of Education and the State Board of Community Colleges to adopt rules to allow employees of State agencies, public schools, and community colleges to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency.

The statutes above speak to the sharing of leave generally and do not specify vacation leave or sick leave. But policies have generally only permitted the sharing of sick leave between family members.

BILL ANALYSIS: House Bill 213 would direct the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to add to their Voluntary Shared Leave programs rules and policies to allow an employee to donate up to 5 days of sick leave per year to another employee who is not a family member.

The State Personnel Act is amended in Section 1 of the bill, the Public Education Act in Section 2, and the Community Colleges Act in Section 3. Those sections are parallel, except that Section 1 has a line authorizing departments and agencies of State government with employees who are not subject to the provisions of the State Personnel Act to extend the voluntary shared leave benefit to those employees.

All three provisions have certain limitations:

- This provision for donating sick leave to non-family members does not allow the cross-agency donations that the provisions for donating to family members allow.
- No employee could receive more than 30 days per year of sick leave from non-family members.
- Donated sick leave could not be used for retirement purposes, and employees who donate sick leave would have to be notified in writing of the State retirement credit consequences of donating sick leave.

EFFECTIVE DATE: The act would become effective January 1, 2010.

BACKGROUND: This bill is now identical to the version of S352 that was approved by Senate State and Local Government Committee on April 21, 2009, except that H 213 adds at sentence in Section 1 authorizing departments and agencies of State government with employees who are not subject to the provisions of the State Personnel Act to extend the voluntary shared leave benefit to those employees.

Dr. Shirley Iorio, a legislative analyst with the Research Division, contributed significantly to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 3

HOUSE BILL 721*

Committee Substitute Favorable 4/23/09
Committee Substitute #2 Favorable 5/6/09

Short Title: Carrboro/Housing Discrimination. (Local)

Sponsors:

Referred to:

March 23, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF CARRBORO TO ALLOW THE TOWN TO ADOPT ORDINANCES PROHIBITING HOUSING DISCRIMINATION ON THE BASIS OF FAMILIAL STATUS AND HANDICAP.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10-1 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, reads as rewritten:

"Section 10-1. **Housing Discrimination.** The board of aldermen may adopt ordinances designed to ensure that all housing opportunities in the Town of Carrboro shall be equally available to all persons without regard to race, color, religion, ~~sex or~~sex, national ~~origin.~~ origin, familial status, or handicap. Such ordinances may regulate or prohibit any act, practice, activity or procedure related directly or indirectly to the sale or rental of public or private housing that affects or may tend to affect the availability or desirability of housing on an equal basis to all persons, without regard to race, color, religion, ~~sex or~~sex, national ~~origin.~~origin, familial status, or handicap. However, ordinances adopted pursuant to the authority contained in this act shall not apply to the rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence. Any ordinance passed pursuant to this authorization may be enforced by any method authorized for enforcement of ordinances generally in G.S. 160A-175. In addition, any ordinance adopted pursuant to this authorization may provide that any person aggrieved by any act, practice, activity or procedure prohibited by such ordinance may seek equitable relief in the appropriate division of the General Court of Justice."

SECTION 2. This act becomes effective October 1, 2009.

HOUSE BILL 721:
Carrboro/Housing Discrimination

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Rep. Insko	**Prepared by:**	William R. Gilkeson
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***The Third Edition of House Bill 721 would allow the Town of Carrboro to adopt ordinances prohibiting housing discrimination on the basis of familial status or handicap.***

[As introduced, this bill was identical to S395, as introduced by Sen. Kinnaird, which is currently in Senate State and Local Government.]

CURRENT LAW: Both federal and State laws prohibit housing discrimination. The federal law is enforced by the US Department of Housing and Urban Development (HUD) and the State law by the State Human Relations Commission. HUD procedures permit HUD to refer a complaint to a local agency if that local agency's procedures and powers are certified to be "substantially equivalent" to HUD's (see 42 USC 3610). Along the same lines, the State's law permits the Human Relations Commission to refer complaints to local agencies which have "legal authority equivalent to or greater than" the State's Commission (NCGS 41A-7(c)).

The terms "familial status" and "disability" (handicap) were added to the federal Fair Housing law in 1988. "Familial status" is defined in 42 USC 3602 to mean "one or more individuals (who have not attained the age of 18 years) being domiciled with--

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years."

Basically, the category is designed to protect families with children from housing discrimination.

Section 10-1 of the Charter of the Town of Carrboro addresses housing discrimination. Currently, the board of alderman may adopt ordinances to ensure that housing opportunities are available to all persons equally without regard to any of the following:

- Race
- Color
- Religion
- Sex
- National origin

These ordinances do not apply to the rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters. The ordinances may provide a person aggrieved by an act that is prohibited under the ordinance may seek relief in the courts.

BILL ANALYSIS: House Bill 721 would allow the Town of Carrboro to adopt ordinances to prohibit housing discrimination on the basis of any of the following:

- Familial status
- Handicap

EFFECTIVE DATE: October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 402
Committee Substitute Favorable 4/1/09

Short Title: No Elected Off. Recomm./Certain Co./Notaries. (Public)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT OF AN ELECTED OFFICIAL RECOMMENDATION FOR NOTARY PUBLIC APPLICANTS IN COUNTIES WITH MORE THAN FOURTEEN THOUSAND NOTARIES PUBLIC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 10B-5(b)(9) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

...

(9) Obtain the recommendation of one publicly elected official in North Carolina and submit the recommendation with the application. The requirement of this subdivision shall not apply to any applicant who seeks to receive the oath of office from the register of deeds of a county where more than ~~15,000~~14,000 active notaries public are on record on January 1 of the year when the application is filed."

SECTION 2. This act becomes effective on October 1, 2009, and applies to applications submitted on or after that date.

HOUSE BILL 402:
No Elected Off. Recomm./Certain Co./Notaries

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Rep. M. Alexander	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 402 would lower the threshold for counties in which applicants to be notaries public need not obtain the recommendation of an elected official. This act becomes effective for applications on or after October 1, 2009.***

PRIOR SENATE CONSIDERATION

[As introduced, this bill was identical to S268, as introduced by Sen. Clodfelter, which is currently in House Judiciary I. On March 24, 2009, S268 passed the Senate by unanimous vote. The cut-off for the requirement for a recommendation from an elected official in S268 is 5,250.

According to the Secretary of State's Office, as of January 1, 2009, the following counties have more than 5,250 active notaries public – Wake (15,651), Mecklenburg (14,089), Guilford (7,256), and Forsyth (5,288).]

CURRENT LAW: Currently, the general rule is that as part of an application to be a notary public, an applicant must have a recommendation from an elected official. That requirement does not apply, however, if the applicant seeks to receive the oath of office from the register of deeds in a county where more than 15,000 notaries public are on record as of the past January 1.

The notary is commissioned in the county of residence, unless the residence is out of state. If residence is out of state, the notary is commissioned in the county of employment or business.

BILL ANALYSIS: House Bill 402 would reduce the per-county threshold for the exemption from an elected official's recommendation from more than 15,000 notaries on record in the county to more than 14,000.

EFFECTIVE DATE: October 1, 2009, applying to applications submitted on or after that date.

BACKGROUND: The exemption for counties with more than 15,000 notaries was added in 2005. Before that, every applicant to be a notary was required to have the recommendation of an elected official.

On January 1, 2009, Wake County was the only county that met the 15,000 threshold. It had 15,790 notaries. Second was Mecklenburg, with 14,213. No other county was even close. Before this year, Mecklenburg had more than 15,000, so it qualified for the exemption, but then it dropped below the threshold.

Bill Gilkeson, Staff Attorney, substantially contributed to this summary.

HOUSE BILL 502

Short Title:	Local Government Property Transactions.	(Local)
Sponsors:	Representatives Goforth, Whilden, and Fisher (Primary Sponsors).	
Referred to:	Local Government I.	

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF ASHEVILLE TO DISPOSE OF PROPERTY AND LIMIT USE OF THE PROPERTY AFTER DISPOSITION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1.1 of Chapter 224 of the 1983 Session Laws, as amended by S.L. 2008-46, reads as rewritten:

"Sec. 1.1. This act applies to McDowell County and the ~~City~~ Cities of Asheville and Winston-Salem only."

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

HOUSE BILL 502:
Local Government Property Transactions

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Reps. Goforth, Whilden, Fisher	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 502 authorizes the City of Asheville to impose limitations upon the future use of property it transfers.***

CURRENT LAW: Article 12 of G.S. Chapter 160A provides methods and procedures for municipalities to dispose of real and personal property.

An addition to this general law, applicable to McDowell County and the City of Winston-Salem only, authorizes those local governments, when disposing of property, to impose limitations upon the future use of the property.

Specifically, McDowell County and the City of Winston-Salem are authorized to impose limitations in the public interest on future use of property, by including in the conveyance appropriate covenants or other restrictions, or by conveying an estate in fee simple determinable or fee simple subject to a condition subsequent. If property is to be conveyed subject to limitations on future use, the notice or advertisement of the sale required by Article 12 of Chapter 160A of the General Statutes must specify the limitations and the method by which they will be imposed.

BILL ANALYSIS: House Bill 502 adds the City of Asheville to the existing local law, described above, authorizing additional conditions on the future use of property it disposes of pursuant to Article 12 of Chapter 160A of the General Statutes.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, Staff Attorney, substantially contributed to this summary.

H502-SMRK-144(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 702*
Committee Substitute Favorable 5/6/09

Short Title: Amendments to the Sullivan Act. (Local)

Sponsors:

Referred to:

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE FURTHER AMENDMENTS TO THE SULLIVAN ACT, AND TO ALLOW THE CITY OF ASHEVILLE TO USE REVENUES FOR STREET AND SIDEWALK IMPROVEMENTS ASSOCIATED WITH WATERLINE IMPROVEMENTS.

Whereas, the General Assembly previously adopted Chapter 399 of the 1933 Public-Local Laws (known as the "Sullivan Act") to address the particular circumstances of the supplying of water to certain residents of Buncombe County by the City of Asheville and the charges therefor; and

Whereas, the 2005 General Assembly made further amendments to the Sullivan Act with the enactment of S.L. 2005-139 and S.L. 2005-140; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The City of Asheville may use up to five percent (5%) of utility revenues for street and sidewalk improvements associated with waterline improvements.

SECTION 2. This act applies to the City of Asheville only.

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

HOUSE BILL 702:
Amendments to the Sullivan Act

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 9, 2009
Introduced by:	Reps. Goforth, Whilden, Fisher	**Prepared by:**	William R. Gilkeson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: The Second Edition of House Bill 702 would authorize the City of Asheville to use up to 5% of utility revenues for street and sidewalk improvements associated with waterline improvements.

[As introduced, this bill was identical to S552, as introduced by Sen. Nesbitt, which is currently in Senate State and Local Government.]

CURRENT LAW: The Sullivan Acts (S.L. 1933-339, S.L. 2005-139,and S.L. 2005-140) govern the distribution of water in Asheville and Buncombe County.

BILL ANALYSIS: House Bill 702, applicable to the City of Asheville only, would authorize the City to use to 5% of utility revenues for street and sidewalk improvements associated with waterline improvements.

EFFECTIVE DATE: When it becomes law.

Giles Perry and Jeffrey Hudson, attorneys in the Research Division, contributed significantly to this summary.

H702-SMRR-140(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 767
Committee Substitute Favorable 5/7/09

Short Title: Craven Road Hunting. (Local)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DISCHARGING OF FIREARMS FROM OR ACROSS THE RIGHT-OF-WAY OF A PORTION OF STATE ROAD 1862, KNOWN AS JOYNER DRIVE, IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Unless a person owns or possesses a leasehold interest in the real property immediately adjacent to the portion of the road on which the person is located, it is unlawful for that person to discharge a firearm from, on, or across the right-of-way of State Secondary Road 1862, known as Joyner Drive, from Adams Creek Road to the end of the State-maintained portion of the road.

SECTION 2. Violation of this act is a Class 3 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Craven County.

SECTION 5. This act becomes effective October 1, 2009.

HOUSE BILL 767:
Craven Road Hunting

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Reps. Wainwright, Underhill	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 767 would prohibit discharging a firearm from or across the right-of-way of a portion of State Road 1862, known as Joyner Drive, in Craven County.

BILL ANALYSIS: House Bill 767, applicable to Craven County, would do the following:

- Prohibit discharging a firearm from, on, or across the right-of-way of State Secondary Road 1862, known as Joyner Drive, from Adams Creek Road to the end of the State-maintained portion of the road, unless a person owns or possesses a leasehold interest in the real property immediately adjacent to the portion of the road on which the person is located.
- Provide that a violation of the bill is a Class 3 misdemeanor (1-10 days community penalty, not more than $200 fine).
- Provide that the act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

Barbara Riley, an attorney in the Research Division, contributed significantly to this summary.

H767-SMRR-137(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 924
PROPOSED SENATE COMMITTEE SUBSTITUTE H924-CSRK-64 [v.1]

6/4/2009 4:42:34 PM

Short Title: Mecklenburg County/Reimbursement Agreements. (Local)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY AND PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR INFRASTRUCTURE DEVELOPMENT BY THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) A county may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks that: (i) are included in the county's Parks Master Plan; (ii) are located on property that is adjacent to or in close proximity to other property owned by the private property owner or its affiliates; and (iii) are located on the property owned by the private property owner that is to be leased or transferred to the county.

SECTION 1.(b) A county may provide for the reimbursements to be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. A county may also exchange real property owned by the county under the provisions of G.S. 160A-271 as part of the reimbursement, or in full or partial payment for a lease, or in connection with the exchange for the real property owned by the private property owner that is developed or to be developed for park purposes.

SECTION 1.(c) No construction performed by a private property owner as part of a reimbursement agreement authorized by this act shall be deemed to be construction subject to the provisions of Article 8 of Chapter 143 of the General Statutes, and no reimbursement agreement authorized by this act shall be deemed to be subject to the provisions of Article 8 of Chapter 159 of the General Statutes, and neither shall be deemed to be a violation or evasion of any provision of either of these Articles. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a private property owner who is a party to the reimbursement agreement without complying with the requirements of G.S. 143-129 relating specifically to public advertising and bid opening requirements that would be applicable if the construction contract had been awarded by the county.

SECTION 1.(d) This section applies to Mecklenburg County only.

SECTION 2.(a) Section 3 of S.L. 2001-329 reads as rewritten:

"**SECTION 3.** A city may provide for such reimbursements to be paid from any lawful ~~source.~~source over any period of time, including making payments that include a premium for delayed reimbursement."

SECTION 2.(b) Section 4 of S.L. 2001-329 reads as rewritten:

"**SECTION 4.** No ~~reimbursement pursuant to an agreement authorized by this act shall be deemed to be construction subject to Article 8 of Chapter 143 of the General Statutes or to be deemed to be a violation or evasion of any provision of said Article.~~construction performed by a private developer or property owner as part of a reimbursement agreement authorized by this act shall be deemed to be construction subject to the provisions of Article 8 of Chapter 143 of the General Statutes, and no reimbursement agreement authorized by this act shall be deemed to be subject to the provisions of Article 8 of Chapter 159 of the General Statutes, and neither shall be deemed to be a violation or evasion of any provision of either of these Articles. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a developer or property owner who is a party to such reimbursement agreement without complying with the requirements of G.S. 143-129 ~~and G.S. 143-128(f)~~ relating to public advertising and bid opening requirements which would be applicable if the construction contract had been awarded by the city."

SECTION 2.(c) This section applies to the City of Charlotte only.

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

HOUSE BILL 924: Mecklenburg County/Reimbursement Agreements

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 4, 2009
Introduced by:	Rep. Carney	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition H924-CSRK-64		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 924 provides that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of certain park infrastructure or parks, and makes amendments to the law (applicable to the City of Charlotte only), that allows a city to provide for reimbursements. This act is effective when it becomes law.***

[The Proposed Committee Substitute adds a new Section 2 to the bill].

CURRENT LAW:

- G.S. 153A-451 allows counties to enter into reimbursement agreements with private developers and property owners for the design and construction of "municipal infrastructure" that is part of the county's Capital Improvement Plan and serves the developer or property owner. "Municipal infrastructure" includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities. The statute does not specifically mention parks.
- Counties are given the specific authority to dispose of property under statutes applicable to cities, as provided in Chapter 160A, Article 12 (the term "city" and "council" are deemed to refer to "county" and "board of commissioners).

BILL ANALYSIS:

Section 1: The bill provides that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks that have the following three characteristics:

1. They are included in the county's Parks Master Plan.
2. They are on property that is adjacent to or near other property owned by the private property owner or its affiliates.
3. They are on property owned by the private property owner that is to be leased or transferred to the county.

The reimbursement could be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. The county could exchange real property owned by the county as part of the reimbursement.

The construction is exempted from Article 8 of Chapter 143, which contains the general requirements for public contracts, except that the private property owner, in awarding a construction contact, would be subject to the public advertising and bidding requirements of that law.

The reimbursement agreement would not be subject to Article 8 of Chapter 159, which governs local government financing agreements.

Section 2: The bill amends the Session Law providing the City of Charlotte the authorization to enter into reimbursement agreements with the same provisions provided to Mecklenburg County in Section 1 of the bill.

- Allows for payment over any period of time, and inclusion of a premium for delayed reimbursement.
- Reimbursement agreements are not subject to the provisions of Article 8 of Chapter 159 of the General Statutes.
- Makes a technical correction by deleting a reference to a repealed statute.

EFFECTIVE DATE: This act is effective when it becomes law.

Bill Gilkeson, counsel to the House Local Government I Committee, substantially contributed to this summary.

H924-SMRK-141(CSRK-64) v1

HOUSE BILL 1088

Short Title:	DHHS/Procurement Methods.	(Public)
Sponsors:	Representatives Braxton; Harrison, Jones, and Parmon.	
Referred to:	Mental Health Reform, if favorable, State Government/State Personnel.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM THE PURCHASES AND CONTRACTS LAW PURCHASES BY CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-56 reads as rewritten:

"**§ 143-56. Certain purchases excepted from provisions of Article.**

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

(1) Published books, manuscripts, maps, pamphlets and periodicals.

(2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for information technology purchased in accordance with Article 3D of Chapter 147 of the General Statutes, for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of G.S. 143-53.1, for group purchases made by ~~hospitals~~ hospitals, developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program, as defined in G.S. 143-129, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a) (4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a) (4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

SECTION 2. This act is effective when it becomes law and applies to purchases made on and after that date.

HOUSE BILL 1088:
DHHS/Procurement Methods

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Rep. Braxton	**Prepared by:**	Hal Pell
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1088 amends the State purchase and contract laws to exempt group purchases made by developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program. This act is effective when it becomes law and applies to purchases made on and after that date.***

CURRENT LAW:

G.S. 143-56 provides for exemptions from the requirements of Article 3 of Chapter 143, Purchases and Contracts. Exemptions from the requirement of purchase through the Secretary of Administration include:

- The purchase of information technology in accordance with Article 3D of Chapter 147 of the General Statutes.
- The purchase of supplies by the General Assembly if the total is under the benchmark set by G.S. 143-53.1.
- Group purchases made by hospitals through a competitive bidding purchasing program.

All purchases of exempted articles made directly by the departments or institutions are to be based on competitive bids whenever possible. If an order is placed, or a contract awarded by the departments or institutions directly, a copy of the order or contract is to be forwarded to the Secretary and a record of the competitive bids retained for inspection and review.

G.S. 143-129(e)(3) defines a competitive bidding group purchasing program as a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies.

BILL ANALYSIS:

House Bill 1088 adds developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers to hospitals as institutions that may make group purchases of supplies, materials, and equipment directly through a competitive bidding purchasing program as defined in G.S. 143-129.

EFFECTIVE DATE:

House Bill 1088 would become effective when it becomes law and applies to purchases made on and after that date.

H1088-SMRK-146(e1) v1

Barbara Riley made substantial contributions to this summary.

HOUSE BILL 1021
Committee Substitute Favorable 5/12/09
Third Edition Engrossed 5/14/09

Short Title: U.S. 17/U.S.70 Marine Corps Parkway. (Public)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE A PORTION OF U.S. HIGHWAY 17 AND U.S. HIGHWAY 70 AS "THE U.S. MARINE CORPS PARKWAY: HOME OF THE CAROLINA MARINES SINCE 1941."

Whereas, during 1940, amid the escalating mobilization of World War II, the 1st Marine Division and the 1st Marine Air Wings of the United States Marine Corps were in need of an operational staging area on the east coast of the United States; and

Whereas, in the summer of 1940, Major John C. McQueen and his pilot, Captain Verne McCaul, on the orders of then Major General Thomas Holcomb, Marine Corps Commandant, undertook an aerial survey that covered the Atlantic and Gulf Coasts from Norfolk, Virginia, to Corpus Christi, Texas, and determined that 14 miles of beach in Onslow County, North Carolina, was the only suitable location for a Marine Corps base in the Eastern United States; and

Whereas, in February 1941, President Roosevelt authorized an initial outlay of $1,500,000 for the survey and purchase of a 174-square-mile tract near Jacksonville, North Carolina, and on April 5, 1941, the United States Congress authorized $14,575,000 for the base's construction; and

Whereas, on May 1, 1941, the Marine Barracks New River was formally established as a major amphibious training ground and has grown since into the Marine Corps Base, Camp Lejeune, partly bounded by Highway 17 in Jacksonville, North Carolina; and

Whereas, from April 1942 until desegregation of the Marine Corps in 1949, Montford Point Camp in North Carolina was the exclusive training grounds for African-American Marines; and

Whereas, from 1943 until passage of the "Women's Armed Service Integration Act" in 1948, the New River Base was the principal training center for the women Marines, having trained over 20,000 women Marines; and

Whereas, in 1944 the United States Marine Corps assumed control of Camp Davis at Holly Ridge when the United States Army declared it excess to their needs and utilized it to train the Royal Netherlands Marine Corps; and

Whereas, other sites along or near Highway 17 in Eastern North Carolina have historical significance to the United States Marine Corps, including major air stations at Cherry Point and Edenton, North Carolina, and auxiliary or outlying landing fields at Atlantic Beach, Beaufort, Bogue, Greenville, Manteo, New River, Oak Grove, Washington, and Wilson; and

Whereas, the Museum of the Marine currently being planned at Camp Lejeune in Jacksonville, North Carolina, will honor the history of the Carolina Marines from World War II to the present and highlight the many historically significant locations along Highway 17; and

Whereas, estimates show that the Museum of the Marine has the potential to draw 100,000 visitors each year, and the designation of Highway 17 as a scenic byway will add to this attraction; and

Whereas, the General Assembly desires to honor the United States Marine Corps' large and enduring military presence at locations in Eastern North Carolina along Highway 17; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. U.S. Highway 17 running between the Town of Holly Ridge and the Town of Edenton, and the portion of U.S. Highway 70 running between the intersection of U.S. Highway 70 and N.C. Highway 101 near Cherry Point Marine Corp Air Station and the intersection of U.S. Highway 70 and U.S. Highway 17 is designated as "The U.S. Marine Corps Parkway: Home of Carolina Marines since 1941" in light of the historical contributions of the United States Marine Corps.

SECTION 2. The Department of Transportation shall collaborate with the Highway 17 Association, the Department of Commerce, and the Department of Cultural Resources concerning the appropriate signage along the Parkway designated in this act, in order to maximize the economic development opportunities along the route of the Parkway. The Department of Transportation may contract with nongovernmental entities to produce, install, and maintain the signs.

SECTION 2.1. No State funds shall be expended to purchase signage or for any other purpose authorized by this act. All costs shall be paid by the Marine Corps Parkway Association.

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

HOUSE BILL 1021:
U.S. 17/U.S.70 Marine Corps Parkway

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Reps. Tucker, Hall, Cleveland, Stam	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Third Edition		

SUMMARY: The Third Edition of House Bill 1021 would designate the portion of U.S. 17 from just south of Jacksonville north to Edenton, with a spur going southeast along U.S. 70 from U.S. 17 in New Bern to Cherry Point Marine Air Station, as "The U.S. Marine Corps Parkway: Home of the Carolina Marines since 1941."

BILL ANALYSIS: Section 1 of the bill would designate the following portions of highways as "The U.S. Marine Corps Parkway: Home of the Carolina Marines since 1941":

- The roughly 150-mile stretch of U.S. 17 from the Town of Holly Ridge in Onslow County, just south of Jacksonville, to the Town of Edenton in Chowan County. This highway goes through Camp Lejeune Marine Corps Base at Jacksonville and several other past and present bases, air stations, and outlying landing fields.
- The roughly 25-mile stretch of U.S. 70 from U.S. 17 in New Bern to NC. 101 near the Cherry Point Marine Corps Air Station at Havelock.

Section 2 of the bill would direct the Department of Transportation to collaborate with the Highway 17 Association, the Department of Commerce, and the Department of Cultural Resources about appropriate signage "to maximize the economic development opportunities" along the Marine Corps Parkway. It would authorize DOT to contract with nongovernmental entities to produce, install, and maintain the signs.

Section 2.1 of the bill would provide that no State funds shall be expended for any purpose authorized by the bill, but that all costs would be paid by the Marine Corps Parkway Association.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The "whereas" clauses in the bill outline the Marine Corps history that has touched sites on or near the Parkway, including:

- The survey done in 1940 through which it was determined that the 14 miles of beach near Jacksonville was the only suitable location in the Eastern U.S. for a Marine Base.
- The establishment of the New Rivers barracks training ground in 1941 as the forerunner of Camp Lejeune.
- The segregated African-American Marine training ground at Camp Montford Point before President Truman's integration of the Armed Forces.
- The training center for women Marines at New River Base.
- Camp Davis at Holly Ridge, where Dutch Marines were trained in 1944.
- The planned Museum of the Marine at Jacksonville.

HOUSE BILL 377*
Committee Substitute Favorable 4/8/09

Short Title: Authorize Emergency Mgmt. Certification Prog. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3)d. reads as rewritten:

"d. Development and presentation of training ~~programs~~ programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need."

SECTION 2. Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Emergency Management Certification Program.

"**§ 166A-54. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Crime Control and Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies.

"**§ 166A-55. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

(1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

(2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.

(3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.

(4) Curricula, syllabi, and other educational materials.

(5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges,

community colleges, and other institutions, public or private, concerning the development of the Program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Crime Control and Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, technical assistance needs, and equipment needs of State and local emergency management agencies.

"**§ 166A-56. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Crime Control and Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

(1) Oversight of the Emergency Management Certification Program.

(2) Review of applications for certification.

(3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary.

"**§ 166A-57. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have been expired for more than five years shall not be reinstated."

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

HOUSE BILL 377:
Authorize Emergency Mgmt. Certification Prog

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 8, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Barbara Riley
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 377 directs the Division of Emergency Management to establish a voluntary emergency management certification program. The bill also authorizes the creation of an Emergency Management Training and Standards Advisory Board to oversee the program, review applications, and issue and renew certifications.***

This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S255, as introduced by Sen. Snow, which is currently in House Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.]

BILL ANALYSIS:

Section 1 of the bill amends the North Carolina Emergency Management Act to include the development of the Certification Program under the State emergency management program.

Section 2 creates a new Article and directs the Division of Emergency Management to establish a voluntary Emergency Management Certification Program. The Division sets the standards and guidelines for the Program and may consult and cooperate on the development of the program with political subdivisions, other agencies, and with public and private colleges and universities. The Division is also directed to make reports and recommendations to the Secretary on training, educational, technical assistance and equipment needs of State and local emergency management agencies.

The Secretary of Crime Control and Public Safety is directed to establish an Emergency Management Training and Standards Advisory Board, which shall include emergency management experts from the State, localities and private industry. The duties of the Board include:

- Oversight of the Emergency Management Certification Program.
- Review of applications for certification.
- Issuance of certifications.

The Board must issue certification to any in-State applicant who demonstrates completion of the requirements. The Board has authority to issue certification to a person in another State if it determines that the person's qualifications are substantially equivalent to the North Carolina requirements. Certifications must be renewed within 5 years and the Board may approve reinstatement of an expired certification for good cause.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown, counsel to House State Government, substantially contributed to this summary.

H377-SMRF-127(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 378*
Committee Substitute Favorable 4/8/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H378-CSRF-61 [v.2]

6/8/2009 11:55:10 AM

Short Title: Statutorily Establish Division of Emerg. Mgmt. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO STATUTORILY ESTABLISH THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-475(a) is amended by adding a new subdivision to read:

"(11) Emergency Management Division, Department of Crime Control and Public Safety. The purpose of this subdivision is to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(2a) Division. – The Division of Emergency Management established in Part 8 of Article 11 of Chapter 143B of the General Statutes."

SECTION 3. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 8. Emergency Management Division.

"**§ 143B-509. Division of Emergency Management of the Department of Crime Control and Public Safety.**

(a) There is established, within the Department of Crime Control and Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) To exercise the powers and duties exercised prior to the enactment of this section, in accordance with G.S. 143B-475(a)(11).

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law."

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

HOUSE BILL 378:
Statutorily Establish Division of Emerg. Mgmt

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	June 8, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to Second Edition H378-CSRF-61		

SUMMARY: ***House Bill 378 would statutorily establish the Division of Emergency Management within the Department of Crime Control and Public Safety. The Proposed Committee substitute amends citations to conform with changes made in recentlyratified bills.***

[As introduced, this bill was identical to S253, as introduced by Sen. Snow, which is currently in House Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.]

CURRENT LAW: Article 11 of Chapter 143B of the General Statutes sets out the general provisions for the Department of Crime Control and Public Safety (Department). It is the duty of the Department, generally, to protect the public against crime and against natural and man-made disasters.

Article 1 of Chapter 166A of the General Statutes creates the North Carolina Emergency Management Act of 1977. Some of the purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action.

BILL ANALYSIS:

Section 1 would amend G.S. 143B-475 (a) to add the Emergency Management Division, Department of Crime Control and Public Safety to the list of subunits of departments whose "functions, powers, duties, and obligations" are transferred to and vested in the Department of Crime Control and Public Safety. The effect of this transfer would be to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise.

Section 2 would amend G.S. 166A-4 by adding the Division of Emergency Management to the definitions section of the North Carolina Emergency Management Act.

Section 3 would amend Article 11 (Department of Crime Control and Public Safety) of Chapter 143B (Executive Organization Act of 1973) by inserting a new Part 8 "Emergency Management Division". This new Part 8 would clearly establish the Division of Emergency Management, within the Department of Crime Control and Public Safety and provide it with the following powers and duties: (1)To exercise the powers and duties exercised prior to the enactment of this section; (2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes; and (3)To exercise any other powers vested by law.

EFFECTIVE DATE: The act would become effective when it becomes law.

BACKGROUND: House Bill 378 is a recommendation of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

Ben Popkin, Counsel to the Homeland Security, Military, and Veterans Affairs Committee, contributed to this summary.

H378-SMRF-126(CSRF-61) v1

HOUSE BILL 379*

Short Title:	Allows Mutual Aid Between State & Local Gov.	(Public)
Sponsors:	Representatives Martin, Wainwright (Primary Sponsors); M. Alexander, Crawford, England, E. Floyd, Glazier, Harrison, Hughes, Insko, Lucas, McGee, Pierce, Rapp, Steen, and Wray.	
Referred to:	Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.	

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW MUTUAL AID AGREEMENTS BETWEEN THE STATE AND POLITICAL SUBDIVISIONS OF THE STATE, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-10 reads as rewritten:

"**§ 166A-10. Establishment of mutual aid agreements.**

(a) The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(a1) The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(b) The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(c) The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(d) Mutual aid agreements may include but are not limited to the furnishing or exchange of such supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel and similar items; and on such terms and conditions as deemed necessary."

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

HOUSE BILL 379:
Allows Mutual Aid Between State & Local Gov

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 8, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 379 allows the Governor to establish mutual aid agreements with political subdivisions in the State.

The bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S254, as introduced by Sen. Snow, which is currently in House Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.]

CURRENT LAW:

G.S. 166A-5(1)a.5. authorizes the Governor to make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.

G.S. 166A-10 provides for the following:

- Allows the Governor, within the scope of authority, to establish mutual aid agreements with other states and with the federal government.
- Allows the chief executive of each political subdivision, with the concurrence of the subdivision's governing body, to develop mutual aid agreements for reciprocal emergency management aid and assistance as long as they are consistent with the State emergency management program and plans.
- Allows the chief executive officer of each political subdivision, with the concurrence of the governing body, and subject to the approval of the Governor, to enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance.
- Allows mutual aid agreements to include, but not be limited to, furnishing or exchanging, or the reimbursement of costs and expenses for: supplies, equipment, facilities, personnel and services.

BILL ANALYSIS:

House Bill 379 amends G.S. 166A-10 by adding a new subsection to expand the Governor's authority regarding the establishment of mutual aid agreements. Currently, the Governor can establish mutual aid agreements with other states and the federal government. This bill would allow the Governor, with the concurrence of the subdivision's governing body, to establish mutual aid agreements with political subdivisions in the State.

The bill also amends G.S. 166A-10(c) to specify that mutual aid agreements between a chief executive officer of a political subdivision and a local chief executive officer in other states must be consistent with the State emergency management program and plans.

EFFECTIVE DATE:

This act is effective when it becomes law.

Theresa Matula, counsel to House State Government, substantially contributed to this summary.

H379-SMRF-128(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 380*
Committee Substitute Favorable 3/18/09
PROPOSED COMMITTEE SUBSTITUTE H380-CSRN-33 [v.1]

6/4/2009 9:22:47 AM

Short Title: Strengthen Local Emergency Management. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN LOCAL EMERGENCY MANAGEMENT CAPABILITIES, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
4. The allocation of the National Pharmaceutical Stockpile.
5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
6. Immunization procedures.
7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.

c. Promulgation of standards and requirements for local plans and ~~programs,~~programs consistent with federal and State laws and

regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this sub-subdivison shall be reviewed by the Division of Emergency Management at least biennially and updated as necessary.

d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.

f. Coordination of the use of any private facilities, services, and property.

g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network."

SECTION 2. G.S. 166A-7 reads as rewritten:

"**§ 166A-7. County and municipal emergency management.**

(a) The governing body of each county is responsible for emergency management, as defined in G.S. 166A-4, within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(1) The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-2.

(2) The governing body of each county which establishes an emergency management agency pursuant to this authorization will appoint a coordinator who will have a direct responsibility for the organization, administration and operation of the county program and will be subject to the direction and guidance of such governing body.

(3) In the event any county fails to establish an emergency management agency, and the Governor, in his discretion, determines that a need exists for such an emergency management agency, then the Governor is hereby empowered to establish an emergency management agency within said county.

(b) All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county. ~~Joint agencies composed of a county and one or more municipalities within its borders may be formed.~~

(b1) Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(c) Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, whose use is not otherwise restricted by law.

(d) In carrying out the provisions of this Article each political subdivision is authorized:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article;

(2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the ~~State;~~Division of Emergency Management, consistent with federal and State laws and regulations;

(3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision; and

(4) To delegate powers in a local state of emergency under G.S. 166A-8 to an appropriate official.

(e) Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial ~~assistance.~~assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance ~~for the maintenance and operation of a county emergency management program will not exceed one thousand dollars ($1,000) for any fiscal year and~~ is subject to an appropriation being made for this purpose. ~~Eligibility of each county will be determined annually by the State.~~ Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division of Emergency Management. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient resources to meet the standards and requirements promulgated by the Division."

SECTION 3. This act becomes effective October 1, 2009.

HOUSE BILL 380:
Strengthen Local Emergency Management

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 8, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Barbara Riley
Analysis of:	PCS to Second Edition H380-CSRN-33		Committee Counsel

SUMMARY: House Bill 380 is a public bill that would strengthen local emergency management capabilities as recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery. The proposed committee substitute changes the schedule of review of local emergency management plans from biannual to biennial.

[As introduced, this bill was identical o S252, as introduced by Sen. Snow, which is currently in House Local Government II, if favorable, Homeland Security, Military, and Veterans Affairs.]

CURRENT LAW: Article 1 of Chapter 166A of the General Statutes is the Emergency Management Act. The State emergency management program includes preparations for, response to, and recovery from war or peacetime disasters. The Governor has general direction and control of the State emergency management program, but may delegate or subdelegate that authority. The Secretary of Crime Control and Public Safety is responsible to the Governor for emergency management activities and may subdelegate this authority to a member of the Secretary's department. G.S. 166A-5. The Division of Emergency Management (DEM) is part of the Department of Crime Control and Public Safety.

The governing board of each county is responsible for emergency management within its geographical limits. Each county coordinates its emergency management efforts, including the activities of the municipalities within the counties. The governing board of each county may establish an emergency management agency and may appoint a coordinator of the agency. The law permits the formation of joint agencies (currently defined as "a county and one or more municipalities within its borders"). To carry out emergency management functions, each county and municipality may make appropriations and fund them through revenues, such as property taxes. G.S. 166A-7.

BILL ANALYSIS: House Bill 380 does all of the following:

- Clarifies that the promulgation of standards for local plans must be consistent with federal and State laws and regulations.
- Requires DEM to review ***biennially*** and update as necessary the standards for local plans and programs.
- Expands the types of joint agencies that counties and municipalities may form to include any of the following combinations:
    - A county and one or more municipalities within the county's borders.
    - Two or more counties.
    - Two or more counties and one or more municipalities within the borders of those counties.
- Clarifies that counties which establish an emergency management agency may be eligible to receive State and federal assistance for various emergency management purposes.

- Removes the $1,000 per fiscal year cap on funding from the State for the operation of a county emergency management program.
- Provides that where the appropriation does not allocate funds *between* counties, DEM determines the amount allocated to each county.
    - The size of the allocation is based in part on the degree to which local programs meet State standards and requirements promulgated by DEM. Where appropriate, DEM shall consider whether a county lacks sufficient resources to meet its standards.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: During the 2008 Short Session, the General Assembly directed DEM, in consultation with the North Carolina Association of County Commissioners, to study ways to strengthen North Carolina's emergency management capabilities, especially at the local government level. (S.L. 2008-162). DEM reported the results of its study to the Joint Select Committee on Emergency Preparedness in November of 2008. The Joint Select Committee on Emergency Preparedness made a number of legislative proposals to the 2009 General Assembly, including House Bill 380.

Brad Krehely, counsel to House Local Government II, substantially contributed to this summary.

H380-SMRF-129(CSRN-33) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 381*
Committee Substitute Favorable 4/1/09

Short Title: Expand Division of Emergency Mgmt. Authority. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE POWERS OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-4(4) reads as rewritten:

"(4) Emergency Management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(5a) Hazard Risk Management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources."

SECTION 3. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.

2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
4. The allocation of the National Pharmaceutical Stockpile.
5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
6. Immunization procedures.
7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.

c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.

d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.

f. Coordination of the use of any private facilities, services, and property.

g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.

k. Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.

l. Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:

1. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the adoption of hazard mitigation standards, those standards shall be applied in conducting a hazard risk analysis.

2. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.
3. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.
4. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.
5. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.

m. Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities."

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

HOUSE BILL 381:
Expand Division of Emergency Mgmt. Authority

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 8, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Barbara Riley
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 381 amends the Emergency Management Act to expand the role of the Department of Crime Control and Public Safety, Division of Emergency Management in planning for and coordinating efforts with regard to emergency management and particularly hazard risk management. This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.***

[As introduced, this bill was identical to S257, as introduced by Sen. Snow, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW:

Under current law, the Governor has general authority over the State emergency management program, which includes all aspects of preparation for, response to, and recovery from war or peacetime disasters.

The Secretary of Crime Control and Public Safety is responsible for carrying out the Governor's plans with regard to emergency management activities. The Secretary has sub-delegated this function to the Division of Emergency Management.

BILL ANALYSIS:

House Bill 381 adds a definition of the term "Hazard Risk Management" which involves the identification, assessment and control of risk associated with hazards affecting human health, safety, and property.

The bill also adds several new functions under the State Emergency Program, including:

- Administration of federal and State grant funds;
- Serving as the lead State agency for the coordination of information and resources for hazard risk management;
- Using and maintaining technology that improves communication among all levels of government when involved in emergency management activities.

EFFECTIVE DATE: This act is effective when it becomes law.

Hal Pell, counsel to Senate State and Local Government, substantially contributed to this summary.

H381-SMRF-130(e2) v1

HOUSE BILL 464
Committee Substitute Favorable 4/9/09

Short Title: Raleigh Energy Efficiency. (Local)

Sponsors:

Referred to:

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE PERMANENT AN ACT EXEMPTING THE CITY OF RALEIGH FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS FOR USE AS PART OF ANY PILOT PROGRAM AUTHORIZED BY THE CITY COUNCIL TO TEST THE EFFICIENCY AND EFFECTIVENESS OF LIGHT-EMITTING DIODE TECHNOLOGIES, TO EXPAND THE ACT TO ALL RALEIGH PILOT PROGRAMS AIMED AT INCREASING ENERGY EFFICIENCY, AND TO AUTHORIZE A LEASE FOR THE SITING AND OPERATION OF A RENEWABLE ENERGY FACILITY FOR TWENTY YEARS WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-333 reads as rewritten:

"**SECTION 1.** The City of Raleigh may contract for apparatus, supplies, materials, or equipment that will be used as part of any pilot program authorized by the City Council ~~to test the efficiency and effectiveness of light emitting diode technology for~~ aimed at increasing energy ~~conservation~~ efficiency without being subject to the requirements of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the City may award a contract under this section in its sole discretion. ~~The authority granted herein shall expire on July 1, 2009.~~"

SECTION 2. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided herein) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included. Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

No public notice need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less. Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property. The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in

G.S. 62-133.8(a)(7), for a term up to 20 years without treating the lease as a sale of property and without giving notice by publication of the intended lease."

SECTION 3. Section 2 of this act applies to the City of Raleigh only.

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

HOUSE BILL 464:
Raleigh Energy Efficiency

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Reps. Martin, Harrell, Weiss, Ross	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 464 would remove the sunset provision in the 2007 act that exempts the City of Raleigh from contract requirement relating to pilot programs relating to energy conservation testing of light emitting diodes; expands the exemption to cover specified contracts involving any Raleigh pilot programs aimed at increasing energy efficiency; and exempts the City from certain requirements for the purpose of entering into a long term lease for a renewable energy facility.***

CURRENT LAW: The City of Raleigh is exempt from the competitive bidding requirements of G.S. 143-129, 143-131, and 143-132, on contracts for apparatus, supplies, materials or equipment to be used as part of any pilot program authorized by the City Council for testing the efficiency and effectiveness of LEDs. This exemption expires on July 1, 2009.

G.S. 160A-272 requires that leases in excess of ten years be treated as sales of real property, usually requiring competitive bidding, and public notice must also be given of the decision to lease the property.

BILL ANALYSIS: The bill would

- Expand the current law by exempting the City of Raleigh from competitive bidding requirements in contracting for apparatus, supplies, materials or equipment to be used in any City Council approved pilot program aimed at increasing energy efficiency. In addition, the bill would make this exemption permanent by removing the sunset provision in the 2007 authorizing legislation.
- Exempt the city from the requirements of G.S. 160A-272 for the purpose of entering into a long term lease of up to 20 years for the siting of a renewable energy facility as defined in G.S. 62-133.8(a)(7). The statutory reference to "renewable energy facility" is set out below.

EFFECTIVE DATE: Effective when it becomes law.

§ 62-133.8. Renewable Energy and Energy Efficiency Portfolio Standard (REPS).

(a) Definitions. – As used in this section:

....

(7) "Renewable energy facility" means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:
  a. Generates electric power by the use of a renewable energy resource.
  b. Generates useful, measurable combined heat and power derived from a renewable energy resource.
  c. Is a solar thermal energy facility.

(8) "Renewable energy resource" means a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy

resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. "Renewable energy resource" does not include peat, a fossil fuel, or nuclear energy resource.

....

Steve Rose, Staff Attorney, substantially contributed to this summary.

H464-SMRK-143(e2) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 464

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

H464-ARK-20 [v.1]

Comm. Sub. [NO]
Amends Title [YES]
Second Edition

Date _____,2009

Senator _____

moves to amend the bill on page 1, line 8, by rewriting the line to read:

"AUTHORIZE THE CITIES OF RALEIGH AND WINSTON-SALEM TO ENTER INTO A LEASE FOR THE SITING AND OPERATION OF A RENEWABLE"

And on page 2, line 3, by rewriting the line to read:

"**SECTION 3.** Section 2 of this act applies to the City of Raleigh and the City of Winston-Salem only."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 631
Committee Substitute Favorable 4/1/09

Short Title: Wearing of Medals by Public Safety Personnel. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO FACILITATE THE WEARING OF MILITARY MEDALS BY PUBLIC SAFETY PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 165 of the General Statutes is amended by adding a new section to read:

"**§ 165-44.01. Wearing of medals by public safety personnel.**

(a) Uniformed public safety officers may wear military service medals during the business week prior to Veterans Day and Memorial Day, the day of Veterans Day and Memorial Day, and the business day immediately following Veterans Day and Memorial Day.

(b) The employer of a uniformed public safety officer shall retain the right to prohibit the wearing of military service medals pursuant to this subsection if the employer determines that wearing the military service medals poses a safety hazard to the uniformed public safety officer or to the public. Any prohibition under this subsection shall only be effective if adopted after this section becomes law.

(c) This section shall be interpreted in accordance with all applicable federal laws and regulations.

(d) The following definitions shall apply in this section:

(1) Military service medal. – Any medal, badge, ribbon, or other decoration awarded by the active or reserve components of the armed forces of the United States, the North Carolina Air National Guard, or the North Carolina Army National Guard to members of those forces.

(2) Public safety officer. – An employee of a public safety agency who is a law enforcement officer, a firefighter, or emergency medical services personnel."

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

HOUSE BILL 631:
Wearing of Medals by Public Safety Personnel

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 5, 2009
Introduced by:	Reps. Martin, R. Warren, Killian	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: The Second Edition of House Bill 631 would authorize public safety officers to wear military decorations on their uniforms during specified days.

CURRENT LAW: The authority to approve the wearing of highway patrol award insignia for the North Carolina Highway Patrol is given by statute to the Patrol Commander, with the approval of the Secretary of the Department of Crime Control and Public Safety.

BILL ANALYSIS: The bill would provide that uniformed public safety officers may wear military service medals on their uniforms during the following dates:

- The business week prior to Memorial Day and Veterans Day.
- On Memorial Day and Veterans Day.
- The day after Memorial Day and Veterans Day.

The bill would define "military service medals" as any medal, badge, ribbon or other decoration awarded by either the active or reserve components of the Armed Forces of the United States. Federal law defines "Reserve components of the Armed Forces of United States" to include the National Guard. The bill would define "public safety officer" as a law enforcement officer, firefighter, or emergency medical services personnel who is an employee of a public safety agency. The employer of eligible personnel would have the authority to prohibit the wearing of military service medals if the wearing would pose a safety hazard to the officer or the public.

EFFECTIVE DATE: When it becomes law.

Hal Pell, an attorney in the Research Division, contributed significantly to this summary.

H631-SMRR-136(e2) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, June 10, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2) **213** VSL Nonfamily Sick Leave Donations.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **377** Authorize Emergency Mgmt. Certification Prog.
Sequential Referral: None
Recommended Referral: None

H.B. **379** Allows Mutual Aid Between State & Local Gov.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **381** Expand Division of Emergency Mgmt. Authority.
Sequential Referral: None
Recommended Referral: None

H.B. **502** Local Government Property Transactions.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **631** Wearing of Medals by Public Safety Personnel.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **702** Amendments to the Sullivan Act.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #2) **721** Carrboro/Housing Discrimination.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **767** Craven Road Hunting.
Sequential Referral: None
Recommended Referral: None

H.B. **1088** DHHS/Procurement Methods.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **924** Mecklenburg County/Reimbursement Agreements.

Draft Number:	PCS10997
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

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

H.B.(CS #1) **378** Statutorily Establish Division of Emerg. Mgmt.

Draft Number:	PCS50729
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

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

H.B.(CS #1) **380** Strengthen Local Emergency Management.

Draft Number:	PCS80462
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

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

H.B.(CS #1) **464** Raleigh Energy Efficiency.

Draft Number:	PCS80463
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

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

H.B.(CS #1) **1021** Designate U.S. Highway 17 Scenic Byway.

Draft Number:	PCS50730
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 15

Committee Clerk Comments:
Senator Running Bill on Senate Floor

HB213. HB 721 - Senator Kinnaird

HB377, HB378, HB379, HB380, HB381, HB464, HB631 – Senator Snow

HB502, HB702, - Senator Apodaca

HB767 - Senator Preston

HB924 - Senator Clodfelter

HB1021, HB1088- Senator Davis

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Thursday, June 18, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **969** Granville/Registered Land.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comments:
Senator Handling the Bill on the Senate Floor:
Senator Doug Berger

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McCormack	City of Raleigh
Boyd Cauble	City of Charlotte
Mike Spangberg	Duke
Marvin R. Waters	CCPS
Marge Foreman	NCAE
DAVID WOMBLE	DHHS
Lindsey Welsh	[illegible]
ANTHONY ALLEN	NCACC
BRIAN LIVECCHI	POYNER SPRUILL RALEIGH
Steve Shober	Poyner Spruill
Steven Waters	Living Streets

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alex Boncek	intern - Rep. Carney

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Beau Memory	NCTA / NCDOT
Carl Dean	OSP
Daniel Bowen	K+L GATES
Ashley Vroom	NCASA
Will Crone	Raleigh City Attorney's office
John Maddux	Raleigh City Attorney's office
Dan McLawhorn	Raleigh City Atty Office
DAVID BARNES	Poyner Spruill
Caroline Paysour	Poyner Spruill
Kathleen Channing	Poyner Spruill
	Poyner Spruill

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kuhn	NCLM
Kevin Leonard	NC ACC
Alex Veio	Intern
Katrien Engelen	NCCN
Jami Fitzgerald	CAL

Senate State and Local Government Committee
Tuesday, June 23, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 994	Establish State Athletics Commission.	Senator Clodfelter
HB 121	Regulation of Golf Carts by Local Governments	Representative Underhill Representative Wainwright
HB 632	Capitalize National Guard in Statutes.	Representative Tarleton Representative Martin Representative Killian
HB 866	Community Development Target Areas.	Representative Wray
HB 870	Stanly County Boards.	Representative Burr
HB 881	Transportation Corridor Mapping Changes.	Representative Cole
HB 994	Wilson Housing Authority-Aging In Place.	Representative Farmer-Butterfield Representative Tolson
HB 1009	End DOA Supervision of Local Veterans Service.	Representative Bell
HB 1453	State Maintenance Vehicles-Parking Capitol.	Representative Dollar

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 23, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 23, 2009, in Room 1124 of the Legislative Building. Ten members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

Senate Bill 994, Establish State Athletics Commission was the first bill to be heard. Before Senator Clodfelter explained the bill, Hal Pell, Staff Attorney. explained an amendment to the bill and the committee adopted the amendment. Senator Clodfelter explained the bill and Senator Dorsett made a motion to give the bill a Favorable Report as Amended. The bill carried and was referred to the Senate Committee on Finance. House Bill (CS #1) 121, Regulation of Golf Carts by Local Governments was the next bill to be heart. A PCS for the bill was adopted and Representative Wainwright explained the bill. Senator Weinstein moved to give the PCS a favorable Report, Unfavorable to the Committee Substitute Bill No. 1, But Favorable to Senate Committee Substitute Bill. Representative Farmer Butterfield explained House Bill 994, Wilson Housing Authority-Aging In Place. Senator Dorsett made a motion for the bill to receive a Favorable Report and the bill carried. Senator McKissick moved to adopt a PCS for House Bill 632, Capitalize National Guard in Statues. Representative Tarleton explained the bill and Senator Soles moved for a Favorable Report, Unfavorable to Bill But Favorable to Senate Committee Substitute Bill. Senator Blake enters a technical amendment for House Bill (CS #1) 866, Community Development Target Areas and the amendment is adopted. Representative Wray explained the bill land Senator Apodoca moved to give the bill la Favorable Report as Amended. The bill carried. House Bill 870, Stanly County Boards, was the next bill on the agenda. Senator Apodaca sent forth an amendment and the amendment was adopted. Representative Burr explained the bill and Senator Weinstein moved to give the bill a Favorable Report as Amended. The bill carried. House Bill (CS # 1), Transportation Corridor Mapping Changes which had a PCS was the next bill to be heard. An amendment to the PCS was adopted and Representative Cole explained the Bill. Senator Apodaca moved to give the bill a Favorable Report ,Unfavorable to Committee Substitute Bill No. 1, But Favorable to Senate Committee Substitute. The bill carried. A proposed Committee Substitute was adopted for House Bill (CS # 1) 1009, End DOA Supervision of Local Veterans Service. Representative Bell explained the bill and Senator Dorsett moved to give the bill a Favorable Report, Unfavorable to Committee Substitute Bill No. 1 But Favorable to Senate Committee Substitute Bill. The bill carried. The last bill on the agenda was House Bill (CS #1), State Maintenance Vehicles-Parking Capitol. There was a PCS for the bill and Senator Blake put forth an amendment to the PCS. The amendment was adopted and Representative Dollar explained the bill. Senator Berger to give the PCS with the amendment rolled in a Favorable Report, Unfavorable to Committee Substitute Bill No. 1, But Favorable to Senate Committee Substitute Bill

The meeting adjourned at 12:45 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

SENATE BILL 994

Short Title:	Establish State Athletics Commission.	(Public)
Sponsors:	Senators Clodfelter; Dannelly and Rand.	
Referred to:	State and Local Government.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA STATE ATHLETICS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. The regulation of boxing under the authority of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety is transferred to the North Carolina State Athletics Commission established pursuant to Article 68A of Chapter 143 of the General Statutes, as enacted in Section 3 of this act, within the Department of Commerce, Division of Tourism, Film, and Sports Development, by a Type II transfer, as defined by G.S. 143A-6(b).

SECTION 2. Article 68 of Chapter 143 of the General Statutes is repealed.

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

"Article 68A.

"North Carolina State Athletics Commission.

"**§ 143-659.1. Legislative findings and declarations.**

The General Assembly finds and declares to be the public policy of this State that it is in the best interest of the public and of boxing that boxing should be subject to an effective and efficient system of strict control and regulation to:

(1) Protect the safety and well-being of participants in boxing; and

(2) Promote the public confidence and trust in the regulatory process and the conduct of boxing.

To further the public confidence and trust, the provisions of this Article are designed to regulate all persons, practices, and associations related to the operation of any live boxing event, performance, or contest held in North Carolina.

"**§ 143-659.2. Definitions.**

The following definitions apply in this Article:

(1) Amateur. – A person who is not receiving or competing for and has never received or competed for any purse or other article or thing of value for participating in a match.

(2) Announcer. – Any person who engages in the act of announcing a boxing match.

(3) Boxer. – Any person who engages as a participant in a boxing match.

(4) Boxing match. – A match in which the participants engage in the use of full contact boxing techniques (using the fist only), and in which the object of a match is to win by decision, knockout (KO), or technical knockout (TKO).

(5) Commission. – The North Carolina State Athletics Commission.

(6) Contest. – A boxing match in which the participants strive earnestly to win.

(7) Contestant. – Any person who engages as a participant in a boxing match.
(8) Division. – The Division of Tourism, Film, and Sports Development of the Department of Commerce.
(9) Exhibition. – A boxing match in which the participants display their boxing skills and technique without necessarily striving to win.
(10) Judge. – A person who has a vote in determining the winner of any match or contest.
(11) Kickboxer. – Any person who engages as a participant in a kickboxing match.
(12) Kickboxing match. – A match in which the participants engage in full-contact martial arts fighting techniques using the hands and the feet, and in which the object of the match is to win by decision, knockout (KO), or technical knockout (TKO).
(13) Licensee. – Any person, club, corporation, organization, or association to whom a license has been issued pursuant to the provisions of this Article.
(14) Manager. – Any person who controls or administers the boxing affairs of any contestant, and who:
a. By contract, agreement, or other arrangement with any person undertakes or has undertaken to represent in any way the interest of the contestant in any professional boxing contest in which the boxer is to participate as a contestant, and is entitled under that contract, agreement, or arrangement to receive monetary or other compensation for his or her services, without regard to the sources of the compensation. The term 'manager' shall not be construed to mean any attorney licensed to practice in this State whose participation in the activities is restricted solely to his representing the interests of a professional boxer as a client.
b. Directs or controls the professional boxing activities of any professional boxer.
c. Receives or is entitled to receive a percentage of the gross purse or gross income of any professional boxing contest.
(15) Match. – Any boxing or kickboxing contest or exhibition, and includes any event, engagement, sparring or practice session, show or program where the public is admitted and in which there is intended to be physical contact, whether an exhibition or contest. This definition does not include training or practice sessions when no admission is charged.
(16) Matchmaker. – A person through whom matches are arranged for participants and who otherwise assists participants in procuring engagement dates for boxing.
(17) Mixed martial artist. – Any person who engages as a participant in a mixed martial arts match.
(18) Mixed martial arts. – A form of sporting martial arts that uses a variety of martial arts techniques to deliver blows with the hands, elbows, and any part of the leg below the hip, including the knee and foot, and also uses boxing, wrestling, and grappling techniques.
(19) Natural person. – An individual.
(20) Participant. – Any person who engages in a match or exhibition and performs as a boxer.
(21) Person. – An individual, group of individuals, business, corporation, limited liability company, partnership, or any other individual or collective entity.
(22) Physician. – An individual licensed to practice medicine in this State.

(23) Professional. – Any person who is licensed as a professional boxer under the federal Professional Boxing Safety Act of 1996.

(24) Promoter. – Any person who produces, arranges, stages, holds, or gives any match in North Carolina involving a professional participant.

(25) Referee. – The official who shall enter and remain in the ring for the duration of a match and shall enforce the rules and maintain order in the ring.

(26) Ring official. – Any person who performs an official function for the duration of a match.

(27) Sanctioned amateur. – A person who competes in a sanctioned amateur match.

(28) Sanctioned amateur match. – Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized and approved by the North Carolina Boxing Commission.

(29) Second. – Any person who will work or be present in the corner of a participant for the duration of a match.

(30) Timekeeper. – Any person who will operate the clock or watch for the duration of a match for the purpose of keeping the official time of the match.

(31) Toughman contestant. – Any person who competes in a toughman event.

(32) Toughman event. – An elimination program of matches in which: (i) the contestants are not professional boxers; (ii) the finalist receives a purse or other article of value; (iii) the participants engage in the use of full-contact boxing techniques; and (iv) the object of each match is to win by decision, knockout (KO), or technical knockout (TKO).

(33) Unarmed combat. – A match consisting of any combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques that may reasonably be expected to inflict injury to opponents.

"**§ 143-659.3. State Athletics Commission.**

(a) Creation. – The North Carolina State Athletics Commission is created within the Division of Tourism, Film, and Sports Development of the Department of Commerce to regulate live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, for which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Commission shall consist of six voting members and two nonvoting members. All the members shall be residents of this State and meet requirements for membership under the Professional Boxing Safety Act of 1996. The Commission members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the President Pro Tempore of the Senate for an initial term of three years.

(3) One voting member shall be appointed by the Speaker of the House of Representatives for an initial term of three years.

(4) One voting member shall be appointed by the Secretary of Commerce for an initial term of three years.

(5) One voting member shall be appointed by the Lieutenant Governor for an initial term of two years.

(6) One voting member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(7) One nonvoting advisory member shall be appointed by the Speaker of the House of Representatives for an initial term of one year, from nominations

made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(8) One nonvoting advisory member shall be appointed by the President Pro Tempore of the Senate for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection, if any former member of the North Carolina Boxing Advisory Commission is appointed to the initial membership, that person shall serve an initial term of three years. The member appointed pursuant to subdivision (6) of this subsection may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this subsection shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Governor shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the appointing authority for cause. Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. § 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member, before entering upon the duties of a member, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed with the Division.

(b) Vacancies. – Members shall serve until their successors are appointed and have been qualified. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. Vacancies for members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. A vacancy in the membership of the Commission other than by expiration of term shall be filled for the unexpired term only.

(c) Meetings. – Meetings of the Commission shall be called by the chair or by any two members of the Commission, and meetings shall be held at least quarterly. Any three members of the Commission shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the Commission at any meeting by the affirmative vote of a majority of the members of the Commission present at a meeting at which a quorum exists. Any or all members may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in the meeting by this means is deemed to be present in person at the meeting.

(d) Rule-Making Authority of the Commission. – The Commission shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include the following:

(1) Requirements for issuance of licenses and permits required by this Article.

(2) Regulation of ticket sales.

(3) Physical requirements for contestants, including classification by weight and skill.

(4) Supervision of matches and exhibitions by licensed physicians and referees.
(5) Insurance and bonding requirements.
(6) Compensation of participants and licensees.
(7) Contracts and financial arrangements.
(8) Prohibition of dishonest, unethical, and injurious practices.
(9) Facilities.
(10) Approval of sanctioning amateur sports organizations.
(11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996.

(e) Compensation. – None of the members of the Commission shall receive compensation for serving on the Commission. However, members of the Commission may be reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General Statutes.

(f) Staff Assistance. – The Division shall hire a person to serve as Executive Director of the Commission and shall provide staff assistance to the Executive Director. The Executive Director shall enforce this Article through the Division. If necessary, the Executive Director may train and contract with independent contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission. The Executive Director may initiate and review criminal background checks on persons requesting to work as independent contractors for the Commission or persons applying to be licensed by the Commission.

(g) Admission to Facilities. – A promoter is prohibited from barring the admission of a Commission member to an event, performance, or contest held pursuant to this Article.

"**§ 143-659.4. Unauthorized matches prohibited.**

No person shall promote, conduct, or engage in an unarmed combat match, whether the participants are professional or amateur, except as authorized by this Article. This section shall not preclude professional wrestling.

"**§ 143-659.5. Licensing and permitting.**

(a) License and Permit Required. – Except for sanctioned amateur matches, it is unlawful for any person to act in this State as an announcer, contestant, judge, manager, matchmaker, promoter, referee, timekeeper, or second unless the person is licensed to do so under this Article. It is unlawful for a promoter to present a match in this State, other than a sanctioned amateur match, unless the promoter has a permit issued under this Article to do so. The Commission has the exclusive authority to issue, deny, suspend, or revoke any license or permit provided for in this Article.

(b) License. – All licenses issued under this Article shall be valid only during the calendar year in which they are issued, except contestant licenses shall be valid for one year from the date of issuance. A license for an announcer, contestant, judge, matchmaker, referee, timekeeper, or second shall be issued only to a natural person. A natural person shall not transfer or assign a license or change it into another name. A license for a manager or promoter may be issued to a corporation or partnership; provided, however, that all officers or partners shall submit an application for individual licensure, and only those officers or partners who are licensed shall be entitled to negotiate or sign contracts. The addition of a new officer or partner during the license period shall necessitate the filing of an application for individual licensure by the new officer or partner.

An applicant for a license shall file with the Commission the appropriate nonrefundable fee and any forms, documents, medical examinations, or exhibits the Commission may require in order to properly administer this Article. The information requested shall include the date of birth and social security number of each applicant as well as any other personal data necessary to positively identify the applicant and may include the requirement of verification of any documents the Commission deems appropriate. A person may not participate under a fictitious

or assumed name in any match unless the person has first registered the name with the Commission.

(c) Surety Bond. – An applicant for a promoter's license must submit, in addition to any other forms, documents, or exhibits requested by the Commission, a surety bond payable to the Commission for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Commission or (ii) the promoter's failure to fulfill the obligations of any contract related to the holding of a boxing event. The surety bond shall be issued in an amount to be no less than ten thousand dollars ($10,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Commission. All surety bonds shall be upon forms approved by the Secretary of Commerce and supplied by the Commission.

(d) Permit. – A permit issued to a promoter under this Article is valid for a single match. An applicant for a permit shall file with the Commission the appropriate nonrefundable fee and any forms or documents the Commission may require.

"**§ 143-659.6. Fees; State Boxing Commission Revenue Account.**

(a) License Fees. – The Commission shall collect the following license fees:

Announcer	$75.00
Contestant	$37.50
Judge	$75.00
Manager	$150.00
Matchmaker	$300.00
Promoter	$450.00
Referee	$75.00
Timekeeper	$75.00
Second	$37.50.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Commission may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	$150.00
2,000 – 5,000	$300.00
More than 5,000	$450.00.

(c) State Athletics Commission Revenue Account. – There is created the State Athletics Commission Revenue Account within the Division of Tourism, Film, and Sports Development of the Department of Commerce. Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article.

"**§ 143-659.7. Contracts and financial arrangements.**

Any contract between licensees and related to a boxing match or exhibition held or to be held in this State must meet the requirements of administrative rules as set forth by the Commission. Any contract which does not satisfy the requirements of the administrative rules shall be void and unenforceable. All contracts shall be in writing.

"**§ 143-659.8. Sanctioned amateur matches.**

In addition to the other applicable provisions of this Article, a sanctioned amateur match shall be conducted pursuant to the rules of the sports organization sanctioning the boxing match or exhibition.

"**§ 143-659.9. Violations.**

(a) Civil Penalties. – The Commission may issue an order against a licensee or other person who willfully violates any provision of this Article, imposing a civil penalty of up to five thousand dollars ($5,000) for a single violation or of up to twenty-five thousand dollars ($25,000) for multiple violations in a single proceeding or a series of related proceedings. No

order under this subsection may be entered without giving the licensee or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Commission may refer any available evidence concerning violations of this Article to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Commission that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule or order hereunder, the Commission may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article."

SECTION 4. Each member serving on the North Carolina Boxing Advisory Commission on the effective date of this act shall continue to serve the term for which the member was appointed. Upon the expiration of a member's term, a member shall be appointed to the North Carolina Athletics Commission in accordance with G.S. 143-659.3, as enacted in Section 3 of this act.

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

SENATE BILL 994:
Establish State Athletics Commission

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	June 19, 2009
Introduced by:	Sen. Clodfelter	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***This act creates the North Carolina State Athletics Commission to regulate live boxing and kickboxing matches for which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than $25. This act is effective when it becomes law.***

CURRENT LAW: Boxing is regulated under the authority of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety.

BILL ANALYSIS: This act transfers the regulation of boxing from the Department of Crime Control to the newly created North Carolina State Athletics Commission [Commission], and repeals the current statutes relating to boxing regulation, to include the Boxing Advisory Commission. The act enacts Article 68A in GS Chapter 143 which:

- Creates the eight-member Commission within the Division of Tourism, Film, and Sports Development of the Department of Commerce, to regulate live boxing and kickboxing matches if (i) admission is charged for viewing or, (ii) the contestants compete for a purse or prize of value greater than $25. The act sets out the qualifications to serve as a Commission member, and provides for the appointment of Commission members.
- Commission members may not receive compensation for their service, but may be reimbursed for expenses.
- Provides the Commission with exclusive rulemaking authority for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions. The rules may include licensing issues, regulation of ticket sales, physical requirements for contestants, including weight and skill levels, compensation of participants and licensees, and insurance requirements.
- Provides that no one may promote, conduct, or engage in an unarmed combat match, except as authorized by the new Article. Professional wrestling is specifically excluded from coverage.
- Enacts statutes pertaining to licensing, permitting, and fees. Also establishes the State Athletics Commission Revenue Account.
- Provides authority for the Commission to impose civil penalties, and also provides a criminal penalty (Class 2 misdemeanor) for willful violations of the Article.
- Each member serving on the North Carolina Boxing Advisory Commission on the effective date of the act shall continue to serve the term for which the member was appointed and, upon the expiration of a member's term, a member shall be appointed to the Commission.

EFFECTIVE DATE: This act is effective when it becomes law.

S994-SMRK-106(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 121
Committee Substitute Favorable 3/18/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H121-CSRR-51 [v.2]

6/9/2009 11:53:59 AM

Short Title: Regulation of Golf Carts by Local Governments. (Public)

Sponsors:

Referred to:

February 12, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW ALL UNITS OF LOCAL GOVERNMENT TO REGULATE GOLF CARTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-245. Regulation of golf carts on streets, roads, and highways.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a county may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12a), on any public street, road, or highway where the speed limit is 35 miles per hour or less within the county that is located in any unincorporated areas of the county or on any property owned or leased by the county.

(b) By ordinance, a county may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts. No person less than 16 years of age may operate a golf cart on a public street, road, or highway."

SECTION 2. G.S. 160A-300.5 is repealed.

SECTION 3. Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-300.6. Regulation of golf carts on streets, roads, and highways.**

(a) Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, a city may, by ordinance, regulate the operation of golf carts, as defined in G.S. 20-4.01(12a), on any public street, road, or highway where the speed limit is 35 miles per hour or less within its municipal limits or on any property owned or leased by the city.

(b) By ordinance, a city may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts. No person less than 16 years of age may operate a golf cart on a public street, road, or highway."

SECTION 4. Section 6 of S.L. 2001-356 is repealed.

SECTION 5. Section 1 of S.L. 2003-124, as amended by S.L. 2004-58, S.L. 2007-204, and S.L. 2007-259, reads as rewritten:

"**SECTION 1.** Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Towns of Beech Mountain, North Topsail Beach, and Seven Devils, and the City of Conover may, by ordinance, regulate the operation of ~~golf carts and~~ utility vehicles on any public street or road

within the City or Town. By ordinance, the City or Town may require the registration of ~~golf carts and~~ utility vehicles, specify the persons authorized to operate ~~golf carts and~~ utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the ~~golf carts and~~ utility vehicles."

SECTION 6. Section 1 of S.L. 2005-11, as amended by S.L. 2007-18, is repealed.

SECTION 7. Section 3 of S.L. 2005-11, as amended by S.L. 2006-149, S.L. 2006-152, and S.L. 2007-18, reads as rewritten:

"**SECTION 3.** ~~Section 1 of this act applies only to the Towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Four Oaks, Rose Hill and Tabor City. Section 2 of this~~This act applies only to Moore County."

SECTION 8. Section 9.4 of the Charter for the Town of Cary, as enacted by Section 1 of S.L. 2005-117, is repealed.

SECTION 9. S.L. 2006-27, S.L. 2006-149, S.L. 2006-152, S.L. 2007-18, S.L. 2007-72, S.L. 2007-336, and S.L. 2008-71 are repealed.

SECTION 10. Section 5.2 of the Charter for the Town of Whispering Pines, as enacted by Section 1 of S.L. 2008-105, is repealed.

SECTION 11. This act becomes effective October 1, 2009. A county may adopt an ordinance under G.S. 153A-245, and a city may adopt an ordinance under G.S. 160A-300.6 when this act becomes law, but the ordinances may not become effective prior to October 1, 2009. The repeal herein of any act does not affect the rights or liabilities of a local government that arose during the time the act was in effect, or under an ordinance adopted under such an act. If any county or city had adopted an ordinance under any act repealed by this act, and the ordinance would be permitted under G.S. 153A-245 or G.S. 160A-300.6 as enacted by this act, that ordinance shall remain in effect until amended or repealed by that county or city.

HOUSE BILL 121:
Regulation of Golf Carts by Local Governments

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	June 8, 2009
Introduced by:	Reps. Underhill, Wainwright	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to Second Edition H121-CSRR-51		

SUMMARY: ***This PCS for HB 121 would authorize all city and county governments to regulate the operation of golf carts on public streets, roads, and highways within a city's municipal limits, within a county's unincorporated areas, or on any property owned or leased by a city or county. It would permit golf carts to be operated only where the speed limit is 35 mph or less and only by persons who are at least 16 years old.***

CURRENT LAW: Vehicles intended to be operated on State highways must be registered with the Division of Motor Vehicles (G.S. 20-50). Golf carts may not be registered (G.S. 20-54) and, therefore, may not be operated on highways. A "golf cart" is defined as a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. (G.S. 20-4.01(12a)).

G.S.160A-300.5 authorizes one county and several municipalities (see **BACKGROUND** below) to regulate by ordinance the operation of golf carts on any public street or highway within their jurisdictional limits or on any property that they own or lease. This statute authorizes the listed jurisdictions to require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

In addition, under current local laws, several other local jurisdictions (see **BACKGROUND** below) are authorized to regulate the operation of golf carts.

BILL ANALYSIS: The PCS for H 121 is a statewide bill that gives all cities and counties the authority to regulate golf carts within their corporate limits.

Section 1 of the bill authorizes all counties to regulate by ordinance the operation of golf carts on public streets, roads, and highways that are located in any unincorporated areas within the county or on any property owned or leased by the county, where the speed limit is 35 miles per hour or less. No person less than 16 years old would be permitted to operate a golf cart on a public street, road, or highway.

Section 3 of the bill authorizes all cities to regulate by ordinance the operation of golf carts on public streets, roads, and highways that are located within their municipal limits or on any property owned or leased by the city, where the speed limit is 35 mph or less. No person less than 16 years old would be permitted to operate a golf cart on a public street, road, or highway.

Under Sections 1 and 3 of the bill, cities and counties may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts.

Remaining sections of the bill repeal or rewrite local acts to conform to the changes made in this bill.

EFFECTIVE DATE: This act becomes effective October 1, 2009. Under the bill's savings clause, local governments would not be required to re-enact existing golf cart ordinances authorized by a local act as long as the ordinance meets the requirements of the new sections, including the maximum speed limit and minimum operator age restriction.

BACKGROUND: G.S. 160A-300.5 authorizes the following jurisdictions to regulate the operation of golf carts: New Hanover County; Cities of Locust, Saluda, and Wilmington; Towns of Badin, Beulaville, Butner, Carolina Beach, Emerald Isle, Erwin, Faison, Fremont, Hobgood, Indian Beach, Kings Mountain, Kure Beach,

Mayodan, Morrisville, Mount Olive, Oakboro, Oriental, Pineville, Shelby, Wrightsville Beach; Village of Pinehurst.

In addition to the municipalities and the county listed in G.S. 160A-300.5, the following jurisdictions have authority granted by local act to regulate golf carts:

- Bald Head Island S.L. 2002-129
- Beech Mountain S.L. 2003-124
- Benson S.L. 2006-149
- Bladenboro S.L. 2005-11
- Cary S.L. 2005-117
- Caswell Beach S.L. 2006-149
- Chadbourn S.L. 2006-149, S.L. 2007-18
- Clarkton S.L. 2006-152, S.L. 2007-18
- Conover S.L. 2007-259
- Elizabethtown S.L. 2005-11, S.L. 2007-18
- Faison S.L. S.L. 2006-27
- Four Oaks S.L. 2007-18
- Lake Waccamaw S.L. 2001-356
- Lake Royale community in Franklin and Nash Counties S.L. 1999-11
- North Topsail Beach S.L. 2007-204
- Rose Hill S.L. 2005-11, S.L. 2007-18
- Seven Devils S.L. 2004-58
- Seven Lakes community in Moore County S.L. 2002-82
- Tabor City S.L. 2006-149, S.L. 2007-18
- Whispering Pines S.L. 2008-105

The following local bills to allow regulating golf carts have been introduced this session:

- Grover (HB 11)
- Holly Ridge (HB 31)
- Marvin (HB 73, SB 63)
- Camden County (HB 77)
- Swansboro (HB 113)
- Morganton (HB 117)
- River Bend (HB 121)
- Pikeville (HB 127, SB 480)
- Winterville (HB 152, SB 197)
- Bethel (HB 165, SB 145)
- Troutman (HB 234)
- Marshville (HB 244)
- Hendersonville (HB 276, SB 288)
- Denton (HB 474)
- Currituck County (HB 662)
- Deep Run (HB 973)
- Rutherford County (HB 1008)
- Stanfield (SB 28)
- Stallings (SB 103)
- Swansboro/Holly Ridge (SB 176)

As introduced, HB 121 was a local bill to allow the Town of River Bend in Craven County to regulate golf carts. In the House, it was converted into a bill to let all municipalities and counties regulate golf carts, but it did not contain the 35 mph and 16-year-old limitations. Three other bills this session would let all local governments regulate golf carts; to date, none has been enacted. One of them, SB 650, was approved by this committee in May with the 35 mph and 16-year-old provisions this PCS for HB 121 now contains.

Giles Perry and Bill Patterson, staff attorneys in the Research Division, contributed significantly to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 632
PROPOSED SENATE COMMITTEE SUBSTITUTE H632-CSRK-65 [v.6]

6/22/2009 9:10:40 AM

Short Title: Capitalize National Guard/GSC Study. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATELY RECOGNIZE THE NATIONAL GUARD AND TO CREATE UNIFORMITY IN THE SPELLING OF THE TERM "NATIONAL GUARD" WHEREVER IT APPEARS IN THE GENERAL STATUTES BY CAPITALIZING IT, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON MILITARY AND VETERANS' AFFAIRS AND TO AUTHORIZE A GENERAL STATUTES COMMISSION STUDY ON REFERENCES TO THE NAMES OF MILITARY ORGANIZATIONS IN THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. The Revisor of Statutes shall modify the term "national guard" wherever it appears in the General Statutes so that both the word "National" and the word "Guard" are capitalized.

SECTION 2. The General Statutes Commission shall study and recommend to the 2010 Regular Session of the 2009 General Assembly ways to ensure that the General Statues properly and uniformly refer to federal or state military organizations. These may include a single term that will include all organizations that compose the reserve components of the armed forces. The recommendations may include a process to be authorized by the General Assembly whereby changes that do not change the law can be made administratively by the Attorney General.

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

HOUSE BILL 632:
Capitalize National Guard in Statutes

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 22, 2009
Introduced by:	Reps. Martin, Tarleton, Killian	**Prepared by:**	Hal Pell
Analysis of:	PCS to First Edition H632-CSRK-65		Committee Counsel

SUMMARY: ***House Bill 632 would direct the Revisor of Statutes to go through the NC General Statutes and capitalize both words of the term "national guard" wherever it appears, and would authorize a study on references to military organization names in the statutes. This act is effective when it becomes law.***

CURRENT LAW:

- The term "national guard" or "National Guard" appears in 154 sections of the NC General Statutes. Sometimes it appears with both words capitalized, but at least as often it appears with both words not capitalized.
- At different places in the General Statutes, provisions appear which are related to the "reserve components" of the armed forces, and also to the "North Carolina Army National Guard." The definition of the term "reserve" when used with "reserve components" of the armed forces may depend on the context. In one context, it may apply to all seven of the reserve components of the U.S. military (Army, Navy, Air Force, Marines, Coast Guard, Army National Guard, and Air National Guard). In another context, it may apply to only the five reserve components directly associated with the five active duty military services but neither to the Army National Guard nor the Air National Guard.

  Under federal law (10 USC 10101) the "reserve components of the armed forces" are:

  (1) The Army National Guard of the United States.
  (2) The Army Reserve.
  (3) The Navy Reserve.
  (4) The Marine Corps Reserve.
  (5) The Air National Guard of the United States.
  (6) The Air Force Reserve.
  (7) The Coast Guard Reserve.

BILL ANALYSIS: The bill would direct the Revisor of Statutes to capitalize both words of the term "National Guard" wherever it appears in the NC General Statutes. The act would authorize the General Statutes Commission to study the references to military organizations [which would include "reserve components"] and report to the 2010 Session of the General Assembly.

EFFECTIVE DATE: This act is effective when it becomes law.

Bill Gilkeson, Staff Attorney, substantially contributed to this summary.

H632-SMRK-158(CSRK-65) v1

HOUSE BILL 866
Committee Substitute Favorable 5/6/09

Short Title: Community Development Target Areas. (Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW ALL MUNICIPALITIES THE AUTHORITY TO ADOPT AN ORDINANCE DECLARING RESIDENTIAL BUILDINGS IN COMMUNITY DEVELOPMENT TARGET AREAS TO BE UNSAFE AND TO REMOVE OR DEMOLISH THOSE BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-425.1 and G.S. 160A-432(a1) are repealed.

SECTION 2. G.S. 160A-426 reads as rewritten:

"**§ 160A-426. Unsafe buildings condemned in ~~other~~ localities.**

(a) Residential Building and Nonresidential Building or Structure. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

(d) A municipality may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a municipality shall hold a public hearing and shall provide notice of the hearing at least 10 days in advance of the hearing."

SECTION 3. G.S. 160A-432(b) reads as rewritten:

"(b) Removal of Building. – In the case of a ~~nonresidential~~ building or structure declared unsafe under ~~G.S. 160A-426~~G.S. 160A-426 or an ordinance adopted pursuant to G.S. 160A-426, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court."

SECTION 4. G.S. 160A-428 reads as rewritten:

"**§ 160A-428. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to ~~G.S. 160A-425.1 or~~ G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
   a. Constitutes a fire or safety hazard.
   b. Is dangerous to life, health, or other property.
   c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
   d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing."

SECTION 5. This act is effective when it becomes law. A municipality may adopt an ordinance under G.S. 160A-426(d) when this act becomes law, but the ordinance may not become effective prior to October 1, 2009.

HOUSE BILL 866:
Community Development Target Areas

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 18, 2009
Introduced by:	Rep. Wray	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 866 would allow all municipalities to adopt an ordinance permitting the municipality to do both of the following after declaring a residential building in a community development target area unsafe: (1) remove or demolish the residential building and (2) place a lien on the property for the cost incurred. The municipality would be required to hold a public hearing with at least 10 days notice before adopting the ordinance.

CURRENT LAW: Under current law, all municipalities may declare a residential or nonresidential building or structure to be unsafe and shall affix a notice to the exterior of the building. G.S. 160A-426(a).

All municipalities may declare a *nonresidential* building in a community target development area unsafe if the building meets both of the following conditions:

- Appears to be vacant or abandoned.
- Appears to be in such dilapidated condition as to do one or more of the following:
  - to cause or contribute to blight, disease, vagrancy, fire or safety hazard,
  - to be a danger to children, or
  - to tend to attract persons intent on criminal activities or other activities that constitute a public nuisance. G.S. 160A-426(b)

If a *nonresidential* building in a community development target area is declared unsafe, then the municipality has the option of removing or demolishing the building and placing a lien on the property for the cost incurred, in lieu of initiating other appropriate action to prevent, restrain, correct or abate violations. G.S. 160A-432(b).

BILL ANALYSIS: House Bill 866 would allow municipalities to adopt an ordinance so that the provisions, which currently apply to nonresidential buildings, would also apply to residential buildings (i.e. after declaring a residential building in a community development target area unsafe, then the municipality has the option of removing or demolishing the building and placing a lien on the property for the cost incurred). The municipality would be required to hold a public hearing with at least 10 days notice before adopting the ordinance.

EFFECTIVE DATE: This act is effective when it becomes law. A municipality may adopt an ordinance under G.S. 160A-426(d) when this act becomes law, but the ordinance may not become effective prior to October 1, 2009.

**Brad Krehely, Staff Attorney, substantially contributed to this summary.*

H866-SMRK-153(e2) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 866

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

H866-ARK-26 [v.1]

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

Date _____ ,2009

Senator _____

moves to amend the bill on page 2, line 39, by rewriting the line to read:

"**SECTION 5.** Section 1 of this act is effective October 1, 2009, and the remainder of this act is effective when it becomes law. A municipality may adopt".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 870

Short Title:	Stanly County Boards.	(Local)
Sponsors:	Representative Burr.	
Referred to:	Local Government I, if favorable, Judiciary II.	

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE MEMBER OF THE BOARD OF COMMISSIONERS OF STANLY COUNTY WHO SERVES AS A MEMBER OF THE STANLY COUNTY AIRPORT AUTHORITY SERVES AT THE PLEASURE OF THE BOARD OF COMMISSIONERS, TO PROVIDE THE SAME FOR THE CHAIRMAN OF THE STANLY COUNTY ECONOMIC DEVELOPMENT COMMISSION, AND TO ALLOW THE STANLY COUNTY BOARD OF COMMISSIONERS TO DESIGNATE AN ALTERNATE FOR BOTH THOSE POSITIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 419, Session Laws of 1971, as amended by Chapter 238, Session Laws of 1983, and by Chapter 929 of the 1987 Session Laws, and as rewritten by Chapter 583 of the 1991 Session Laws, reads as rewritten:

"Sec. 2. The Airport Authority shall consist of five ~~members~~ members, four of whom ~~who~~ shall be appointed to staggered terms of four years by the Stanly County Board of Commissioners. All of the members shall be residents of the County. The terms of the four appointed members of the Airport Authority shall be as follows: two members serving terms expiring March 31, 1993 and two members serving terms expiring March 31, 1995. Thereafter, all terms shall be for four years. Each of the members and their successors so appointed shall take and subscribe before the Clerk of the Superior Court of Stanly County, an oath of office and file same with the Stanly County Board of Commissioners. Upon the occurrence of any vacancy on said Airport Authority, said vacancy shall be filled within 60 days after notice thereof at a regular meeting of the Board of County Commissioners. ~~One of the five members~~ The fifth member shall be a county commissioner, ~~whose term on the Airport Authority shall run concurrently with that member's term~~ who shall serve at the pleasure of the Stanly County Board of Commissioners, but only as long as still serving as a county commissioner. The Stanly County Board of Commissioners may also appoint another member of the board of commissioners to serve as alternate member to attend and vote if the original appointee is unable to attend or is unable to vote. ~~In~~ As provided by G.S. 128-1.2, in the case of the member of the Stanly County Board of Commissioners serving as a voting member of the said Airport Authority, such membership shall not constitute double office holding within the meaning of Article VI, Sec. 9 of the Constitution of North Carolina, but instead is service ex officio."

SECTION 2. Section 4 of Chapter 141, Session Laws of 1961, as amended by Chapter 185, Session Laws of 1987, reads as rewritten:

"Sec.4. The chairman of the Economic Development Commission shall ~~serve for four years corresponding in dates with said person's term of office as a county commissioner, except that initially said chairman shall serve until the first Monday in December, 1962.~~ serve at the pleasure of the Stanly County Board of Commissioners, but only as long as still serving as a

county commissioner. ~~Said chairman shall be eligible to re-appointment provided he is re-elected as a member of the board of county commissioners.~~"

SECTION 3. Section 2 of Chapter 141, Session Laws of 1961, as amended by Chapter 355, Session Laws of 1975, and Chapter 237, Session Laws of 1983, reads as rewritten:

"Sec. 2. Such commission shall be composed of twelve members to be appointed by the Board of County Commissioners for Stanly County. In making said appointments the board shall seek to achieve representation from the various geographic areas of the county and to maintain equal balance insofar as political party affiliation is concerned. In the event a vacancy occurs in the membership of such commission because of death, resignation, or otherwise, the board of county commissioners shall fill such vacancy by appointing a member from the same section of the county and with the same political affiliation as his predecessor. There is hereby imposed on such member of the board of county commissioners as said board may designate the duty to serve as chairman of the Economic Development Commission and such commissioner, acting as chairman, shall be entitled to vote only in case of a tie. ~~In the event a vacancy occurs in the office of such commissioner, the board of county~~ The county board of commissioners shall designate another member of said board as an alternate member to attend and vote if the original appointee as chairman is unable to attend or is unable to vote. ~~to perform such duties.~~"

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

HOUSE BILL 870:
Stanly County Boards

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 22, 2009
Introduced by:	Rep. Burr	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 870 would provide that:

- ***The respective Stanly County commissioners who serve on the county Airport Authority and as chair of the county Economic Development Commission serve in those positions at the pleasure of the Stanly Board of Commissioners.***
- ***The Stanly County Board of Commissioners may appoint another member of the Board of Commissioners to serve as an alternate on the Airport Authority and Economic Development Commission if the original appointee is unable to attend or vote.***

CURRENT LAW: Local acts provide that the Stanly County Board of Commissioners shall appoint one of their number as a member of the Stanly County Airport Authority and one of their number as chair of the Stanly County Economic Development Commission. In each case, the appointment is for the remainder of the person's term as county commissioner.

BILL ANALYSIS: HB 870 would make the respective appointments of a member of the Stanly County Board of Commissioners to the Airport Authority and to the chair of the Economic Development Commission serve at the pleasure of the Stanly County Board of Commissioners. The bill would also authorize the Board of Commissioners to appoint an alternate commissioner to each position to attend and vote if the original appointee is unable to do so.

EFFECTIVE DATE: HB 870 would become effective when it becomes law.

This bill summary was substantially contributed to by William R. Gilkeson, Staff Counsel.

H870-SMRF-119(e1) v3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 870

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

H870-ALB-83 [v.1]

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

Date _____, 2009

Senator _____

moves to amend the bill on page 2, line 20, by rewriting that line to read:

"**SECTION 4.** Section 2 of this act becomes effective November 1, ~~2009~~ 2010. The remainder of this act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 881*
Committee Substitute Favorable 5/13/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H881-CSRF-65 [v.2]

6/22/2009 3:28:56 PM

Short Title: Transportation Corridor Mapping Changes. (Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO INCLUDE COUNTIES IN TRANSPORTATION CORRIDOR MAPPING, TO CONFORM STATUTES TO COUNTY AUTHORITY AUTHORIZED BY THE GENERAL ASSEMBLY, AND TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO FURNISH ROAD MAINTENANCE MATERIALS TO MUNICIPALITIES ON A COST REIMBURSEMENT BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.50(a) reads as rewritten:

"(a) A transportation corridor official map may be adopted or amended by any of the following:

(1) The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways adopted pursuant to G.S. 136-66.2 or for any proposed public transportation corridor included in the adopted long-range transportation plan.

(2) The Board of ~~Transportation~~ Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.

(3) Regional public transportation authorities created pursuant to Article 26 of Chapter 160A of the General Statutes or regional transportation authorities created pursuant to Article 27 of Chapter 160A of the General Statutes for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.

(4) The North Carolina Turnpike Authority for any project being studied pursuant to G.S. 136-89.183.

(5) The Wilmington Urban Area Metropolitan Planning Organization for any project that is within its urbanized boundary and identified in G.S. 136-179.

Before a city adopts a transportation corridor official map that extends beyond the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, or adopts an amendment to a transportation corridor official map outside the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances, the city shall obtain approval from the Board of County Commissioners."

SECTION 2. G.S. 136-44.50(a1) reads as rewritten:

"(a1) No ~~transportation corridor official map shall be adopted or amended, nor may any~~ property may be regulated under this Article until:

(1) The governing board of the city, the county, the regional transportation authority, the North Carolina Turnpike Authority, or the Department of Transportation has held a public hearing in each county affected by the map on the proposed map or amendment. Notice of the hearing shall be provided:

a. By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the county in which the transportation corridor to be designated is located.

b. By two week written notice to the Secretary of Transportation, the Chairman of the Board of County Commissioners, and the Mayor of any city or town through whose corporate or extraterritorial jurisdiction the transportation corridor passes.

c. By posting copies of the proposed transportation corridor map or amendment at the courthouse door for at least 21 days prior to the hearing date. The notice required in sub-subdivision a. above shall make reference to this posting.

d. By first-class mail sent to each property owner affected by the corridor. The notice shall be sent to the address listed for the owner in the county tax records.

(1a) The transportation corridor official map has been adopted or amended by the governing board of the city, the county, the regional transportation authority, the North Carolina Turnpike Authority, or the Department.

(2) A permanent certified copy of the transportation corridor official map or amendment has been filed with the register of deeds. The boundaries may be defined by map or by written description, or a combination thereof. The copy shall measure approximately 20 inches by 12 inches, including no less than one and one-half inches binding space on the left-hand side.

(3) The names of all property owners affected by the corridor have been submitted to the Register of Deeds."

SECTION 3. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-34.1. Department of Transportation authorized to furnish road maintenance materials to municipalities.**

The Department of Transportation is authorized, in its discretion, to furnish municipalities road maintenance materials to aid municipalities in the maintenance of streets upon agreement for reimbursement, as may be required by the Department and agreed to by the municipality. The agreement shall provide for reimbursement in an amount at least equal to the cost of the materials, together with the actual reasonable cost of any handling and storage of the materials and of administering the reimbursement agreement, all as solely determined by the Department. In no event shall the Department of Transportation be required to furnish road maintenance materials when, in the sole determination of the Department of Transportation, to do so would interfere with the maintenance of the streets and highways under its control. Notwithstanding any other provision of law, the provision of and reimbursement for materials under this section shall not be deemed a sale for any purpose."

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

HOUSE BILL 881:
Transportation Corridor Mapping Changes

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	June 22, 2009
Introduced by:	Rep. Cole	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to Second Edition H881-CSRF-65		

SUMMARY: ***House Bill 881 would make the following changes to Chapter 136 of the General Statutes:***

- Include counties in transportation corridor mapping by allowing counties to adopt or amend a transportation official corridor map for portions of the existing or proposed State highway system or any public transportation corridor that is in the Transportation Improvement Program.
- Allow regional public transportation authorities to adopt or amend transportation corridor maps for any potion of the existing or proposed State Highway System as well as for proposed public transportation corridors or adjacent stations or parking lots included in the long-range transportation plans.
- Provide that property may not be regulated until the transportation corridor official map has been adopted or amended by the local governing board, regional transportation authority, NC Turnpike Authority or by the Department of Transportation.
- Authorize the Department of Transportation to furnish municipalities road maintenance materials upon agreement for reimbursement. Reimbursement would be in an amount at least equal to the cost of materials, plus the actual reasonable cost of handling and storing the materials.

The proposed committee substitute makes clarifying changes to Section 3 of the bill, amends the title and changes effective date.

EFFECTIVE DATE: The bill is effective when it becomes law.

H881-SMRF-141(CSRF-65) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 994
Committee Substitute Favorable 5/6/09

Short Title: Wilson Housing Authority-Aging In Place. (Public)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ADVISE THE HOUSING AUTHORITY OF THE CITY OF WILSON ON THE REQUIREMENTS FOR REGISTRATION AS A MULTIUNIT ASSISTED HOUSING WITH SERVICES PROGRAM AND ON THE REQUIREMENTS FOR LICENSURE AS A HOME CARE AGENCY IN ORDER TO ASSIST THE HOUSING AUTHORITY WITH THEIR EFFORTS TO HELP INDIVIDUALS AGE IN PLACE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services shall advise the Housing Authority of the City of Wilson on the requirements for registration as a multiunit assisted housing with services program, pursuant to G.S. 131D-2(7a).

SECTION 1.(b) The Department of Health and Human Services shall advise the Housing Authority of the City of Wilson on the requirements for licensure as a home care agency, pursuant to Part 3, Article 6, Chapter 131E of the General Statutes.

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

HOUSE BILL 994:
Wilson Housing Authority-Aging In Place

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 19, 2009
Introduced by:	Reps. Farmer-Butterfield, Tolson	**Prepared by:**	William R. Gilkeson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***The Second Edition of House Bill 994 would direct the Department of Health and Human Services to provide information to the Housing Authority on the City of Wilson on: (i) requirements for registration as a multiunit assisted housing with services program (MAHS), and (ii) requirements for licensure as a home care agency.***

Multiunit Assisted Housing with Services (MAHS)

G.S. 131D-2(7a) defines "multiunit assisted housing with services" as an assisted living residence in which hands-on personal care services and nursing services, arranged by housing management, are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest, financial affiliation, or formal written agreement that makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. Multiunit assisted housing with services programs are required to register with the Division of Health Service Regulation.

Home Care

G.S. 131E-136(2) defines a "home care agency" as a private or public organization that provides home care services.

G.S. 131E-136(3) defines "home care services" as any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:

a. Nursing care provided by or under the supervision of a registered nurse;
b. Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's home;
c. Medical social services;
d. In-home aide services that involve hands-on care to an individual;
e. Infusion nursing services; and
f. Assistance with pulmonary care, pulmonary rehabilitation or ventilation.

BILL ANALYSIS: House Bill 994 directs the Department of Health and Human Services to provide information to the Housing Authority of the City of Wilson on both of the following:

- Requirements for registration as a multiunit assisted housing with services program (MAHS).
- Requirements for licensure as a home care agency.

EFFECTIVE DATE: House Bill 994 would become effective when it becomes law.

Barbara Riley and Theresa Matula of the Research Division significantly contributed to this summary.

H994-SMRR-148(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1009
Committee Substitute Favorable 5/12/09
Third Edition Engrossed 5/14/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1009-CSRK-75 [v.1]

6/19/2009 11:30:30 AM

Short Title: End DOA Supervision of Local Veterans Service. (Public)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO END DEPARTMENT OF ADMINISTRATION SUPERVISION OF EMPLOYEES OF COUNTIES, CITIES, AND TOWNS THAT ARE ENGAGED IN VETERANS SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 165-6(8) reads as rewritten:

(8) It shall be the duty of the Department to train, ~~supervise and assist~~ assist, and provide guidance to the employees of any county, ~~city or town~~ city, town, or Indian tribe who are engaged in veterans service. Authority is hereby granted the governing body of any county, city or town to appropriate such amounts as it may deem necessary to provide a veterans service program and the expenditure of such funds is hereby declared to be for a public purpose; such program shall be operated in affiliation with this Department ~~and under its supervision~~ as set forth ~~above.~~above and in compliance with Department policies and procedures."

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

HOUSE BILL 1009:
End DOA Supervision of Local Veterans Service

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 19, 2009
Introduced by:	Rep. Bell	**Prepared by:**	Hal Pell
Analysis of:	PCS to Third Edition H1009-CSRK-75		Committee Counsel

SUMMARY: ***This act amends the statutory powers and duties of the Department of Administration to remove the duty of supervision of employees at local veterans service offices. This act is effective when it becomes law.***

BILL ANALYSIS: Current law requires the Department of administration to "train, supervise, and assist" employees of local veterans service offices. The act removes the supervision requirement, but retains the requirement that local offices operate in affiliation with the Department. The law will still require the Department to train and assist the local offices, to include Indian tribe offices, and the local offices would operate in compliance with Department policies and procedures.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1453
Committee Substitute Favorable 5/13/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1453-CSRR-56 [v.1]

6/19/2009 3:32:35 PM

Short Title: State Maintenance Vehicles-Parking Capitol. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW STATE MAINTENANCE VEHICLES TO PARK IN METERED PARKING SPACES ON THE STREET BLOCKS BORDERING CAPITOL SQUARE AND TO PROHIBIT PARKING OF MAINTENANCE VEHICLES ON CAPITOL SQUARE IN A MANNER THAT OBSTRUCTS THE VIEW OF OR ACCESS TO MONUMENTS.

The General Assembly of North Carolina enacts:

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

"**§ 143-345.10. General Services Division; parking of maintenance vehicles.**

Maintenance vehicles of the General Services Division may park without charge at any metered parking space located on the street blocks bordering the State's Capitol Square when performing work at or on the State's Capitol Square. No maintenance vehicle shall be parked upon the State's Capitol Square in a location that obstructs the view of or access to any monument on the Square, unless the vehicle itself is needed to perform some maintenance function or duty required by this Article."

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

HOUSE BILL 1453:
State Maintenance Vehicles-Parking Capitol

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 19, 2009
Introduced by:	Rep. Dollar	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to Second Edition H1453-CSRR-56		

SUMMARY: House Bill 1453 would allow General Services maintenance vehicles to park for free in metered spaces on the street blocks bordering Capitol Square while doing work there. Those vehicles could not obstruct the view of or access to monuments unless the vehicle itself was needed to perform required work.

CURRENT LAW: The Department of Administration is given the duty to do maintenance work on State property, including Capitol Square in Raleigh.

The City of Raleigh controls parking on the streets around Capitol Square.

BILL ANALYSIS: The bill would allow maintenance vehicles of the Department of Administration's General Services Division to park without charge in metered spaces on the street blocks bordering Capitol Square when performing work at or on the Square. The vehicles would be prohibited from parking on the Square so as to obstruct the view of or access to monuments unless the vehicle itself is needed to do maintenance required by law.

EFFECTIVE DATE: When it becomes law.

H1453-SMRR-149(CSRR-56) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT

Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

CORRECTED REPORT

Wednesday, June 24, 2009

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **994** Wilson Housing Authority-Aging In Place.
- Sequential Referral: None
- Recommended Referral: None

FAVORABLE, AS AMENDED

S.B. **994** Establish State Athletics Commission.
- Sequential Referral: Finance
- Recommended Referral: None
- Long Title Amended: No

H.B.(CS #1) **866** Community Development Target Areas.
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

H.B. **870** Stanly County Boards.
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **632** Capitalize National Guard in Statutes.
- Draft Number: PCS80472
- Sequential Referral: None
- Recommended Referral: None
- Long Title Amended: Yes

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

H.B.(CS #1) **121** Regulation of Golf Carts by Local Governments
- Draft Number: PCS50745
- Sequential Referral: Finance
- Recommended Referral: None
- Long Title Amended: No

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

H.B.(CS #1) **881** Transportation Corridor Mapping Changes.

Draft Number:	PCS11007
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	Yes

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

H.B.(CS #1) **1009** End DOA Supervision of Local Veterans Service.

Draft Number:	PCS30415
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

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

H.B.(CS #1) **1453** State Maintenance Vehicles-Parking Capitol.

Draft Number:	PCS50744
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 9

Committee Clerk Comments:
Senator handling bill on Floor:
HB994 Wilson Housing Authority-Aging Place – Senator Swindell
SB994 Establish State Athletics Commission – Senator Clodfelter
HB866 Community Development Target Area – Senator Jones
HB870 Stanly County Boards – Senator Purcell
HB632 Capitalize National Guard in Statutes – Senator Davis
HB121 Regulation of Golf Carts by Local Governments – Senator Davis
HB881 Transportation Corridor Mapping Changes – Senator Jenkins
HB1009 End DOA Supervision of Local Veterans Service – Senator Dorsett
HB1453 State Maintenance Vehicles-Parking Capitol – Senator Berger

Administrative Assistant
Office of Senator Edward Jones
Office 623, Legislative Office Building
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VISITOR REGISTRATION SHEET

Senate State & Local Government — June 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mia Bailey	Electricities of NC, Inc.
Cameron Henley	Electricities of NC, Inc
Renee Roach	NCDOT
Jim Blackburn	NC Association of County Commissioners
Debra DeCamilli	UNC-IOG
Wayne Peedin	NCDVA-
Christy Agnew	DOA
	NCDVA
Johanna Reese	DOT

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Caldwell	NC Sheriffs' Assn.

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jeff Horton	DHHS DHSR
WC Crowell	CCBS - ALE
Roger Hutchings	CCPS/ALE
Jessi Hayes	NC HBA
Cody Thomas	NC Assn of Realtors
Lisa Martin	NC HBA
Victoria Hawkins	Bode & Assoc.
Calvin Leggett	NCDOT
Jon Nance	NCDOT
Alicia	MWC
Anthony Allori	NCACC

Senate State and Local Government Committee
Tuesday, June 30, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 650	Roanoke Rapids/Freemont/No Loiter for Drugs.	Representative Bryant Representative Allen
HB 898	No Killing of Grass Carp.	Representative Bryant Representative Crawford, Jr. Representative Allen Representative Wray
HB 951	County Board of Health/Optometrist.	Representative Allen
HB 1452	Local Government Code of Ethics.	Representative Justice Representative Howard Representative Allen Representative Harrison

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 30, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 30, 2009, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Don East presided.

Senator East Called the meeting to order and introduced the pages.

House Bill (CS #1) 650, Roanoke Rapids/Freemont/No Loiter for Drugs was the first bill before the committee. Representative Allen explained the bill and Senator Albertson made a motion to give the bill la Favorable Report. The Bill Carried. Representative Allen explained House Bill (CS #1) 898, No Killing of Grass Carp., to the committee. Senator Weinstein moved for a Favorable Report and the bill carried. Senator Jones made a motion to accept a Proposed Committee Substitute for House 951, County Board of Health/Optometrist: Representative Allen explained the bill, and Senator Weinstein moved to give the bill a Favorable Report, Unfavorable to Bill, But Favorable To Senate Committee Substitute. House Bill (CS #1) 1452, Local Government Code of Ethics was the last bill to be heard. An amendment was offered concerning a grammatical correction and Senator Jones moved to accept the amendment. Representative Howard explained the bill and Mr. Jim Blackburn, County Commissioner Lobbyist made comments on the Bill. The Bill received a Favorable Report As Amended.

The meeting adjourned at 12:25 pm.

Don East
Senator East, Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

HOUSE BILL 650
Committee Substitute Favorable 4/2/09

Short Title: Roanoke Rapids/Fremont/No Loiter for Drugs. (Local)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO LOITER IN THE CITY OF ROANOKE RAPIDS OR THE TOWN OF FREMONT FOR THE PURPOSE OF VIOLATING THE CONTROLLED SUBSTANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(a) of S.L. 2007-42 reads as rewritten:

"**SECTION 1.(a)** Definition. – The following definitions apply in this section:

(1) Public place. – Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the Town of ~~Columbia and~~ Columbia, the Town of Fremont, the City of ~~Brevard.~~ Brevard, and the City of Roanoke Rapids.

(2) Quasi-public place. – Any ground abutting a public place."

SECTION 2. Section 2 of S.L. 2007-42 reads as rewritten:

"**SECTION 2.** This act applies only to the Town of ~~Columbia~~ Columbia, the Town of Fremont, ~~and~~ the City ~~of Brevard.~~ of Brevard, and the City of Roanoke Rapids."

SECTION 3. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

HOUSE BILL 650:
Roanoke Rapids/Fremont/No Loiter for Drugs

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 29, 2009
Introduced by:	Reps. Allen, Bryant	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 650 would create a Class 1 misdemeanor in the City of Roanoke Rapids and the Town of Fremont to "remain and wander about" in and around public places for the purpose of violating the drug laws. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

CURRENT LAW:

Article 5 of Chapter 90 of the General Statutes sets felony and misdemeanor penalties for the sale, purchase, or possession of controlled substances. Attempting, aiding and abetting, and soliciting those offenses are also crimes.

In 2007, the General Assembly enacted a local bill applying to the municipalities of Columbia in Tyrrell County and Brevard in Transylvania County. That act made it a Class 1 misdemeanor for a person to "remain or wander about" in a "public place" or a "quasi-public place" for the purpose of violating Article 5 of Chapter 90, the controlled substances laws, doing any of the following things:

- Repeatedly beckoning to, stopping, or attempting to stop passersby or trying to converse with them.
- Repeatedly stopping or trying to stop motor vehicles.
- Repeatedly interfering with others' free passage.
- Repeatedly passing to or receiving from passersby money or objects.

"Public places" are defined as streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots or transportation facilities, or the doorways or entrances to buildings fronting public places, or any city property.

"Quasi-public places" are defined as any ground abutting public places.

BILL ANALYSIS: HB 650 would add Roanoke Rapids and Fremont to the 2007 statute.

EFFECTIVE DATE: December 1, 2009, applying to offenses committed on or after that date.

S.L. 2007-42

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO LOITER IN THE TOWN OF COLUMBIA AND IN THE CITY OF BREVARD FOR THE PURPOSE OF VIOLATING THE CONTROLLED SUBSTANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – The following definitions apply in this section:

(1) Public place. – Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and

entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the Town of Columbia and the City of Brevard.

(2) Quasi-public place. – Any ground abutting a public place.

SECTION 1.(b) Offense. – It is unlawful for a person to remain or wander about in a public place or quasi-public place and do any of the following for the purpose of violating any provision of Article 5 of Chapter 90 of the General Statutes:

(1) Repeatedly beckon to, stop, or attempt to stop passersby, or repeatedly attempt to engage passersby in conversation.
(2) Repeatedly stop or attempt to stop motor vehicles.
(3) Repeatedly interfere with the free passage of other persons.
(4) Repeatedly pass to or receive from passersby, whether on foot or in a vehicle, money, or objects.

SECTION 1.(c) Penalty. – Any person who violates this section is guilty of a Class 1 misdemeanor.

SECTION 2. This act applies only to the Town of Columbia and the City of Brevard.

SECTION 3. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

William R. Gilkeson and Steve Rose, Staff Attorneys, substantially contributed to this summary.

H650-SMRK-164(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 898
Committee Substitute Favorable 4/23/09

Short Title: No Killing of Grass Carp. (Local)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OR TAKING OF GRASS CARP FROM THE GASTON OR ROANOKE RAPIDS RESERVOIRS OR FROM THE SECTION OF THE ROANOKE RIVER RUNNING BETWEEN THE RESERVOIRS.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful for a person to possess grass carp, or to take grass carp by bow and arrow, from the Gaston or Roanoke Rapids reservoirs or from the section of the Roanoke River that runs between the Gaston and Roanoke Rapids reservoirs, unless the person possesses a special permit for that purpose issued by the Wildlife Resources Commission.

SECTION 2. Violation of this act is a Class 3 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Halifax, Northampton, and Warren Counties.

SECTION 5. This act becomes effective October 1, 2009, and applies to acts committed on or after that date.

HOUSE BILL 898:
No Killing of Grass Carp

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 29, 2009
Introduced by:	Reps. Allen, Wray, Bryant, Crawford	**Prepared by:**	Barbara Riley
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 898 would prohibit the possession or taking by bow and arrow of grass carp from the Gaston or Roanoke Rapids Reservoirs or from the section of the Roanoke River that runs between the Reservoirs.***

BACKGROUND: Grass carp are a non-indigenous freshwater fish that have been introduced into US waters as a biological control for vegetation. Grass carp are native to East Asia. Typically only triploid, or sterile fish are stocked because grass carp are an invasive species. They can grow up to 4 feet in length. Grass carp were stocked in the Gaston and Roanoke reservoirs for aquatic weed control using both private and public funds. The Wildlife Resources Commission (WRC) adopted rules at their March 4, 2009 meeting that would reduce the daily limit on grass carp taken with bow and arrow from two to one fish.

BILL ANALYSIS: House Bill 898 would make it unlawful for a person to possess grass carp, or to take grass carp with a bow and arrow from the Gaston and Roanoke reservoirs or from the the section of the Roanoke River that runs between the Reservoirs unless the person has a special permit from the WRC. Violation of the act would be a Class 3 misdemeanor.[1] The act is enforceable by wildlife officers, sheriffs and deputy sheriffs, and peace officers with general jurisdiction.

The act would apply only to Halifax, Northampton, and Warren Counties.

EFFECTIVE DATE: This act would become effective October 1, 2009, and apply to acts committed on or after that date.

H898-SMRF-145(e2) v1

[1] The range of punishment for a Class 3 misdemeanor, assuming no prior convictions, is 1-10 days community punishment.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 951
PROPOSED SENATE COMMITTEE SUBSTITUTE H951-CSRF-66 [v.1]

6/29/2009 1:47:01 PM

Short Title: County Board of Health/Optometrist. (Public)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE COUNTY BOARD OF COMMISSIONERS TO APPOINT A LICENSED OPTOMETRIST FROM ANOTHER COUNTY TO THE COUNTY BOARD OF HEALTH UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-35 reads as rewritten:

"**§ 130A-35. County board of health; appointment; terms.**

(a) A county board of health shall be the policy-making, rule-making and adjudicatory body for a county health department.

(b) The members of a county board of health shall be appointed by the county board of commissioners. The board shall be composed of 11 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include: one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer, and three representatives of the general public. ~~All~~ Except as otherwise provided in this section, all members shall be residents of the county. If there is not a licensed physician, a licensed dentist, ~~a licensed optometrist,~~ a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer available for appointment, an additional representative of the general public shall be appointed. If however, one of the designated professions has only one person residing in the county, the county commissioners shall have the option of appointing that person or a member of the general public. In the event a licensed optometrist who is a resident of the county is not available for appointment, then the county commissioners shall have the option of appointing either a licensed optometrist who is a resident of another county or a member of the general public.

(c) Except as provided in this subsection, members of a county board of health shall serve three-year terms. No member may serve more than three consecutive three-year terms unless the member is the only person residing in the county who represents one of the professions designated in subsection (b) of this section. The county commissioner member shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a resident licensed optometrist or a nonresident licensed optometrist as authorized by subsection (b) of this section, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer, that member shall serve only until a licensed physician, a licensed dentist, a licensed resident or nonresident optometrist, a licensed veterinarian, a registered nurse, a licensed pharmacist, or a professional engineer becomes available for appointment. In

order to establish a uniform staggered term structure for the board, a member may be appointed for less than a three-year term.

(d) Vacancies shall be filled for any unexpired portion of a term.

(e) A chairperson shall be elected annually by a county board of health. The local health director shall serve as secretary to the board.

(f) A majority of the members shall constitute a quorum.

(g) A member may be removed from office by the county board of commissioners for:

(1) Commission of a felony or other crime involving moral turpitude;

(2) Violation of a State law governing conflict of interest;

(3) Violation of a written policy adopted by the county board of commissioners;

(4) Habitual failure to attend meetings;

(5) Conduct that tends to bring the office into disrepute; or

(6) Failure to maintain qualifications for appointment required under subsection (b) of this section.

A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

(h) A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners.

(i) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting."

SECTION 2. This act is effective when it becomes law and applies to appointments made on and after that date.

HOUSE BILL 951:
County Board of Health/Optometrist

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 29, 2009
Introduced by:	Rep. Allen	**Prepared by:**	Barbara Riley
Analysis of:	PCS to First Edition H951-CSRF-66		Committee Counsel

SUMMARY: ***House Bill 951 authorizes a county board of commissioners to appoint a licensed optometrist who is a resident of another county to the county board of health. The pcs makes grammatical and clarifying changes on page 1, lines 22 – 24.***

CURRENT LAW:

Members of a county board of health are appointed by the county board of commissioners. The board is composed of 11 members who are residents of the county including: a physician; a dentist; an optometrist; a veterinarian; a registered nurse; a pharmacist; a county commissioner; a professional engineer; and at least 3 representatives of the general public.

If there is only one or no designated professionals available for appointment in the county another representative from the general public may be appointed.

BILL ANALYSIS: House Bill 951 provides that in the event a licensed optometrist is not available for appointment to the county board of health, the county commissioners may appoint a licensed optometrist who is a resident of another county or may appoint a member of the general public.

EFFECTIVE DATE: This act is effective when it becomes law and applies to appointments made on or after this date.

Shawn Parker, counsel to House Health, substantially contributed to this summary.

H951-SMRF-146(CSRF-66) v1

HOUSE BILL 1452
Committee Substitute Favorable 4/23/09

Short Title: Local Government Code of Ethics. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL CITIES, COUNTIES, LOCAL BOARDS OF EDUCATION, UNIFIED GOVERNMENTS, SANITARY DISTRICTS, AND CONSOLIDATED CITY-COUNTIES TO ADOPT A CODE OF ETHICS FOR THE GOVERNING BOARD AND TO REQUIRE THE MEMBERS OF THOSE GOVERNING BOARDS TO RECEIVE EDUCATION ON ETHICS LAWS APPLICABLE TO LOCAL GOVERNMENT OFFICIALS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 3A. Ethics Codes and Education Programs.

"**§ 160A-83. Local governing boards' code of ethics.**

(a) Governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member's official duties as a member of that governing board.

(b) The resolution or policy required by subsection (a) of this section shall address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a board member.

(2) The need to uphold the integrity and independence of the board member's office.

(3) The need to avoid impropriety in the exercise of the board member's official duties.

(4) The need to faithfully perform the duties of the office.

(5) The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

"**§ 160A-84. Ethics education program required.**

(a) All members of governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall receive a minimum of two clock hours of ethics education within 12 months of election or appointment.

(b) The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level.

(c) The ethics education may be provided by the North Carolina League of Municipalities, North Carolina Association of County Commissioners, North Carolina School

Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the governing board.

(d) The clerk to the governing board shall maintain a record verifying receipt of the ethics education by each member of the governing board."

SECTION 2. G.S. 115C-47 is amended by adding a new subdivision to read:

"(53) To adopt a code of ethics. – Local boards of education shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83."

SECTION 3. G.S. 115C-50 reads as rewritten:

"**§ 115C-50. Training of board members.**

(a) All members of local boards of ~~education~~ education, whether elected or appointed, shall receive a minimum of 12 clock hours of training annually. The 12 clock hours of training may include the ethics education required by G.S. 160A-84.

(b) The training shall include but not be limited to public school law, public school finance, and duties and responsibilities of local boards of education.

(c) The training may be provided by the North Carolina School Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the local board of education."

SECTION 4. Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-53. Ethics.**

(a) The board of commissioners shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the board of commissioners, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

SECTION 5. Article 1A of Chapter 160B of the General Statutes is amended by adding a new section to read:

"**§ 160B-2.3. Ethics.**

(a) The governing board shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the governing board, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

SECTION 6. Part 2 of Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-49.5. Ethics.**

(a) The governing board shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83.

(b) All members of the governing board, whether elected or appointed, shall receive the ethics education required by G.S. 160A-84."

SECTION 7. The resolution or policy containing a code of ethics that is required by G.S. 160A-83 shall be adopted by each municipality, county, local board of education, unified government, sanitary district, and consolidated city-county on or before January 1, 2011. The governing board may look to model local government codes of ethics for guidance in developing the resolution or policy.

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

HOUSE BILL 1452:
Local Government Code of Ethics

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 29, 2009
Introduced by:	Reps. Allen, Howard, Justice, Harrison	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: The Second Edition of House Bill 1452 would require the governing boards of cities, counties, boards of education, sanitation districts, unified governments, and consolidated city-counties to adopt a resolution or policy containing a code of ethics to guide actions by the members of those boards in the performance of their official duties. It would also require board members to receive at least 2 clock hours of ethics education within 12 months of appointment or election.

CURRENT LAW: A number of statutes govern conflicts of interest and standards of conduct for local officials. These include the following:

G.S. 14-234, which prohibits public officers or public employees from doing any of the following:

- Being involved in the making or administering of a public contract where they will derive a direct benefit from the contract.
- Attempting to influence the making or administration of a public contract where they will derive a direct benefit.
- Soliciting or receiving any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency the officer or employee serves.

G.S. 14-234.1, which prohibits officers and employees of political subdivisions of the State from using information acquired in that official position (but not available to the public) to acquire an interest in or otherwise gain a pecuniary benefit (or assist another to gain a pecuniary benefit) that may be affected by an official action.

G.S. 133-32, which prohibits any officer or employee of a governmental agency charged with preparing plans or specifications for contract, awarding or administering public contract, or inspecting or supervising public construction from receiving or accepting any gift or favor from any contractor, subcontractor or supplier involved with the project or contract.

G.S. 153A-44, 153A-340, 160A-75, and 160A-381 also list situations where a board may excuse a member from voting on certain matters involving that member's own financial interest or official conduct.

BILL ANALYSIS:

Code of Ethics and Ethics Education Required -- Section 1 adds a new Part 3A to Chapter 160A. G.S. 160A-83 requires local governing boards to adopt a resolution or policy containing a code of ethics guide the members in the performance of their official duties. This requirement would apply to local governing boards of cities, counties, boards of education, unified governments and consolidated city-counties. The resolution or policy would be required to address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a board member.

(2) The need to uphold the integrity and independence of the board member's office.
(3) The need to avoid impropriety in the exercise of the board member's official duties.
(4) The need to faithfully perform the duties of the office.
(5) The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

G.S. 160A-84 requires that the members of the boards that are required to adopt a resolution or policy containing a code of ethics must receive at least 2 clock hours of ethics education within 12 months of appointment or election. The education must cover the laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level. The education may be provided by the NC League of Municipalities, NC Association of County Commissioners, NC School Boards Association, the School of Government at UNC-CH, or other qualified sources at the choice of the governing board. The clerk of each governing board must maintain a record verifying receipt of the ethics education by each member.

Conforming Changes – Sections 2 through 6.

Sections 2 and 3 requires school boards to adopt a code of ethics and provides that 2 of the 12 hours of overall training required for school board members may be the required ethics training.

Section 4 directs the boards of county commissioners to adopt a code of ethics and receive the 2 hours of required ethics training.

Section 5 directs the boards of consolidated city-counties to adopt a code of ethics and receive the 2 hours of required ethics training.

Section 6 directs the boards of sanitary districts to adopt a code of ethics and receive the 2 hours of required ethics training.

Must Adopt Code by 1-1-11 -- Section 7 directs all the local boards affected by the bill to adopt a code of conduct no later than January 1, 2011. The governing boards may look to model local government codes of ethics for guidance in developing the resolution or policy.

EFFECTIVE DATE: This act is effective when it becomes law.

Kory Goldsmith of the Research Division contributed significantly to this summary.

H1452-SMRR-154(e2) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1452

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

H1452-ARR-42 [v.1]

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

Date _____,2009

Senator _____

moves to amend the bill on page 1, line 32,
by deleting the term "of election or appointment" and substituting the term "after initial election or appointment to the office and again within 12 months after each subsequent election or appointment to the office."; and

on page 2, line 45,
by rewriting that line to read:

"**SECTION 8.** Except as otherwise provided in this act, this act becomes effective January 1, 2010. All members of governing boards covered by this act shall receive their initial training to comply with G.S. 160A-84 within 12 months after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT

Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

CORRECTED REPORT

Tuesday, June 30, 2009

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **650** Roanoke Rapids/Freemont/No Loiter for Drugs.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **898** No Killing of Grass Carp.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

H.B.(CS #1) **1452** Local Government Code of Ethics.
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **951** County Board of Health/Optometrist.
Draft Number: PCS70458
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comments:
Senator Handling Bill on Floor:
HB650, HB898 – Senator Edward Jones
Hb951 – Senator Jones
HB 1452 – Senator Floyd McKissick

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 30, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Daniel Baum	K+L Gates
Sarah Clapp	NCWRC
Emily Gallimore	NCBA
Mia Bailey	Electricities of NC, Inc.
Penny Griffin	School of Gov.
David Anders	PFFPNC
Donald Pagnutti	PFFPNC
Karen Ray	

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 30, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	NCCLGR
Gordon Myers	NCWRC
Jon Blackburn	NC Assoc. County Commissioners
Lorne Wunsch	NCSBA
Richard O'Brien	PFFPNC
Carl Bradshaw	NCSEA
Lawless Bean	City of Wilmington
John Monaghan	Piedmont Natural Gas Co.
Kelli Kelly	NCLM
Bill Hall	Duncan NC

Senate State and Local Government Committee
Thursday, July 16, 2009, 10:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 563	Regulation of Golf Carts by Local Governments.	Senator Davis
SB 547	Chatham TDR.	Senator Atwater

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Thursday, July 16, 2009 at 10:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 10:00 Noon on July 16, 2009, in Room 1124 of the Legislative Building. Eleven members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order and introduced the pages.

The first bill before the committee was Senate Bill 563, Regulation of Golf Carts by Local Governments. A PCS was adopted on the motion of Senator Apodaca and Senator Davis explained the bill. After a lengthy discussion, Senator Dorsett made a motion to give the bill a Favorable Report, Unfavorable to the Original Bill, But Favorable To Committee Substitute with the Long Title amended to read An Act To Improve Pyrotechnics Safety In North Carolina. The bill carried. Next on the agenda was Senate Bill 547, Chatham TDR. A PCS was adopted on the motion of Senator Queen. and Senator Soles offered an amendment which was adopted. Barbara Riley, committee staff explained the bill. With time coming to a close, it was decided hear the bill at a later date.

The meeting adjourned at

Senator Jones, Presiding

Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 547
PROPOSED COMMITTEE SUBSTITUTE S547-CSRF-70 [v.7]

7/15/2009 10:10:57 PM

Short Title: Chatham TDR. (Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TRANSFER OF DEVELOPMENT RIGHTS BY CHATHAM COUNTY AND MUNICIPALITIES LOCATED IN THAT COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Short Title. This act shall be known and may be cited as the "Chatham County Transfer of Development Rights Act."

SECTION 2. Findings and Declarations. (a) The General Assembly finds and declares that:

(1) Chatham County is faced with the challenge of accommodating vital growth while maintaining its environmental integrity, and strengthening and preserving the natural resources, agriculture, open space, forestland, and cultural heritage of the county.

(2) The responsibility for meeting this challenge falls most heavily upon local government to appropriately shape the land-use patterns so that growth and preservation become compatible goals.

(3) Until now municipalities in most areas of the State have lacked effective and equitable means by which potential development may be transferred from areas where preservation is most appropriate to areas where growth can be better accommodated and maximized.

(4) The tools necessary to meet the challenge of balanced growth in an equitable manner in Chatham County must be made available to local government as the architects of Chatham County's future.

(b) The General Assembly therefore determines that it is in the public interest to authorize Chatham County and municipalities located in that county to establish and implement transfer of development rights programs.

SECTION 3. Definitions. As used in this act:

(1) "Development rights" means the development that would be allowed on the sending property under any comprehensive or specific plan or local zoning ordinance of a municipality or county in effect on the date the municipality or county adopts an ordinance pursuant to this chapter. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation, or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this act.

(2) "Development rights transfer bank" refers to a bank established pursuant to this act responsible for authorizing, overseeing, and evaluating development transfers.

(3) "Municipality" means any city, town, or village, located wholly or partly within Chatham County, that exercises planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

(4) "Person" means any natural person, corporation, partnership, trust, foundation, nonprofit agency, or other legal entity.

(5) "Receiving area" means an area identified by an ordinance as an area authorized to receive development rights transferred from a sending area..

(6) "Receiving property" means a lot or parcel within which development rights are increased pursuant to a transfer of development rights. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property without substantial adverse environmental, economic, or social impact to the receiving property or to neighboring property.

(7) "Sending area" means an area identified by an ordinance as an area from which development rights are authorized to be transferred to a receiving area.

(8) "Sending property" means a lot or parcel with special characteristics, including farm land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands; groundwater recharge areas; recreation areas or parkland, including golf course areas; or land that has unique aesthetic, architectural, or historic value that a municipality or county desires to protect from future development.

(9) "Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.

(10) "Transfer ratio" means the ratio of the number of development rights that may be allocated to and transferred from a lot or parcel in a sending area to the number of development credits that may be allocated to and used upon a lot or parcel in a receiving area.

SECTION 4. Transfer of Development Rights Ordinances.

(a) In order to conserve and promote the public health, safety, and general welfare, the governing body of any municipality or county may adopt ordinances, pursuant to the provisions of this act, establishing procedures, methods, and standards for the transfer of development rights within its jurisdiction. The governing bodies of two or more municipalities, or a county and one or more municipalities, that fulfill the criteria set forth in Section 5 of this act may, by substantially similar ordinances, provide for a joint program for the transfer of development potential, including transfers from sending zones in one municipality or county to receiving zones in the other, regardless of whether or not those municipalities are situated within the same county. Any such program shall be carried out by the planning board or boards. A program may include the designation of one or more sending or receiving areas.

(b) An ordinance providing for the transfer of development rights shall include provisions for:

(1) The issuance and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property. These instruments shall be executed by the affected property owners and lienholders and recorded in the county superior court clerk's office and in a separate registry maintained by the municipal or county governing authority;

(2) The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner;

(3) The severance of transferable development rights from the sending property and the delayed transfer of development rights to a receiving property, which may include the transfer of development rights in accordance with any

transfer ratio established by the local government for sending areas, receiving areas, or both;

(4) The purchase, sale, exchange, or other conveyance of transferable development rights prior to the rights being affixed to a receiving property;

(5) A system for monitoring the severance, ownership, assignment, and transfer of transferable development rights;

(6) The right of a municipality or county to purchase development rights and to hold them for conservation purposes or resale;

(7) The right of a person to purchase development rights and to hold them for conservation purposes or resale;

(8) A map or other description of areas designated as sending and receiving areas for the transfer of development rights between properties; and

(9) Any other provisions the municipality or county deems necessary to aid in the implementation of the provisions of this act.

(c) Development rights made transferable pursuant to this act shall be interests in real property and shall be considered as such for purposes of conveyancing and taxation. Once a deed of transferable development rights created pursuant to this act has been sold, conveyed, or otherwise transferred by the owner of the parcel from which the development rights were derived, the transfer of development rights shall vest in the grantee and become freely alienable. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property and the property as a whole shall be taxed at its present use value until the transferable development right is registered as a distinct interest in real property with the appropriate tax assessor or the transferable development right is used at a receiving property and becomes appurtenant thereto.

(d) Proposed transfers of development rights shall become effective upon the recording of the conveyance with the register of deeds and the filing of a certified copy of the recording with the local governing authority of each political subdivision in which a sending or receiving area is located in whole or in part.

SECTION 5. Criteria for Adopting Development Rights Transfer Plan.

(a) Prior to the adoption or amendment of any development rights transfer ordinance, a county or municipality shall:

(1) Adopt a development rights transfer plan element of its comprehensive plan that at minimum includes:

a. An estimate from the State Office of Budget and Management Data Center of the anticipated population and economic growth in the municipality for the succeeding 10 years.

b. The identification and description of all prospective sending and receiving areas.

c. An analysis of how the anticipated population growth is to be accommodated within the county or municipality in general, and the receiving area or areas in particular.

d. An estimate of existing and proposed infrastructure of the proposed receiving area.

e. A presentation of the procedure and method for issuing the instruments necessary to convey the development potential from the sending area to the receiving area.

f. Explicit planning objectives and design standards to govern the review of applications for development in the receiving zone in order to facilitate their review by the approving authority.

(2) Adopt a capital improvement program for the receiving area, which includes the location and cost of all infrastructure and a method of cost sharing if any portion of the cost is to be assessed against developers.

(3) Adopt a utility service plan element of the comprehensive plan that specifically addresses providing necessary utility services within any designated receiving zone within a specified time period so that no development seeking to utilize development potential transfer is unreasonably delayed because utility services are not available.

(4) Prepare a real estate market analysis that examines the relationship between the development rights anticipated to be generated in the sending areas and the capacity of designated receiving areas to accommodate the necessary development. The analysis should address the current and future land market and include a thorough consideration of the extent of development projected for the receiving zone, and the likelihood of its achievement, given current and projected market conditions in order to assure that the designated receiving area has the capacity to accommodate the development rights anticipated to be generated in the sending area.

(b) Prior to adoption of a development rights transfer ordinance or of any amendment of an existing development rights transfer ordinance, the county or municipality shall submit a copy of the proposed ordinance, copies of the development rights transfer and utility service plan elements of the county or municipal comprehensive plan or plans, as appropriate, and capital improvement program, proposed county or municipal comprehensive plan changes necessary for the enactment of the development transfer ordinance, and the real estate market analysis to the municipal and county planning board, as appropriate, for review and recommendation. If the ordinance and comprehensive plan changes involve agricultural land, then the county agriculture development board shall also be furnished the same information that was provided to the county planning board for its review and recommendation.

(c) Upon receiving the proposed development transfer ordinance and accompanying documentation, the county or municipal planning board shall conduct a review of the proposed ordinance with regard to the following criteria:

(1) Consistency with the adopted comprehensive plan of the county or municipality.

(2) Support of county and municipal objectives for agricultural land preservation, natural resource management and protection, historic or architectural conservation, or the preservation of other public values.

(3) Consistency with reasonable population and economic forecasts for the county or municipality.

(4) Sufficiency of the receiving areas to accommodate the development potential that may be transferred from sending areas and a reasonable assurance of marketability of any instruments of transfer that may be created.

(d) Within 60 days of receiving a proposed development rights transfer ordinance and accompanying documentation the county or municipal planning board, or both as appropriate, shall submit to the county or municipality formal comments detailing its review and shall either recommend or not recommend enactment of the proposed development transfer ordinance. If enactment of the proposed ordinance is recommended, the county or municipality may proceed with adoption of the ordinance. Failure to submit recommendations within the 60-day period shall constitute recommendation of the ordinance. If the county or municipal planning board does not recommend enactment, the reasons shall be clearly stated in the formal comments.

SECTION 6. County and Municipal Transfer of Development Rights Banks.

(a) The governing body of any municipality that has adopted a development rights transfer ordinance, or the governing body of any county that has adopted a development rights transfer ordinance, may provide for the purchase, sale, or exchange of development rights that are available for transfer from a sending area by the establishment of a development rights transfer bank. Alternatively, the governing body of any municipality, which has adopted a development rights transfer ordinance and has not established a municipal development transfer bank, may utilize a county development transfer bank for these purposes, provided that the county in which the municipality is situated has established such a bank.

(b) Any development rights transfer bank established by a municipality or a county shall be governed by a board of directors comprising five members appointed by the governing body of the municipality or the county, as the case may be. The members shall have expertise in either banking, law, land-use planning, natural resource protection, historic site preservation, or agriculture. No current member of the governing board of the municipality or the county that established the development transfer bank may serve on the board of directors of that bank. For the purposes of this act, a purchase by the bank shall be considered an acquisition of lands for public purposes.

(c) The powers of local and county transfer of development rights banks are as follows:

(1) A development rights transfer bank may purchase property in a sending area if adequate funds have been provided for these purposes and the person from whom the development rights are to be purchased demonstrates possession of marketable title to the property, is legally empowered to restrict the use of the property in conformance with this act, and certifies that the property is not otherwise encumbered or transferred.

(2) The development rights transfer bank may, for the purposes of its own development rights transactions, establish a county or municipal average of the value of the development rights of all property in a sending area of a municipality within its jurisdiction, which value shall generally reflect market value prior to the effective date of the development rights transfer ordinance. The establishment of this county or municipal average shall not prohibit the purchase of development rights for any price by private sale or transfer, but shall be used only when the development rights transfer bank itself is purchasing the development rights of property in the sending area. Several average values in any sending area may be established for greater accuracy of valuation.

(3) The development rights transfer bank may sell, exchange, or otherwise convey the development rights of property that it has purchased or otherwise acquired pursuant to the provisions of this act, but only in a manner that does not substantially impair the private sale or transfer of development rights.

(4) A development rights transfer bank may apply for funds for the purchase of development rights under the provisions of any act providing funds for the purpose of acquiring and developing land for recreation and conservation purposes consistent with the provisions and conditions of those acts.

(5) A development rights transfer bank may apply for matching funds for the purchase of development rights under the provisions of any applicable State law for the purpose of farmland preservation and agricultural development consistent with the provisions and conditions of that law.

(d) A county or municipality shall not use local tax receipts to fund the establishment or operation, including the purchase of development rights, of a development rights transfer bank.

SECTION 7. This act applies to Chatham County only, to municipalities located wholly in that county, and in the case of a municipality located partly within Chatham County, to the part within Chatham County.

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

SENATE BILL 547: Chatham TDR

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Finance	**Date:**	July 15, 2009
Introduced by:	Sen. Atwater	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to First Edition S547-CSRF-70		

SUMMARY: Senate Bill 547:

(1) Authorizes Chatham County and the municipalities located in the County, to adopt ordinances establishing a transfer of development rights (TDR) program.

(2) Sets out the provisions that must be included in any TDR ordinance adopted.

(3) Establishes criteria that must be met before the County or a municipality may adopt a TDR ordinance.

(4) Authorizes the establishment of TDR banks. TDR banks established by the County or a municipality may not use local tax receipts to establish or operate the bank.

CURRENT LAW: Transfer of Development Rights (TDR) programs have been developed as a tool to assist local governments in planning for development and in protecting farmland, open space, and other areas of public value from extensive development. A TDR program generally allows the purchase of development rights from property located in a designated "sending area" and transfer of those development rights to property located in an area which allows greater development density, designated a "receiving area".

North Carolina does not have statewide enabling legislation for local TDR programs. Article 3B of Chapter 136 of the General Statutes, however, authorizes counties and cities in their zoning and subdivision ordinances to provide for the transfer of "severable development rights" from property dedicated as street or highway right-of-way to property located in receiving districts. G.S. 136-66.10 and 136-66.11.

BILL ANALYSIS: Section 1 of the bill provides that the act may be cited as the "Chatham County Transfer of Development Act".

▶ Section 2 of the bill contains findings supporting Chatham County's need to establish a TDR program to direct and balance growth and natural resources/farmland in the County.

▶ Section 3 provides definitions of terms used in the bill. "*Development rights*" are defined in part as the development that would be allowed on a property in a sending area under a local zoning ordinance in effect at the time a TDR ordinance is adopted. "*Municipality*" means any city, town, or village, located wholly or in part in Chatham County that exercises planning jurisdiction under Article 19 of Chapter 160A. A "*transfer of development rights*" is the process whereby development rights from a sending property are affixed to receiving area property.

▶ Section 4 of the bill authorizes Chatham County and its municipalities to adopt TDR ordinances. It also allows the governing body of one or more municipalities and the County, or two or more municipalities to provide for a joint TDR program TDR programs are to be carried out by the local planning boards.

Section 4 also provides for the contents of a TDR ordinance. Such an ordinance must contain provisions for:

- The issuance, execution, and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property.
- The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and the landowner's successors in interest.
- The severance of TDR's from the sending property and the delayed transfer of development rights to a receiving property.
- The conveyance of TDR's prior to the rights being affixed to a receiving property;
- A system for monitoring the severance, ownership, assignment, and transfer of TDR's.
- The right of a municipality or county to purchase and hold TDR's for conservation purposes or resale;
- The right of a person to purchase and hold TDR's for conservation purposes or resale;
- A map or other description of designated receiving and sending areas.
- Other provisions deemed necessary to implement the act.

In addition to setting out the contents of a TDR ordinance, Section 4 also provides that TDR's are interests in real property and will be treated as such for the purposes of conveyances and taxation. For the purposes of property taxes, the value of a TDR is considered a part of the property and the property as a whole is to be taxed at its present use value until the TDR is registered as a distinct interest in real property with the tax assessor or is used at a receiving property. TDR's become effective upon recordation with the register of deeds and filing a certified copy of the recording with the local governing authority in which sending or receiving areas are located.

▶Section 5 of the bill establishes the criteria that must be met prior to adopting a TDR ordinance. The county or a municipality must:

- Adopt a development rights transfer plan element of its comprehensive plan.
- Adopt a capital improvements plan for the receiving area, including the location and cost of all infrastructure and method of cost sharing if a portion of the cost is to be assessed against developers.
- Adopt a utility service plan element of the comprehensive plan that addresses providing services in a timely fashion so those seeking to transfer development rights will not be unreasonably delayed because utility services are unavailable.
- Prepare a real estate market analysis that considers the TDR's that may be generated in the sending areas and the capacity of designated receiving areas to accommodate the increased development.
- Submit copies of the proposed ordinance, development transfer plan, capital improvements plan, utility service plan, the real estate market analysis, and proposed changes to the county or municipal comprehensive plan necessary for the enactment of a TDR ordinance to the planning board and county agriculture development board for review and recommendation.

The planning board shall review the proposed TDR ordinance and supporting documentation within 60 days of its submission. The review is to consider consistency with the adopted comprehensive plan, support of local objectives for farmland preservation and natural resource management and other public

values, consistency with population and economic growth forecasts, the adequacy of the receiving areas to accommodate transferable development rights, and the marketability of TDR transfer instruments. After review, the planning board may either recommend or not recommend enactment of the proposed ordnance. Failure to submit a recommendation within 60 days constitutes approval.

► Section 6 of the bill authorizes the establishment of TDR banks by a county or municipality that has adopted a TDR ordinance. TDR banks shall be governed by a 5 member board of directors appointed by the local governing body. An active county commissioner or city council member may not serve on the board of directors. Purchases of development rights by the bank are to be considered an acquisition of lands for public purposes.

A TDR bank may

- Purchase property in a sending area if adequate funds are available.
- Establish an average value of the development rights in a sending area for purposes of its own development rights transactions. The establishment of an average price shall not prohibit the purchase or sale at any price by private sale.
- Convey development rights it has purchased, but only in a manner that does not substantially impair the private sale or transfer of development rights.
- Apply for funds, including matching funds under State farmland preservation laws, for the purchase of development rights.

Local tax receipts shall not be used to fund the establishment or operation, including the purchase of development rights, of a TDR bank.

► Section 7 makes the act applicable only to Chatham County and the municipalities located therein, and in the case of a municipality located partly within the County (ie Cary), only to the part located in Chatham County.

EFFECTIVE DATE: The act is effective when it becomes law.

S547-SMRF-151(CSRF-70) v2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 547

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

S547-ARF-11 [v.1]

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

Date _____,2009

Senator _____

moves to amend the bill on page 5, lines 48 and 49 by adding a new subsection to read:

"(e) Before a county or municipality adopts or amends a transfer of development rights ordinance, the county or municipality shall hold a public hearing on the proposed ordinance in conformance with the provisions of G.S. 160A-364."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 563
PROPOSED COMMITTEE SUBSTITUTE S563-PCS55480-RCf-53

Short Title: Pyrotechnics Safety Permitting Act. (Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO IMPROVE PYROTECHNICS SAFETY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-410 reads as rewritten:

"**§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; permit required; sale to persons under the age of 16 prohibited.**

(a) ~~It~~ Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, ~~use~~ use, handle, exhibit, or ~~cause to be discharged~~discharge any pyrotechnics of any description whatsoever within the State of North ~~Carolina: provided, however, that it~~Carolina.

(a1) It shall be permissible for pyrotechnics to be transported, exhibited, ~~used~~ used, handled, or discharged ~~at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts~~ within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who transport, exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training required under G.S. 58-82A-2(a) and are under the direct supervision and control of a display operator who holds a display operator permit issued by the State Fire Marshal under G.S. 14-410.1. The display operator must be present at the concert or public exhibition and must personally direct all aspects of transporting, exhibiting, using, handling, or discharging the pyrotechnics.

(3) The display operator has ~~who have previously~~ secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which said pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not ~~required, however,~~ required under this subdivision for a concert or public exhibition ~~authorized by~~provided the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under

G.S. 14-413, and pyrotechnics are exhibited ~~conducted~~ on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at ~~Chapel Hill, but such exhibition, use, or discharge of pyrotechnics shall be under supervision of experts who have previously secured written authority from The University of North Carolina or the University of North Carolina at~~ Chapel Hill.

(a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

(a3) The requirements of this section apply to G.S. 14-413(b) and ~~G.S. 14-413(c) apply to this section~~ G.S. 14-413(c).

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.

(c) As used in this Article, the following terms mean:

(1) Concert or public exhibition. – Includes fairs, carnivals, shows of all descriptions, and public celebrations.

(2) Display operator. – An individual issued a display operator permit under G.S. 14-410.1.

(3) State Fire Marshall. – As defined in G.S. 58-80-1."

SECTION 2. Article 54 of Chapter 14 of the General Statutes is amended by adding the following section to read:

"**§ 14-410.1. Pyrotechnics display operator permit.**

(a) The State Fire Marshal may issue a display operator permit to an individual to transport, exhibit, use, handle, or discharge pyrotechnics under G.S. 14-410 if all of the following apply:

(1) The individual is at least 21 years of age.

(2) On at least three occasions, the individual assisted with the exhibition, use, or display of pyrotechnics authorized under G.S. 14-413.

(3) The individual successfully completes the minimum training requirements established under G.S. 58-82A-2(a).

(4) The individual successfully passes an examination approved by the State Fire Marshall that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class 1.3g and 1.4g pyrotechnics or otherwise provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.

(5) The individual pays the fee required under G.S. 58-82A-2(b).

(b) The State Fire Marshal may also issue a display operator permit to an individual who holds a permit or certification issued by another state provided the minimum requirements of that state are at least equal to the minimum requirements under this section and the person pays the fee required under G.S. 58-82A-2(b).

(c) A permit issued under this section shall be valid for two years unless revoked by the State Fire Marshal.

(d) The State Fire Marshal may refuse to issue a permit or may revoke a permit issued under this section if any of the following apply:

(1) The display operator violates any provision of this Article.

(2) The display operator violates any requirement of a permit issued under G.S. 14-413.

(3) The display operator fails to provide direct supervision and control over individuals who assist the permit operator transport, handle, use, exhibit, or display pyrotechnics.

(4) The display operator is convicted of a crime under G.S. 14-415.

(5) Another state revokes the permit or certification issued to that display operator by that state."

SECTION 3. G.S. 14-413 is amended by adding a new subsection to read:

"(d) A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars ($500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements."

SECTION 4. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 82A.

"Pyrotechnics Training and Permitting.

"**§ 58-82A-1. Authority of State Fire Marshal to develop training standards and issue permits for handling pyrotechnics.**

The State Fire Marshal, in consultation with the State Fire and Rescue Commission and others in the discretion of the State Fire Marshal, shall establish mandatory minimum guidelines, testing, and training requirements for (i) individuals who transport, exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes and (ii) individuals seeking to obtain a display operator permit under G.S. 14-410.1.

"**§ 58-82A-2. Training; testing; fees.**

(a) Prior to transporting, using, handling, exhibiting, or discharging pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes, an individual must:

(1) Successfully complete the training approved or offered by the Commissioner of Insurance through the Office of State Fire Marshal; or

(2) Be a current active member in good standing with any local fire or rescue department, with experience in pyrotechnics or explosives, as verified by the State Fire Marshal, and possess at least the qualifications provided in G.S. 58-78-5(a)(14b) and any higher qualifications, if any, in the jurisdiction where permitting is being sought and as otherwise required by the State Fire Marshal.

(b) The State Fire Marshal shall approve an examination to be taken by individuals seeking a display operator permit. The individual taking the examination shall pay the cost of the examination. The State Fire Marshall shall charge a fee, not to exceed one hundred dollars ($100.00), for the issuance of a display operator permit authorized under G.S. 14-410.1.

(c) The Commissioner shall adopt rules to implement this Article and the provisions of G.S. 14-410.1."

SECTION 5. Notwithstanding G.S. 58-82A-2(b), as enacted in Section 4 of this act, effective until July 1, 2011, the Commissioner may issue a display operator permit to individuals who meet the qualifications provided in G.S. 14-410.1 and shall waive the fee required under G.S. 58-82A-2(b).

SECTION 6. The Commissioner of Insurance shall report to the General Assembly by May 1, 2010, on the implementation of this act and may make recommendations regarding additional statutory changes and the need for additional personnel or other resources to implement the act.

SECTION 7. This act becomes effective January 2, 2010, and applies to offenses committed on or after that date.

SENATE BILL 563:
Pyrotechnics Safety Permitting Act

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 15, 2009
Introduced by:	Sen. Davis	**Prepared by:**	William R. Gilkeson Committee Counsel and Kory Goldsmith Staff Attorney
Analysis of:	PCS to First Edition S563-CSRCf-53		

SUMMARY: ***This PCS for Senate Bill 563 would require that, when pyrotechnics are used at concerts and public displays, they are used under the supervision of a display operator who has a permit issued by the State Fire Marshal. It requires that individuals supervised by a display operator receive training developed by the State Fire Marshal. It also sets minimum insurance requirements that are verified at the local level. The bill becomes effect January 2, 2010, and applies to offenses committed on or after that date.***

CURRENT LAW: Current law generally prohibits the manufacture, transportation (except by a common carrier), sale, or use of pyrotechnics, except in connection with approved concerts and public displays. The law requires only that approved public displays of pyrotechnics be under the supervision of experts who have previously been issued permits by cities and counties to discharge pyrotechnics. Pursuant to G.S. 58-80-1, the Commissioner of Insurance is the State Fire Marshal.

BILL ANALYSIS:

"Display Operator" Must Supervise. Section 1 of the bill would amend G.S. 14-410 to provide that pyrotechnics may be transported, exhibited, used, handled, or discharged in connection with an approved concert or public display only if all those acts are done under the personal supervision of a "display operator" who has a permit from the State Fire Marshal. Individuals supervised by the display operator would be required to obtain training or be a current active member in good standing with any local fire or rescue department with experience in pyrotechnics or explosives. The county commissioners or city council would still have to authorize the specific exhibition.

State Permit. Section 2 of the bill adds a new G.S. 14-410.1, providing for the issuance of display-operator permits by the State Fire Marshal. It provides that the permittee must be 21, must have assisted with authorized displays at least 3 times, must have completed minimum training, must have passed an approved examination, and must have paid a fee. There is a reciprocity provision allowing the State Fire Marshal to issue a permit based on the applicant holding a permit in another state. The permit would be valid for 2 years. The Fire Marshal could deny or revoke a permit for certain violations.

Insurance Requirements. Section 3 of the bill amends G.S. 14-413 to provide that the county commissioners or city council shall not issue a permit unless the display operator provides proof of insurance of $500,000, or the minimum required under the State Building Code, whichever is greater. The city or county may set a greater insurance requirement.

Authority of Fire Marshal. Section 4 of the bill adds a new Article in Chapter 58 (Insurance) requiring the State Fire Marshal to set minimum training requirements for individuals who will be supervised by a display operator and testing standards for display operators. It also authorizes the Commissioner to set a fee not to exceed $100 for a permit. Section 5 of the bill provides that the Commissioner of Insurance shall not charge a fee for display operator permits issued prior to July 1, 2011.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, July 22, 2009

Senator JONES,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **563** Regulation of Golf Carts by Local Governments.

Draft Number:	PCS55482
Sequential Referral:	None
Recommended Referral:	Finance
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 16, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID THOMPSON	NCACC
Patrice Roesler	NCACC
Doug Nicholas	Triangle Land Conservancy
Leigh Ann Cienek	Triangle Land Conservancy
Randy Voller	Mayor of Pittsboro
Edgar Miller	CNC
R. Paul Wiggs	WGR
Jessi Hayes	NCHBA
Joy Hicks	NCDA&CS
Ray Starling	NCDA & CS
Joe McClees	McClees Consulting

VISITOR REGISTRATION SHEET

Senate State & Local Government — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Wiles	NCDOI/OSFM
Rob Roegner	NCDOT/OSFM
Wayne Goodwin	Insurance Commissioner of NC
Rick Zechini	NC Assoc. of Realtors
Stephen Wilkes	NCDOI
Rose Williams	NCDOT
Penny Huffman	School of Gov
Tom Cors	TNC

Senate State and Local Government Committee
Tuesday, July 28, 2009, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 109	Huntersville/Public Nuisance Ordinance.	Representative Tillis
HB 921	Lenoir/Johnston Taking of Foxes.	Representative Braxton

Presentations

Other Business

Adjournment

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, July 28, 2009 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on July 28, 2009, in Room 1124 of the Legislative Building. Six members of the committee were present. Senator Don East presided.

Senator East called the meting to order and introduced the pages.

House Bill 109, Huntersville/Public Nuisance Ordinance, was the first bill before the committee. Senator Apodaca moved to accept the PCS for the bill and Representative Langdon explained the bill. Senator Soles made a motion to give the bill a Favorable Report, Unfavorable to the original bill but Favorable to Senate Committee Bill. The bill carried. Next on the agenda was House Bill (CS #1) 921, Lenoir/Johnston Taking of Foxes. Senator Davis moved to wave the 24 hour rule and Representative Williams explained the bill to the committee. Senator Apodaca made a motion to accept a PCS and Senator Davis moved to give the bill a Favorable Report, Unfavorable to Committee Substitute Bill No.1, But Favorable to Senate Committee Substitute Bill. The bill carried and was referred to the Senate Committee on Finance.

The meeting adjourned at 12:15 pm.

Don East
Senator East Presiding

Anne Misenheimer
Anne Misenheimer, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 109
PROPOSED SENATE COMMITTEE SUBSTITUTE H109-CSRK-91 [v.3]

7/27/2009 2:22:51 PM

Short Title: Conveyance to Town of Roseboro/Authorize. (Local)

Sponsors:

Referred to:

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ARNOLD SANDY TO CONVEY CERTAIN LANDS TO THE TOWN OF ROSEBORO.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 14-234, or any other like or similar law prohibiting such contract or agreement or making such action a crime, Arnold Sandy may convey to the Town of Roseboro up to and including three acres of property owned by him, which is included as part of the property described as 27.69 acres along State Road 1300, Old Salemburg Road in that certain deed, dated March 18, 2005, and recorded in Book 1578, Page 667, and in plat recorded in Map Book 38, Page 06, Parcel Identification Number 08-1003321-04, in the Office of the Register of Deeds of Sampson County.

SECTION 2. This act is effective when it becomes law, and shall expire on July 31, 2010.

HOUSE BILL 109:
Huntersville/Public Nuisance Ordinance

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 27, 2009
Introduced by:	Rep. Tillis	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	PCS to First Edition H109-CSRK-91		

SUMMARY: ***This proposed committee substitute authorizes the sale of up to three acres of land by a council member to the Town of Roseboro. State laws preclude an elected local official from benefiting from public contracts, unless otherwise authorized by law. A similar provision was passed in the 2007 General Session for the Town of Salemburg.***

EFFECTIVE DATE: This act is effective when it becomes law, and expires on July 31, 2010.

H109-SMRK-184(CSRK-91) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 921
Committee Substitute Favorable 5/11/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H921-CSRFf-77 [v.1]

7/28/2009 9:49:33 AM

Short Title: Washington Deannexation/Dare Trapping. (Local)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRAPPING LAWS IN DARE COUNTY AND TO REMOVE THE WARREN FIELD AIRPORT FROM THE CORPORATE LIMITS OF THE CITY OF WASHINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1985-178 reads as rewritten:

"Section 1. It is unlawful to take by trapping any game or furbearing animal ~~between March 1 and either January 2 or the last day of deer hunting season, whichever is later,~~ except as provided by the rules of the Wildlife Resources Commission. ~~Notwithstanding the foregoing,~~ it shall be unlawful to take by trapping any game or furbearing animal by the use of any trap that has a jaw spread that exceeds seven and one-half inches until after January 2nd of each year or the last day of deer hunting season, whichever is later. ~~."~~

SECTION 2. The following area is removed from the corporate limits of the City of Washington:

Lying and being in the City of Washington, County of Beaufort, State of North Carolina and more particularly described as follows:

BEGINNING at NCGS-WASHPORT AZ MK NAD 83/86 State Plane Coordinates N-66678.6735 and E-2581094.0922; thence North 88° 27' 20" West 2,169.43 feet to a point, thence South 87° 47' 26" West 232.00 feet to a point, thence North 86° 45' 37" West 396.88 feet to a point, thence South 06° 25' 39" West 146.05 feet to a point, thence South 20° 38' 12" West 206.54 feet to a point, thence South 80° 34' 29" West 414.02 feet to a point, thence North 83° 01' 13" West 550.40 feet to a point, thence North 15° 09' 39" East 99.87 feet to a point, thence North 30° 09' 34" East 169.20 feet to a point, thence North 65° 06' 40" West 95.19 feet to a point, thence North 01° 18' 57" East 636.11 feet to a point, thence South 88° 47' 08" East 373.58 feet to a point, thence North 35° 56' 18" East 1,228.56 feet to a point, thence North 87° 42' 16" East 120.87 feet to a point, thence North 08° 54' 16" East 229.80 feet to a point, thence North 35° 56' 04" East 796.77 feet to a point, thence North 07° 11' 33" East 1,382.66 feet to a point, said point being indicated by N-670565.5558 and E-2579184.4733, thence North 26° 25' 38" West 695.17 feet to a point, thence North 63° 16' 57 East 371.37 feet to a point, thence South 81° 05' 02" East 387.89 feet to a point, thence South 87° 45' 37" East 1,114.31 feet to a point, thence North 04° 03' 51" East 34.86 feet to a point, thence South 82° 03' 22" East 64.20 feet to a point, thence South 77° 19' 54" East 49.81 feet to a point, thence South 73° 50' 35" East 126.92 feet to a point, thence South 67° 15' 29" East 110.35 feet to a point, thence South 57° 05' 04" East 163.06 feet to a point, thence South 48° 01' 54" East 131.17 feet to a point,

thence South 33° 48' 37" West 197.95 feet to a point, thence South 03° 39' 47" West 344.73 feet to a point, thence South 35° 37' 45" West 809.28 feet to a point, thence South 33° 46' 12" East 95.41 feet to a point, thence South 05° 03' 42" East 76.93 feet to a point, thence South 27° 25' 05" East 101.72 feet to a point, thence South 85° 04' 40" East 115.15 feet to a point, thence South 29° 08' 49" East 213.80 feet to a point, thence South 66° 30' 50" East 54.72 feet to a point, thence South 29° 03' 37" East 215.06 feet to a point, thence South 49° 45' 04" East 163.01 feet to a point, thence South 41° 57' 43" East 226.76 feet to a point, thence South 35° 37' 48" East 109.45 feet to a point, thence South 14° 32' 12" East 116.32 feet to a point, said point being indicated by N-668717.6694 and E-2581521.7757, thence South 53° 13' 30" West 64.94 feet to a point, thence North 85° 32' 49" West 24.03 feet to a point, thence South 48° 12' 55" West 163.24 feet to a point, thence South 27° 55' 18" East 131.07 feet to a point, thence South 26° 35' 04" East 220.74 feet to a point, thence North 63° 37' 38" East 116.64 feet to a point, thence South 47° 57' 16" East 295.08 feet to a point, thence South 49° 51' 07" West 2.25 feet to a point, thence North 35° 17' 53" West 3.86 feet to a point, thence South 67° 05' 44" West 131.14 feet to a point, thence South 27° 03' 31" East 1,036.94 feet to a point, thence South 87° 30' 41" East 288.92 feet to a point, thence South 55° 10' 39" East 44.75 feet to a point, thence South 19° 42' 31" East 48.15 feet to a point, thence South 00° 55' 13" West 414.62 feet to a point, thence South 19° 21' 41" West 223.92 feet to a point, thence North 63° 47' 08" West 56.33 feet to a point, thence South 84° 10' 28" West 59.63 feet to a point, thence South 35° 46' 30" West 128.65 feet to a point, thence South 66° 12' 53" West 943.32 feet to a point, thence North 20° 56' 38" West 764.33 feet to a point, said point indicated by N-666678.6735 and E-2581094.0922, the point and place of beginning and being the same property shown on that certain survey by Burgess Land Surveying, P.A., dated July 22, 2009. Reference is herein made to said survey, and the same is incorporated for a more complete and adequate description.

SECTION 3. Section 2 of this act becomes effective January 1, 2010, but shall not affect the duty to pay taxes for any prior year and does not eliminate any liens for taxes for prior years. The remainder of this act becomes effective October 1, 2009.

HOUSE BILL 921:
Washington Deannexation/Dare Trapping

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 28, 2009
Introduced by:	Rep. Braxton	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	PCS to Second Edition H921-CSRFf-77		

SUMMARY: ***The proposed committee substitute for House Bill 921:***

- ***Amends the local trapping law for Dare County and sets the season as that established by the Wildlife Resources Commission. Section 1 also provides that traps used before January 2 of each year or the end of the deer hunting season, whichever is later, shall not exceed 71/2 inches.***
- ***Removes the Warren Field airport from the corporate limits of the City of Washington.***

Section 2 deannexing the airport becomes effective January 1, 2010 but does not affect the duty to pay taxes for any prior year or eliminate any tax liens. The remainder of the act becomes effective October 1, 2009./

H921-SMRF-155(CSRFf-77) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, July 28, 2009

Senator EAST,
submits the following with recommendations as to passage:

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

H.B.(CS #1) **921** Lenoir/Johnston Taking of Foxes.

Draft Number:	PCS30438
Sequential Referral:	None
Recommended Referral:	Finance
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:
Senator Handling on Senate Floor:
Senator Swindell

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Thursday, July 30, 2009

Senator EAST,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **109** Huntersville/Public Nuisance Ordinance.

Draft Number:	PCS70475
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comments:
Senator Handling Bill on Senate Floor:
Senator Albertson

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Martin	NC Home Builders
R. Paul Wilms	CVGR
Chris Dillon	Pro Tem
L. Andrews	NCFB
Gordon Myers	NCWRC
SARAH CLAPP	NCWRC
Joe McClees	McClees Consulting
Penny Griffin	School of Gov.
Jessi Hayes	NC HBA
Frank Warner	Olde South Homes
David Auburn	Electric Cities

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia Dow	MWC
Jerry Cotter	Bill Drafting

ATTENDANCE

Committee: State and Local Government 2009

NAMES \ DATES	3-3	3-10	3-17	3-24	3-31	4-14	4-21	4-28	5-5	5-12	5-19	5-26	6-2	6-9	6-23	6-30
Sen. Don East, Co-Chair	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sen. Jones, Co-Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sen. Katie Dorsett, Vice Chair	✓	✓	✓	✓			✓		✓	✓	✓	✓	✓	✓		✓
Sen. Charley Albertson	✓	✓	✓	✓			✓		✓	✓	✓	✓	✓	✓		✓
Sen. Tom Apodaca		✓				✓		✓	✓	✓		✓	✓	✓	✓	
Sen. Phil Berger				✓			✓				✓	✓	✓		✓	
Sen. Harris Blake	✓	✓	✓		✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
Sen. Julia Boseman	✓	✓	✓		✓	✓	✓	✓		✓		✓	✓			
Sen. Pete Brunstetter	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sen. Dan Clodfelter																
Sen. Fletcher Hartsell					✓	✓				✓	✓					
Senator Don Davis	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Sen. Floyd McKissick	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sen Vernon Malone	✓	✓		✓	✓	✓										
Sen. Joe Sam Queen				✓		✓	✓	✓	✓	✓		✓				
~~Sen Fred Smith~~																
Sen R. C. Soles		✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓
Sen. Richard Stevens	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓					
Jeb Weinstein	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
Staff																
Bill Gilkeson, Legislative Analyst	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Barbara Riley, Research Assistant	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Hal Pell, Counsel	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Irma Avent Hurst, Com. Assistant	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Anne Misenheimer, Com. Assistant	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

ATTENDANCE

Committee: State and Local Government 2009

DATES / NAMES	7-16														
Sen. Don East, Co-Chair	✓														
Sen. Jones, Co-Chair	✓														
Sen. Katie Dorsett, Vice Chair															
Sen. Charley Albertson															
Sen. Tom Apodaca	✓														
Sen. Phil Berger	✓														
Sen. Harris Blake	✓														
Sen. Julia Boseman															
Sen. Pete Brunstetter	✓														
~~Sen. Dan Clodfelter~~															
Sen. Fletcher Hartsell	✓														
Senator Don Davis	✓														
Sen. Floyd McKissick															
Sen Vernon Malone															
Sen. Joe Sam Queen	✓														
~~Sen Fred Smith~~															
Sen R. C. Soles	✓														
Sen. Richard Stevens	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Sen. Weinstein	✓														
Staff															
Bill Gilkeson, Legislative Analyst	✓														
Barbara Riley, Research Assistant	✓														
Hal Pell, Counsel	✓														
Irma Avent Hurst, Com. Assistant	✓														
Anne Misenheimer, Com. Assistant	✓														

2010 Senate

State and Local Government Committee
2009-2010 Membership

SENATOR	CLERK	ROOM	PHONE
Senator Don East, Co-Chair	Anne Misenheimer	1120 LB	3-5743
Senator Ed Jones, Co-Chair	Irma Avent-Hurst	623 LOB	5-3032
Senator Katie Dorsett, Vice Chair	Phyllis Cameron	2106 LB	5-3042
Senator Charles W. Albertson	Cindy Davis	525 LOB	3-5705
Senator Tom Apodaca	Airen Blaine	1127 LB	3-5745
Senator Phil Berger	Barbara Eldridge	1026 LB	3-5708
	Sara Clapp Cody Hand Darrell Malcolm		
Senator Harris Blake	Anna Kidd	517 LOB	3-4809
Senator Julia Boseman	Laura Holt-Kabel Chardon Groveman	309 LOB	5-2525
Senator Brunstetter	Genie Clark	522 LOB	3-7850
Senator Don Davis		526 LOB	3-5621
Senator Fletcher Hartsell	Gerry Johnson	518 LOB	3-7223
Senator Ed Jones	Irma Avent-Hurst Joseph Peele	623 LOB	3-3032
Senator Floyd McKissick	Bernie David Yerumo	621 LOB	3-4599
Senator Joe Sam Queen	Sarah Wilson	1117 LB	3-34600
Sen. R.C. Soles, Jr.	Janet Blalock Mona Fitzgerald Joan Leatherman	2022 LB	3-5963
Sen. Richard Stevens	Kleist Rhodes	406 LOB	3-5653
Senator Michael Walters	Vickie Spears	2115 LB	3-5651
Staff:			
Barbara Riley, Counsel		545 LOB	3-2578
Hal Pell, Counsel		201CC	3-2578
Bill Gilkeson Legislative Analyst		545 LOB	3-2578
Committee Assistants	Anne Misenheimer Irma Avent-Hurst	1120 LB 623 LOB	3-5743 5-3032

Anne Misenheimer

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, May 25, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on May 25, 2010, in Room 1124 of the Legislative Building. Eight members of the committee were present. Senator Ed Jones presided.

Senator Jones called the meeting to order. Senate Bill 1113, Carrboro Energy Efficiency/ Renewable, was the first bill to be heard by the Committee. Senator Kinnaid explained the bill. It was decided by the committee to roll Senate Bill 1114, Chapel Hill Energy Efficiency/ Renewable, also introduced by Senator Kinnard, into one Bill with Senate Bill 1113. Senator Stevens moved to put the bills together and a Proposed Committee Substitute was established. The Proposed Substitute carried. Senator Foriest explained his Senate Bill 1120, Burlington Economic Development. Senator Hartsell moved for a Favorable Report and the Bill carried. Senator Hartsell's Senate Bill 1146 was next on the agenda. A Technical Amendment was offered and was adopted by the Committee and Senator Mckissick moved to accept the Proposed Committee and the PCS carried. Senator Clary's Senate Bill 1238, Abolish Rutherford County Coroner received a Favorable Report from the Committee.

The meeting adjourned at 12:45 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, May 25, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1113	Carrboro Energy Efficiency/Renewable.	Senator Kinnaird
SB 1114	Chapel Hill Energy Efficiency/Renewable.	Senator Kinnaird
SB 1120	Burlington Economic Development.	Senator Foriest
SB 1146	Cabarrus Fire District Boundary Validation.	Senator Hartsell
SB 1238	Abolish Rutherford County Coroner.	Senator Clary

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1113

Short Title:	Carrboro Energy Efficiency/Renewable.	(Local)
Sponsors:	Senator Kinnaird.	
Referred to:	State and Local Government.	

May 13, 2010

A BILL TO BE ENTITLED

AN ACT EXEMPTING THE TOWN OF CARRBORO FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS FOR USE AS PART OF MUNICIPAL PILOT PROGRAMS AIMED AT INCREASING ENERGY EFFICIENCY, AND TO AUTHORIZE THE TOWN OF CARRBORO TO ENTER INTO A LEASE FOR THE SITING AND OPERATION OF A RENEWABLE ENERGY FACILITY FOR TWENTY YEARS WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-333, as rewritten by Section 1 of S.L. 2009-149, reads as rewritten:

"**SECTION 1.(a)** ~~The City of Raleigh~~ A municipality may contract for apparatus, supplies, materials, or equipment that will be used as part of any pilot program authorized by ~~the City Council~~ its governing board aimed at increasing energy efficiency without being subject to the requirements of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the ~~City~~ municipality may award a contract under this section in its sole discretion.

"**SECTION 1.(b)** This section applies to the City of Raleigh and the Town of Carrboro only."

SECTION 2. Section 3 of S.L. 2009-149 reads as rewritten:

"**SECTION 3.** Section 2 of this act applies to the ~~City~~ Cities of Raleigh and ~~the City of~~ Winston-Salem and the Town of Carrboro only."

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

SENATE BILL 1114*

Short Title:	Chapel Hill Energy Efficiency/Renewable.	(Local)
Sponsors:	Senators Kinnaird and Atwater.	
Referred to:	State and Local Government.	

May 13, 2010

A BILL TO BE ENTITLED

AN ACT EXEMPTING THE TOWN OF CHAPEL HILL FROM COMPETITIVE BIDDING REQUIREMENTS WHEN LETTING CONTRACTS FOR USE AS PART OF MUNICIPAL PILOT PROGRAMS AIMED AT INCREASING ENERGY EFFICIENCY, AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO ENTER INTO A LEASE FOR THE SITING AND OPERATION OF A RENEWABLE ENERGY FACILITY FOR TWENTY YEARS WITHOUT TREATING IT AS A SALE AND WITHOUT GIVING NOTICE BY PUBLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-333, as rewritten by Section 1 of S.L. 2009-149, reads as rewritten:

"**SECTION 1.(a)** ~~The City of Raleigh~~ A municipality may contract for apparatus, supplies, materials, or equipment that will be used as part of any pilot program authorized by ~~the City Council~~ its governing board aimed at increasing energy efficiency without being subject to the requirements of G.S. 143-129, 143-131, and 143-132. Notwithstanding any provision of law, the ~~City~~ municipality may award a contract under this section in its sole discretion.

"**SECTION 1.(b)** This section applies to the City of Raleigh and the Town of Chapel Hill only."

SECTION 2. Section 3 of S.L. 2009-149 reads as rewritten:

"**SECTION 3.** Section 2 of this act applies to the ~~City~~ Cities of Raleigh and ~~the City of~~ Winston-Salem and the Town of Chapel Hill only."

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

2009-2010 General Assembly

SENATE BILL 1113: Carrboro Energy Efficiency/Renewable
SENATE BILL 1114: Chapel Hill Energy Efficiency/Renewable

Committee:	Senate State and Local Government	**Date:**	May 20, 2010
Introduced by:	Sen. Kinnaird	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bills 1113 and 1114 would (1) exempt the Towns of Carrboro and Chapel Hill, respectively, from competitive bidding requirements for apparatus, supplies and equipment used in pilot programs aimed at improving energy efficiency, and (2) exempt the Towns from certain requirements for entering into a long term lease for a renewable energy facility.***

[As introduced, these bills are identical to H1887 and H1888, as introduced by Reps. Insko, Faison, which are currently in House Local Government II, if favorable, Energy and Energy Efficiency.]

CURRENT LAW: The competitive bidding requirements for construction contracts and contracts for the purchase of apparatus, supplies, equipment and materials are set out in G.S. 143-129, 143-131, and 143-132 of the General Statutes.

G.S. 160A-272 requires a lease in excess of ten years to be treated as sale of real property, usually requiring competitive bidding, and public notice of the decision to lease the property.

BILL ANALYSIS: The bills would

- Exempt the Town of Carrboro and the Town of Chapel Hill from the competitive bidding requirements set forth in Article 8 of Chapter 143 in contracting for apparatus, supplies, materials or equipment to be used in any Town Council approved pilot program aimed at increasing energy efficiency.
- Exempt the Town of Carrboro and the Town of Chapel Hill from the requirements of G.S. 160A-272 for the purpose of entering into a long term lease of up to 20 years for the siting of a renewable energy facility as defined in G.S. 62-133.8(a)(7). The statutory reference to "renewable energy facility" is set out below[1].

EFFECTIVE DATE: Effective when it becomes law.

BACKGROUND: The City of Raleigh was given the same exemption from the competitive bidding statutes for its pilot programs for energy efficiency in 2007. S.L. 2007-133. That exemption was made permanent in 2009. S.L. 2009-147.

Raleigh and Winston-Salem both obtained a similar exemption from G.S. 160A-272 for long term leases on the siting and operation of a renewable energy facility in S.L. 2009-149.

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[1] "Renewable energy facility" means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:
a. Generates electric power by the use of a renewable energy source.
b. Generates useful, measurable combined heat and power derived from a renewable energy source.
c. Is a solar thermal energy facility." G.S. 62-133.8 (7)

SENATE BILL 1120:
Burlington Economic Development

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 24, 2010
Introduced by:	Sen. Foriest	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1120 authorizes the City of Burlington to make appropriations and authorize economic incentives to aid and encourage residential development projects within a City municipal service district that will have a significant revitalization effect. To do so, the city may make loans and grants from public funds.***

[As introduced, this bill was identical to H1689, as introduced by Reps. Bordsen, Ingle, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: G.S. 158-7.1 authorizes local governments to make appropriations for the purposes of aiding and encouraging industrial and commercial development, and provides procedures for those expenditures.

Article 23 of Chapter 160A of the General Statutes authorizes cities to create "municipal service districts" to provide additional services in defined portions of a municipality. The services are listed in the statute, and residential development is not specifically listed.

BILL ANALYSIS: Senate Bill 1120 specifically authorizes the City of Burlington to make appropriations and authorize economic incentives to aid and encourage residential development projects within a City municipal service district that will have a significant revitalization effect, in accordance with G.S. 158-7.1. In connection with those activities, the city may make loans and grants from public funds.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry of the Research Division significantly contributed to this summary.

S1120-SMRR-185(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1120*

Short Title:	Burlington Economic Development.	(Local)
Sponsors:	Senator Foriest.	
Referred to:	State and Local Government.	

May 13, 2010

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF BURLINGTON RELATING TO RESIDENTIAL DEVELOPMENT PROJECTS IN A MUNICIPAL SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter C of Chapter III of the Charter of the City of Burlington, being Chapter 119 of the 1961 Session Laws, is amended by adding a new section to read:

"Section 3.42. Residential development projects in municipal service districts. The city council may, in accordance with G.S. 158-7.1, et seq., make appropriations and authorize economic incentives for the purposes of aiding and encouraging residential development projects within the city in a municipal service district established pursuant to Article 23 of Chapter 160A of the General Statutes which, in the discretion of the city council, is likely to have a significant effect on the economic revitalization of that district.

In connection with the foregoing, the city council may make loans and grants from public funds for revitalization projects that will have a significant revitalization effect on the city."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1146*

Short Title:	Cabarrus Fire District Boundary Validation.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	State and Local Government.	

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO VALIDATE CERTAIN CABARRUS COUNTY FIRE DISTRICT BOUNDARIES CHANGES DONE BY MOTION RATHER THAN ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 19.1 of Chapter 558 of the 1987 Session Laws, as added by S.L. 2006-1, reads as rewritten:

"**SECTION 19.1.(a)** The Board of Commissioners may, effective the first day of July after the adoption of an ordinance, change the boundaries of a fire district in Cabarrus County established by this act, if:

(1) It first holds a public hearing on that ordinance, with notice published at least 14 days before the hearing.

(2) Makes available in the office of the Clerk to the Board of Commissioners a map showing the proposed changes.

(3) No area will be in more than one fire district.

(4) No area shall be within the corporate limits of a municipality (except for any area within the corporate limits of a municipality that is already within a fire district under this act).

"**SECTION 19.1.(b)** Any action taken by motion rather than ordinance under subsection (a) of this section between May 10, 2006, and the effective date of this subsection is not invalid on account of the use of a motion, as long as the motion was reflected in the minutes of the board of commissioners."

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

SENATE BILL 1146:
Cabarrus Fire District Boundary Validation

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 24, 2010
Introduced by:	Sen. Hartsell	**Prepared by:**	Hal Pell, Committee Counsel, and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1146 would validate certain fire district boundary changes that were done by motion, rather than by ordinance.***

[As introduced, this bill was identical to H1723, as introduced by Reps. Barnhart, Johnson, which is currently in House Local Government II, if favorable, Finance.]

CURRENT LAW: Under current law, the Cabarrus County Board of Commissioners may change the boundaries of a fire district in the county if all of the following conditions are met:

- The board first holds a public hearing on the ordinance and publishes notice at least 14 days before the hearing.
- The board makes available in the office of the Clerk to the Board of Commissioners a map showing the proposed changes.
- No area will be in more than one fire district.
- No area will be within the corporate limits of a municipality (except for any area within the corporate limits of a municipality that is already within a fire district under this act).

BILL ANALYSIS: Senate Bill 1146 would validate certain fire district boundary changes that were done by motion, rather than by ordinance.

EFFECTIVE DATE: This act is effective when it becomes law.

Brad Krehely, counsel to House Local Government II, substantially contributed to this summary.

S1146-SMTH-7(e1) v3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1146*

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

S1146-ARK-48 [v.1]

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

Date _____,2010

Senator _____.

moves to amend the bill on page 1, line 8, by inserting the word "an" between the words "of" and "ordinance."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1238

Short Title:	Abolish Rutherford County Coroner.	(Local)
Sponsors:	Senator Clary.	
Referred to:	State and Local Government.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO ABOLISH THE OFFICE OF CORONER IN RUTHERFORD COUNTY AT THE END OF THE CURRENT TERM.

The General Assembly of North Carolina enacts:

SECTION 1. The office of coroner in Rutherford County is abolished.

SECTION 2. Chapter 152 of the General Statutes is not applicable to Rutherford County.

SECTION 3. This act becomes effective upon the expiration of the term of the current coroner in Rutherford County. No election shall be held in Rutherford County in 2010 for that position.

SENATE BILL 1238:
Abolish Rutherford County Coroner

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 24, 2010
Introduced by:	Sen. Clary	**Prepared by:**	Hal Pell, Committee Counsel, and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1238 abolishes the office of coroner in Rutherford County.***

CURRENT LAW: Chapter 152 of the General Statutes sets out the laws relating to coroners including election and vacancies in office, oaths, bond, fees, and duties.

BILL ANALYSIS: Senate Bill 1238 abolishes the office of coroner in Rutherford County and provides that Chapter 152 of the General Statutes is not applicable to Rutherford County.

EFFECTIVE DATE: This act becomes effective upon the expiration of the term of current coroner in Rutherford County, which is November 2010. No election shall be held in 2010 for the position of coroner.

BACKGROUND: Approximately 50 counties have abolished the office of coroner. The most recent counties to abolish the office of the coroner were Granville (2002-17), Johnston (2004-18), and Wilkes (2004-51).

S1238-SMTH-6(e1) v2

VISITOR REGISTRATION SHEET

Senate State & Local Government — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mia D. Bailey	ElectriCities of NC, Inc.
Mike Brough	Town of Carrboro
Mark McCrary	Town of Chapel Hill
Ed Harrison	Town of Chapel Hill - COUNCIL MEMBER
Ralph Karpinos	Town of Chapel Hill
Kelli Cuda	NCLM
Gardner Pate	Me

VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

May 25, 2010
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Paris	City of Salisbury
Joe Morris	City of Salisbury
Shilanka Ware	Intern
Khiry Bright	Intern
Hassan Khan	North Carolina Conservation Network
Weatherly Rose	Hunton + Williams
Daniel Rowe	Troutman Sanders
Jessica Hayes	NCHBA
Cady Thomas	NCAR
Dave Stevens	CAVC
Tommy Jones	Attorney - Raleigh

VISITOR REGISTRATION SHEET

Senate State & Local Government
Name of Committee

May 25, 2010
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
J BUSSIAN	NC Press Assn

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 1, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 1, 2010, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Don East, presided.

Senator East called the meeting to order and introduced the pages in attendance.

The first Bill to be heard was Senate Bill 1357, Expand Cabarrus County Tourism Authority. Staff Attorney Barbara Riley explained Senator Hartsell's Bill. Senator Stevens moved that the Bill receive a Favorable Report and the bill carried. The Next Bill to be heard by the Committee was Senate Bill 1362, Orange/Alamance Boundary. Senator Kinnaird explained the Bill and after some discussion, Senator Albertson moved that the Bill receive a Favorable Report and the Bill carried.

The meeting adjourned at 12:15 pm.

Senator Don East, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, June 1, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1207	New Hanover ABC Board Membership.	Senator Boseman
SB 1345	Greensboro/Relocation of Wildlife.	Senator Vaughan
SB 1357	Expand Cabarrus County Tourism Authority.	Senator Hartsell
SB 1362	Orange/Alamance Boundary.	Senator Kinnaird

Presentations

Other Business

Adjournment

S 1

SENATE BILL 1207

Short Title:	New Hanover ABC Board Membership.	(Local)
Sponsors:	Senator Boseman.	
Referred to:	State and Local Government.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE NEW HANOVER COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD MEMBERSHIP FROM THREE MEMBERS TO FIVE MEMBERS AND TO ALLOW FOR MEMBERS OF THE ABC BOARD TO SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 418 of the 1935 Session Laws reads as rewritten:

"Sec. 4. There is hereby created a County Liquor Commission to be known and designated as the New Hanover County Alcoholic Beverage Control Board. The Board shall consist of ~~three~~ five members, one of whom shall be chairman. The Board shall be appointed by the County Commissioners of New Hanover County, and ~~shall have the power to fill vacancies or remove from office any member for misconduct, incompetency or fraud.~~ will serve at their pleasure and may be removed without cause by a majority vote of the County Commissioners. The members of this Board shall give bond for the faithful performance of their duties to the County of New Hanover in ~~the sum of ten thousand dollars each, and which bond, as to form and execution, shall be approved by the County Attorney. Each member of the Board shall devote his full time to the performance of his official duties The main office of the Board shall be located in the City of Wilmington.~~ an amount not less than five thousand dollars ($5,000), secured by a corporate surety, for the faithful performance of the Board member's duties. A public employee's blanket position bond in the required amount satisfies this requirement. The bond shall be made payable to the Board and shall be approved by the County Commissioners. The County Commissioners may exempt from this bond requirement any Board member who does not handle Board monies, and it may increase the amount of the required bond for any Board member who does handle Board monies."

SECTION 2. Section 7 of Chapter 418 of the 1935 Session Laws reads as rewritten:

"Sec. 7. The County Commissioners of New Hanover County in naming the Board shall designate the Chairman. The Chairman, when present, shall preside at all meetings and in his absence a member designated by the Chairman shall preside.

~~Two~~ Three members of the Board shall constitute a quorum and any action or order of the Board shall require the approval of at least ~~two~~ three members."

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

SENATE BILL 1207:
New Hanover ABC Board Membership

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 27, 2010
Introduced by:	Sen. Boseman	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1207 would increase the membership of the New Hanover County ABC Board from three to five members. It would also provide that ABC Board members will serve at the pleasure of the New Hanover County commissioners.***

CURRENT LAW: Since the passage of a local act in 1935, New Hanover County has had an Alcoholic Beverage Control Board, consisting of three members. They are appointed by the New Hanover county commissioners. The 1935 act provided that two of the three ABC Board members would serve for two-year terms and one, chosen by lot, would serve for a four-year term.

The 1935 act appears to say that the ABC Board may remove its own members for "misconduct, incompetency or fraud."

Each member of the ABC Board is required to post a $10 performance bond. Each member is required to devote full time to the duties of the office.

BILL ANALYSIS: Senate Bill 1207 does four things:

1. Increases the number of members of the New Hanover ABC Board from 3 to 5 members.
2. Deletes the language that appears to give the ABC Board the authority to remove its own members for cause and makes the ABC Board members removable at the pleasure of the New Hanover county commissioners.
3. Replaces the $10 performance bond with a performance bond of not less then $5,000, secured by a surety. The bond would be approved by the county commissioners, who could waive it for any ABC Board member who doesn't handle money and increase it for any member who does handle money. The bond requirement could be satisfied by a public employee's blanket position bond in the required amount.
4. Removes the requirement that an ABC Board member be full-time.

EFFECTIVE DATE: When it becomes law.

S1207-SMRR-186(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1345*

Short Title:	Greensboro/Relocation of Wildlife.	(Local)
Sponsors:	Senators Vaughan, Dorsett; Berger of Rockingham, and Bingham.	
Referred to:	State and Local Government.	

May 24, 2010

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE CITY OF GREENSBORO FROM THE REQUIREMENT THAT CERTAIN WILD ANIMALS TAKEN UNDER A DEPREDATION PERMIT MUST BE EUTHANIZED OR RELEASED ON THE PROPERTY WHERE CAPTURED AND AUTHORIZE THE RELOCATION OF THOSE ANIMALS TO A SUITABLE ALTERNATIVE HABITAT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of 15A NCAC 10B.0106(d)(5) or any other provision of law, wild animals of the order Carnivora and beaver that have been taken alive under a depredation permit may be relocated to a suitable alternative habitat with the consent of the landowner of that new habitat.

SECTION 2. This act applies only to the City of Greensboro.

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

SENATE BILL 1345:
Greensboro/Relocation of Wildlife

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2010
Introduced by:	Sen. Vaughan	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1345 would exempt the City of Greensboro from a State wildlife rule that says wild carnivores and beavers, if captured under a depredation permit, must either be euthanized or released on the property where they were captured. The bill would instead allow those animals to be released to a suitable alternative habitat, with the consent of the owner of that new habitat.***

[As introduced, this bill was identical to H1928, as introduced by Rep. Jones, which is currently in House Local Government I, if favorable, Wildlife Resources.]

CURRENT LAW: Pursuant to G.S. Chapter 113, the Wildlife Resources Commission has adopted rules concerning "depredation permits." Those permits empower the permittee to kill or capture wild animals who engage in damage to vegetation or livestock.

One of those rules states as follows: "Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in their possession." *15A NCAC 10B.0106(d)(5).*

BILL ANALYSIS: Senate Bill 1345 would exempt the City of Greensboro from the requirement in 15A NCAC 10B.0106(d)(5) that carnivores and beavers captured under a depredation permit, if released, must be released on the property where captured. The bill would instead allow Greensboro to release those animals to a suitable alternative habitat, with the consent of the owner of that new habitat.

EFFECTIVE DATE: When it becomes law.

S1345-SMRR-187(e1) v1

SENATE BILL 1357*

Short Title:	Expand Cabarrus County Tourism Authority.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	State and Local Government.	

May 25, 2010

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2(a) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"(a) Establishment and Membership. ~~When the Cabarrus County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall establish and create the~~ The Cabarrus County Tourism Authority is composed of ~~nine~~ 12 members, with seats on the Authority numbered one through ~~nine,~~ 12, all of whom shall be appointed by the ~~board,~~ Cabarrus County Board of Commissioners, selected as follows:

(1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not be limited to, at least one member of the board or the Cabarrus County ~~Manager;~~Manager.

(2) Seats 2, 5, and 8 shall be appointed by the board from a list of ~~at least three~~ persons submitted by the ~~Concord-Cabarrus Chamber of Commerce;~~ Cabarrus County Tourism Authority. ~~and~~

(3) Seats 3, 6, and 9 shall be appointed by the board from a list of ~~at least three~~ persons submitted to the board by the ~~Kannapolis Chamber of Commerce.~~ Cabarrus Regional Chamber of Commerce.

(4) Seats 10, 11, and 12 shall be appointed by the board from a list of persons submitted to the board by the Cabarrus County Tourism Authority."

SECTION 2. Section 2(b) of Chapter 658 of the 1989 Session Laws reads as rewritten:

"(b) Terms of Office. Except as otherwise provided in the schedule set forth below, the term of office of each member of the Authority shall be three years. The terms shall be staggered so that after the initial members of the Authority are appointed, three members are appointed each year, implemented as follows:

(1) Seats 1, 2, and 3 shall be appointed initially for one year, and thereafter for three ~~years;~~years.

(2) Seats 4, 5, and 6 shall be appointed initially for two years, and thereafter for three ~~years; and~~years.

(3) Seats 7, 8, and 9 shall be appointed initially for three years, and thereafter for three years.

(4) Seat 10 shall be appointed initially for one year, and thereafter for three years.

(5) Seat 11 shall be appointed initially for two years, and thereafter for three years.

(6) Seat 12 shall be appointed initially for three years, and thereafter for three years."

SECTION 3. Section 2 of Chapter 658 of the 1989 Session Laws is amended to add a new subsection to read:

"(b1) When any vacancy occurs, the organization responsible for nominating members for full terms shall submit a recommendation to the Cabarrus County Board of Commissioners."

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

SENATE BILL 1357:
Expand Cabarrus County Tourism Authority

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 28, 2010
Introduced by:	Sen. Hartsell	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY:

Senate Bill 1357 expands the number of members of the Cabarrus County Tourism Authority from 9 to 12, makes changes to the organizations that submit candidates for appointment to the Authority, and provides for the filling of vacancies in the membership of the Authority.

[As introduced, this bill was identical to H2060, as introduced by Reps. Barnhart, Johnson, which is currently in House Local Government II.]

CURRENT LAW:

The current local laws governing the Cabarrus County Tourism Authority provide for a nine member board all of whom are appointed by the Cabarrus County Commissioners. Membership of seats 1, 4, and 7 are appointed at large with one person being a county commissioner or the County Manager. Seats 2, 5, and 8 are appointed from a list submitted by the Concord-Cabarrus Chamber of Commerce. Seats 3, 6, and 9 are appointed from a list submitted by the Kannapolis Chamber of Commerce. Members of the Authority serve staggered terms.

BILL ANALYSIS:

- Senate Bill 1357 increases the membership of the Cabarrus County Tourism Authority from nine members to twelve.
- Seats 2, 5, and 8 are to be appointed from a list submitted to the Board of County Commissioners from the Cabarrus County Tourism Authority.(Was the Concord-Cabarrus Chamber).
- Seats 3, 6, and 9 are to be appointed from a list submitted by the Cabarrus Regional Chamber of Commerce. (Was the Kannapolis Chamber).
- The three new seats, 10, 11, and 12 are to be appointed from a list submitted by the Authority.
- In keeping with the staggered terms for Authority members, Seat 10 will serve a one year term, Seat 11 a two year term and Seat 12 a three year term.
- Vacancies on the Authority are to be appointed from recommendations by the original nominating organization.

EFFECTIVE DATE:

The act is effective when it becomes law.

S1357-SMRF-164(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SENATE BILL 1362

Short Title:	Orange/Alamance Boundary.	(Local)
Sponsors:	Senators Kinnaird and Foriest.	
Referred to:	State and Local Government.	

May 25, 2010

A BILL TO BE ENTITLED

AN ACT TO ENABLE THE TRANSITION OF PROPERTIES OF THE AREA ALONG THEIR COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND ORANGE COUNTY DUE TO THE 2008 NORTH CAROLINA GEODETIC SURVEY WORK THAT DEPICTED AND MONUMENTED THE HISTORIC ORANGE COUNTY/ALAMANCE COUNTY BOUNDARY LINE AS DESCRIBED IN THE 1849 SURVEY ESTABLISHING ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The historic boundary line forming Alamance County from Orange County was described and surveyed in 1849. Over the years, this line became uncertain, and so pursuant to G.S. 153A-18(c) entitled 'Uncertain or Disputed Boundary,' both county boards of commissioners passed resolutions (Alamance County, December 17, 2007, and Orange County, January 18, 2008) to request that the North Carolina Geodetic Survey (hereinafter "NCGS") perform a preliminary resurvey and present a proposed map for consideration by both counties. During the 160 years since the 1849 survey, the exact location of the surveyed line has become uncertain, resulting in unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections within and among Alamance County, Orange County, and the Town of Mebane.

SECTION 2. The Alamance County Board of Commissioners agreed by vote on April 21, 2008, and Orange County on May 20, 2008, to approve authorizing NCGS to conduct the preliminary survey and the placing of monuments by the NCGS consistent with their research to form a boundary baseline.

SECTION 3. In the 160 years since the initial survey of the Alamance County/ Orange County boundary line, Alamance and Orange Counties have entered multiple taxing agreements that have resulted in properties being taxed in one county by the adjoining county. Other situations have arisen in which children of one county attend school in the adjoining county and voters in one county have voted in the adjoining county. The General Assembly recognizes the difficulties in addressing these issues and authorizes Alamance County and Orange County to maintain the current taxing, elections, education, and any other recognized government functions in place until July 1, 2011.

SECTION 4.(a) On and after July 1, 2011, all papers, documents, and instruments required or permitted to be filed or registered that involve residents and property located in areas affected by the resurvey of the boundary line that previously may have been recorded in the adjoining counties shall be recorded in the county to which the property has been annexed.

SECTION 4.(b) All public records related to residents and property located in areas affected by the resurvey of the boundary line that were filed or recorded prior to July 1,

2011, in the adjoining counties shall remain in those respective adjoining counties where filed or recorded, and such records shall be valid public records as to the property and persons involved, even though they are recorded in an adjoining county which is a county where the property is no longer located as evidenced by the 2008 North Carolina Geodetic Survey and the subsequent partial resurvey pursuant to Section 7 of this act.

SECTION 4.(c) On and after July 1, 2011, all real and personal property located in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation on January 1, 2011, shall be subject to ad valorem taxes in the county to which the property is annexed for the fiscal year beginning July 1, 2011, to the same extent as it would have been had it been correctly recognized by the tax departments of each county on January 1, 2011, except as hereinafter provided with respect to classified registered motor vehicles. On July 1, 2011, the tax administrators of the adjoining counties shall transfer to the respective county tax assessors the ad valorem tax listings and valuations for all real and personal property subject to ad valorem taxation in areas affected by the resurvey of the boundary line, except classified motor vehicles that were registered in the adjoining counties prior to July 1, 2011. For the fiscal year that begins July 1, 2011, all real and personal property located in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation in that area on January 1, 2011, shall be assessed and taxed as follows:

(1) The ad valorem property taxes assessed on all classified registered motor vehicles registered or listed in adjoining counties between January 1, 2011, and June 30, 2011, shall be collected by the appropriate adjoining county tax collector, and all such taxes shall be retained by that adjoining county. The taxes on all classified registered motor vehicles registered after June 30, 2011, shall be assessed and collected by the county tax department in the county to which the real property wherein the classified registered motor vehicles are situated has been annexed.

(2) The values established by the particular adjoining county tax administrator on all personal property other than classified registered motor vehicles shall be used by the each county tax assessor without adjustment in computing taxes due for the fiscal year beginning July 1, 2011. All such taxes shall be assessed and collected by the appropriate county tax department.

(3) For the interim time period between the annexation of properties into their respective counties and until such time as the next regularly scheduled revaluation period, Alamance County and Orange County may select either of two methods of valuating the property annexed into their respective county by this act. The selection of either method by a county shall not give any individual or entity grounds for challenging such temporary valuation. Such methods are delineated as follows:

a. The values established by the adjoining counties' tax administrators on all real property formerly taxed in their respective county shall be adjusted by the appropriate county tax assessor by applying the difference between one hundred percent (100%) of such values and the appropriate county median ratio, as established by the Sales Assessment Ratio Study compiled by the North Carolina Department of Revenue as of January 1, 2012. The taxes determined by applying this method will be collected and retained by the appropriate county tax collector. The value of such property shall then be revalued according to the regularly scheduled revaluation period for each county.

b. The values established by the adjoining counties' tax administrators on all real property formerly taxed in their respective county shall be

adopted by the appropriate county tax assessor upon the transition of property to the adjoining county. The valuation of such property shall then be revalued according to the regularly scheduled revaluation period for each county.

(4) Beginning January 1, 2012, all property in areas affected by the resurvey of the boundary line that is subject to ad valorem taxation shall be listed, assessed, and taxed by the appropriate county tax administrator in the same manner as is prescribed by law for all other property located within each county.

(5) The final tax values of property subject to ad valorem taxation in areas affected by the resurvey of the boundary line as of January 1, 2011, shall be determined by the adjoining county tax administrator. Appeals to the North Carolina Property Tax Commission or to the courts by property owners of properties affected by the boundary line change shall be defended by both counties, and both counties shall be responsible for their costs and expenses, including attorneys' fees, incurred in connection with such appeals.

(6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2011, or for prior years on property subject to taxation in areas affected by the resurvey of the boundary line shall continue to be valid and enforceable by the respective adjoining county, including (i) the foreclosure remedies provided for in G.S. 105-374 and G.S. 105-375, and (ii) the remedies of attachment and garnishment provided for in G.S. 105-366 through G.S. 105-368. The Alamance County and Orange County tax administrators shall supply one another with a list of unpaid taxes as of July 1, 2011. Any such taxes collected by either county shall be promptly paid to the appropriate adjoining county, including accrued interest. The provisions of G.S. 105-352 (d) shall not apply to: those areas in an adjoining county previously taxed by either county outside the areas affected by the resurvey of the boundary line that shall forthwith be properly listed and taxed in the county to which they have been annexed; and those areas within each county that were in the past improperly listed and taxed by the adjoining county due to uncertainty as to the exact location of the true historic Alamance County/Orange County boundary line. Under the discovery process, each county may waive any interest and penalties accrued for tax years 2006-2011 in its sole discretion.

SECTION 4.(d) No cause of action, including criminal actions, involving persons or property located in areas affected by the resurvey of the boundary line that is pending on July 1, 2011, shall be abated, and such actions shall continue in the appropriate adjoining county.

SECTION 4.(e) The board of elections of each adjoining county shall, effective July 1, 2011, transfer the voter registration records pertaining to persons residing in areas affected by the resurvey of the boundary line and located in either county to the adjoining county's board of elections, and thereafter the registered voters so transferred shall be validly registered to vote in that adjoining county.

SECTION 4.(f) The Jury Commission of each adjoining county shall revise its jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in areas affected by the resurvey of the boundary line, said revised jury lists to be effective July 1, 2011.

SECTION 4.(g) The areas affected by the resurvey of the boundary line and located in each county shall be transferred into the appropriate superior court district, district court district, and prosecutorial district. The areas affected by the resurvey of the boundary line shall remain in the same congressional district, the same State House of Representatives district, and the same State Senate district.

SECTION 4.(h) Any cause of action relating to taxation as it is currently exercised by the counties along or near the Alamance County/Orange County boundary, or any other cause of action related in any way to the Alamance County/Orange County boundary or properties affected by changes in the boundary, is stayed, and no new cause of action relating to these matters shall be commenced until ratification of the official line by the North Carolina General Assembly. Thereafter, causes of action related to the taxation of property shall be defended as described in subdivision (5) of this Section 4(c) of this act.

SECTION 5. The Alamance County Board of Education shall cooperate with the Orange County Board of Education on behalf of residents that have students affected by this act to ensure that a transition is made that provides students and their siblings with a choice to remain in their current school system until graduation from high school for so long as they reside in the residence affected by this act.

SECTION 6. Any child who was a resident county of any area county annexed by this act on its date of ratification and who was a student in the Orange County or Alamance County school system during the 2009-2010 or 2010-2011 school year, and the siblings of any such person, may attend school in the same school system as their siblings without necessity of a release or payment of tuition. Any such student, while attending the Orange County school system, shall be considered a resident of Orange County for all public school purposes, including transportation, athletics, and funding formulas. Any such student, while attending the Alamance County school system, shall be considered a resident of Alamance County for all public school purposes, including transportation, athletics, and funding formulas. Notice must be given to all affected school systems by the parent or guardian in order to exercise the privilege granted by this section.

SECTION 7. Alamance County and Orange County shall establish an administrative method by which owners of property that is annexed or bisected by the North Carolina Geodetic Survey line shall have the opportunity to petition Alamance County and Orange County either to remain in the county to which their property was previously assigned or, in the case of a bisection, to be assigned to one county or the other, save and except that small lot subdivisions shall not be divided on a lot by lot basis. Notice of such opportunity to petition shall be delivered by United States mail to the affected property owners no later than 30 days after the effective date of this act. All administrative reviews on such petitions shall be concluded and final no later than December 15, 2010.

SECTION 8. Alamance County and Orange County shall cause areas of the boundary line to be resurveyed in areas where property owners have met the established administrative criteria to be assigned to a specific county and in areas where for practical or other reasons the North Carolina Geodetic Survey line is not reasonable or is unduly burdensome.

SECTION 9. Upon the conclusion of the survey and petition process established in Section 7 of this act, and no later than May 15, 2011, Alamance County and Orange County shall submit to the North Carolina General Assembly for ratification a completed survey that includes both the North Carolina Geodetic Survey line and all mutually agreed upon modifications thereto.

SECTION 10. The elected and appointed officials and employees of Alamance County and Orange County shall incur no liability under any local or North Carolina statute, law, ordinance, rule, or regulation for any act or failure to act relating to taxation, school attendance, land-use controls, elections, or any other governmental function as it relates to the currently utilized boundary line of Alamance County and Orange County.

SECTION 11. Owners and future owners of properties affected by this act shall be put on notice of the terms and conditions of this act by a written instrument filed in the office of the register of deeds of the county to which the property has been annexed.

SECTION 12. This act becomes effective July 1, 2010.

SENATE BILL 1362:
Orange/Alamance Boundary

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 27, 2010
Introduced by:	Sen. Kinnaird	**Prepared by:**	Hal Pell, Committee Counsel and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: ***SB 1362 would enable the transition of properties of the area along their common boundary between Alamance County and Orange County as a result of the North Carolina Geodetic Survey's assessment. This act becomes effective July 1, 2010.***

[As introduced, this bill was identical to H1933, as introduced by Reps. Bordsen, Faison, Ingle, Insko, which is currently in House Judiciary II, if favorable, Finance.]

BACKGROUND: The historic boundary line forming Alamance County from Orange County was described and surveyed in 1849. Over the past 160 years since the 1849 survey, due to the uncertainty of the exact location of the surveyed line, there have been unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections within and among Alamance County, Orange County, and the Town of Mebane. Consequently, the North Carolina Geodetic Survey performed a preliminary resurvey and presented a proposed map for consideration by both counties.

BILL ANALYSIS:

Section 1 of the bill provides background information on the historic boundary line forming Alamance County from Orange County and outlines some of the issues that have arisen as a result of the uncertain location of the boundary line.

Section 2 states that the two counties have authorized the North Carolina Geodetic Survey to conduct the preliminary survey and the placing of monuments by resolutions passed by the two counties.

Section 3 authorizes Alamance County and Orange County to maintain the current taxing, elections, education, and any other recognized government functions in place, until July 1, 2011.

Sections 4-6 enumerate the terms and conditions governing the transition of properties along the boundary line regarding real and personal property taxes, legal causes of action, elections/voter registration, jury duty, court districts, and school assignments and attendance.

Section 7 requires Alamance and Orange counties to establish an administrative method by which property in the affected areas may petition the counties regarding the assignment of their property to one of the counties. This section also requires that the notice of the right to petition be mailed to affected property owners no later than 30 days after the effective date of this act.

Section 8 requires areas of the boundary line to be resurveyed where property owners have met the established criteria or where the survey line is unreasonable or unduly burdensome.

Section 9 requires Alamance and Orange counties to submit a completed survey that includes the North Carolina Geodetic Survey line and all mutually agreed upon modifications to the General Assembly, no later than May 15, 2011.

Section 10 provides that appointed and elected officials and employees of Alamance and Orange counties shall not incur any liability as it relates to the currently utilized boundary line between the two counties.

Section 11 directs that current and future property owners affected by this act be advised as to the terms and conditions by written notice filed in the office of the register of deeds office of the county in which the property has been annexed.

EFFECTIVE DATE: This act becomes effective July 1, 2010.

S1362-SMTH-9(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, June 01, 2010

Senator EAST,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1357** Expand Cabarrus County Tourism Authority.
Sequential Referral: None
Recommended Referral: None

S.B. **1362** Orange/Alamance Boundary.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Clyde Albright	Alamance County Attorney
Craig Honeycutt	Alamance County
Jessi Hays	NC HBA
Cody Thomas	NCAR
Pat Gannon	Wilmington Star News
Maeve Giff	Smith Anderson
Zack Cieslinski	Sen. Jones Office
John Roberts	Orange County
Aaron Dancy	Sen. East Office
Dana Simpson	Smith Anders
Sarah Clapp	NCWRC

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gordon Myers	NCWRA
Mike Mann	NCTA
Pam Meyer	NCLM
Amy Hobbs	MWC
Thomas Millsaps	Freedom House

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 8, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 8, 2010, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Ed Jones, presided.

Senator Jones called the meeting to order and introduced the pages attending the committee meeting.

The first bill to be heard was Senate Bill 1263, Brevard Charter Amendment. Senator Snow explained the Bill and Senator Apodoca moved to give the Bill a Favorable Report. The Bill carried. Senate Bill 1361, Greensboro/High Point Boundary Swap was the next bill to be heard. Senator Dorsett explained the Bill. Senator Berger made a motion that the Bill receive a Favorable Report and the committee agreed. Senator East explained his Senate Bill 1386, Government Employees Port Benefits, to the Committee. After much discussion, the Bill was put on hold until the cost, if any, could be determined. Senate Bill 1399, Zoning/Durham County Protest Petitions was explained by Senator McKissick. Senator Dorsett moved for a Favorable Report and the Bill carried. Senate Bill 1415, Change Name to WNC Public Lands Council was explained by Senator Snow. The Bill received a Favorable Report and referred to the Appropriations Committee. A Proposed Committee Substitute for Senate Bill 1421, Forest City/Convey Property was explained by Senator Clary. Senator Brunstetter moved for a Favorable Report – UnFavorable to the Bill but Favorable as to the PCS. The PCS carried. Senator Brunstetter explained his Senate Bill 1435, Planning & Zoning in Forsyth County, and the Bill was given a Favorable Report. Senate Bill 1437, Highlands Mayor Pro Tem., also received a Favorable Report from the Committee. Committee Substitute Senate Bill 1438, New Hanover ABC Board Membership, was explained to the Committee and the PCS was adopted and would be reported out of the Committee as UnFavorable As To Bill, But Favorable As To The Committee Substitute. To

The meeting adjourned at 12:45 pm.

Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, June 8, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1263	Brevard Charter Amendment.	Senator Snow
SB 1361	Greensboro/High Point Boundary Swap.	Senator Dorsett
SB 1386	Government Employees Port Benefits.	Senator East
SB 1399	Zoning/Durham County Protest Petitions.	Senator McKissick
SB 1415	Change Name to WNC Public Lands Council.	Senator Snow
SB 1421	Forest City/Convey Property.	Senator Clary
SB 1435	Planning & Zoning in Forsyth County.	Senator Brunstetter
SB 1437	Highlands Mayor Pro Tem.	Senator Snow
SB 1438	New Hanover ABC Board Membership.	Senator Boseman

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1263*

Short Title:	Brevard Charter Amendment.	(Local)
Sponsors:	Senator Snow.	
Referred to:	State and Local Government.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF BREVARD TO AUTHORIZE THE CITY MANAGER TO APPOINT THE CITY CLERK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.4 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 4.4. City Clerk. The ~~City Council~~City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the ~~City Council~~City Manager may direct. The City Clerk shall receive such compensation as the ~~Council~~ City Manager shall determine."

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

SENATE BILL 1263:
Brevard Charter Amendment

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 4, 2010
Introduced by:	Sen. Snow	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1263 amends the charter for the City of Brevard to provide that the City Manager will be responsible for appointing the City Clerk.***

[As introduced, this bill was identical to H1664, as introduced by Rep. Guice, which is currently in Senate State and Local Government.]

CURRENT LAW: Under the current Charter, the Brevard City Council appoints the City Clerk and determines compensation.

BILL ANALYSIS: Senate Bill 1263 amends the Charter of the City of Brevard and changes the responsibility for appointing the City Clerk from the Brevard City Council to the City Manager. The City Manager also will be responsible for determining the duties and the compensation of the City Clerk.

EFFECTIVE DATE: The act is effective when it becomes law.

S1263-SMRF-169(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1361

Short Title:	Greensboro/High Point Boundary Swap.	(Local)
Sponsors:	Senators Dorsett, Vaughan; Berger of Rockingham, and Bingham.	
Referred to:	State and Local Government.	

May 25, 2010

A BILL TO BE ENTITLED

AN ACT TO EXCHANGE CERTAIN DESCRIBED TERRITORY BETWEEN THE CITY OF HIGH POINT AND THE CITY OF GREENSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The following territory is removed from the corporate limits of the City of High Point and added to the corporate limits of the City of Greensboro:

Beginning at a point on the southwestern side of Chimney Rock Road, said point being located North 09 deg. 23 min. 40 sec. East 13.58 feet from a point being the northeastern corner of Lot 12 as shown on a map titled "Final Plat, Piedmont Centre, Section VA" and recorded in Plat Book 116 page 98 in the office of the Register of Deeds of Guilford County, NC; thence, along a curve to the left having a radius of 3143.03 feet, an arc distance of 497.09 feet, with a chord bearing and distance of North 57 deg. 15 min. 59 sec. West 496.57 feet to a point, said curve being the southwestern margin of Chimney Rock Road as shown on a map titled "Piedmont Centre Annexation" and recorded in Plat Book 89 page 54 in said Guilford County Registry, said curve also being the northeastern margin of "12' dedicated for right-of-way" as shown on a map titled "Final Plat, Piedmont Centre, Federal Drive Right-Of-Way" and recorded in Plat Book 100 page 136 in said Guilford County Registry; thence, the following three (3) lines as shown on said Plat Book 89 page 54: 1) North 28 deg. 12 min. 10 sec. East 60.00 feet, crossing Chimney Rock Road, to a point; thence, 2) along the northeastern margin of Chimney Rock Road, being a curve to the right having a radius of 3203.03 feet, an arc distance of 506.58 feet, with a chord bearing and distance of South 57 deg. 15 min. 59 sec. East 506.05 feet to a point; thence, 3) South 37 deg. 15 min. 52 sec. West 60.00 feet, crossing Chimney Rock Road, to said point of beginning. The herein described tract contains an area of 30,110 square feet or 0.691 acres, more or less.

SECTION 2. Section 1 of this act has no effect upon the validity of any liens of the City of High Point for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the municipality from which the property was removed.

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

SENATE BILL 1361:
Greensboro/High Point Boundary Swap

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	May 27, 2010
Introduced by:	Sen. Dorsett	**Prepared by:**	Hal Pell, Committee Counsel and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: SB 1361 authorizes the exchange of a tract of land between the City of High Point and the City of Greensboro.

BILL ANALYSIS: SB 1361 removes approximately 0.691 acres of territory from the corporate limits of the City of High Point and adds the territory to the corporate limits of the City of Greensboro. The removal from the city limits of High Point will not affect the validity of any liens for ad valorem taxes or special assessments outstanding prior to the effective date of this act.

EFFECTIVE DATE: This act is effective when it becomes law.

S1361-SMTH-8(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1386

Short Title:	Government Employees Port Benefits.	(Public)
Sponsors:	Senators East; Allran, Berger of Rockingham, Bingham, Blake, Brock, Brown, Forrester, Goodall, Hunt, Jacumin, Preston, Rouzer, Rucho, and Tillman.	
Referred to:	State and Local Government.	

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO ALLOW EMPLOYEES MOVING BETWEEN STATE, CITY, AND COUNTY GOVERNMENT TO PORT THEIR SICK AND ANNUAL LEAVE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-4(5) reads as rewritten:

"**§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...

(5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. If an employee earns vacation or sick leave, the Commission shall allow transfer of any accrued vacation or sick leave from a city or county, to the extent that vacation was not paid as terminal leave nor did the employee retire with sick leave included as creditable service. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than 11 paid holidays per year except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.

...."

SECTION 2. G.S. 153A-92(a) reads as rewritten:

"(a) Subject to the limitations set forth in subsection (b) of this section, the board of commissioners shall fix or approve the schedule of pay, expense allowances, and other compensation of all county officers and employees, whether elected or appointed, and may adopt position classification plans. If an employee earns vacation or sick leave, the city shall allow transfer of any accrued vacation or sick leave from (i) the State of North Carolina, (ii) a city, or (iii) another county, to the extent that vacation was not paid as terminal leave nor did the employee retire with sick leave included as creditable service."

SECTION 3. G.S. 160A-162(a) reads as rewritten:

"(a) The council shall fix or approve the schedule of pay, expense allowances, and other compensation of all city employees, and may adopt position classification plans; any compensation or pay plan may include provisions for payments to employees on account of sickness or disability. In cities with the council-manager form of government, the manager shall be responsible for preparing position classification and pay plans for submission to the council and, after any such plans have been adopted by the council, shall administer them. In

cities with the mayor-council form of government, the council shall appoint a personnel officer (or confer the duties of personnel officer on some city administrative officer); the personnel officer shall then be responsible for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the council. If an employee earns vacation or sick leave, the city shall allow transfer of any accrued vacation or sick leave from (i) the State of North Carolina, (ii) a county, or (iii) another city, to the extent that vacation was not paid as terminal leave nor did the employee retire with sick leave included as creditable service."

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

SENATE BILL 1386:
Government Employees Port Benefits

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 7, 2010
Introduced by:	Sen. East	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1386 would provide for city and county governments, and the State Personnel Commission to transfer any accumulated sick or vacation leave for an employee moving from one unit of government to another.***

CURRENT LAW: G.S. 126-4 sets out the powers and duties of the State Personnel Commission, including the authority to set hours and days of work, vacation and sick leave and other conditions of employment.

G.S. 153A-42 authorizes the boards of county commissioners to fix pay and other compensation for county officers and employees.

G.S. 160A-162 authorizes city councils to fix pay and other compensation fro city employees.

BILL ANALYSIS: Senate Bill 1386 provides for the transfer of earned vacation and sick leave for an employee moving between employment in the various units of State and local government. Such transfers are allowed to the extent that vacation was not paid as terminal leave nor did the employee retire with sick leave included as creditable service. Sections 1, 2, and 3 of the bill insert this provision for State, county, and city employment, respectively.

EFFECTIVE DATE: The act is effective when it becomes law.

S1386-SMRF-172(e1) v1

S 1

SENATE BILL 1399

Short Title:	Zoning/Durham County Protest Petitions.	(Local)
Sponsors:	Senators McKissick and Atwater.	
Referred to:	State and Local Government.	

May 26, 2010

A BILL TO BE ENTITLED

AN ACT ADOPTING A PROTEST PETITION REQUIREMENT FOR DURHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Zoning ordinances may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of County Commissioners. For the purposes of this subsection, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority.

To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the county may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

The foregoing provisions concerning protests shall not be applicable to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers, or screening approved for the special use district, conditional use district, or conditional district.

SECTION 1.(b) No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Clerk to the Board of Commissioners in sufficient time to allow the county at least four normal workdays, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Board of County Commissioners may by ordinance require that all protest petitions be on a form prescribed and furnished by the county, and such form may prescribe any reasonable information deemed necessary to permit the county to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying

standards set forth above at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

SECTION 2. This act applies to the County of Durham only.

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

SENATE BILL 1399:
Zoning/Durham County Protest Petitions

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 7, 2010
Introduced by:	Sen. McKissick	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: Senate Bill 1399 would enact for Durham County a requirement for a ¾ supermajority vote of the Board of County Commissioners to approve a zoning ordinance amendment is cases where a qualified zoning protest petition has been received objecting to the adoption of the amendment.

[As introduced, this bill was identical to H2033, as introduced by Reps. Hall, Luebke, Michaux, Wilkins, which is currently in House Judiciary I, if favorable, Ways and Means/Broadband Connectivity.]

BILL ANALYSIS: Senate Bill 1399 provides that a ¾ vote of the Board of the Durham County Commissioners is required to adopt a zoning ordinance amendment where a qualified protest petition has been received against the amendment. To calculate the supermajority, vacant seats and members excused from voting shall not be considered members of the Board.

A qualified protest petition must be signed either by the owners of 20% or more of the area included in the proposed change or 5% of a 100' wide buffer extending along the entire boundary of each area to be rezoned. Street right of way is not to be considered in calculating the buffer if the street right of way is 100' wide or less.

To be valid, protest petitions (1) must be in writing (2) bear the actual signatures of the required number of people (3) state that the people do protest the proposed change to the zoning ordinance, and (4) be received by the Clerk to the Board in sufficient time to allow the county at least 4 work days before the date established for the public hearing to establish the sufficiency and adequacy of the petition. The county may require that all protest petitions be on forms supplied by the county.

Persons who have signed the petition may withdraw their names at anytime prior to the vote on the amendment. Only protest petitions meeting the requirements for such petitions at the time of the vote will trigger the supermajority requirement.

The provisions regarding protest petitions are not applicable to amendments to an adopted special use or conditional use district. They also do not apply to a conditional district if the amendment does not (1) change the types of uses, (2) increase the approved density for residential development, (3) increase the total approved size of non residential development, or (4) reduce the size of buffers or screening approved for the special use district, conditional use district, or conditional district.

EFFECTIVE DATE: This act is effective when it becomes law.

S1399-SMRF-171(e1) v2

SENATE BILL 1415

Short Title:	Change Name to WNC Public Lands Council.	(Public)
Sponsors:	Senator Snow.	
Referred to:	State and Local Government.	

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Part 17A of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 17A. ~~North Carolina National Park, Parkway and Forests Development Council.~~WNC Public Lands Council.

"**§ 143B-324.1. ~~North Carolina National Park, Parkway and Forests Development Council;~~ WNC Public Lands Council; creation; powers; duties.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~ WNC Public Lands Council is created within the Department of Environment and Natural Resources. The ~~North Carolina National Park, Parkway and Forests Development Council~~ WNC Public Lands Council shall:

(1) Endeavor to promote the development of that part of the Smoky Mountains National Park lying in North Carolina, the completion and development of the Blue Ridge Parkway in North Carolina, the development of the Nantahala and Pisgah national forests, and the development of other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway or the Pisgah or Nantahala national forests.

(2) Study the development of these areas and to recommend a policy that will promote the development of the entire area generally designated as the mountain section of North Carolina, with particular emphasis upon the development of the scenic and recreational resources of the region, and the encouragement of the location of tourist facilities along lines designed to develop to the fullest these resources in the mountain section.

(3) Confer with the various departments, agencies, commissioners and officials of the federal government and governments of adjoining states in connection with the development of the federal areas and projects named in this section.

(4) Advise and confer with the various officials, agencies or departments of the State of North Carolina that may be directly or indirectly concerned in the development of the resources of these areas.

(5) Advise and confer with the various interested individuals, organizations or agencies that are interested in developing this area.

(6) Use its facilities and efforts in formulating, developing and carrying out overall programs for the development of the area as a whole.

(7) Study the need for additional entrances to the Great Smoky Mountains National Park, together with the need for additional highway approaches and connections.

(8) File its findings in this connection as recommendations with the National Park Service of the federal government, and the North Carolina Department of Transportation.

(9) Advise the Secretary of Environment and Natural Resources upon any matter the Secretary of Environment and Natural Resources may refer to it.

"**§ 143B-324.2. ~~North Carolina National Park, Parkway and Forests Development Council~~ WNC Public Lands Council – members; selection; officers; removal; compensation; quorum; services.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~WNC Public Lands Council within the Department of Environment and Natural Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows: one member shall be a resident of Buncombe County, one member a resident of Haywood County, one member a resident of Jackson County, one member a resident of Swain County, three members residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests. The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Council shall elect a chairman, a vice-chairman and a secretary. The chairman and the vice-chairman shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

Five members of the Council shall constitute a quorum for the transaction of business.

"**§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development Council~~ WNC Public Lands Council – meetings.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~WNC Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members."

SECTION 2. There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of one thousand dollars ($1,000) for the 2010-2011 fiscal year to be used to implement this act.

SECTION 3. This act becomes effective July 1, 2010.

SENATE BILL 1415:
Change Name to WNC Public Lands Council

2009-2010 General Assembly

Committee:	Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget	**Date:**	June 7, 2010
Introduced by:	Sen. Snow	**Prepared by:**	Kelly Quick Research Assistant
Analysis of:	First Edition		

SUMMARY: SB 1415 changes the name of the North Carolina National Park, Parkway and Forests Development Council to the WNC Public Lands Council.

[As introduced, this bill was identical to H2039, as introduced by Rep. Haire, which is currently in House Environment and Natural Resources, if favorable, Appropriations.]

CURRENT LAW: G.S. 143B-324.1 through 143B-324.3 establishes the North Carolina National Park, Parkway and Forests Development Council, which studies and promotes the development of the part of the Smoky Mountains National Park that lies in North Carolina, the Nantahala and Pisgah national forests, and other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway, or the Pisgah and Nantahala national forests.

BILL ANALYSIS: SB 1415 changes the name of the North Carolina National Park, Parkway and Forests Development Council to the WNC Public Lands Council and appropriates from the General Fund to the Department of Natural Resources $1,000 for the 2010-2011 fiscal year to implement this act.

EFFECTIVE DATE: This act becomes effective July 1, 2010.

S1415-SMTH-12(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1421
PROPOSED COMMITTEE SUBSTITUTE S1421-CSRR-72 [v.1]

6/7/2010 3:45:15 PM

Short Title: Forest City/Convey Property. (Local)

Sponsors:

Referred to:

May 26, 2010

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF FOREST CITY TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE OR LONG-TERM LEASE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the Town of Forest City may convey by private negotiation and sale or by lease for a term of more than 10 years, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in the following described property to The Challenge Foundation Properties of North Carolina, LLC or Thomas Jefferson Classical Academy for the purpose of operating a public school, including a public charter school:

Lying and being in the Town of Forest City, Rutherford County, North Carolina, and being more particularly described as follows:

BEGINNING at a four inch pipe found, a corner of the property of Quality Oil Co Inc. (now or formerly) as described in Deed Book 773, Page 769 in the Rutherford County Public Registry (hereinafter the "Registry"), having Grid Coordinates of N=578282.32' E=1147512.98', said pipe found being located S. 66-24-38 W. 9,420.34 feet from N.C.G.S. Monument "Burl" having Grid Coordinates of N=582052.14' E=1156146.13'; thence, from the point of Beginning, N. 82-34-47 E. 2.69 feet to a point in the assumed western margin of the right-of-way of S. Broadway Street (U.S. Highway 221-A); thence, with and along the assumed western margin of the right-of-way of S. Broadway Street, the following four (4) courses and distances: (1) N. 30-17-18 W. 100.40 feet to a point; (2) with the arc of a circular curve to the right having a radius of 1,506.11 feet, an arc length of 484.23 feet and a chord bearing and distance N. 21-04-40 W. 482.14 feet to a point; (3) S. 88-09-32 W. 5.83 feet to a bent rebar found in concrete; and (4) N. 09-29-05 W. 226.66 feet to a 3 inch pipe found at the intersection of the assumed western margin of the right-of-way of S. Broadway Street and the assumed southern margin of the right-of-way of Pointer Drive (S.R. 2160); thence, with and along the assumed southern margin of the right-of-way of Pointer Drive, N. 85-43-43 W. 323.13 feet to a bent rebar found, a corner of the property of Heritage Village Ltd (now or formerly) as described in Book 437, Page 347 in the Registry; thence, with and along the boundary line of the property of Heritage Village Ltd., the following five (5) courses and distances: (1) S. 04-23-11 W. 218.32 feet to a #5 rebar set; (2) N. 82-21-00 W. 125.05 feet to a flat iron found; (3) S. 07-13-25 W. 139.85 feet to a flat iron found; (4) N. 82-51-58 W. 169.83 feet to a flat iron found; and (5) N. 05-30-32 E. 363.27 feet to a bent pipe found in the assumed southern margin of the

right-of-way of Pointer Drive; thence, with and along the assumed southern margin of the right-of-way of Pointer Drive, N. 83-49-28 W. 367.86 feet to a 3 inch pipe found, a corner of the property of Charles R. Summey and Peggy P. Summey (now or formerly) as described in Book 224, Page 591 in the Registry; thence, with and along the boundary line of the property of Charles R. Summey and Peggy P. Summey, S. 03-51-02 W. 939.90 feet to a tall pipe found, a corner of the property of Robert L. Hensley, Jr. and Linda J. Smith (now or formerly) as described in Book 719, Page 447 in the Registry; thence, with and along the boundary line of the property of Robert L. Hensley, Jr. and Linda J. Smith, N. 78-59-22 E. 470.19 feet to a bent pipe found, a corner of the property of Billie Forehand Beavers (now or formerly) as described in Book 835, Page 557 in the Registry; thence, with and along the boundary line of the property of Billie Forehand Beavers, N. 79-05-42 E. 104.99 feet to a bent pipe found, a corner of the property of Helen S. Price (now or formerly) as described in Book 817, Page 711 in the Registry; thence, with and along the boundary line of the property of Helen S. Price, the following two (2) courses and distances: (1) N. 31-37-10 W. 83.79 feet to a #4 rebar found; and (2) N. 78-03-56 E. 94.89 feet to a #4 rebar found, a corner of the property of Hazel W. Shires (now or formerly) as described in Book 817, Page 07 in the Registry; thence, with and along the boundary line of the property of Hazel W. Shires, N. 78-01-14 E. 92.02 feet to a rebar w/cap found, a corner of the property of Iva I. Williams (now or formerly) as described in Book 817, Page 703 in the Registry; thence, with and along the boundary line of the property of Iva I. Williams, the following three (3) courses and distances: (1) S. 85-07-58 E. 134.90 feet to a rebar w/cap found; (2) S. 26-41-12 E. 103.00 feet to point (passing a rebar w/cap found at 94.26 feet); and (3) S. 52-39-19 W. 71.50 feet to a big pipe found, a corner of the property of Rutherford County Arts Council Inc. (now or formerly) described in Book 779, Page 85 in the Registry; thence, with and along the boundary line of the property of Rutherford County Arts Council Inc., S. 26-10-41 E. 66.37 to a big pipe found, a corner of the property of Rutherford County Arts Council Inc. (now or formerly) as described in Book 715, Page 463 in the Registry; thence, with and along the boundary line of the property of Rutherford County Arts Council Inc. (Book 715, Page 463), N. 82-47-30 E. 298.73 feet to a #4 rebar found, a corner of the property of Quality Oil Co Inc. (now or formerly) as described in Book 773, Page 769 in the Registry; thence, with and along the boundary line of the property of Quality Oil Co Inc., N. 82-34-47 E. 155.75 to a 4 inch pipe found, the point and place of BEGINNING, containing 18.07 acres, more or less, as shown on an ALTA/ACSM Land Title Survey dated October 8, 2008, and last revised November 4, 2008, prepared by Lattimore & Peeler Surveying, Dobbin Lattimore, NCPLS, License Number L-3336.

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

SENATE BILL 1421:
Forest City/Convey Property

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 7, 2010
Introduced by:	Sen. Clary	**Prepared by:**	William R. Gilkeson
Analysis of:	PCS to First Edition S1421-CSRR-72		Committee Counsel

SUMMARY: ***This Proposed Committee Substitute for Senate Bill 1421 would authorize the Town of Forest City to convey an 18.02 acre piece of land, described in the bill, by private sale or by a lease of more than 10 years, with or without monetary consideration, to a named nonprofit for the purpose of operating a public school, including a charter school.***

[As introduced, this bill was similar but not identical to S1420, as introduced by Sen. Clary, which is currently in Senate State and Local Government.*]

CURRENT LAW: Article 12 of G.S. Chapter 160A provides various procedures for how a city may convey property. Among other things, it limits most leases to 10 years. (*G.S. 160A-272)*

The State Constitution constrains a municipality's ability to convey property in at least two provisions:

- Article I, Section 32, which says, "No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services."
- Article V, Section 2, which says, "The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away." That has been held to mean a unit of government also is limited in its spending powers by the public purpose requirement. Conveying land without compensation is treated as a kind of expenditure.

Both constitutional provisions prevent gifts of public property unless it is for a public purpose.

BILL ANALYSIS: This PCS for SB 1421 would allow the Town of Forest City, notwithstanding the restrictions in Article 12 of Ch. 160A, to "convey by private negotiation and sale or by lease for a term of more than 10 years, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in" an 18.02-acre piece of land within the town limits. The bill contains a legal description of the land. The land could be conveyed only to "The Challenge Foundation Properties of North Carolina, LLC or Thomas Jefferson Classical Academy for the purpose of operating a public school, including a public charter school".

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The bill can exempt the Town from the requirements of the statute, but not, of course, from the requirements of the State Constitution.

*** The effect of the PCS is to make SB 1421 identical to SB 1420.**

S1421-SMRR-193(CSRR-72) v1

S 1

SENATE BILL 1435

Short Title:	Planning & Zoning in Forsyth County.	(Local)
Sponsors:	Senator Brunstetter.	
Referred to:	State and Local Government.	

May 27, 2010

A BILL TO BE ENTITLED

AN ACT RELATING TO CITY-COUNTY PLANNING AND ZONING IN FORSYTH COUNTY AND THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 24 of Chapter 677 of the 1947 Session Laws, as amended by S.L. 2008-41, reads as rewritten:

"SEC. 24. ~~Violations--Penalty.~~ Violations, Penalty, Abatement, and Notice of Lis Pendens. -- Any person, firm or corporation who may violate any of the provisions of the zoning ordinance of the City of Winston-Salem, North Carolina, within the one mile area surrounding the corporate limits of the City of Winston-Salem, or within the three mile area surrounding such city limits if the board of county commissioners shall have approved such zoning provisions, shall, upon conviction, be fined not more than five hundred dollars ($500) or imprisoned not more than thirty (30) days; any person, firm or corporation who shall continue to violate or shall permit any land, structure or building to continue to exist or to be used in violation of the zoning ordinance of the City of Winston-Salem, pursuant to the authority given by this Act, or who shall cause, permit or continue to exist any occupancy or use of any land, structure or building in violation of any of said ordinances, resolutions, regulations or restrictions for as long as five days after notice of such violation, issued by the Building Inspector or Administrative Officer of the City of Winston-Salem, or his designee, and served upon him by any police officer of the City of Winston-Salem or by any police officer of Forsyth County, or by personal service, by registered or certified mail in conjunction with regular mail and posting, shall be guilty of a separate offense for each day he permits such violation to continue after the expiration of five days from such notice, and shall be punished as above set forth. If the regular mail is not returned within 10 days of its mailing, and the certified or registered mail is returned refused or unclaimed, service by regular mail shall be deemed sufficient. If regular mail is used, a notice of the violation shall be posted in a conspicuous place on the premises in violation.

Pursuant to this section, the Building Inspector or Administrative Officer or that person's designee is authorized to summarily abate any violation that continues to exist after the expiration of the notice period provided by this section. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the abatement action occurred. A lien established pursuant to this section shall have the same priority and be collected as unpaid ad valorem taxes. The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. This secondary lien established pursuant to this section is inferior to all prior liens and shall be collected as a money judgment.

This section does not apply if the person in default can show that the violation was created solely by the actions of another.

Furthermore, the Building Inspector or Administrative Officer or that person's designee is authorized to provide, upon the issuance of a notice of violation, for the filing of a notice of lis pendens in the office of the Clerk of Superior Court of Forsyth County. When a notice of lis pendens and a copy of the notice of violation are filed with the Clerk of Superior Court, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the notice of violation shall be binding upon the successors and assigns of the owner or owners of the premises in violation. A copy of the notice of lis pendens shall be served upon the owner or owners of the premises in violation at the time of filing in accordance with the procedure for serving the notice of violation set forth herein. The notice of lis pendens shall remain in full force and effect until cancelled. The Building Inspector or Administrative Officer or that person's designee may authorize the cancellation of the notice of lis pendens upon compliance with the notice of violation, and receipt of such cancellation, the Clerk of Superior Court shall cancel the notice of lis pendens."

SECTION 2. This act applies to the City of Winston-Salem only.

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

SENATE BILL 1435:
Planning & Zoning in Forsyth County

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 3, 2010
Introduced by:	Sen. Brunstetter	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1435 would allow Winston-Salem to summarily abate, after notice, any violation of its zoning ordinance. The expense of the abatement action would be paid by the person who violated the ordinance. If the expense was not paid, it would become a lien on the property where the abatement action occurred, and on any other real property owned by the person in default within the jurisdiction of the zoning ordinance, except the person's primary residence.***

CURRENT LAW: Currently, the Winston-Salem zoning ordinance provides penalties of fines and imprisonment for violation of the ordinance within the city or its extraterritorial jurisdiction. The ordinance has a notice requirement, and continued violation for any day more than 5 days after the notice is a separate penalty for each day.

BILL ANALYSIS: SB 1435 would amend the zoning ordinance to add abatement authority to the penalty section. The building inspector or administrative officer of the City of Winston-Salem would be authorized to summarily abate any violation of the zoning ordinance.

The cost of the abatement action would be assessed against the person in default. If that person did not pay, the cost would be a lien against the property where the abatement occurred. It would also be a lien against any other real property owned by the person in default within the jurisdiction of the zoning ordinance, except the person's primary residence. The lien would have the same priority as unpaid ad valorem taxes. A person could be exempted from the costs and the lien if they could show that the violation was created solely by the actions of another.

The bill would provide for the filing of a notice of lis pendens with the Forsyth County clerk of court. Once thus filed, the notice of violation would be binding on the successors and assigns to the property. The city building inspector or administrative officer would have authority to get the notice of lis pendens cancelled if the notice of violation was complied with.

EFFECTIVE DATE: When it becomes law.

S1435-SMRR-190(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 1437

Short Title:	Highlands Mayor Pro Tem.	(Local)
Sponsors:	Senator Snow.	
Referred to:	State and Local Government.	

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ANNUAL ELECTION OF A MAYOR PRO TEMPORE BY THE HIGHLANDS TOWN BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.4 of the Charter of the Town of Highlands, being Chapter 519 of the Session Laws of 1991, reads as rewritten:

"Sec. 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall be elected by the board: (i) in the odd-numbered year at the organizational meeting following the regular municipal election, to serve until the first regular meeting in December of the next year, and (ii) in the even-numbered year at the first regular meeting in December of that year, to serve until the organizational meeting following the regular municipal election. In case of a vacancy, the board shall elect a Mayor Pro Tempore to serve the remainder of the unexpired term of that office. ~~shall serve in such capacity until the organizational meeting following the next regular municipal election, despite the contrary provisions of G.S. 160A-70.~~"

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

SENATE BILL 1437:
Highlands Mayor Pro Tem

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 3, 2010
Introduced by:	Sen. Snow	**Prepared by:**	William R. Gilkeson
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1437 would set the election for the Mayor Pro Tem of the Town of Highlands at once every year. Currently the Mayor Pro Tem has a 2-year term. The bill would also have the effect of having the Mayor Pro Tem serve at the pleasure of the Town Board.***

[As introduced, this bill was identical to H2045, as introduced by Rep. West, which is currently in House Local Government I.]

CURRENT LAW: The Charter of the Town of Highlands provides that, at the December organizational meeting after the town election in the odd-numbered year, the Town Board elects one of its members Mayor Pro Tem. That official performs the Mayor's duties if the Mayor is absent or unable to perform them. The Charter has that Mayor Pro Tem serve until the organizational meeting after the next town election, two years later.

GS 160A-70 provides the general statutory rule that a Mayor Pro Tem is elected at the organizational meeting to serve at the pleasure of the Town Board. But the Charter of Highlands appears to exempt the town from that rule.

BILL ANALYSIS: SB 1437 would rewrite the Highlands Charter to give the Mayor Pro Tem a one-year term. The Town Board would elect a Mayor Pro Tem at the organizational meeting after a town election to serve till the first regular meeting in December of the next year. They would then elect a Mayor Pro Tem again to serve for a year until the organizational meeting after the next town election.

By eliminating the exemption from G.S. 160A-70, the bill has the effect of making the Mayor Pro Tem serve at the pleasure of the Board, rather than be entitled to serve out the term.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Highlands is a mountain resort town in Macon County with a 2000 population of 909.

S1437-SMRR-188(e1) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1438
PROPOSED COMMITTEE SUBSTITUTE S1438-CSRR-71 [v.1]

6/4/2010 4:53:46 PM

Short Title: New Hanover ABC Board Membership. (Local)

Sponsors:

Referred to:

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE NEW HANOVER COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD MEMBERSHIP FROM THREE MEMBERS TO FIVE MEMBERS AND TO AUTHORIZE THE COUNTY COMMISSIONERS TO FILL VACANCIES ON THE ABC BOARD AND TO REMOVE ITS MEMBERS FOR CAUSE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 418 of the 1935 Session Laws reads as rewritten:

"Sec. 4. There is hereby created a County Liquor Commission to be known and designated as the New Hanover County Alcoholic Beverage Control Board. The Board shall consist of ~~three~~ five members, one of whom shall be chairman. The Board shall be appointed by the County Commissioners of New Hanover County, ~~and~~ who shall have the power to fill vacancies or remove from office any member for misconduct, incompetency or fraud. The members of this Board shall give bond for the faithful performance of their duties to the County of New Hanover in ~~the sum of ten thousand dollars each, and which bond, as to form and execution, shall be approved by the County Attorney. Each member of the Board shall devote his full time to the performance of his official duties. The main office of the Board shall be located in the City of Wilmington.~~ an amount not less than five thousand dollars ($5,000), secured by a corporate surety, for the faithful performance of the Board member's duties. A public employees' blanket position bond in the required amount satisfies this requirement. The bond shall be made payable to the Board and shall be approved by the County Commissioners. The County Commissioners may exempt from this bond requirement any Board member who does not handle Board monies, and it may increase the amount of the required bond for any Board member who does handle Board monies."

SECTION 2. Section 7 of Chapter 418 of the 1935 Session Laws reads as rewritten:

"Sec. 7. The County Commissioners of New Hanover County in naming the Board shall designate the Chairman. The Chairman, when present, shall preside at all meetings and in his absence a member designated by the Chairman shall preside.

~~Two~~ Three members of the Board shall constitute a quorum and any action or order of the Board shall require the approval of at least ~~two~~ three members."

SECTION 3. Section 9 of Chapter 418 of the 1935 Session Laws reads as rewritten:

SENATE BILL 1438:
New Hanover ABC Board Membership

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 8, 2010
Introduced by:	Sen. Boseman	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1438-CSRR-71		

SUMMARY: ***This PCS for Senate Bill 1438 would increase the membership of the New Hanover County ABC Board from three to five members. It would also authorize the New Hanover County commissioners to fill vacancies on the ABC Board and remove its members for cause.***

[As introduced, this bill was identical to H1977, as introduced by Reps. McComas, Justice, Hughes, which is now in House Local Government II, if favorable, Alcoholic Beverage Control.]

CURRENT LAW: Since the passage of a local act in 1935, New Hanover County has had an Alcoholic Beverage Control Board, consisting of three members. They are appointed by the New Hanover county commissioners. The 1935 act provided that two of the three ABC Board members would serve for two-year terms and one, chosen by lot, would serve for a four-year term.

The 1935 act seems to say the ABC Board may remove its own members for "misconduct, incompetency or fraud."

Each member of the ABC Board is required to post a $10 performance bond. Each member is required to devote full time to the duties of the office.

G.S. 18B-700, enacted in 1981, set up a standard pattern for appointment of local ABC boards, but grandfathered in appointment methods and terms prescribed by prior local acts.

BILL ANALYSIS: SB 1438 would do five things:

1. Increase the number of members of the New Hanover ABC Board from 3 to 5 members.
2. Change the language that appears to give the ABC Board the authority to remove its own members for cause and moves that authority to the New Hanover county commissioners.
3. Replace the $10 performance bond with one of not less then $5,000, secured by a surety. The county commissioners would approve the bond and could waive it for any non-money-handling ABC Board member who didn't handle money and increase it for any money-handling member. The bond requirement could be satisfied by a public employee's blanket position bond in the required amount.
4. Removes the requirement that an ABC Board member be full-time.
5. Changes the 1935 term requirement so that all members have 3-year terms. It phases in a system of staggered terms so that every year, one or two members' terms will expire.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: Earlier this year after news stories, all three members of the New Hanover ABC Board resigned. Despite the term provisions of the 1935 local act, the county commissioners appointed the replacements for phase-in terms of one, two, and three years, with all subsequent terms to be for three years. This bill would incorporate those phase-in appointments into the phase-in of the 5 members.

The publicity in New Hanover and other places led to the Joint Study Committee on Alcoholic Beverage Control, which recommended a number of bills to the Short Session. Among those bills are the companions SB 1112 and HB 1717, which would provide that all local ABC boards have 3 members, notwithstanding any local acts. The House ABC Committee is scheduled to consider HB 1717 at 1 p.m. today.

"The Chairman shall receive a salary not in excess of three thousand six hundred ($3,600) dollars per annum and each of the other members a salary not in excess of three thousand two hundred fifty ($3,250) dollars per annum, payable monthly, and same to be fixed by the Board of County Commissioners of New Hanover County. They shall receive their actual expenses incurred in the performance of their official duties, said expenses, however, not to exceed the rates prescribed for expenses for members of the State Budget Commission. ~~The three members of the Board shall hold office for a term of office in the manner herein set forth. Two members of the Board shall hold office for two years and the third member of the Board shall hold office for four years, to be determined amongst them by lot.~~ Each of the three members appointed in May 2010 shall complete the initial term to which appointed, according to the minutes of the New Hanover County commissioners. The fourth member shall be appointed to an initial one-year term, and the fifth member shall be appointed to an initial two-year term. Subsequent terms for all members shall be for three years. No member may serve more than six consecutive years.

No member of the Board may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this act, except by the County of New Hanover, and then in the courts. Such proceedings by the said County shall be instituted and conducted by the County Commissioners.

Oath of Office. Each member of the Board before entering upon the duties of ~~his~~ office shall file with the Chairman of the Board of County Commissioners of New Hanover County ~~his~~ the member's oath of office to support the Constitution and the laws of the United States and of the State of North Carolina."

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

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anthony Allen	NCACC
Lisa Martin	NC Home Builders

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tristan Routh	UNC School of Laws
Whitney Campbell	Jordan Price
PAIGE WORSHAM	SCHOOL OF GOVERNMENT
Kay Emanuel	School of Government
Christine Wunsche	SOG/Daily Bulletin
Patrick Gannon	Wilmington StarNews
Aaron Dancy	Sen. Intern
Carl Dean	OSP
Kathy R. Everett-Perry	Durham County
Deborah Craig-Ray	Durham County
Mia Bailey	Electi Cities of NC, Inc

PAGES ATTENDING

Date: 6-8

Committee: State & Local Gov't **Room:** 1124 LB

12 Noon

PLEASE PRINT LEGIBILY!!!!!

Page Name	Hometown	Sponsoring Senator
1 Kasey Briggs	Raleigh	Stevens
2 Brennan Lumalander	Cary	Stevens
3 PARKER TROUTMAN	RALEIGH	HUNT
4 Andrew Allen	Raleigh	Hunt
5 Elizabeth Lane	Rocky Mount	Swindell
6 Jennifer Isaza	Rocky Mount	Swindell
7 Michael Wohlers	Raleigh	Sen. Stein
8 Damon Hall Jr.	Manteo	Marcia Basnight
9 Kelly Quick Res Asst		

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, June 08, 2010

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

S.B. **1263** Brevard Charter Amendment.
Sequential Referral: None
Recommended Referral: None

S.B. **1361** Greensboro/High Point Boundary Swap.
Sequential Referral: None
Recommended Referral: None

S.B. **1399** Zoning/Durham County Protest Petitions.
Sequential Referral: None
Recommended Referral: None

S.B. **1415** Change Name to WNC Public Lands Council.
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None

S.B. **1435** Planning & Zoning in Forsyth County.
Sequential Referral: None
Recommended Referral: None

S.B. **1437** Highlands Mayor Pro Tem.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1421** Forest City/Convey Property.
Draft Number: PCS65075
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B. **1438** New Hanover ABC Board Membership.

Draft Number:	PCS15408
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 8

Committee Clerk Comments:

HANDLING BILL ON HOUSE FLOOR

SB1263 Rep. David Guice
SB1361 Rep. Alma Adams
SB1399 Rep. Larry Hall
SB1415 Rep. Phillip Haire
SB1435 Rep. Larry Womble
SB1437 Rep. Thomas West
SB1421 Rep. Bobby England
SB1438 Rep. Carolyn Justice

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 15, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 15, 2010, in Room 1124 of the Legislative Building. Ten members of the committee were present. Senator Don East, presided.

Senator East called the Committee to order and introduced the paged attending the meeting.

Proposed Committee Substitute for Senate Bill 1121, Burlington Charter/Real Property Sale/Lease, was explained by Senator Foriest. Senator Blake moved to adopt the PCS and Senator Queen moved for a Favorable Report – Unfavorable to the Bill but Favorable to the Proposed Committee Substitute. A PCS for Senate Bill 1386, Government Employees Port Benefits was again before the Committee. The PCS was adopted and Senator East's PCS received a Favorable Report – UnFavorable to the Bill but Favorable as to the Committee Substitute on the motion of Senator Blake. Senate Bills 1345,1443 and 1448 were displaced.

The meeting adjourned at 12:30 pm.

Senator Don East, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, June 15, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

SB 1121	Burlington Charter/Real Property Sale/Lease.	Senator Foriest
SB 1345	Greensboro/Relocation of Wildlife.	Senator Vaughan
SB 1386	Government Employees Port Benefits.	Senator East
SB 1448	Greensboro City Manager/Contracts.	Senator Vaughan

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1121*
PROPOSED COMMITTEE SUBSTITUTE S1121-CSRR-76 [v.4]

6/14/2010 3:42:24 PM

Short Title: Burlington Charter/Real Property Sale/Lease. (Local)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF BURLINGTON TO AUTHORIZE THE CITY COUNCIL TO LEASE CITY-OWNED REAL PROPERTY IN ITS MUNICIPAL SERVICE DISTRICTS, FOR SUCH CONSIDERATION, UPON SUCH TERMS, AND UNDER SUCH CONDITIONS AS DETERMINED BY THE CITY COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Subchapter E of Chapter IV of the Charter of the City of Burlington, being Chapter 119 of the 1961 Session Laws, is amended by adding a new section to read:

"Section 4.161.1. Lease of real property in municipal service districts.

(a) Notwithstanding the provisions of G.S. 160A-272, the city council may, in its discretion, lease city-owned property in its municipal service districts established pursuant to Article 23 of Chapter 160A of the General Statutes for such consideration and upon such terms and conditions as the city council may determine, including terms of more than 10 years in accordance with the procedures of this subsection. Before leasing its interest in property owned in its municipal service districts, the city shall hold a public hearing. The city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the property being leased, the terms and conditions of the lease, the proposed consideration and the city council's intention to approve the lease.

(b) The provisions of this Section shall be construed in addition to all other provisions of law authorizing or prescribing the method of leasing property owned by the city."

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

SENATE BILL 1121:
Burlington Charter/Real Property Sale/Lease

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 14, 2010
Introduced by:	Sen. Foriest	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1121-CSRR-76		

SUMMARY: ***This Proposed Committee Substitute for Senate Bill 1121 would allow the City of Burlington to lease property in its municipal service districts for longer than 10 years, as long as notice and public hearing are provided.***

[As introduced, this bill was identical to H1688, as introduced by Reps. Bordsen, Ingle, which is currently in House Local Government I, if favorable, Finance.]

CURRENT LAW: Article 12 of G.S. Chapter 160A provides various procedures for how a city may convey property. Among other things, it limits most leases to 10 years. *G.S. 160A-272.*

Article 23 of Chapter 160A of the General Statutes authorizes cities to create "municipal service districts" to provide additional services in defined portions of a municipality. The services are listed in the statute. Before a city creates a municipal service district or expands a municipal service district, it must give public notice and hold a public hearing. *G.S. 160A-537 and 160A-538.*

BILL ANALYSIS: The PCS would add a new section to the Charter of Burlington, authorizing the city to lease city property in its municipal service districts, for more than 10 years. It could do so for such consideration and under such terms and conditions as the city council determines.

Before leasing its property in a municipal service district, the city would have to hold a public hearing. Notice of the hearing would have to be published at least 10 days before the hearing, and it would have to describe the property to be leased, the terms and conditions of the lease, the proposed consideration, and the council's intention to lease.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: As introduced, the bill dealt with city authority to sell and lease, but the PCS is limiting to leasing.

S1121-SMRR-201(CSRR-76) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1345*
PROPOSED COMMITTEE SUBSTITUTE S1345-CSRR-77 [v.1]

6/11/2010 4:07:00 PM

Short Title: Greensboro/Relocation of Beavers. (Local)

Sponsors:

Referred to:

May 24, 2010

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE CITY OF GREENSBORO FROM THE REQUIREMENT THAT BEAVERS TAKEN UNDER A DEPREDATION PERMIT MUST BE EUTHANIZED OR RELEASED ON THE PROPERTY WHERE CAPTURED AND AUTHORIZE THE RELOCATION OF THOSE BEAVERS TO A SUITABLE ALTERNATIVE HABITAT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of 15A NCAC 10B.0106(d)(5) or any other provision of law, beavers that have been taken alive under a depredation permit may be relocated to a suitable alternative habitat with the consent of the landowner of that new habitat.

SECTION 2. This act applies only to depredation permits issued to the City of Greensboro.

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

SENATE BILL 1345:
Greensboro/Relocation of Beavers

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 11, 2010
Introduced by:	Sen. Vaughan	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1345-CSRR-77		

SUMMARY: ***This Proposed Committee Substitute for Senate Bill 1345 would exempt the City of Greensboro from a State wildlife rule that says beavers, if captured under a depredation permit, must either be euthanized or released on the property where they were captured. The bill would instead allow the City to release those beavers to a suitable alternative habitat, with the consent of the owner of that new habitat.***

[As introduced, this bill was identical to H1928, as introduced by Rep. Jones, which is currently in House Local Government I, if favorable, Wildlife Resources.]

CURRENT LAW: Pursuant to G.S. Chapter 113, the Wildlife Resources Commission has adopted rules concerning "depredation permits." Those permits empower the permittee to kill or capture wild animals who engage in damage to vegetation or livestock.

One of those rules states as follows: "Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in their possession." *15A NCAC 10B.0106(d)(5).*

BILL ANALYSIS: The PCS would exempt the City of Greensboro from the requirement in 15A NCAC 10B.0106(d)(5) that beavers captured under a depredation permit, if released, must be released on the property where captured. The bill would instead allow that City to release those beavers to a suitable alternative habitat, with the consent of the owner of that new habitat.

As originally drafted, the bill would have exempted the City from the rule with regard to carnivores and beavers, but the PCS limited the exemption to beavers. The exemption would apply to permits issued to the City itself, not to other permit holders in Greensboro.

EFFECTIVE DATE: When it becomes law.

S1345-SMRR-199(CSRR-77) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1386
PROPOSED COMMITTEE SUBSTITUTE S1386-CSRF-90 [v.2]

6/14/2010 3:52:26 PM

Short Title: Government Employees Port Benefits. (Public)

Sponsors:

Referred to:

May 26, 2010

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY ALLOWING EMPLOYEES MOVING BETWEEN STATE, CITY, AND COUNTY GOVERNMENT TO PORT THEIR SICK AND ANNUAL LEAVE.

The General Assembly of North Carolina enacts:

SECTION 1. The Legislative Research Commission may study the issue of allowing the State Personnel Commission to transfer an employee's accrued annual and sick leave from a city or county, and allowing such transfers for employees shifting employment between units of local government. In conducting the study, the Commission shall consider the fiscal impact of allowing the transfers, including any impact on the Retirement System for Teachers' and State Employees' and the Local Government Employees' Retirement System.

SECTION 2. The Legislative Research Commission may make an interim report to the 2011 General Assembly and shall make its final report to the 2011 General Assembly, Regular Session 2012.

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

SENATE BILL 1386:
Government Employees Port Benefits

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 7, 2010
Introduced by:	Sen. East	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 1386 would provide for city and county governments, and the State Personnel Commission to transfer any accumulated sick or vacation leave for an employee moving from one unit of government to another.***

CURRENT LAW: G.S. 126-4 sets out the powers and duties of the State Personnel Commission, including the authority to set hours and days of work, vacation and sick leave and other conditions of employment.

G.S. 153A-42 authorizes the boards of county commissioners to fix pay and other compensation for county officers and employees.

G.S. 160A-162 authorizes city councils to fix pay and other compensation fro city employees.

BILL ANALYSIS: Senate Bill 1386 provides for the transfer of earned vacation and sick leave for an employee moving between employment in the various units of State and local government. Such transfers are allowed to the extent that vacation was not paid as terminal leave nor did the employee retire with sick leave included as creditable service. Sections 1, 2, and 3 of the bill insert this provision for State, county, and city employment, respectively.

EFFECTIVE DATE: The act is effective when it becomes law.

S1386-SMRF-172(e1) v1

SENATE BILL 1448

Short Title:	Greensboro City Manager/Contracts.	(Local)
Sponsors:	Senator Vaughan.	
Referred to:	State and Local Government.	

May 27, 2010

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF GREENSBORO TO GIVE THE CITY MANAGER GREATER AUTHORITY TO APPROVE, AWARD, AND EXECUTE SERVICES CONTRACT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.111 of the Charter of the City of Greensboro, being Chapter 1137 of the 1959 Session Laws, as amended by Section 6 of Chapter 74 of the 1967 Session Laws, Section 7 of Chapter 142 of the 1969 Session Laws, Section 17 of Chapter 213 of the 1973 Session Laws, Section 4 of Chapter 159 of the 1981 Session Laws, Section 1 of Chapter 6 of the 1993 Session Laws, and S.L. 2003-134 reads as rewritten:

"Sec. 4.111. Contract procedures.

All contracts, except as otherwise provided for in this Charter, shall be authorized and approved by the Council and reduced to writing in order to be binding upon the City. All contracts and all ordinances or resolutions authorizing the same shall be drawn by the City Attorney or shall be approved by him before authorization by the Council. A contract for the purchase of apparatus, supplies, materials or equipment ~~or a contract for the performance of services~~ may be approved, awarded and executed by the city manager on behalf of the city provided that the City Council shall have approved a sufficient appropriation in the annual budget for the current fiscal year. A contract for the performance of services may be approved, awarded, and executed by the City Manager on behalf of the City as provided in an ordinance duly adopted by the City Council. A contract for construction or demolition may be approved, awarded and executed by the City Manager on behalf of the City when the amount of such contract does not exceed three hundred thousand dollars ($300,000); provided that the City Council shall have approved a sufficient appropriation in the Annual Budget for the current fiscal year for the general purposes specified under the contract. Before any such contract is awarded, the City Manager shall comply with all other requirements set forth in G.S. 143-129, and G.S. 143-131, and said contract shall be subject to the approval of the City Attorney. Any person aggrieved by an award made pursuant to this Section may appeal to the City Council by filing notice thereof with the City Clerk immediately following a decision granting such award."

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

SENATE BILL 1448:
Greensboro City Manager/Contracts

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 3, 2010
Introduced by:	Sen. Vaughan	**Prepared by:**	Hal Pell, Committee Counsel and Kelly Quick, Research Assistant
Analysis of:	First Edition		

SUMMARY: SB 1448 amends Greensboro City Charter to give the City Manager greater authority to approve, award, and execute contracts for services.

CURRENT LAW: Under Section 4.11 of the Greensboro City Charter, the City Manager has the authority to approve, award, and execute contracts for the purchase of apparatus, supplies, materials, or equipment, or contracts for the performance of services, on behalf of the City provided that the City Council has appropriated sufficient funds for the contract.

BILL ANALYSIS: SB 1448 gives the City Manager greater authority to approve, award, and execute contracts for the performance of services by removing the provision that the City Council must have approved an appropriation for the contract in the annual budget for the current fiscal year. SB 1448 allows the City Manager to approve, award, and execute contracts for the performance of services on behalf of the City as provided in an ordinance adopted by the City Council.

EFFECTIVE DATE: This act is effective when it becomes law.

S1448-SMTH-11(e1) v2

PAGES ATTENDING

Date: 6-15

Committee: State & Local Gov't **Room:** 1124LB 12 Noon

PLEASE PRINT LEGIBILY!!!!!

Page Name	Hometown	Sponsoring Senator
1 Brett Roberts	Winston-Salem	Brunstetter
2 Chichi Oji	Mocksville	Stein
3 Alexander Ventriglia	Wilmington	Basnight
4 Thomas Keshian	Winston-Salem	Brunstetter
5 Steven Sauer	Summerfield	P. Berger
6 John Stanley	Nashville	A. B. Swindell
7 Benjamin Horne	Nashville	A. B. Swindell
8		
9		

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the eeting or a Sgt. at Arms.

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 15. 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alice Barlow	NCEL
Aaron Day	Intern
Carl Dean	OSP
Cam Cree	BPMHL
Tom Carruthers	City of Greensboro
David Phlegar	City of Greensboro
Sarah Clapp	NCWRC
Gordon Myers	NCWRC
Maddens Best	P.A.C. Wayne County
Helen Best	P.A.C. Wayne County
Mildred M Ross	PAC Wayne County
Lidia Butler	PAC of Wayne Co.
Julia D. Best	Political Awarness PAC of Wayne Co.

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 15. 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jordan Green	YES! Weekly
Sherman E. Best	Political Awareness PAC
Penny Buffkin	school of Gov.
Brian Haney	Randolph Cloud & Assc.
Rick Glazier	PFFPNC
Jessi Hayes	NC HBA
Cady Thomas	NCAR
Dorothy Best	PAC of Wayne County
Johnny Lewis	PAC of Wayne County
James E Lewis	PAC OF Wayne County
Thaddeus Lewis	PAC OF Wayne County

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 15. 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Annie Miller	PAC of Wayne County
Ray Meyer	NCLM

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, June 15, 2010

Senator EAST,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1121** Burlington Charter/Real Property Sale/Lease.

Draft Number:	PCS35466
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

S.B. **1386** Government Employees Port Benefits.

Draft Number:	PCS35467
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

Handling Bills on House Floor

SB1121 Rep. Bordsen

SB1386 Rep. Holloway

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 22, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 22, 2010, in Room 1124 of the Legislative Building. Eight members of the committee were present. Senator Ed Jones, presided.

Senator Jones called the meeting to order and introduced the pages attending the meeting.

The first bill on the agenda was House Bill 710, Clayton/Electric Notices. A Proposed Senate Committee Substitute was adopted by the Committee and Senator Rouser explained the Bill. Senator Apodoca moved to give the PCS a Favorable Report -- UnFavorable to the Bill But Favorable To The Proposed Senate Committee Substitute. Representative Guice explained House Bill 1664, Brevard Charter Amendment and Senator East made a motion to give the Bill a Favorable Report. The Bill carried. House Bill 1716, Allow Hamlet to Operate Motorized ATVs was explained to the Committee by Representative Goodwin and received a Favorable Report by the Committee. The next bill to be heard was House Bill 1956, Marshville Town Manager. Senator Goodall handled the bill before the Committee and the Bill received a Favorable Report. A Proposed Senate Committee Substitute for House Bill 2042, Sanford Property Transfer, was explained to the Committee by Representative Love. Senator Dorsett moved for a Favorable Report- Unfavorable to the Bill But FavorableTo the PCS and the Bill carried. The Final bill to be heard by the Committee was Senate Bill 1345, Greensboro/Relocation of Wildlife. A Proposed Committee Substitute was explained by Senator Vaughn and Senator Apodoca moved that the PCS receive a Favorable Report – UnFavorable To The Bill But Favorable To The Proposed Committee Substitute. The Bill carried.

The meeting adjourned at 12:45 pm.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, June 22, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 710	Clayton/Electronic Notices.	Representative Daughtry
HB 1664	Brevard Charter Amendment.	Representative Guice
HB 1716	Allow Hamlet to Operate Motorized ATVs .	Representative Goodwin
HB 1956	Marshville Town Manager.	Representative Gibson, III
HB 2042	Sanford Property Transfer.	Representative Love, Sr.
SB 1345	Greensboro/Relocation of Wildlife.	Senator Vaughan

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 710*
PROPOSED SENATE COMMITTEE SUBSTITUTE H710-PCS11143-LBx-89

Short Title: Archer Lodge Boundary Correction. (Local)

Sponsors:

Referred to:

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO CORRECT THE BOUNDARIES OF THE TOWN OF ARCHER LODGE BY REMOVING A PARCEL INCLUDED IN THE ORIGINAL DESCRIPTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.1 of the Charter of the Town of Archer Lodge, being S.L. 2009-466, reads as rewritten:

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Archer Lodge are as follows:

Beginning at a point on the centerline of Covered Bridge Road with an intersection of Millstone Manor S/D (PB 31/377). Thence in a southwesterly direction along the centerline of Covered Bridge Road approximately 570 feet to a corner with lot #5 of Millstone Manor S/D (PB 31/377), thence in a northwesterly direction along lot #5 following an unnamed branch (PB 31-377) following the same unnamed branch to a corner with lot 19 (PB 35/77), thence southeasterly along Millstone Manor S/D to a point (PB 69/90), thence northwesterly along Millstone Manor S/D lot numbers 55 and 56 and along a drainage easement (PB 69/90) to an unnamed branch to a corner with lot 20 where the unnamed branch intersects with Big Arm Branch (PB 70/236), thence along Big Arm Branch to its intersection with "Ben's Prong," thence along "Ben's Prong" to Lot 15, Millstone Manor S/D (PB 70/236), thence along Ben's Prong Branch (DB 3636/97), (Parcel #16J03034A) to its intersection with (Parcel #16J03033F), thence following this line in a northerly direction to its intersection with (Parcel #16J02024B), thence in a southwesterly direction, thence northwesterly, thence northeasterly (PB 28/217) to an intersection with (Parcel #16J03021), thence following this parcel line in a northeasterly direction to its intersection with (Parcel #16I02017A), thence southeasterly along this line to its intersection with (Parcel #16J03024B), thence in a northeasterly direction along this line to its intersection with (Parcel #16J03033D), thence in a southeasterly direction along this line to its intersection with (Parcel #16J03033F), thence in a northeasterly direction along this line (Parcel #16J03033D) to its intersection with (Parcel #16I02024), thence in a northwesterly direction along this line to its intersection with (Parcel #16J03024C), thence along this line in a northwesterly direction to its intersection with (Parcel #16I02017A), thence continuing northwesterly along (Parcel #16I02024) to its intersection with Big Arm Branch, thence northeasterly along Big Arm Branch to an intersection with (Parcel #16J02037), thence in an easterly direction to a point on the centerline of Buffalo Road (SR 1003), thence following the centerline of Buffalo Road to its intersection with (Parcel #16J02038T), thence following the perimeter of this parcel (16J02038T) to an intersection with the centerline of

Buffalo Road, thence in a northerly direction along the centerline of Buffalo Road to an intersection with (Parcel #16J02038B), thence in a westerly direction following this property line to its most northwesterly point with (Parcel #16J02038C), thence in an easterly direction to a corner with (Parcel #16J02038J), thence following the most easterly perimeter of this parcel to an intersection with the centerline of Buffalo Rd., thence along this centerline in a northerly direction to an intersection with (Parcel #16J02038J), thence in a northwesterly direction following the perimeter of (Parcel #16J02038 J) to its intersection with (Parcel #16J02038D), thence following this parcel line in an easterly direction to its intersection with the centerline of Buffalo Road, thence southerly along the centerline of Buffalo Road to its intersection with (Parcel #16J02026), thence following the perimeter of this line to its intersection with Fletcher Road (SR 1770), thence easterly along the centerline of Fletcher Road to its intersection with (Parcel #16J02026), thence in a northeasterly direction following the perimeter of (Parcel #16J02026) to its intersection with (Parcel #16J02011A), thence southerly along this property line to its intersection with (Parcel #16J02027A), thence southerly along this property line to its intersection with (Parcel #16K01025M), thence following this line to its intersection with (Parcel #16J02009), thence in an southerly direction following the perimeter of this line to its intersection with (Parcel #1601025A), thence with this line to its intersection with (Parcel #16J02007A), thence in a southeasterly direction following this property line along its perimeter to its intersection with (Parcel #16J02005E), thence following the run of an unnamed branch (PB 27/435) to its intersection with the centerline of Wall Road (SR 1747). Thence from the preceding point continuing southeasterly and subsequently northeasterly along Archer's Glen S/D (PB 36/29), thence northwesterly along Jimmie Barne's (Parcel #16K03026A) to a corner with Phyllis Edwards (DR 1938/207), thence southeasterly along her line to its intersection with Donald Driver's line (DR 680/382), thence northeasterly along Driver's line, thence southeasterly to an intersection with Paul Tippett's line, thence northeasterly along this line (DB 958/348), thence northeasterly along Charles Tippett's line, (DB 2645/444) to a point in the centerline of Wendell Road (SR 1701), thence in a northeasterly direction along the centerline of Wendell Road (SR 1701) to a point in the centerline of Wendell Road and Buffalo Creek (PB 64/181), thence southeasterly along Phyllis Edwards' line (PB 64/181), thence southeasterly along Barnes View S/D (PB 64/101), thence northeasterly following "Old Buffalo Creek," a parcel owned by Creekside Land Development Corporation (DR 2691/428), to where it runs into Buffalo Creek, thence in a southeasterly direction following Buffalo Creek to its intersection with (Parcel #16K03031), thence southerly along this line to its intersection with Creekside S/D (Section 9B), from this point continuing in a northeasterly direction along the property line of (Parcel #16K03031) to its intersection with Buffalo Creek, thence southerly along Buffalo Creek to its intersection with Creekside S/D, Section 6 (PB 54/201) and (Parcel #16K04022A), thence following the Creekside S/D Boundary line to a point at its intersection with (Parcel #16K04022), thence in an easterly direction following the perimeter of this parcel to its intersection with the centerline of Covered Bridge Road (SR 1700), thence in an easterly direction along the centerline of Covered Bridge Road to its intersection with (Parcel #16K04021A), thence southeasterly along this property line to its intersection with Tafton S/D Phase 2 (PB 59/495), thence in an easterly direction along this line to its intersection with Buffalo Creek, thence in a southeasterly direction along Buffalo Creek to its intersection with Wyndfall S/D Section 5 (PB 64/273), (Parcel #16J04047O), thence in a southwesterly direction following this property line to a point on the centerline of Carrie Drive, thence southeast along this centerline and continuing to follow (Parcel #16J04047O) to its intersection with Buffalo Creek, thence following Buffalo Creek in a southwesterly direction to its intersection with Hog Pen Branch, thence northwesterly following Hog Pen Branch (Edenton S/D, PB 73/54), (PB 55/270), (PB 58/127) to a point on the centerline of Buffalo Road (SR 1003), thence southeasterly along Buffalo Road (SR 1003), thence southwesterly and following Horseman's Run S/D (PB 44/237) and (PB 41/383), thence southwesterly along Jerry Pace's line (DB

883/277) to a point on Tim's Creek (PB 25/221), thence in a northeasterly direction along Tim's Creek to its intersection with (Parcel #16J03049), thence in a westerly direction along this property line to a point at the intersection of Mineral Springs Branch (PB 25/221) and (Parcel #16J03050B), thence in a southerly direction following this line to a point where it intersects with (Parcel #16J03053B), thence in a westerly direction to its intersection with (Parcel #16J04011A), thence in a southerly direction to its intersection with (Parcel #16J04011P), thence continuing in a southerly direction and around (Parcel #16J04011P) to its intersection with Sandy Creek Drive, thence in a westerly direction, including all of Sandy Creek Drive, to the centerline of South Murphrey Road (SR 1703), thence northeasterly along the centerline to an intersection with (Parcel #16J04010), thence westerly to an intersection with (Parcel #16P99041I), thence continuing westerly to an intersection with (Parcel #16J03059), thence southerly to the intersecton of (Parcel #16J04009) and (Parcel #16J04007), thence in a westerly direction along Phillip Barnes' property (Parcel #16J04009) to its intersection with (Parcel #16J04009A), thence in a southerly direction to the southeastern corner of (Parcel # 16J04008) and including all of (Parcels # 16J04009A and 16J04008); thence from the corner of (Parcel # 16J04008) to its intersection with the centerline of Castleberry Road (SR 1705); thence in a southwesterly direction along this centerline to an intersection with Parcel #16J04005, ~~#16JO4014E; thence southeasterly and around (Parcel # 16J04014E) to its intersection with (Parcel # 16J04007H), thence easterly and around (Parcel # 16J04007H) to its intersection with (PN # 16J04005),~~ thence following this property line in a southeasterly direction to its intersection with Watson's Mill S/D (PB 73/349), (PB 63/241) to a point at River Bend S/D (PB 31/143), thence in a southeasterly direction following the River Bend S/D line, thence following River Bend S/D to a point, thence northwesterly along River Bend S/D to a point on the centerline of Castleberry Road (SR 1705), thence following the centerline of Castleberry Road (SR 1705) in a northeasterly direction at a point in the centerline, thence in a northwesterly direction along William Holloway's line (DB 3167/343) to a point on a creek adjoining Riverwood S/D (PB 47/167), thence along this line (Perry Creek) in a northeasterly direction and continuing along Perry Creek (PB 57/436), thence northeasterly along Perry Creek (James Allen's line: Parcel #16J03061) to a point at the intersection of Phillip Barnes' line (PR 16J03060), thence southeasterly following his property line to a point at the centerline of Castleberry Road (SR 1705), thence northeasterly along Castleberry Road to a point with the intersection of J.T. Smith's line (PN # 16J03057), (DB 1448/893), thence northwesterly along Smith's line to its intersection with Charles Johnson's line (PR 16J03056), (DB 978/679), thence with Johnson's line in a northwesterly direction to its intersection with Phillip H. Barnes' property (PR 16J03063), (DB 3304/201), thence westerly and southwesterly along Phillip H. Barnes' property (PN # 16J03062), (DB 3304/201) to a point on James Allen's line (DB 595/217), thence westerly along James Allen's line where it intersects with Perry Creek, thence in a southwesterly direction along Perry Creek to an intersection with Elizabeth Badgett's line (PB 57/436), thence northwesterly along Badgett's line to a point on the centerline of Loop Road (SR 1706), thence in a northeasterly direction along the centerline of Loop Road (SR 1706) to a point where lot #1 of Mooneyham Estates (PB 33/231) intersects with Loop Road, thence in a northwesterly direction along lot #1 of Mooneyham Estates, thence in a northeasterly direction along lot #1 (PB 33/321) to a point in the eastern right-of-way of an existing 50' access easement, thence northeasterly along this easement to an intersection in the line of Cooper Farms S/D (PB 54/267), (PB 45/141), thence following Cooper Farms S/D to its intersection with Saddlebrook S/D (PB 23/127), thence northeasterly along the Saddlebrook S/D line to its intersection with Millstone Manor S/D (PB 35/77), thence following this line southwesterly thence northeasterly to its intersection with the centerline of Covered Bridge Road (SR 1700) at its Point of Beginning."

SECTION 2. This act becomes effective retroactively from and after the effective date of incorporation under S.L. 2009-466.

HOUSE BILL 710:
Archer Lodge Boundary Correction

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 21, 2010
Introduced by:	Rep. Daughtry	**Prepared by:**	William R. Gilkeson
Analysis of:	PCS to First Edition H710-CSLBx-89		Committee Counsel

SUMMARY: This Proposed Committee Substitute for House Bill 710 would correct the boundary of the Town of Archer Lodge by removing a parcel of land included in the original description.

[As introduced, this bill was identical to S533, as introduced by Sen. Rouzer, which is currently in Senate State and Local Government.]

CURRENT LAW: In 2009, the General Assembly incorporated a new municipality in Johnston County, the Town of Archer Lodge. The incorporation was subject to a referendum to be held on November 3, 2009. When the referendum was held, a majority of the voters of the area described in the act voted in favor of incorporation, and the town was incorporated upon the certification of those referendum results a week later, on November 10, 2009.

BILL ANALYSIS: The PCS would correct the boundary, as described in the Charter of the Town of Archer Lodge, as enacted by the General Assembly in 2009, by removing a parcel of land that was included in the original description.

EFFECTIVE DATE: Retroactively to November 10, 2009, the date of incorporation of the town.

BACKGROUND: As introduced, House Bill 710 would have allowed the Town of Clayton, also in Johnston County, to use electronic means to give notice of certain public hearings.

H710-SMRR-211(CSLBx-89) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1664*

Short Title:	Brevard Charter Amendment.	(Local)
Sponsors:	Representative Guice.	
Referred to:	Local Government II.	

May 13, 2010

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF BREVARD TO AUTHORIZE THE CITY MANAGER TO APPOINT THE CITY CLERK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.4 of the Charter of the City of Brevard, being Chapter 415 of the 1981 Session Laws, reads as rewritten:

"Sec. 4.4. City Clerk. The ~~City Council~~City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the ~~City Council~~City Manager may direct. The City Clerk shall receive such compensation as the ~~Council~~ City Manager shall determine."

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

HOUSE BILL 1664:
Brevard Charter Amendment

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 18, 2010
Introduced by:	Rep. Guice	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1664 amends the charter for the City of Brevard to provide that the City Manager will be responsible for appointing the City Clerk. The bill is identical to Senate Bill 1263 which was given a favorable report in Senate State and Local Government earlier this month. SB 1263 is currently in House State Government/State Personnel.***

CURRENT LAW: Under the current Charter, the Brevard City Council appoints the City Clerk and determines compensation.

BILL ANALYSIS: House Bill 1664 amends the Charter of the City of Brevard and changes the responsibility for appointing the City Clerk from the Brevard City Council to the City Manager. The City Manager also will be responsible for determining the duties and the compensation of the City Clerk.

EFFECTIVE DATE: The act is effective when it becomes law.

H1664-SMRF-179(e1) v1

HOUSE BILL 1716

Short Title:	Allow Hamlet to Operate Motorized ATVs .	(Local)
Sponsors:	Representative Goodwin.	
Referred to:	Local Government I, if favorable, Transportation.	

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF HAMLET TO USE MOTORIZED ALL-TERRAIN VEHICLES ON CERTAIN HIGHWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.24(f) reads as rewritten:

"(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Lowell, Manteo, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Hamlet, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

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

HOUSE BILL 1716:
Allow Hamlet to Operate Motorized ATVs

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 17, 2010
Introduced by:	Rep. Goodwin	**Prepared by:**	Barbara Riley
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 1716 would add the City of Hamlet to the list of municipalities and counties where employees may operate all-terrain vehicles on public highways under certain conditions.

CURRENT LAW: Generally, North Carolina law requires vehicles intended to be operated on the highways of the State to be registered (G.S. 20-50, -52), and provides that operation of a vehicle on the highways of the State without proper registration constitutes a Class 2 misdemeanor (G.S. 20-111). All-terrain vehicles may not be registered and operated on the highways. There is an exception in the law (G.S. 20-171.24) that allows employees of specifically listed municipalities and counties to operate all-terrain vehicles on public highways under the following circumstances:

- The ATV may only be operated on highways with speed limits of 35 mph or less, and on nonfully controlled access highways with higher speeds for the purpose of traveling from one speed zone to another where the speed limit is 35 mph or less.
- All other laws governing operation of ATVs apply.
- The ATV must be equipped with operable front and rear lights and a horn.
- The operator must observe speed limits and not exceed the manufacturer's recommended speed for the vehicle.
- The operator must carry an official identification badge.

BILL ANALYSIS: House Bill 1716 would add the City of Hamlet to the list of municipalities and counties where municipal and county employees are authorized to operate all-terrain vehicles on public highways under the conditions set out in G.S. 20-171.24.

EFFECTIVE DATE: The bill would be effective when it becomes law.

**Giles Perry, counsel to House Local Government I, substantially contributed to this summary.*

H1716-SMRF-178(e1) v1

H 1

HOUSE BILL 1956

Short Title:	Marshville Town Manager.	(Local)
Sponsors:	Representatives Gibson; and Hughes.	
Referred to:	Local Government II.	

May 25, 2010

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE FORM OF GOVERNMENT FOR THE TOWN OF MARSHVILLE FROM MAYOR-COUNCIL TO COUNCIL-MANAGER.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Marshville, being Chapter 313 of the Private Laws of 1913, is amended by adding a new section to read:

"Sec. 13.1. The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2. This act becomes effective upon the Town of Marshville hiring an initial Town Manager.

HOUSE BILL 1956:
Marshville Town Manager

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 18, 2010
Introduced by:	Rep. Gibson	**Prepared by:**	Kelly Quick*, Research Assistant and Hal Pell, Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1956 would change the form of government under which the Town of Marshville operates from a mayor-council form to a council-manager form.***

CURRENT LAW: Currently, the Town of Marshville operates under a mayor-council form of government. Under the mayor-council form of government, the council has the authority to appoint, suspend, and remove the heads of all city departments and other city employees. The council may also delegate this authority to any administrative official or department head. The head of each department is responsible for overseeing that all laws of the State, city charter, ordinances, resolutions and regulations of the council concerning the respective department are upheld. Otherwise, the administration of the town is performed by the council.

BILL ANALYSIS: House Bill 1956 would amend the charter of the Town of Marshville to change to the council-manager form of government. Under this system, the council shall appoint a manager to serve at its pleasure. The manager does not need to be a resident of the town or state at the time of the appointment. The town manager has a number of responsibilities, including the following:

- Appoint, suspend, and remove all city officers and employees, other than the town attorney, not elected by the people in accordance with personnel rules and policies adopted by the council.
- Direct and supervise the administration of all town departments, offices and agencies.
- Attend council meetings and make recommendations.
- Prepare and submit the annual budget and capital program to the town.
- Annually submit and make public a report on the finances and administrative activities of the town as of the end of the fiscal year.
- Perform other duties that may be required or authorized by the town council.

EFFECTIVE DATE: The act becomes effective upon the Town of Marshville hiring an initial town manager.

BACKGROUND: On May 17, 2010, the Town Council of Marshville unanimously passed a resolution asking Representative Gibson to introduce a bill to change the Town of Marshville government to a council-manager form.

Denise Huntley Adams and Brad Krehely, staff to House Local Government II, substantially contributed to this summary.

H1956-SMTH-15(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 2042
Committee Substitute Favorable 6/9/10
PROPOSED SENATE COMMITTEE SUBSTITUTE H2042-CSRR-82 [v.1]

6/18/2010 5:11:09 PM

Short Title: Sanford Property Transfer/King Taxes. (Local)

Sponsors:

Referred to:

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO CONVEY BY PRIVATE SALE ITS REMAINING INTEREST IN A PARCEL OF LAND; AND TO PROVIDE THAT THE CITY OF KING MAY PROHIBIT THE ISSUANCE OF A BUILDING PERMIT TO A DELINQUENT TAXPAYER..

The General Assembly of North Carolina enacts:

SECTION 1. The City of Sanford may convey by private sale all remaining interest it may have in the property described in a deed found at Deed Book 549, page 415, in the Lee County Register of Deeds Office, to the Grantee described in that deed.

SECTION 2. Section 1 of Session Law 2009-68 reads as rewritten:

"**SECTION 1.** This act applies only to the City of King and to the Towns of Columbia and Edenton."

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

HOUSE BILL 2042:
Sanford Property Transfer/King Taxes

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 21, 2010
Introduced by:	Rep. Love	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to Second Edition H2042-CSRR-82		

SUMMARY: This PCS for HB 2042 would authorize the City of Sanford to convey by private sale all remaining interest it has in land described in a specific deed to a nonprofit corporation called Get Smart. It would also authorize the City of King to prohibit the issuance of a building permit to a delinquent taxpayer.

BILL ANALYSIS:

Section 1 of the bill would authorize the City of Sanford to convey by private sale any interest it retains in the land it conveyed to Get Smart. The bill does not authorize the city to convey the land for free, just by private sale.

Section 2 of the bill would amend G.S. 160A-417, governing a municipality's authority to issue a permit, by adding language to authorize the City of King to enact an ordinance to prohibit the issuance of a building permit to a delinquent taxpayer. The ordinance may provide that a building permit may be issued to a person protesting the assessment or collection of property taxes.

EFFECTIVE DATE: When it becomes law.

CURRENT LAW:

Re the Sanford provision in Section 1: Article 12 of G.S. Chapter 160A provides various requirements for how cities and counties may convey property. Among the provisions is G.S. 160A-279, which says, "Whenever a city or county is authorized to appropriate funds to any public or private entity which carries out a public purpose, the city or county may, in lieu of or in addition to the appropriation of funds, convey by private sale to such an entity any real or personal property which it owns; provided no property acquired by the exercise of eminent domain may be conveyed under this section; provided that no such conveyance may be made to a for-profit corporation. The city or county shall attach to any such conveyance covenants or conditions which assure that the property will be put to a public use by the recipient entity." The statute also says, "This section does not limit the right of any entity to convey property by private sale when that right is conferred by another law, public, or local."

The State Constitution constrains a municipality's ability to convey property in at least two provisions:

- Art I, Sec. 32, which says, "No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services."
- Art. V, Sec. 2, which says, "The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away." That has been held to mean a unit of government also is limited in its spending powers by the public purpose requirement. Conveying land without compensation is treated as a kind of expenditure.

Both constitutional provisions prevent gifts of public property unless it is for a public purpose.

In 1995, the City of Sanford conveyed to Get Smart, a nonprofit, a piece of vacant land for $10 and other valuable considerations "so long as Grantee shall thereafter continuously use and maintain said

premises for the purposes stated in its corporate charter, for all the citizens of Lee County, but no longer." Get Smart obtained a loan to build a building on the property to pursue its purposes. However, when Get Smart attempted to refinance the loan, a different lender hesitated because of the reverter clause in the deed. Get Smart reportedly still intends to use the property for the purposes in its charter.

Re the King provision in Section 2: Both the counties and municipalities have statutory authority governing the issuance of permits within their jurisdiction. In 2005, local legislation was enacted amending the county statute to authorize certain counties to prohibit the issuance of a building permit to a person who owes delinquent property taxes on property owned by the person. Other counties have been added since, and now 17 counties have that authority: Alexander, Alleghany, Anson, Catawba, Chowan, Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Stokes, Surry, Tyrrell, Wayne, and Yadkin. In 2009, similar authority was granted for the towns of Columbia and Edenton.

The current statutory authority for the named counties reads as follows:

> G.S. 153A-357(c) – A county may by ordinance provide that a permit may not be issued under subsection (a) of this section to a person who owes delinquent property taxes, determined under G.S. 105-360, on property owned by the person. Such ordinance may provide that a building permit may be issued to a person protesting the assessment or collection of property taxes.

The current statutory authority for the named cities reads as follows:

> G.S. 160A-417(d) -- A city may by ordinance provide that a permit may not be issued under subsection (a) of this section to a person who owes delinquent property taxes, determined under G.S. 105-360, on property owned by the person. The ordinance may provide that a building permit may be issued to a person protesting the assessment or collection of property taxes."

Text of G.S. 160A-417 without the local modifications:

§ 160A-417. Permits.

(a) No person shall commence or proceed with:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure,

(2) The installation, extension, or general repair of any plumbing system,

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system, or

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment,

without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

Martha Walston, a Staff Attorney in Fiscal Research, contributed significantly to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1345*
PROPOSED COMMITTEE SUBSTITUTE S1345-CSRR-83 [v.4]

6/21/2010 3:50:50 PM

Short Title: Greensboro/Relocation of Wildlife. (Local)

Sponsors:

Referred to:

May 24, 2010

A BILL TO BE ENTITLED

AN ACT TO CREATE AN EXPERIMENTAL PROGRAM IN WHICH THE CITY OF GREENSBORO IS GIVEN A LIMITED EXEMPTION FROM THE REQUIREMENT THAT BEAVERS TAKEN UNDER A DEPREDATION PERMIT MUST BE EUTHANIZED OR RELEASED ON THE PROPERTY WHERE CAPTURED AND THE CITY IS AUTHORIZED TO RELOCATE THOSE BEAVERS TO A SUITABLE ALTERNATIVE HABITAT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of 15A NCAC 10B.0106(d)(5) or any other provision of law, there is established an experimental program in which the City of Greensboro may relocate beavers that have been taken alive under a depredation permit along Buffalo Creek to a suitable alternative habitat along Buffalo Creek with the consent of the landowner of that new habitat.

SECTION 2. This act applies only to depredation permits issued to the City of Greensboro.

SECTION 3. This act is effective when it becomes law, and expires July 1, 2011.

SENATE BILL 1345:
Greensboro/Relocation of Wildlife

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 21, 2010
Introduced by:	Sen. Vaughan	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to First Edition S1345-CSRR-83		

SUMMARY: This Proposed Committee Substitute for Senate Bill 1345 would create an expermintal program to give a limited exemption to the City of Greensboro from a State wildlife rule that says beavers, if captured under a depredation permit, must either be euthanized or released on the property where they were captured. The bill would instead allow the City to release beavers captured alive along Buffalo Creek to a suitable alternative habitat along Buffalo Creek, with the consent of the owner of that new habitat. The bill would sunset July 1, 2011.

[As introduced, this bill was identical to H1928, as introduced by Rep. Jones, which is currently in House Local Government I, if favorable, Wildlife Resources.]

CURRENT LAW: Pursuant to G.S. Chapter 113, the Wildlife Resources Commission has adopted rules concerning "depredation permits." Those permits empower the permittee to kill or capture wild animals who engage in damage to vegetation or livestock.

One of those rules states as follows: "Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in their possession." *15A NCAC 10B.0106(d)(5).*

BILL ANALYSIS: The PCS would create an experimental program in which the City of Greensboro would be given a limited exemption from the requirement in 15A NCAC 10B.0106(d)(5) that beavers captured under a depredation permit, if released, must be released on the property where captured. The bill would instead allow that City to release beavers captured alive along Buffalo Creek to a suitable alternative habitat along Buffalo Creek, with the consent of the owner of that new habitat.

As originally drafted, the bill would have exempted the City from the rule with regard to carnivores and beavers, but the PCS narrowed the exemption to beavers captured along Buffalo Creek. The exemption would clarify that it applies to permits issued to the City itself, not to other permit holders in Greensboro. The PCS also adds a sunset.

EFFECTIVE DATE: When it becomes law, and expires July 1, 2011.

S1345-SMRR-210(CSRR-83) v4

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jimmy L. LOVE, Sr	N.C. House
GORDON MYERS	NC WRC
SARAH CLAPP	NCWRC
Cody Thomas	NCAR
Jessi Hays	NC HBA
[illegible]	NMRS
Sharon Sudder	NCACC
Mia Bailey	Electricities of NC, Inc.
Kelli Kuhn	WCHM

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Penny Griffin	School Bds.
Cam. Cree	BPMLC
Aaron Dunn	Sen. Intern
Joey Stansbury	office of Senator Goode II
ANTHONY ALLEN	NCACC

PAGES ATTENDING

Date: 6-22

Committee: State & Local Gov't **Room:** 12 Noon 1124 LB

PLEASE PRINT LEGIBILY!!!!!

Page Name	Hometown	Sponsoring Senator
1 Jake Lamers	Raleigh	Hunt
2 Adi Sapasety	Cary	Alberton
3 Andrew Dinwiddie	Waynesville	Queen
4		
5		
6		
7		
8		
9		

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, June 22, 2010

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B. **1664** Brevard Charter Amendment.
Sequential Referral: None
Recommended Referral: None

H.B. **1716** Allow Hamlet to Operate Motorized ATVs.
Sequential Referral: None
Recommended Referral: None

H.B. **1956** Marshville Town Manager.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

S.B. **1345** Greensboro/Relocation of Wildlife.
Draft Number: PCS85369
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B. **710** Clayton/Electronic Notices.
Draft Number: PCS11143
Sequential Referral: None
Recommended Referral: Finance
Long Title Amended: Yes

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

H.B.(CS #1) **2042** Sanford Property Transfer.

Draft Number:	PCS80638
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 6

Committee Clerk Comments:

HANDLING ON SENATE FLOOR

HB1664 -- Senator Snow

HB1716 - Senator Purcell

HB1956 - Senator Goodall

SB1345 - Senator Vaughan

HB710 - Senator Rouzer

HB2042 - Senator East

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday, June 29, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on June 29, 2010, in Room 1124 of the Legislative Building. Seven members of the committee were present. Senator Ed Jones, presided.

Senator Jones called the meeting to order and introduced the pages that were in attendance.

Bills receiving Favorable Reports from the Committee were as follows: House Bill (CS #1) 1666, Davie School Board explained by Representative Howard, House Bill (CS #1) 1772, Cherokee School Board Terms explained by Senator Snow, House Bill 1821, Allow Williamston to Operate Motorized ATVs explained by Representative Warren, House Bill 1910, Shelby May Inspect Cleveland County Vehicles explained by Senator Clary, House Bill (CS #1) 2056 Rutherford County Coroner also explained by Senator Clary. House Bill (CS #3) 120, Public Municipal Campaigns was explained by Senator Kinnaird and a Proposed Senate Committee Substitute was adopted by the Committee. The PCS received a Favorable Report – UnFavorable to the Bill but Favorable to the PCS. The Final bill to be heard was House Bill (CS #2) 617, Limit Outside Work for DEVR/Local Staff, explained by Representative Allen. A Proposed Senate Committee Substitute was adopted by the Committee and was reported out of the Committee as UnFavorable AS T Committee Substitute Bill No. 3, But Favorable As To Senate Committee Substitute Bill.

The meeting was then adjourned.

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, June 29, 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 120	Public Municipal Campaigns.	Representative Goodwin Representative Harrison Representative Glazier Representative Wilkins, Jr.
HB 1666	Davie School Board.	Representative Howard
HB 1772	Cherokee School Board Terms.	Representative West
HB 1821	Allow Williamston to Operate Motorized ATVs.	Representative Warren
HB 1910	Shelby May Inspect Cleveland County Vehicles.	Representative England, M.D. Representative Burris-Floyd Representative Moore
HB 2056	Rutherford County Coroner.	Representative England, M.D.
HB 617	Limit Outside Work for DENR/Local Staff.	Representative Allen

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 120
Committee Substitute Favorable 3/4/09
Committee Substitute #2 Favorable 3/16/09
Committee Substitute #3 Favorable 4/1/09
Fifth Edition Engrossed 4/21/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H120-CSRR-85 [v.1]

6/23/2010 6:00:16 PM

Short Title: Chapel Hill Public Campaigns. (Local)

Sponsors:

Referred to:

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO CONTINUE THE AUTHORIZATION OF THE TOWN OF CHAPEL HILL TO PROVIDE PUBLIC CAMPAIGN FINANCING FOR THAT TOWN'S MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2007-222 reads as rewritten:

"**SECTION 4.** This act is effective when it becomes ~~law and expires July 1, 2012.~~law."

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

HOUSE BILL 120:
Chapel Hill Public Campaigns

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 26, 2010
Introduced by:	Reps. Glazier, Goodwin, Harrison, Wilkins	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	PCS to Fifth Edition H120-CSRR-85		

SUMMARY: This Proposed Committee Substitute for House Bill 120 would remove the 2012 sunset from the authority of the Town of Chapel Hill to provide for public financing of campaigns for its municipal offices.

CURRENT LAW: In 2007 the General Assembly authorized the Town of Chapel Hill to use municipal funds to conduct a program of public financing of campaigns for municipal offices. The local act (S.L. 2007-222) defined the parameters of such a program and provided that the Town Council of Chapel Hill could adopt it if it held and public hearing and received approval from the State Board of Elections.

The local act provided four basic requirements for the program:

1. The candidates must demonstrate public support and must accept voluntary spending and contribution limits drawn by the Town Council.
2. The requirements of the program must promote free and fair elections and not discriminate on the basis of race, creed, position on issues, incumbency/non-incumbency status, or party affiliation.
3. Candidates must be required to use the public funds they get for legitimate campaign purposes only, according to State Board of Elections guidelines.
4. Candidates must return unspent public funds to the Town.

The Chapel Hill Town Council did use its authority to adopt a program. It was used in the 2009 municipal elections.

The local act placed a sunset of July 1, 2012, on Chapel Hill's authority to conduct the program.

BILL ANALYSIS: This PCS would remove the July 1, 2012, sunset, with the effect that Chapel Hill's authority to conduct the program would be permanent.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: As it was introduced and passed the House, the bill would have expanded the authority to conduct public financing of campaigns to other cities beyond Chapel Hill.

H120-SMRR-216(CSRR-85) v1

HOUSE BILL 1666
Committee Substitute Favorable 5/27/10

Short Title: Davie School Board. (Local)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NUMBER OF MEMBERS OF THE DAVIE COUNTY BOARD OF EDUCATION FROM SIX TO SEVEN AND CHANGE THE TERMS OF OFFICE FROM SIX YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Section 1. The Board of Education of Davie County shall, on and after the first Monday in ~~April, 1969,~~ July 2012, consist of ~~six~~ seven members who shall be elected in the manner hereinafter provided."

SECTION 2. Section 2 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Sec. 2. (a) At the same time the primary election for county officers is held in Davie County ~~in 1968, and biennially thereafter,~~ there shall be held a nonpartisan election to elect ~~two~~ members of the Board of Education of Davie ~~County, to serve for six-year terms.~~County.

(b) In 2012, three members of the Davie County Board of Education shall be elected. The person receiving the highest numbers of votes is elected to a six-year term. The two persons receiving the next highest numbers of votes are elected to four-year terms.

(c) In 2014, two members of the Davie County Board of Education are elected to four-year terms.

(d) In 2016 and quadrennially thereafter, four members of the Davie County Board of Education are elected to four-year terms.

(e) In 2018 and quadrennially thereafter, three members of the Davie County Board of Education are elected to four-year terms."

SECTION 3. Section 3 of Chapter 1242 of the 1967 Session Laws reads as rewritten:

"Sec. 3. Each candidate shall file his candidacy, without reference to any political party affiliation, with the Chairman of the County Board of Elections within the time now provided for the filing of candidates for any other county office. A filing fee of five dollars ($5.00) shall be paid by each candidate. There shall be a separate ballot provided by the County Board of Elections with the names of the candidates printed thereon with appropriate instructions for use in the election of members of the Board of Education, and no political party affiliation shall be shown on said ballot. ~~The two candidates receiving the highest number of votes in the election of 1968, and biennially thereafter, shall be certified as the duly elected members of the Board of Education.~~"

SECTION 4. Section 4 of Chapter 1242 of the 1967 Session Laws, as amended by Chapter 5 of the 1979 Session Laws and Chapter 307 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. The ~~two~~ members of the Board of Education of Davie County ~~elected in 1968 and biennially thereafter~~ shall be inducted into and take the oath of office on the first Monday in July following their election, and shall serve ~~for terms of six years and~~ until their successors are elected and qualified. ~~All members of the Board of Education of Davie County who are in office and acting as such members prior to the first Monday in April, 1969, shall complete their respective terms of office. The said Board of Education shall consist of six members serving six year terms with two vacancies occurring every two years.~~"

SECTION 5. This act is effective upon ratification. It does not affect the terms of office of persons elected, or appointed to fill terms elected, in 2006, 2008, or 2010.

HOUSE BILL 1666: Davie School Board

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 26, 2010
Introduced by:	Rep. Howard	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 1666 would change the number of members and terms of office of the Davie County Board of Education.

CURRENT LAW: Currently, the Davie County Board of Education is composed of 6 members who are elected on a non-partisan basis on a staggered cycle for 6 year terms. *S.L. 1967-1242, as amended by S.L. 1979-5 and S.L. 1995-307.*

BILL ANALYSIS: HB 1666 would amend the applicable local act as follows:

- Increase the size of the Board from 6 members to 7 members.
- Beginning with the 2012 election, provide that elected Board members would serve staggered 4-year terms on the schedule shown in the chart.

Election	Number Elected	Length of Term	Term Ending
2006	2	6 years	2012
2008	2	6 years	2014
2010	2	6 years	2016
2012	3	The person with the highest number of votes will be elected to a 6 year term; the two people with the next highest number of votes will be elected to a 4 year term	Person with highest number of votes: 2018* Two people with the next highest number of votes: 2016
2014	2	4 years	2018
2016	4	4 years	2020
2018	3	4 years	2022

*Last elected member to serve a 6 year term on Board.

EFFECTIVE DATE: Upon ratification. The act does not affect the terms of office of persons elected, or appointed to fill seats elected, in 2006, 2008, or 2010.

Denise Huntley Adams of the Research Division contributed significantly to this summary.

H1666-SMRR-214(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1772*
Committee Substitute Favorable 6/9/10

Short Title: Cherokee School Board Terms. (Local)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE TERM OF OFFICE FOR MEMBERS OF THE CHEROKEE COUNTY BOARD OF EDUCATION ELECTED IN 2010 AND THEREAFTER FROM SIX YEARS TO FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Chapter 502 of the 1975 Session Laws reads as rewritten:

"**Sec. 7.** All members of the Cherokee County Board of Education elected under the provisions of this act shall serve for terms of ~~six~~ four years each and until their successors are elected and qualified. As the term of each member expires, ~~his~~ the member's successor shall be elected for a term of ~~six~~ four years."

SECTION 2. Sections 4 through 6 of Chapter 502 of the 1975 Session Laws read as rewritten:

"**Sec. 4.** In the year of ~~1976, there shall be elected,~~ 2012 and quadrennially thereafter, as hereinafter provided, two members of the county board of education from District No. 1 and one member from District No. 2, all of whom shall be residents of the district which they are elected to represent.

"**Sec. 5.** In the year of ~~1978,~~ 2014 and quadrennially thereafter, there shall be elected, as hereinafter provided, one member of the county board of education from District No. 2, and one member from the county at large. The member from District No. 2 shall be a resident of the district which ~~he~~ the member is elected to represent. The member at large shall not be required to reside in or represent any one particular district.

"**Sec. 6.** In the year of ~~1980,~~ 2010 and quadrennially thereafter, there shall be elected, as hereinafter provided, two members of the county board of education from District No. 3, which members shall be residents of the district which they are elected to represent."

SECTION 3. This act is effective upon certification of election of the Cherokee County Board of Education elected in 2010 and does not affect the term of office of members elected in 2004, 2006, or 2008.

HOUSE BILL 1772:
Cherokee School Board Terms

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 26, 2010
Introduced by:	Rep. West	**Prepared by:**	William R. Gilkeson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***HB 1772 would shorten the terms of members of the Cherokee Board of Education from six years to four years, beginning with the 2010 election.***

[As introduced, this bill was identical to S1264, as introduced by Sen. Snow, which was given a favorable report by the Senate Education/Higher Education Committee and has been calendared on the Senate floor for Tuesday, June 29.]

CURRENT LAW: S.L. 1975-502 provides for the nonpartisan election of the Cherokee County Board of Education. The Board consists of seven members elected by all voters in the county. Two members must be residents of District No. 1, two members must be residents of District No. 2, two members must be residents of District No. 3, and one member may reside anywhere in the county. The members are elected in staggered terms of six years.

BILL ANALYSIS: HB 1772 would decrease the terms of Cherokee County Board of Education members from six years to four, beginning with the 2010 election. The change would not affect the current terms of Board members elected in 2004, 2006, or 2008.

EFFECTIVE DATE: Upon certification of the election of the Cherokee Board of Education elected in 2010.

Kara McCraw of the Research Division contributed significantly to this summary.

H1772-SMRR-215(e2) v1

HOUSE BILL 1821

Short Title:	Allow Williamston to Operate Motorized ATVs.	(Local)
Sponsors:	Representatives E. Warren; and Hughes.	
Referred to:	Local Government I, if favorable, Transportation.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF WILLIAMSTON TO USE MOTORIZED ALL-TERRAIN VEHICLES ON CERTAIN HIGHWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-171.24(f) reads as rewritten:

"(f) This section applies to the Towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Lowell, Manteo, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, Williamston, and Wrightsville Beach, the Cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, Mount Holly, and Rockingham and the Counties of Cleveland, Currituck, Gaston, Surry, and Wilkes only."

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

HOUSE BILL 1821:
Allow Williamston to Operate Motorized ATVs

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 28, 2010
Introduced by:	Rep. E. Warren	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	First Edition		Kelly Quick Research Assistant

SUMMARY: ***House Bill 1821 would add the Town of Williamston to the list of municipalities and counties where employees may operate all-terrain vehicles on public highways under certain conditions. This act is effective when it becomes law.***

CURRENT LAW: Generally, North Carolina law requires vehicles intended to be operated on the highways of the State to be registered (G.S. 20-50, -52), and provides that operation of a vehicle on the highways of the State without proper registration constitutes a Class 2 misdemeanor (G.S. 20-111). All-terrain vehicles may not be registered and operated on the highways. There is an exception in the law (G.S. 20-171.24) that allows employees of specifically listed municipalities and counties to operate all-terrain vehicles on public highways under the following circumstances:

- The ATV may only be operated on highways with speed limits of 35 mph or less, and on nonfully controlled access highways with higher speeds for the purpose of traveling from one speed zone to another where the speed limit is 35 mph or less.
- All other laws governing operation of ATVs apply.
- The ATV must be equipped with operable front and rear lights and a horn.
- The operator must observe speed limits and not exceed the manufacturer's recommended speed for the vehicle.
- The operator must carry an official identification badge.

BILL ANALYSIS: House Bill 1821 would add the Town of Williamston to the list of municipalities and counties where municipal and county employees are authorized to operate all-terrain vehicles on public highways under the conditions set out in G.S. 20-171.24.

EFFECTIVE DATE: The bill would be effective when it becomes law.

Giles Perry, counsel to House Transportation, substantially contributed to this summary.

H1821-SMTH-18(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1910

Short Title:	Shelby May Inspect Cleveland County Vehicles.	(Local)
Sponsors:	Representatives Moore, England, Burris-Floyd (Primary Sponsors); and Hughes.	
Referred to:	Local Government I.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF SHELBY TO INSPECT CLEVELAND COUNTY VEHICLES REQUIRING EMISSIONS AND SAFETY INSPECTIONS UNDER THE CITY'S SELF-INSPECTOR LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions G.S. 20-183.4(d) and G.S. 20-183.4A(d), the City of Shelby is authorized to conduct emissions and safety inspections of vehicles owned and operated by Cleveland County, at its self-inspection station. All other provisions of Chapter 20 regulating emissions and safety inspections still apply to the City of Shelby and its inspectors.

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

HOUSE BILL 1910:
Shelby May Inspect Cleveland County Vehicles

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 23, 2010
Introduced by:	Reps. Moore, England, Burris-Floyd	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	First Edition		Kelly Quick Research Assistant

SUMMARY: ***House Bill 1910 authorizes the City of Shelby to conduct emissions and safety inspections of Cleveland County vehicles as a self-inspector. This act is effective when it becomes law.***

CURRENT LAW: Current G.S. 20-183.4(d) requires self inspectors, for the purpose of vehicle safety inspection, to meet the following requirements:

- Operate a fleet of at least 10 vehicles that are subject to a safety inspection.
- Regularly employ or contract with an individual who has a safety inspection mechanic license and who will perform a safety inspection on the vehicles that are part of the self-inspector's fleet.

Current G.S. 20-183.4A(d) require self inspectors, for the purpose of vehicle emissions inspection, to meet the following requirements:

- Have a license as a safety self-inspector.
- Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.
- Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.
- Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet.

BILL ANALYSIS: House Bill 1910 authorizes the City of Shelby to conduct safety and emissions inspections of vehicles owned and operated by the Cleveland County at the City's self-inspection station.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, counsel to House Local Government I, substantially contributed to this summary.

H1910-SMTH-17(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 2056*
Committee Substitute Favorable 6/16/10

Short Title: Rutherford County Coroner. (Local)

Sponsors:

Referred to:

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO HAVE THE OFFICE OF CORONER IN RUTHERFORD COUNTY VACATED AT THE END OF THE CURRENT TERM.

The General Assembly of North Carolina enacts:

SECTION 1. The office of coroner in Rutherford County is vacated.

SECTION 2. Chapter 152 of the General Statutes is not applicable to Rutherford County.

SECTION 3. This act becomes effective December 6, 2010, and the current election for coroner now proceeding shall be null and void.

HOUSE BILL 2056:
Rutherford County Coroner

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 23, 2010
Introduced by:	Rep. England	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	Second Edition		Kelly Quick Research Assistant

SUMMARY: ***House Bill 2056 abolishes the office of coroner in Rutherford County at the end of the current term. This act becomes effective December 6, 2010.***

[As introduced, this bill was identical to S1238, as introduced by Sen. Clary. Both bills have been amended and the Second Editions are the same. The Senate bill has been voted favorably upon by House Local Government II.]

CURRENT LAW: Chapter 152 of the General Statutes sets out the laws relating to coroners in North Carolina, including election and vacancies in office, oaths, bonds, powers and duties.

BILL ANALYSIS: House Bill 2056 provides that the Office of Coroner in Rutherford County shall be vacated at the end of the current term and provides that Chapter 152 of the General Statutes does not apply to Rutherford County. House Bill 2056 also nullifies the current election for coroner.

EFFECTIVE DATE: This act becomes effective December 6, 2010.

Denise Huntley Adams, staff to House Local Government II, substantially contributed to this summary.

H2056-SMTH-16(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 617
Committee Substitute Favorable 5/11/09
Committee Substitute #2 Favorable 5/13/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H617-CSRK-111 [v.3]

6/28/2010 3:45:09 PM

Short Title: Disabled Sportsmen/ATV Exception. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW ATV TO BE USED BY DISABLED SPORTSMEN TO CROSS PUBLIC ROADWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 10C of Article 3, Chapter 20 of the General Statutes is amended by added a new section to read:

"**§ 20-171.26. Motorized all-terrain vehicle use by disabled sportsmen.**

(a) Persons qualified under the Disabled Sportsmen Program, pursuant to G.S. 113-296 are authorized to transverse public roadways using an all-terrain vehicle, while engaging in licensed hunting or fishing activities. Use of the all-terrain vehicle shall be limited to driving across the roadway, in a perpendicular fashion, without travel in either direction along the roadway.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry evidence of membership in the Disabled Sportsmen Program, and the appropriate license to engage in the hunting or fishing activity."

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

HOUSE BILL 617:
Disabled Sportsmen/ATV Exception.

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	June 28, 2010
Introduced by:		**Prepared by:**	Hal Pell
Analysis of:	PCS to Third Edition H617-CSRK-111		Committee Counsel

SUMMARY: ***This act would allow Disabled Sportsmen to cross a public roadway when engaged in licensed sporting activities. This act is effective when it becomes law.***

BILL ANALYSIS: The use of ATV's on public roads is controlled by statute. This act would allow person's who are qualified as Disabled Sportsmen to cross a public road—no travel along the road would be allowed.

- The ATV must have operable front and rear lights, and a horn.
- All State laws regulating operation of ATV are applicable.
- The person must have evidence of membership in the Program, and a license to engage in the sporting activity.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: The Wildlife Commission is authorized to conduct activities for person qualified as Disabled Sportsmen. In order to be eligible for participation in the Disabled Sportsman Program, an individual must be a holder of a Resident Disabled Veteran or Resident Totally Disabled license or must be able to certify through competent medical evidence one of the following disabilities:

(1) Missing fifty percent (50%) or more of one or more limbs, whether by amputation or natural causes.
(2) Paralysis of one or more limbs.
(3) Dysfunction of one or more limbs rendering the individual unable to perform the tasks of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane.
(4) Disease, injury, or defect confining the individual to a wheelchair, walker, or crutches.
(5) Legal deafness.
(6) Legal blindness, for purposes of participation in disabled fishing only.

The disability must be permanent, and an individual loses eligibility to participate in the Disabled Sportsman Program when the specified disability ceases to exist.

H617-SMRK-208(CSRK-111) v1

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mia D. Bailey	Electricities of NC, Inc.
Kay Emanuel	UNC Institute of Government
Chuck Hobbs	SEPA/C
Elizabeth Biser	DENR
Cody Thomas	NCAR
Whitney Campbell	Jordan Price
Solari	DST
Kevin Greene	NCACC
Patsy Moya	NCLM
	NCCLGR

VISITOR REGISTRATION SHEET

Senate State & Local Government — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jerry Cohen	Bill Drafting
Chris	Pro Tem
Dallas Woodhouse	Americans for Prosperity
Doug Lassiter	NCSTA
Betsy Bailey	PENC
Bob Hall	Democracy NC
Bob Phillips	Common Cause NC
Jessie Hayes	NC HBA

PAGES ATTENDING

Date: 6-29

Committee: State & Local Gov't (Jonesboro East) **Room:** 1124 12 Noon

PLEASE PRINT LEGIBILY!!!!!

	Page Name	Hometown	Sponsoring Senator
1	Wyatt Peterson	Greensboro	Vaughn
2	Kayla brooks	Raleigh	Hunt
3	Haley Ezzell	Harrells	Albertson
4	Phierica Gardin	Gastonia	Hoyle
5	Cierra Allor	Gastonia	Hoyle
6	Aja white	Gastonia	Hoyle
7	~~Harry Reagan~~	~~Raleigh~~	~~Clay~~
8	Tyrece meeks	Gastonia	Hoyle
9			

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, June 29, 2010

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **1666** Davie School Board.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **1772** Cherokee School Board Terms.
Sequential Referral: None
Recommended Referral: None

H.B. **1821** Allow Williamston to Operate Motorized ATVs.
Sequential Referral: None
Recommended Referral: None

H.B. **1910** Shelby May Inspect Cleveland County Vehicles.
Sequential Referral: None
Recommended Referral: None

H.B.(CS #1) **2056** Rutherford County Coroner.
Sequential Referral: None
Recommended Referral: None

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 3, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

H.B.(CS #3) **120** Public Municipal Campaigns.
Draft Number: PCS30538
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

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

H.B.(CS #2) **617** Limit Outside Work for DENR/Local Staff.

Draft Number:	PCS11146
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 7

Committee Clerk Comments:

HANDLING BILL ON SENATE FLOOR

HB120	Senator Kinnaird
HB1666	Senator Brock
HB1772	Senator Snow
HB1821	Senator Jenkins
HB1910	Senator Clary
HB2056	Senator Clary
HB617	Senator Jones

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
Tuesday July 6, 2010 at 12:00 Noon
Room 1124, Legislative Building

MINUTES

The Senate State and Local Government Committee met at 12:00 Noon on July 6, 2010, in Room 1124 of the Legislative Building. Nine members of the committee were present. Senator Ed Jones, presided.

Senator Jones called the meeting to order and introduced the pages attending the meeting.

House Bill 1696, Watauga/Sunday Bow Hunting Exemption, was the first item on the agenda. Representative Tarleton explained the Bill. After much discussion and the fact that The Wildlife Commission was opposed to the Bill, Senator Dorsett moved to give the Bill a Favorable Report. Senator Jones asked for the Ayes and No's from the Committee and the Bill failed. Representative Ller explained House Bill 1920, Brunswick Co. Economic Dev. Comm. Membership. Senator Soles offered an Amendment which passed the Committee and Senator Apodaca moved for A Favorable Report As Amended. The Bill carried. House Bill 1921, Wake E-mail Address Lists/Electronic Access, was explained to the Committee by Senator Berger. An amendment was offered by Senator Stevens to include Yadkin County in the title of the Bill at Senator East's request. The Bill received a Favorable Report As Amended.

The meeting adjourned at 12:30 pm

Senator Ed Jones, Presiding

Anne Misenheimer, Committee Clerk

Senate State and Local Government Committee
Tuesday, July 6 2010, 12:00 Noon
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

HB 1696	Watauga/Sunday Bow Hunting Exemption.	Representative Tarleton
HB 1920	Brunswick Co. Economic Dev. Comm. Membership.	Representative Hill Representative Iler
HB 1921	Wake Email Address Lists/Electronic Access.	Representative Jackson Representative Weiss Representative Heagarty Representative Dollar

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1696
Committee Substitute Favorable 5/27/10

Short Title: Watauga/Sunday Bow Hunting Exemption. (Local)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE WATAUGA COUNTY TO CONDUCT A REFERENDUM TO OPT OUT OF SUNDAY BOW HUNTING.

The General Assembly of North Carolina enacts:

SECTION 1. If State law, by statute or rule, authorizes bow hunting on Sunday, then the board of commissioners of Watauga County may direct by resolution on or before August 15, 2010, the Watauga County Board of Elections to conduct an election on the date of the general election in November 2010 for the purpose of submission to the qualified voters of the county the question of whether Watauga County shall be exempted from allowing bow hunting on Sunday. If a majority of the qualified voters of the county vote in the affirmative, then the statute or rule authorizing bow hunting on Sundays shall not apply in Watauga County.

SECTION 2. This act applies only to Watauga County.

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

HOUSE BILL 1696:
Watauga/Sunday Bow Hunting Exemption

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 2, 2010
Introduced by:	Rep. Tarleton	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 1696 provides that if Sunday bow hunting is permitted by statute or rule, the Watauga County Board of Commissioners may direct the board of elections to hold a referendum on whether Sunday bow hunting will be allowed in Watauga County. The direction to the board of elections shall be by resolution not later than August 15, 2010 and the election shall be held at the time of the next general election in November 2010.

CURRENT LAW: Pursuant to its rule making authority, the North Carolina Wildlife Resources Commission has amended rule 15A NCAC 10B .0201 to permit bow hunting (and falconry hunting) on Sundays on private lands. (Falconry hunting will also be allowed on public lands.) See rule below.

HB 1930 has been filed to disapprove the rule change described above. It is currently in House Rules, Calendar, and Operations of the House.

Firearms hunting on Sundays is prohibited by G.S. 103-2.

BILL ANALYSIS: As described in the Summary section above. If the referendum is approved, Watauga County will be exempt from any statute or rule allowing Sunday bow hunting.

EFFECTIVE DATE: Effective when it becomes law and applicable only to Watauga County.

15A NCAC 10B .0201 PROHIBITED TAKING AND MANNER OF TAKE

(a) It is unlawful for any person to take, or have in possession, any wild animal or wild bird listed in this Section except during the open seasons and in accordance with the limits herein prescribed, or as prescribed by 15A NCAC 10B .0300 pertaining to trapping or 15A NCAC 10D applicable to game lands managed by the Wildlife Resources Commission, unless otherwise specifically permitted by law. Lawful seasons and bag limits for each species apply beginning with the first day of the listed season and continue through the last day of the listed season, with all dates being included. When any hunting season ends on a January 1 that falls on a Sunday, that season is extended to Monday, January 2.

(b) On Sundays, hunting on private lands is allowed with the following restrictions:
- (1) Only archery equipment as described in 15A NCAC 10B .0116 and falconry are lawful methods of take; and
- (2) Migratory game birds may not be taken on Sundays.

(c) On Sundays, hunting on public lands is allowed with the following restrictions:
- (1) Only falconry is a lawful method of take; and
- (2) Migratory game birds may not be taken on Sundays.

These restrictions do not apply to military installations under the exclusive jurisdiction of the federal government.

(d) Those animals not classified as game animals in G.S. 113-129(7c), and for which a season is set

under this Section, may be taken during the hours and methods authorized for taking game animals. Note: Where local laws govern hunting, or are in conflict with these regulations, the local law shall prevail.

History Note: *Authority G.S. 103-2; 113-291.1(a); 113-134; 113-291.2; 113-291.3;*
Eff. February 1, 1976;
Amended Eff. July 1, 1996; July 1, 1987;
Amended Eff. Pending Legislative Review.

**Steve Rose, Staff Attorney substantially contributed to this summary.*

H1696-SMRK-212(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1920
Committee Substitute Favorable 6/23/10

Short Title: Brunswick Co. Economic Dev. Comm. Membership. (Local)

Sponsors:

Referred to:

May 24, 2010

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MEMBERSHIP OF THE RESOURCES DEVELOPMENT COMMISSION OF BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The membership of the Resources Development Commission of Brunswick County, also known as the Economic Development Commission of Brunswick County, established by Section 10 of S.L. 1961-268, as amended by S.L. 1985-904, is expanded by the appointment of two additional at-large members from Brunswick County. Each of these additional members shall qualify for service in the same manner as all other appointments to the Commission.

SECTION 2. This act applies to Brunswick County only.

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

HOUSE BILL 1920: Brunswick Co. Economic Dev. Comm. Membership

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 1, 2010
Introduced by:	Reps. Iler, Hill	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 1920 expands the membership of the Economic Development Commission of Brunswick County by two additional at-large members from Brunswick County.

CURRENT LAW: Under current law, the Economic Development Commission of Brunswick County is composed of 11 bipartisan members appointed by the Brunswick County Board of Commissioners in the following manner:

- Two from each of the five electoral districts for county commissioners.
- One from Brunswick County at large.

BILL ANALYSIS: House Bill 1920 expands the membership of the Economic Development Commission of Brunswick County by two additional at-large members from Brunswick County.

EFFECTIVE DATE: This act is effective when it becomes law.

H1920-SMRF-181(e2) v1

**Denise Adams, Research Assistant, and Erika Churchill, Committee Counsel, significantly contributed to this summary.*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1920 DATE 7-6-10

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

COMMITTEE SUBSTITUTE _____

Rep.)
) Dale
Sen.)

1 moves to amend the bill on page 1, line 12
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting that line to read:
4
5 "Section 3. This act becomes
6 effective January 1, 2011."
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SIGNED Dale
Edward H. Jones

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 3

HOUSE BILL 1921
Committee Substitute Favorable 6/16/10
Committee Substitute #2 Favorable 6/22/10

Short Title: Wake E-Mail Address Lists/Electronic Access. (Local)

Sponsors:

Referred to:

May 24, 2010

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A LIST OF THE E-MAIL ADDRESSES OF PERSONS SUBSCRIBING TO E-MAIL LISTS KEPT BY WAKE COUNTY AND CERTAIN LOCAL GOVERNMENTS WITHIN THAT COUNTY ARE OPEN TO PUBLIC INSPECTION BUT ARE NOT REQUIRED TO BE PROVIDED, AND TO PROVIDE THAT THE LOCAL GOVERNMENT MAY USE THAT LIST ONLY FOR THE PURPOSE THAT IT WAS SUBSCRIBED TO.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Chapter 132 of the General Statutes, when a unit of local government maintains an electronic mail list of individual subscribers, Chapter 132 of the General Statutes does not require that unit of local government to provide a copy of the list. The list shall be available for public inspection in either printed or electronic format or both as the unit of local government elects.

SECTION 2. If a unit of local government maintains an electronic mail list of individual subscribers, the unit of local government and its employees and officers may use that list only: (i) for the purpose for which it was subscribed to; (ii) to notify subscribers of an emergency to the public health or public safety; or (iii) in case of deletion of that list, to notify subscribers of the existence of any similar lists to subscribe to.

SECTION 3. This act applies only to Wake County, the City of Raleigh, and the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon.

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

HOUSE BILL 1921:
Wake E-Mail Address Lists/Electronic Access

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 6, 2010
Introduced by:	Reps. Heagarty, Weiss, Jackson, Dollar	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Third Edition		

SUMMARY: House Bill 1921 would relieve the county and municipal governments in Wake County of the obligation to make copies for the public of email distribution lists of individual subscribers the governments keep. The bill would also provide that the local government may use the list only for the purposes the individual subscribers signed up for, for emergency notification, and if the list is deleted notice of similar lists.

CURRENT LAW: G.S. Chapter 132, the Public Records Act, has a broad definition of "public record." It is any document "made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions." The law generally requires that the custodian of the public record must provide public access to the record and make copies for anyone who will pay the cost of copying.

BILL ANALYSIS: The bill would exempt the governments of Wake County and of the 12 municipalities that lie mainly within it from the part of the Public Records Act that requires that it provide copies of email lists of individual subscribers. The government would still be required to make the list available for public inspection, and it could do so in either printed or electronic format, but it would not have to provide copies.

The bill would also required that the government use the list only for the purpose the individual subscribers signed up for, for emergency notification, or, in case of deletion of the list, to notify the subscribers of similar lists they could subscribe to.

EFFECTIVE DATE: When it becomes law.

H1921-SMRR-225(e3) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1921

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

H1921-ARR-94 [v.1]

Comm. Sub. [NO]
Amends Title [YES]
Third Edition

Date _____,2010

Senator _____

moves to amend the bill on page 1, line 4,
by inserting after the term "COUNTY" the term "AND BY YADKIN COUNTY"; and

on page 1, line 21,
by deleting the term "and Zebulon" and substituting the term "Zebulon, and to Yadkin County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David W Hoyle Jr.	NCWRC
Gordon Myers	NCWRC
Sarah Clapp	NCWRC
Jennifer Lundy	CSF
Carrie Roman	Town of Cary
Susan Moran	Town of Cary
Lena High	Town of Cary
Ruth Merkle	NCGA
Patti Smithson	NCAMVRC Inc.
	Tar Heel Builders Assn
Jack Cozart	NSS
Rick Zechini	NC Assn. of Realtors

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kay Emanuel	NC Institute of Gov't
Daniel Arthur	Fl. Chs. of N.C.
Rebecca Troxler	NCACC
Mary Freeman	NCAE

VISITOR REGISTRATION SHEET

Senate State & Local Government — July 6, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carl Dean	DSP

PAGES ATTENDING

Date: 7-6

Committee: State & Local Gov't **Room:** 1124 LB 12 Noon

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Page Name	Hometown	Sponsoring Senator
1 Rebecca Jordan	Burlington	Forest
2 Will Inabnit	"	"
3 Mary Alice Cox	"	"
4 Allen Canaday	"	"
5 Jarrett Masserburg	Raleigh	Dannelly
6 Austin Andrews	Hamlet	Purcell
7 Zach Britt	Winston Salem	Brunstetter
8		
9		

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NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Tuesday, July 06, 2010

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

H.B.(CS #1) **1920** Brunswick Co. Economic Dev. Comm. Membership.
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

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

H.B.(CS #2) **1921** Wake Email Address Lists/Electronic Access.
Draft Number: PCS80651
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

UNFAVORABLE

H.B.(CS #1) **1696** Watauga/Sunday Bow Hunting Exemption.
Sequential Referral: None
Recommended Referral: None

TOTAL REPORTED: 3

Committee Clerk Comments:

HANDLING BILL ON FLOOR

HB1920 Senator Soles

HB1921 Senator Stevens

Senate State and Local Government Committee
Wednesday, July 7, 2010, 1st Recess, Senator Jones 's Desk
1124 LB

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills remove

~~HB 1728~~	Carteret Schools May Administer Oath.	Representative McElraft
HB 1841	Moore County School Board Police.	Representative Boles, Jr.
HB 1893	Winston-Salem Fox Hunting.	Representative Parmon Representative Womble

Presentations

Other Business

Adjournment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1728*
Committee Substitute Favorable 6/9/10

Short Title: Carteret Schools May Administer Oath. (Local)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PRINCIPALS IN THE CARTERET COUNTY PUBLIC SCHOOLS TO ADMINISTER OATHS FOR STUDENT ADMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 is amended by adding a new subsection to read:

"(i) Principals and their designees are authorized to administer oaths to those persons giving affidavits, statements made under oath, or affirmations under this section. Principals and their designees may not administer any other oath for any other purpose unless otherwise authorized by law. Each statement made under oath or affirmation to a principal or the principal's designee under this section shall be made under the penalty of perjury in G.S. 14-209."

SECTION 2. This act applies only to the Carteret County School System.

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

HOUSE BILL 1728:
Carteret Schools May Administer Oath

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 6, 2010
Introduced by:	Rep. McElraft	**Prepared by:**	Hal Pell
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 1728 would authorize principals and their designees in Carteret County public schools to administer oaths or affirmations for student admission.

[As introduced, this bill was identical to S1115, as introduced by Sen. Preston, which is currently in House Local Government II.]

CURRENT LAW: G.S. 115C-366 addresses the assignment of students to particular schools. Generally, a student must be domiciled in a local school administrative unit (LEA) to attend its public schools. However, there are a number of exceptions. G.S. 115C-366(a3)(1)-(3) provide that a student may attend the public schools of an LEA where the student is not domiciled if all of the following conditions apply:

- The student must reside with an adult who is a domiciliary of that unit as a result of one of seven situations: (1) death, serious illness, or incarceration of the parent or legal guardian; (2) abandonment by the parent or legal guardian; (3) abuse or neglect by the parent or legal guardian; (4) physical or mental condition of the parent or legal guardian; (5) relinquishment of custody by the parent or legal guardian; (6) the loss or uninhabitability of the student's home as a result of a natural disaster; or (7) specified military duty of the parent or legal guardian.
- The student must not be under a term of suspension or expulsion that could have led to suspension or expulsion from the LEA.
- The caregiver adult and the student's parent, guardian, or legal custodian must complete and sign separate affidavits that state all of the following:
    - Confirm the qualifications establishing the student's residency.
    - Attest that the student's claim of residency is not primarily related to attendance at a particular school.
    - Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student.
- Upon receipt of the affidavits, the local board shall assign the student to an appropriate school as soon as practicable and pending the verification of eligibility.
- If the information contained in either or both affidavits is false, then the local board may remove the student from school unless the student is otherwise eligible for school attendance under other laws or local board policy.
- If a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit will be guilty of a Class 1 misdemeanor and will pay to the local board an amount equal to the cost of educating the student during the period of enrollment. The affidavits must include, in large print, the penalty for providing false information.

When a student transfers into the public schools of a local school administrative unit, that local board must require the student's parent, guardian, or legal custodian to provide a statement made under oath or

affirmation before a qualified official. The statement indicates whether the student is, at the time, (1) under suspension or expulsion from attendance at a private or public school in any state or (2) has been convicted of a felony in any state. This provision does not apply to the enrollment of a student who has never been enrolled in or attended a private or public school in any state.

Perjury is a Class F felony under G.S. 14-209.

BILL ANALYSIS: House Bill 1723 authorizes principals and their designees to administer oaths to those persons giving affidavits, statements made under oath, or affirmations pursuant to G.S. 115C-366. It also provides that each statement made under oath or affirmation to a principal or the principal's designee must be made under the penalty of perjury. This act applies only to the Carteret County School System.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Carteret County has 16 schools. Several of these schools do not have a notary public on staff. On March 3, 2010, the Carteret County Board of Education passed a resolution petitioning the North Carolina General Assembly to allow principals or their designees to administer oaths, statements made under oath, or affirmations in connection with the assignment of students.

Brad Krehely, counsel to the House Local Government II Committee, substantially contributed to this summary.

H1728-SMRK-214(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1841
Committee Substitute Favorable 6/22/10

Short Title: Moore County School Board Police. (Local)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO MAINTAIN A CAMPUS POLICE AGENCY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-47.2. Campus law enforcement agencies.**

A local board of education may establish a campus law enforcement agency and employ campus police officers. These officers shall meet the requirements of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the local board of education employing the officer and that portion of any public road or highway passing through the property or immediately adjoining it, wherever located."

SECTION 2. This act shall apply to the Moore County Board of Education only.

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

HOUSE BILL 1841:
Moore County School Board Police

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 7, 2010
Introduced by:	Rep. Boles	**Prepared by:**	Barbara Riley
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1841 would allow the Moore County Board of Education to establish a campus police department. Officers employed will be required to the North Carolina Criminal Justice Education and Training Standards under Chapter 17C of the General Statutes.***

BILL ANALYSIS: House Bill 1841 would allow the Moore County Board of Education to establish an independent campus law enforcement agency and employ campus police officers who:

- Meet the requirements of the North Carolina Criminal Justice Education and Training Standards (Chapter 17C of the General Statutes); and
- Take the oath of office prescribed by the State Constitution.

The territorial jurisdiction of a campus police officer would include all property owned or leased to the Board and the portion of any public road or highway passing through the property or immediately adjoining it.

EFFECTIVE DATE: The bill is effective when it becomes law.

BACKGROUND: An almost identical bill was enacted for the Charlotte Mecklenburg School Board last session. The Moore County Board of Education already operates the Moore County Schools Special Police Department. The territorial jurisdiction of special police is limited to the property owned or leased by the Board and does not extend to the roads running through or adjoining the property. The bill would allow the Board to convert its department to a campus law enforcement agency with the additional jurisdiction.

H1841-SMRF-185(e2) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1893

Short Title:	Winston-Salem Fox Hunting.	(Local)
Sponsors:	Representatives Womble, Parmon (Primary Sponsors); Brown, Dockham, Hughes, and McGee.	
Referred to:	Wildlife Resources, if favorable, Local Government I.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES WITH WEAPONS AND BY TRAPPING IN WINSTON-SALEM.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes with weapons and by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. This act applies only to Winston-Salem.

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

HOUSE BILL 1893:
Winston-Salem Fox Trapping

2009-2010 General Assembly

Committee:	Senate State and Local Government	**Date:**	July 6, 2010
Introduced by:	Reps. Womble, Parmon	**Prepared by:**	William R. Gilkeson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***The Second Edition of House Bill 1893 would provide for a season in the City of Winston-Salem for the taking of foxes by trapping with cages.***

CURRENT LAW: G.S. 113-291.4 provides for regulation of the taking of foxes in North Carolina. It provides for the taking of foxes by dogs at anytime except during the closed season and allows for the limited taking of foxes using firearms. *See Also,* G.S. 113-291.4A. The law also directs the Wildlife Resources Commission to study the fox population and, if the population of foxes is adequate, to provide for an open season for taking foxes by trapping upon the passage of local legislation.

At least 39 counties, or parts thereof, have local laws providing for the trapping of foxes.

BILL ANALYSIS: The Second Edition of the bill would provide for an open season in Winston-Salem for the taking of foxes by trapping with cages only during the trapping season set by the Wildlife Resources Commission each year. There are no tagging requirements before or after the sale of foxes taken and no season bag limit.

EFFECTIVE DATE: When it becomes law.

BACKGROUND: The original bill also provided for the taking of foxes in the City with weapons, but that was changed in the House Wildlife Resources Committee.

Barbara Riley, Counsel to the House Wildlife Resources Committee, contributed significantly to this summary.

H1893-SMRR-227(e2) v1

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

STATE AND LOCAL GOVERNMENT COMMITTEE REPORT
Senator Ed Jones, Co-Chair
Senator Don East, Co-Chair

Wednesday, July 07, 2010

Senator JONES,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1) **1841** Moore County School Board Police.
Sequential Referral: None
Recommended Referral: None

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

H.B.(CS #1) **1893** Winston-Salem Fox Hunting.
Draft Number: PCS60101
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

HANDLING BILLS ON SENATE FLOOR

HB1841 Senator Blake
HB1893 Senator Brunstetter

ATTENDANCE

Committee: Senate State and Local Government, 2010

DATES / NAMES	5-25	6-01	6-08	6-15	6-22	6-29	7-06	7-07								
Senator East	✓	✓	✓	✓	✓			✓								
Senator Jones	✓	✓	✓	✓	✓	✓	✓	✓								
Senator Dorsett		✓			✓	✓	✓	✓								
Senator Albertson		✓														
Senator Apodaca			✓	✓	✓		✓									
Senator Phil Berger		✓	✓	✓		✓	✓									
Senator Harris Blake	✓	✓	✓	✓				✓								
Senator Boseman					✓			✓								
Senator Brunstetter			✓					✓								
Senator Davis	✓			✓		✓		✓								
Senator Hartsell	✓															
Senator McKissick	✓	✓	✓	✓	✓	✓	✓									
Senator Queen				✓	✓		✓	✓								
Senator Soles				✓			✓	✓								
Senator Stevens	✓	✓	✓	✓		✓	✓	✓								
Senator Walters	✓	✓	✓	✓	✓	✓	✓									
Anne Misenheimer Com. Asst	✓	✓	✓	✓	✓	✓	✓	✓								
Irma Avent-Hurst Com. Asst	✓	✓	✓	✓	✓	✓	✓	✓								
Barbara Riley Counsel	✓	✓	✓	✓	✓		✓	✓								
Hal Pell Counsel	✓	✓	✓	✓	✓	✓	✓									
Bill Gilkeson Analyst	✓	✓	✓		✓	✓	✓									