### 2017-2018

### HOUSE STATE & LOCAL GOVERNMENT II

**MINUTES** 



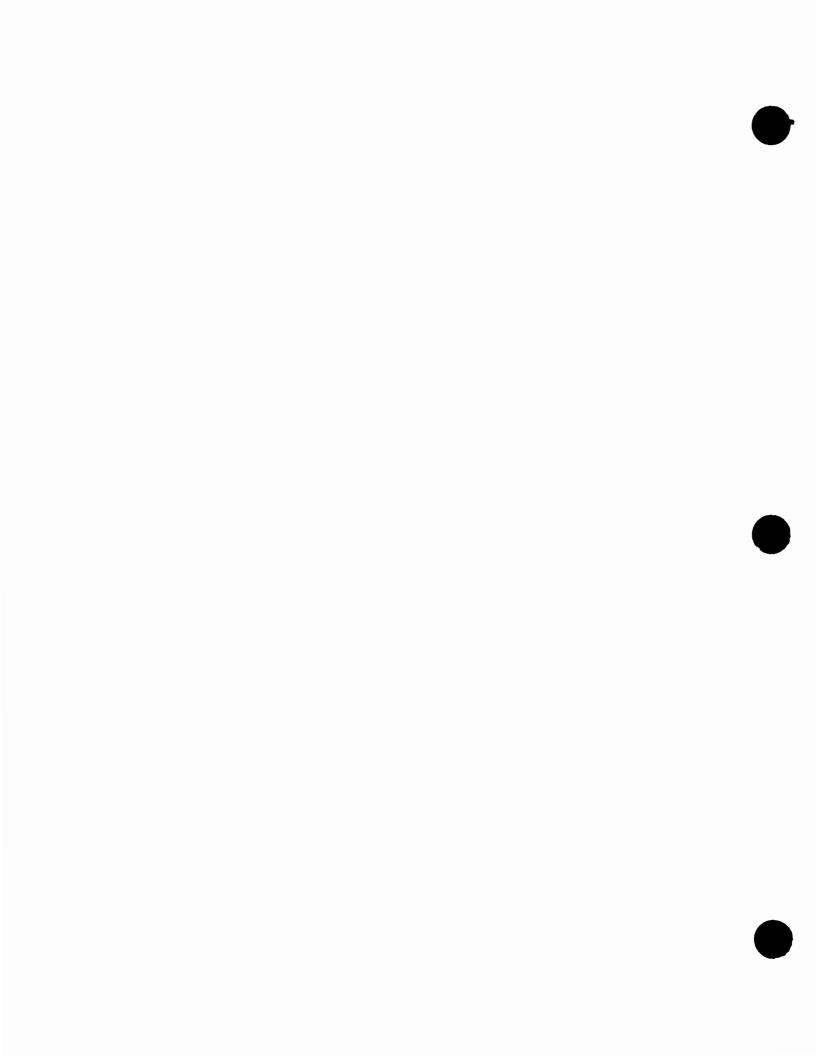
# NORTH CAROLINA HOUSE OF REPRESENTATIVES 2017-2018 SESSION HOUSE COMMITTEE ON STATE AND LOCAL GOVERNMENT

REPRESENTATIVE BRADFORD-CHAIR

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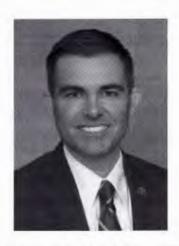
### HOUSE COMMITTEE ON STATE & LOCAL GOVERNMENT II

MEMBER	<u>ASSISTANT</u>	PHONE	OFFICE	SEAT
Rep. Bradford, Chair	Anita Spence	733.5828	2123	75
Rep. Adams	Susan Phillips	733.5988	2223	73
Rep. Autry	Tina Riley-Humphrey	715.0706	1019	115
Rep. Ball	James Whelan	733.5860	1319	118
Rep. Boles	Kerry Guice	733.5903	528	25
Rep. Boswell	Beth Strandberg	733.5906	531	97
Rep. C. Graham	Linda Laton	715.0875	1309	84
Rep. G. Graham	Beverlee Baker	733.5995	1321	79
Rep. John	Katie Stanley	733.5530	1013	117
Rep. Morey	Joyce Harris	733,7663	1111	104
Rep. Ross	Kirk O'Steen	733.5820	635	20
Rep. Sauls	Karen Rosser	715.3026	610	37
Rep. Setzer	Margaret Herrin	733.4948	2204	2
Rep. Steinburg	Andrew Bowers	733.0010	3018	43
Rep. Watford	Regina Irwin	733.5661	606	76
Rep. Williams	Kathy Peters	733.2962	603	90
STAFF:				
Cindy Avrette	733.2578			
Nick Giddings	733.2578			
Brad Krehely	733.2578			



### HOUSE COMMITTEE ON STATE & LOCAL GOVERNMENT II 2017-2018 SESSION

COMMITTEE ASSISTANT: ANITA SPENCE



REP. JOHN R. BRADFORD, III, CHAIR



REP. ADAMS



REP. AUTRY



REP. BALL



REP. BOLES



REP. BOSWELL



REP. C. GRAHAM REP. G. GRAHAM





REP. JOHN



REP. MOREY



REP. ROSS



REP. SAULS



REP. SETZER

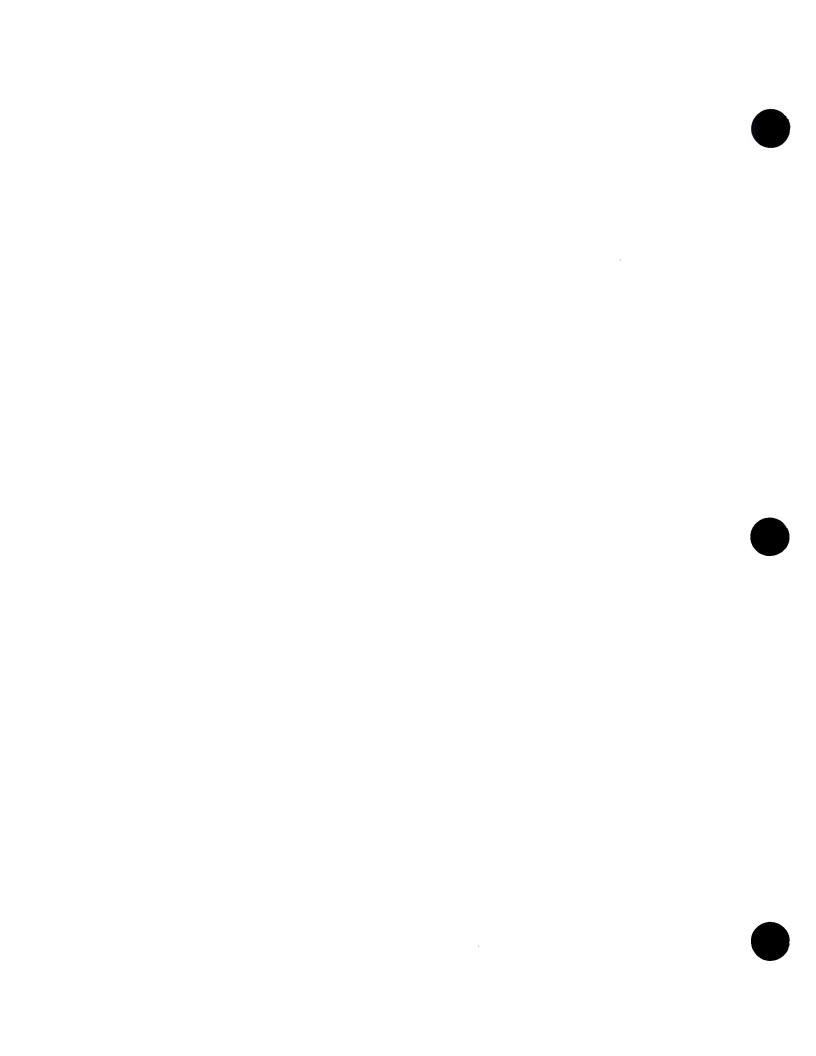


REP. STEINBURG REP. WATFORD





REP. WILLIAMS



### HOUSE COMMITTEE ON STATE & LOCAL GOVERNMENT II 2017-2018 SESSION

**CLERK: ANITA SPENCE** 



REP. JOHN R. BRADFORD, III, CHAIR



**REP. ADAMS** 



REP. AUTRY



REP. BALL



**REP. BOLES** 



**REP. BOSWELL** 



REP. C. GRAHAM



REP. G. GRAHAM



REP. JOHN



**REP LEHMAN** 



**REP. ROSS** 



**REP. SAULS** 



**REP. SETZER** 



**REP. STEINBURG** 



REP. WATFORD



**REP. WILLIAMS** 



### ATTENDANCE

### STATE & LOCAL GOVERNMENT II

### 2017 LONG SESSION

MEMBERS	3/8/17							
REP. BRADFORD CHAIR	<b>/</b>							
REP. ADAMS	<b>/</b>							
REP. AUTRY								
REP. BALL	/							
REP. BOLES								
REP. BOSWELL	/							
REP. C. GRAHAM	/							
REP. G. GRAHAM	/							
REP. JOHN	/							
REP. LEHMAN	1							
REP. ROSS	/							
REP. SAULS	1							
REP. SETZER	1							
REP. STEINBURG								
REP. WATFORD	1							
REP. WILLIAMS	/							
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Anita Spence, Committee Assistant	1							
Cindy Avrette, Staff	/							
Nick Giddings, Staff	1							
Brad Krehely, Staff	J							

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## NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

DAY & DATE: Wednesday, March 8, 2017

TIME: 10:00 AM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 2	Provide Certain Property Tax Relief.	Representative Dollar
		Representative Saine
		Representative Hardister
		Representative R. Turner
HB 16	Enhance Oversight of Service	Representative Davis
	Contracts/PED.	Representative Horn
		Representative Lucas
		Representative R. Turner
HB 17	Office of State Auditor/Corrective	Representative Davis
	Action/PED.	Representative R. Turner
HB 55	Apex/Cary/Police Assistance on School	Representative Adcock
	Grounds.	Representative Williams
		Representative Dollar
		Representative Duane Hall
HB 89	Housing Authority Transfers.	Representative Adams

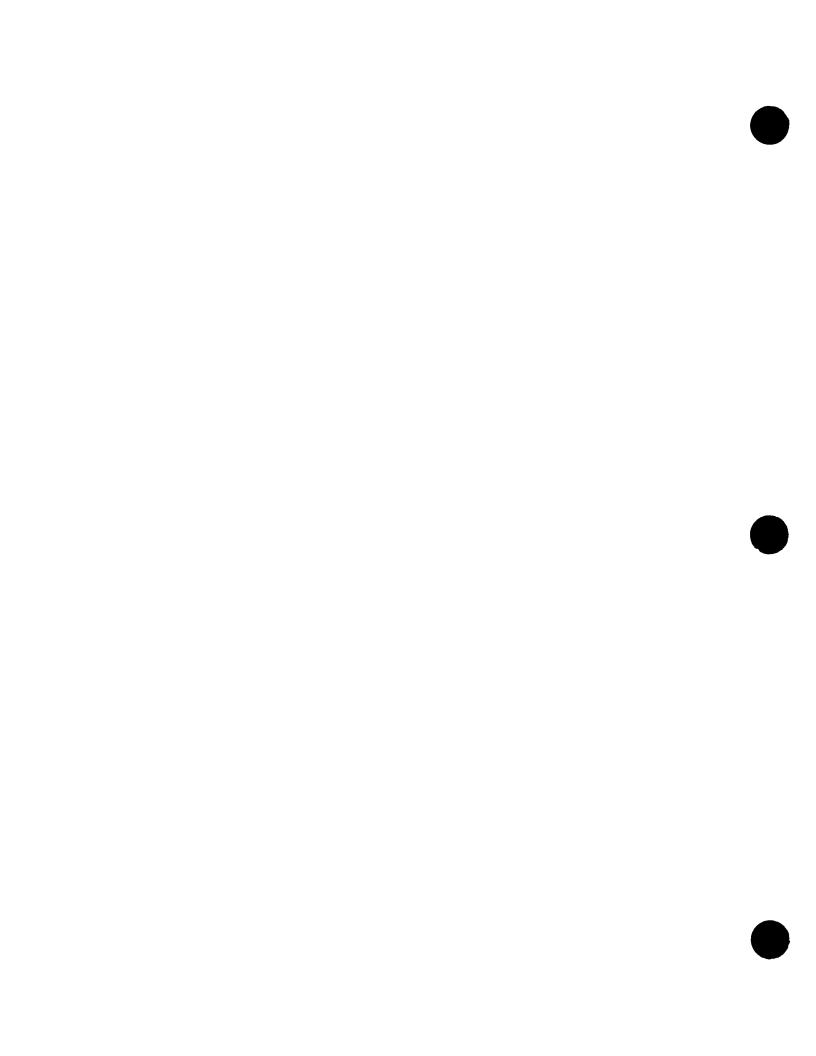
Respectfully,

Representative John R. Bradford, III, Chair

I hereby cert	ify this noti	ce was filed	by the com	mittee assist	ant at the follo	owing offices	at 4:39
PM on Mono	day, March	06, 2017.					

 Principal Clerk
Reading Clerk – House Chamber

Anita Spence (Committee Assistant)



### House Committee on State and Local Government II Wednesday, March 8, 2017, 10:00 AM 544 Legislative Office Building

### **AGENDA**

### Welcome and Opening Remarks

### Introduction of Sergeant at Arms and Pages

### Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 55	Apex/Cary/Police Assistance on School Grounds	Representative Adcock Representative Williams Representative Dollar Representative Duane Hall
HB 89	Housing Authority Transfers	Representative Adams
HB 2	Provide Certain Property Tax Relief.	Representative Dollar Representative Saine Representative Hardister Representative R. Turner
HB 16	Enhance Oversight of Service Contracts/PED.	Representative Davis Representative Horn Representative Lucas Representative R. Turner
HB 17	Office of State Auditor/Corrective Action/PED.	Representative Davis Representative R. Turner

### Adjournment

### House Committee on State and Local Government II Wednesday, March 8, 2017 at 10:00 AM Room 544 of the Legislative Office Building

#### MINUTES

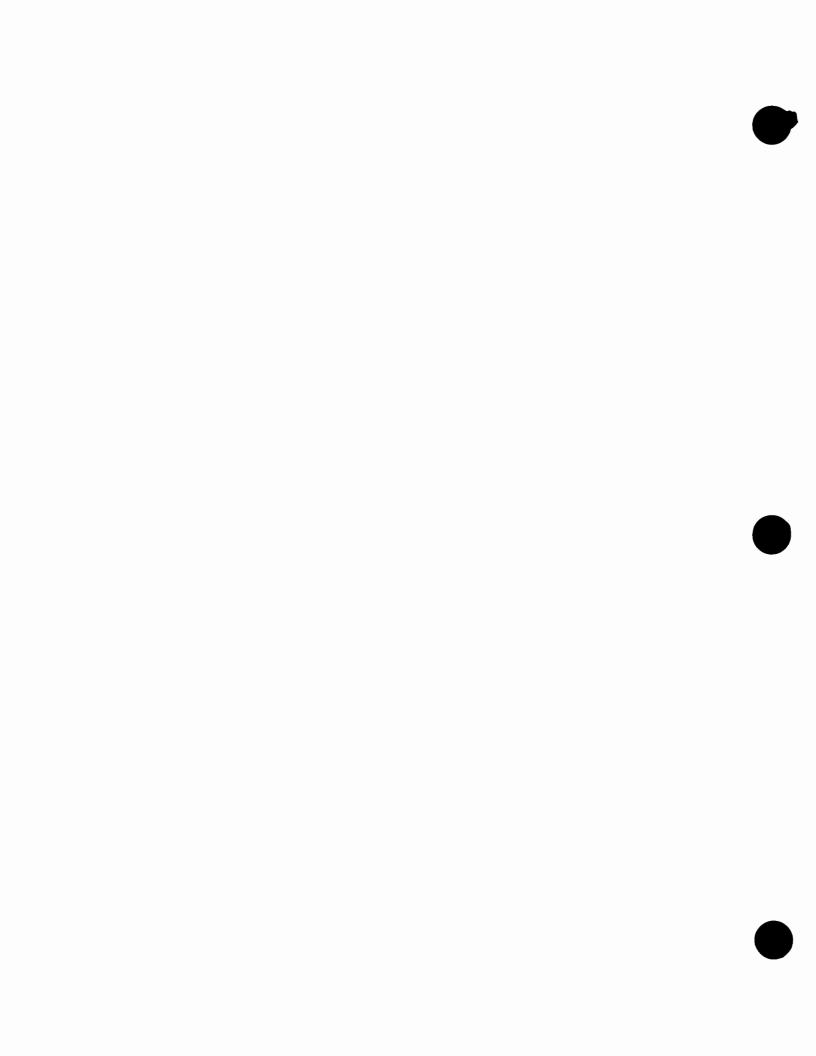
The House Committee on State and Local Government II met at 10:00 AM on March 8, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Ball, Boswell, C. Graham, G. Graham, John, Lehman, Ross, Sauls, Setzer, Watford & Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:05 am. He introduced the Sargent at Arms staff and House Pages.

Chairman Bradford motioned for HB 55 Apex/Cary/Police Assistance on School Grounds (Representatives Adcock, Williams, Dollar and Duane Hall) AN ACT AUTHORIZING THE POLICE DEPARTMENT OF THE TOWN OF APEX TO PROVIDE LAW ENFORCEMENT ASSISTANCE TO THE POLICE DEPARTMENT OF THE TOWN OF CARY ON THE GROUNDS OF THE TEMPORARY APEX HIGH SCHOOL IN CARY to be before the committee. Chairman Bradford recognized Representative Adcock to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report. All Members were in favor. HB 55 passes.

Chairman Bradford motioned for HB 89 Housing Authority Transfers (Representative Adams) AN ACT TO ALLOW MUNICIPALITIES TO TRANSFER THE POWERS, DUTIES AND RESPONSIBILITIES OF A PUBLIC HOUSING AUTHORITY TO A REGIONAL COUNCIL OF GOVERNMENT to be before the committee. Chairman Bradford recognized Representative Adams to explain the bill. There was discussion on the bill. Chairman Bradford opened the meeting to questions from those in attendance. Anthony Starr Ex Director of West Piedmont Council of Governments spoke in favor of the bill. Representative Setzer motioned for a favorable report with a serial referral to Finance. Chairman Bradford called for a vote. All members were in favor of HB 89. The bill passes.

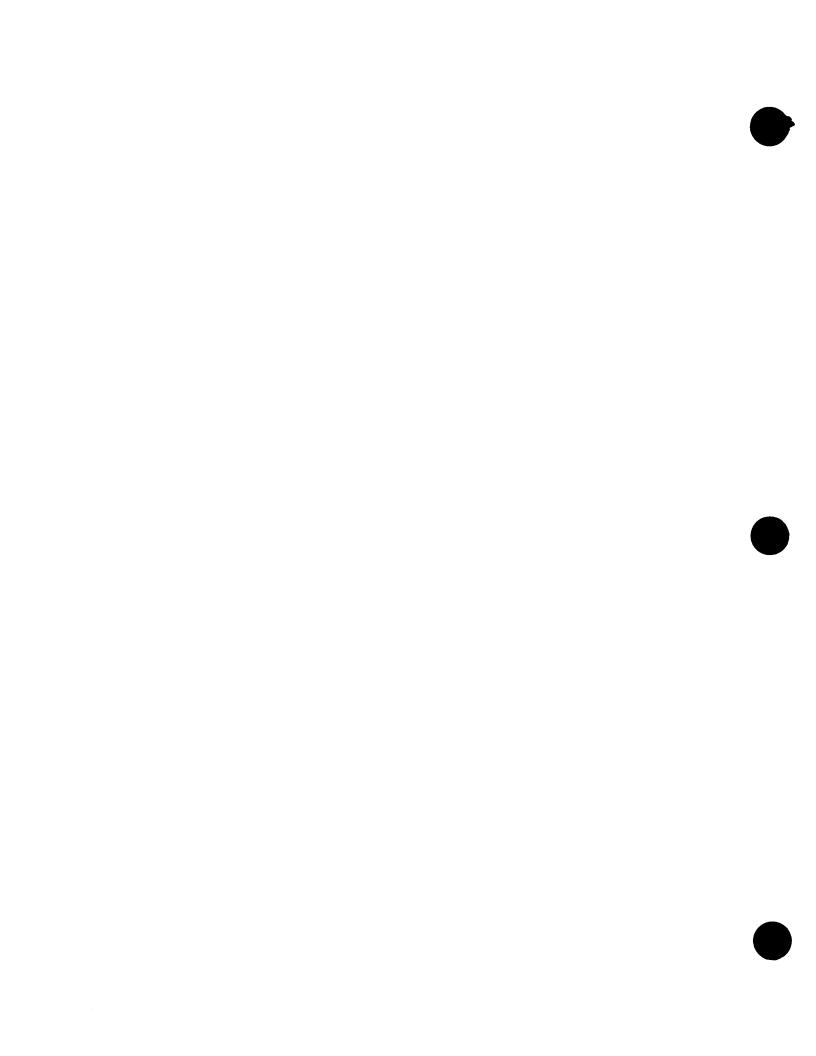
Chairman Bradford motioned for the PCS for HB 2 Provide Certain Property Tax Relief (Representatives Dollar, Saine, Hardister and R. Turner) AN ACT TO INCREASE THE DISABLED VETERAN PROPERTY TAX HOMESTEAD



EXCLUSION, TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING REVENUE LOSS AND TO PROVIDE A PROPERTY TAX HOMESTEAD EXCLUSION FOR THE SURVIVING SPOUSE OF QUALIFYING EMERGENCY PERSONNEL to be before the committee. Chairman Bradford recognized Representative Dollar to explain the bill. There was discussion on the bill. Chairman Bradford opened the meeting to questions from those in attendance. Ben Bobzien of the New Hanover Professional Firefighters, John Turner, Shane Nanci-Battalion Chief-Charlotte and John Midgitt with the Police Benevolent Association spoke in favor of HB 2. Chairman Bradford recognized Representative Setzer who motioned for an unfavorable to original bill, favorable to the PCS. HB 2 has a serial referral to Finance. Chairman Bradford called for a vote. All members are in favor. HB 2 passes.

Chairman Bradford motioned for HB 16 Enhance Oversight of Service Contracts/PED (Representatives Davis, Horn, Lucas and R. Turner) AN ACT TO ENHANCE OVERSIGHT OF STATE SERVICE CONTRACTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE to be before the committee. Chairman Bradford recognized Representative Davis to the bill. There was discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for an unfavorable to original bill, favorable to the PCS. One amendment-page 1 line 9-10. Chairman Bradford called for a vote. HB 16 passes.

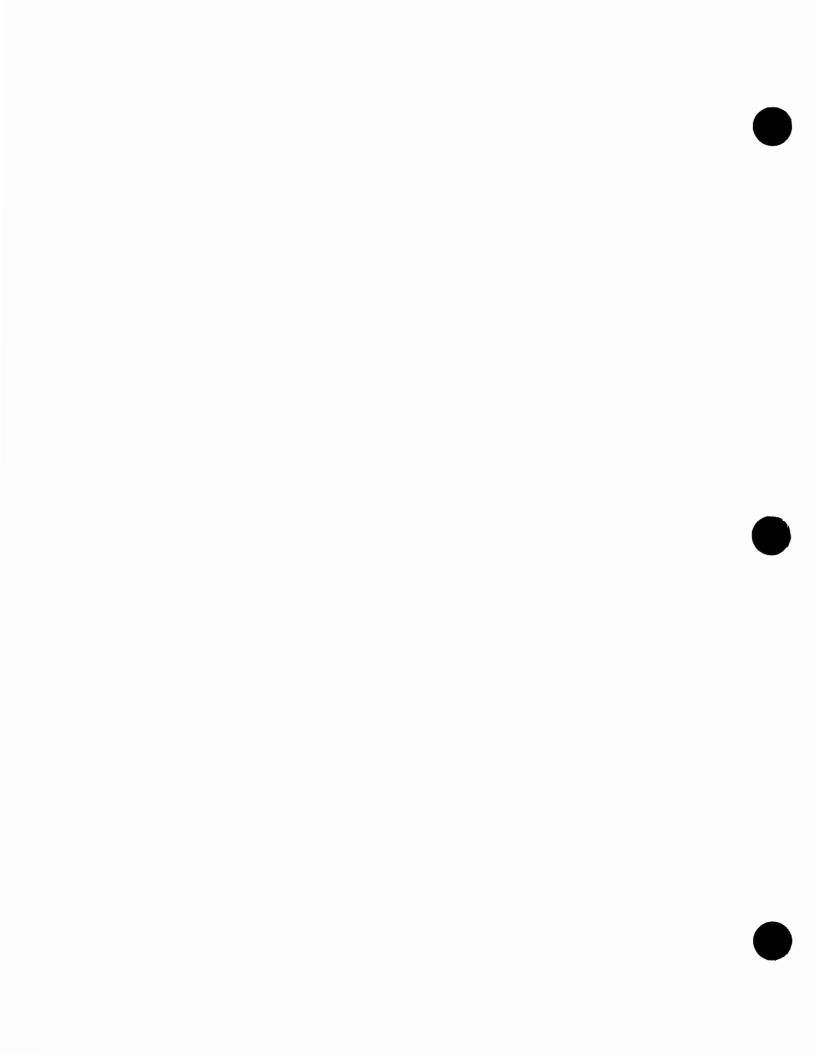
Chairman Bradford motioned for a PCS for HB 17 Office of State
Auditor/Corrective Action/PED (Representatives Davis and R. Turner) AN ACT
TO REQUIRE THE OFFICE OF THE STATE AUDITOR TO CONDUCT A
FOLLOW-UP AUDIT ON AN UNDERPERFORMING STATE AGENCY, TO
REPORT TO THE GENERAL ASSEMBLY A STATE AGENCY'S FAILURE TO
TAKE CORRECTIVE ACTION, AND TO REPORT ANNUALLY ON ALL
FINDINGS OF DEFICIENCIES, AS RECOMMENDED BY THE JOINT
LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE to be
before the committee. Chairman Bradford recognized Representative Davis to
explain the bill. There was discussion on the bill. Beth Woods spoke in favor of
this bill. Chairman Bradford recognized Representative Ross who motioned for an
unfavorable to original bill, favorable to a PCS with a serial referral to
Appropriations. Chairman Bradford called for a vote. All members are in favor. HB
17 passes.



The meeting adjourned at 10:45 am.

Representative Bradford, Chair

Anita Spence, Committee Clerk





### **HOUSE BILL 55:** Apex/Cary/Police Assistance on School Grounds.

2017-2018 General Assembly

Committee: House State and Local Government II Date: March 8, 2017
Introduced by: Reps. Adcock, Williams, Dollar, Duane Hall Prepared by: Nicholas Giddings
Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 55 temporarily extends the jurisdictional limits of the Apex Police Department into Cary, allowing the Apex Police Department to have jurisdiction over Apex High School, which will be temporarily located in Cary. This bill applies to Cary and Apex only and will sunset on July 1, 2020. This bill is supported by the Towns of Apex and Cary. <sup>1</sup>

CURRENT LAW/BACKGROUND: Law enforcement agencies in North Carolina may temporarily provide assistance to other agencies when requested in writing by the other agency. Without a written request from the agency seeking assistance, law enforcement agencies have limited authority to assist in law enforcement matters of other jurisdictions.

At the conclusion of the 2016-2017 school year, the Wake County Public School System will begin a project to rebuild Apex High School. Apex High School will be temporarily moved to 7612 Roberts Road in Cary for a two year period during this rebuilding process. Once the rebuild is completed, Apex High School will relocate back to its original location and the Cary location will become Green Level High School.

The Town of Cary has a contract with the Wake County Public School System to staff each high school in its jurisdiction with a School Resource Officer. The Town of Apex also wishes to provide a School Resource Officer at the temporary location for Apex High School from its police department and continue to provide law enforcement services to the high school.

BILL ANALYSIS: House Bill 55 would create G.S. 160A-288.2A, which would apply to the Towns of Apex and Cary only. The bill would provide the Apex Police Department authority to assist in law enforcement matters at Apex High School while it is temporarily located in Cary. Any officers from Apex working in Cary will have the same powers and immunities afforded to officers in Apex and Cary. Officers from Apex will be under the command of, and paid by, the Apex Police Department. Further, the officers from Apex will be afforded benefits, such as worker's compensation, as normal. Lastly, nothing in the bill reduces the jurisdiction or authority of State law enforcement officers.

**EFFECTIVE DATE:** Effective when law. Expires July 1, 2020.

<sup>2</sup> See G.S. 160A-288.





http://www.apexnc.org/DocumentCenter/View/15362.

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

HOUSE BILL 55

(Local)

Short Title: Apex/Cary/Police Assistance on School Grounds.

(Local)

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Sponsors:

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Representatives Adcock, Williams, Dollar, and Duane Hall (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II

February 8, 2017

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A BILL TO BE ENTITLED

3 4 5 AN ACT AUTHORIZING THE POLICE DEPARTMENT OF THE TOWN OF APEX TO PROVIDE LAW ENFORCEMENT ASSISTANCE TO THE POLICE DEPARTMENT OF THE TOWN OF CARY ON THE GROUNDS OF THE TEMPORARY APEX HIGH

SCHOOL IN CARY.

The General Assembly of North Carolina enacts:

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**SECTION 1.** Article 13 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

Notwithstanding any other provision of law, the chief of police of a municipality may provide

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"§ 160A-288.2A. Municipalities have concurrent jurisdiction on public school property.

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assistance to another municipal police department located in an adjacent municipality in enforcing the laws of North Carolina on property owned by the county board of education in accordance with rules, policies, or guidelines officially adopted by the governing body of the municipality providing assistance and subject to any conditions or restrictions included in those rules, polices,

rights, privileges, and immunities, including those relating to the defense of civil actions and the

or guidelines. The assistance may comprise allowing officers of the assisting police department to
work in the adjacent police department's jurisdiction and lending equipment and supplies. While
working under the authority of this section, an officer shall have the same jurisdiction, powers,

payment of judgments, as the officers of the adjacent police department in addition to those the officer normally possesses. While on duty with the adjacent police department as authorized by this section, the officer shall be subject to the lawful operational commands of the superior officers of the assisting police department and shall for personnel and administrative purposes remain

23 under the control of the assisting police department, including for purposes of pay. The officer 24 shall be entitled to workers' compensation and the same benefits when acting pursuant to this

section to the same extent as though the officer was functioning within the normal scope of his or her duties. Nothing in this section shall be interpreted as reducing the jurisdiction or authority of

27 State law enforcement officers."

**SECTION 2.** This act applies to the Towns of Apex and Cary only.

**SECTION 3.** This act is effective when it becomes law and expires July 1, 2020.



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### **HOUSE BILL 89: Housing Authority Transfers.**

#### 2017-2018 General Assembly

Committee: House State and Local Government II Date: March 7, 2017
Introduced by: Rep. Adams Prepared by: Brad Krehely

Analysis of: First Edition Committee Co-Counsel

SUMMARY: House Bill 89 would allow municipalities to transfer the powers, duties, and responsibilities of a public housing authority to a regional council of government. The date of the abolition of the authority would be set in the city's council's resolution abolishing the authority on a date that will allow sufficient time to wind down the operations of the housing authority. The act would be effective when it becomes law.

#### **CURRENT LAW:**

Housing Authorities-Chapter 157 of the General Statutes is the Housing Authority Law. It is designed to address the shortage of safe and sanitary housing in North Carolina and to encourage programs to provide such housing. The statute sets forth a procedure for creating a housing authority. However, in lieu of creating a housing authority, the council of any city may exercise the powers of a housing authority itself or may designate a redevelopment commission to do so.

A city can abolish a housing authority, but the abolition cannot be effective until as set in a resolution and not less than 90 days after the adoption of the resolution. The statutes for housing authorities have terms of office for commissioners, have conflict of interest provisions for commissioners, and allow for removal of commissioners in some circumstances. Housing authorities have a wide range of powers and duties that include operating housing projects, issuing subpoenas, exercising eminent domain, and issuing bonds, among others.

#### Regional Councils of Government-

Under Part 2 of Article 20 of Chapter 160A of the General Statutes, any two or more units of local government (city, county, or consolidated city-county) may create a regional council of governments by adopting identical concurrent resolutions. Thereafter, any local government may join the regional council by ratifying its charter and by being admitted by a majority vote of the existing members. The charter may confer on the regional council any of the following powers:

- To receive and dispense funds from the State, the federal government, a unit of local government and private and civic agencies.
- To employ personnel.
- To contract with consultants.
- To contract with the State of North Carolina, any other state, the United States of America, or any agency thereof, for services.
- To study regional governmental problems.
- To promote action among its member governments.





Legislative Analysis Division 919-733-2578

### **House Bill 89**

Page 2

- To make recommendations for review and action to its member governments and other public agencies within the region.
- For the purpose of meeting the regional council's office space and program needs, to acquire real property by purchase, gift, or otherwise, and to improve that property. The regional council may pledge real property as security for indebtedness used to finance acquisition of that property or for improvements to that real property, subject to approval by the Local Government Commission. A regional council may not exercise the power of eminent domain.
- Any other powers that are exercised or capable of exercise by its member governments and desirable for dealing with problems of mutual concern to the extent such powers are specifically delegated to it from time to time by resolution of the governing board of each of its member governments. No regional council of governments may construct or purchase buildings, or acquire title to real property, except for the purposes permitted to meet the regional council's office space and program needs or in order to exercise authority under federal the Public Works and Economic Development Act of 1965.

**BILL ANALYSIS:** House Bill 89 would allow municipalities to transfer the powers, duties, and responsibilities of a public housing authority to a regional council of government.

- Date of Abolition of the Housing Authority-Under current law, a city council which has created a housing authority may abolish the housing authority by passing a resolution. The date of the abolition is set in the resolution, but cannot be less than 90 days after the adoption of the resolution. House Bill 89 removes the 90-day minimum mandate and replaces it with language permitting abolition on a date that will allow sufficient time to wind down the operations of the housing authority.
- Transfer of Duties of a Housing Authority to a Regional Council of Government- Under current law, when a municipality has abolished a housing authority, the municipality may designate an existing redevelopment commission to exercise the powers, duties, responsibilities of a housing authority. House Bill 89 would allow the municipality to transfer these powers and duties of a housing authority to a regional council of government.
- Expiration of Terms of Office- The act would clarify that the terms of office for commissioners of a housing authority would expire on the date set in the resolution which abolished the housing authority.
- Appointment of Interim Executive Director- The act would provide that upon the abolition of the housing authority, the city council may appoint an interim executive director who will work to facilitate the transfer of the housing authority.
- Amend Powers and Duties of a Regional Council of Government- The act would amend the powers and duties of a regional council of government to allow a regional council of government to exercise the powers of a housing authority, but not the power of eminent domain.

The act makes other conforming changes.

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

### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

#### **HOUSE BILL 89**

(Public) Short Title: Housing Authority Transfers. Sponsors: Representative Adams. For a complete list of sponsors, refer to the North Carolina General Assembly web site. State and Local Government II Referred to:

### February 15, 2017

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A BILL TO BE ENTITLED AN ACT TO ALLOW MUNICIPALITIES TO TRANSFER THE POWERS, DUTIES, AND RESPONSIBILITIES OF A PUBLIC HOUSING AUTHORITY TO A REGIONAL

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COUNCIL OF GOVERNMENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 157-4.1 reads as rewritten:

"§ 157-4.1. Alternative organization.

- In lieu of creating a housing authority as authorized herein, the council of any city may, if it deems wise, either designate a redevelopment commission created under the provisions of Chapter 160-160A of the General Statutes Statutes, or a regional council of government created pursuant to Part 2 of Article 20 of Chapter 160A of the General Statutes, to exercise the powers, duties, and responsibilities of a housing authority as prescribed herein, or may itself exercise such powers, duties, and responsibilities. Any such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the finding specified in the first and second paragraphs of G.S. 157-4. In the event the council of any city designates itself to exercise the powers, duties, and responsibilities of a housing authority, then where any act, proceeding, or approval is required to be done, recommended, or approved both by a housing authority and by the council of the city, then the performance, recommendation, or approval thereof once by the council of the city shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event the council of the city designates itself to exercise the powers, duties, and responsibilities of a housing authority, it may assign the administration of the housing programs, projects, and policies to any existing or new department of the city.
- The council of any city which has prior to July 1, 1969, created, or which may hereafter create, a housing authority may, in its discretion, by resolution abolish such housing authority, such abolition to be effective on a day set in such resolution not less than 90 days after its adoption, that will allow sufficient time to wind down the operations of the housing authority. Upon the adoption of such a resolution, the housing authority of the city is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of the resolution, and as will effectively transfer its authority, responsibilities, obligations, personnel, and property, both real and personal, to the city. Any city which abolishes a housing authority pursuant to this subsection may, at any time subsequent to such abolition or concurrently therewith, exercise the authority granted by subsection (a) of this section.

On the day set in the resolution of the council; council, all of the following apply:

The housing authority shall cease to exist as a body politic and corporate and as (1)a public body; body.



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- All property, real and personal and mixed, belonging to the housing authority shall vest in, belong to, and be the property of the eity;city.

  All judgments, liens, rights of liens, and causes of action of any nature in favor
  - (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority shall remain, vest in, and inure to the benefit of the eity;city.
  - (4) All rentals, taxes, assessments, and any other funds, charges or fees, owing to the housing authority shall be owed to and collected by the eity;city.
  - (5) Any actions, suits, and proceedings, pending against, or having been instituted by the housing authority shall not be abated by such abolition, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the city shall be a party to all such actions, suits, and proceedings in the place and stead if the housing authority and shall pay or cause to be paid any judgments rendered against the housing authority in any such actions, suits, or proceedings, and no new process need be served in any such action, suit, or proceeding; proceeding.
  - (6) All obligations of the housing authority, including outstanding indebtedness, shall be assumed by the city, and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the eity; city.
  - (7) All ordinances, rules, regulations and policies of the housing authority shall continue in full force and effect until repealed or amended by the council of the city.
  - (c) Where the governing body of any municipality has in its discretion, by resolution abolished a housing authority, pursuant to subsection (b) above, of this section, the governing body of such municipality may, at any time subsequent to the passage of a resolution abolishing a housing authority, or concurrently therewith, by the passage of a resolution adopted in accordance with the procedures and pursuant to the finding specified in G.S. 157-4.1, designate an existing redevelopment commission created pursuant to Article 37 of Chapter 160 Article 22 of Chapter 160A of the General Statutes, or a regional council of government created pursuant to Part 2 of Article 20 of Chapter 160A of the General Statutes, to exercise the powers, duties, and responsibilities of a housing authority. Where the governing body of any municipality designates, pursuant to this subsection, an existing redevelopment commission created pursuant to Article 37 of Chapter 160 of the General Statutes or a regional council of government to exercise the powers, duties, and responsibilities of a housing authority, on the day set in the resolution of the governing body passed pursuant to subsection (b) of this section, or pursuant to subsection (c) of this section:section, all of the following apply:
    - (1) The housing authority shall cease to exist as a body politic and corporate and as a public body;body.
    - (2) All property, real and personal and mixed, belonging to the housing authority or to the municipality as hereinabove provided in subsections (a) or (b), shall vest in, belong to, and be the property of the existing redevelopment commission of the municipality; or regional council of government.
    - (3) All judgments, liens, rights of liens, and causes of action of any nature in favor of the housing authority or in favor of the municipality as hereinabove provided in subsections (a) or (b), shall remain, vest in, and inure to the benefit of the existing redevelopment commission of the municipality; or regional council of government.
    - (4) All rentals, taxes, assessments, and any other funds, charges, or fees owing to the housing authority or owing to the municipality as hereinabove provided in subsections (a) or (b), shall be owed to and collected by the existing redevelopment commission of the municipality; or regional council of government.

- (5) Any actions, suits, and proceedings pending against or having been instituted by the housing authority or the municipality, or to which the municipality has become a party as hereinabove provided in subsections (a) or (b), shall not be abated by such abolition but all such actions, suits, and proceedings shall be continued and completed in the same manner as if abolition had not occurred, and the existing redevelopment commission of the municipality or regional council of government shall be a party to all such actions, suits, and proceedings in the place and stead of the housing authority or the municipality, and shall pay or cause to be paid any judgments rendered in such actions, suits, or proceedings, and no new processes need be served in such action, suit, or proceeding; proceeding.
- (6) All obligations of the housing authority or the municipality as hereinabove provided in subsections (a) or (b), including outstanding indebtedness, shall be assumed by the existing redevelopment commission of the municipality; or regional council of government; and all such obligations and outstanding indebtedness shall be constituted obligations and indebtedness of the existing redevelopment commission of the municipality; or regional council of government.
- (7) All ordinances, rules, regulations, and policies of the housing authority or the municipality as hereinabove provided in subsections (a) or (b), shall continue in full force and effect until repealed and amended by the existing redevelopment commission of the municipality or regional council of government.
- (8) Notwithstanding G.S. 157-5 and G.S. 157-8, the term of office for all commissioners shall expire.
- (d) A redevelopment commission or regional council of government designated by the governing body of any municipality to exercise the powers, duties duties, and responsibilities of a housing authority shall, when exercising the same, do so in accordance with Chapter 157 of the General Statutes. Otherwise Otherwise, the redevelopment commission shall continue to exercise the its powers, duties duties, and responsibilities of a redevelopment commission in accordance with Article 37 of Chapter 160 Article 22 of Chapter 160A of the General Statutes. Statutes, and the regional council of governments shall continue to exercise its powers, duties, and responsibilities in accordance with Part 2 of Article 20 of Chapter 160A of the General Statutes.
- (e) Upon passage of a resolution pursuant to subsection (b) or (c) of this section, the city council may appoint an interim executive director who will work with the housing authority to facilitate any transfer to the city, redevelopment commission, or regional council of government, and who will serve in that capacity until the transfer is complete. The interim executive director shall have all the powers and duties granted to an executive director pursuant to G.S. 157-5(e) along with the rules, regulations, and policies of the housing authority."

SECTION 2. G.S. 160A-475 reads as rewritten:

### "§ 160A-475. Specific powers of council.

The charter may confer on the regional council any of the following powers:

- (7a) For the purpose of meeting the regional council's office space and program needs, to acquire real property by purchase, gift, or otherwise, and to improve that property. The regional council may pledge real property as security for indebtedness used to finance acquisition of that property or for improvements to that real property, subject to approval by the Local Government Commission as required under G.S. 159-153. A regional council may not exercise the power of eminent domain.
- (7b) To carry out the powers, duties, and responsibilities granted pursuant to Chapter 157 of the General Statutes except the power of eminent domain.

	General Assemb	oly Of North Carolina	Session 2017
1	(8)	Any other powers that are exercised or capable of exercise	se by its member
2		governments and desirable for dealing with problems of muti	ual concern to the
3		extent such powers are specifically delegated to it from	time to time by
4		resolution of the governing board of each of its member gover	nments which are
5		affected thereby, provided, that no regional council of govern	nments shall have
6		the authority to construct or purchase buildings, or acquire titl	e to real property,
7		except for the purposes permitted under subdivision (7a) of	this section or in
8		order to exercise the authority granted by Chapter 260 of the	e Session Laws of
9		1979.1979, or the powers, duties, and responsibilities grante	ed to the regional
10		council pursuant to Chapter 157 of the General Statutes.	Nothing in this
11		subdivision permits a regional council to exercise the p	ower of eminent
12		domain."	
13	SECT	TION 3. This act is effective when it becomes law.	



### **HOUSE BILL 2:** Provide Certain Property Tax Relief.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

March 8, 2017

favorable, re-refer to Finance

**Introduced by:** Reps. Dollar, Saine, Hardister, R. Turner

Prepared by: Nicholas Glddings

Analysis of: PCS to First Edition

Staff Attorney

H2-CSBA-3

OVERVIEW: House Bill 2 would provide a full property tax exclusion to the following homeowners:

- Disabled veterans. The exclusion would change from a partial exclusion equal to the first \$45,000 of a property's appraised value to a full property tax exclusion.
- Surviving spouses of emergency personnel officers killed in the line of duty.

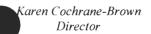
The PCS to House Bill 2 would use State General Fund revenue to reimburse local governments for the revenue lost from increasing the property tax exclusion for disabled veterans. This bill will need a serial referral to both Finance and Appropriations committees.

CURRENT LAW: G.S. 105-277.1C provides a property tax exclusion for certain disabled veterans. Under this exclusion, the first \$45,000 of appraised value of a permanent residence owned and occupied by a qualifying owner is excluded. Permanent residence includes the dwelling, dwelling site not to exceed one acre, and related improvements. It may be a single family residence, a unit in a multi-family residential complex, or a manufactured home. To qualify for this exclusion, the taxpayer must have a total and permanent service-connected disability or be the unmarried surviving spouse of a disabled veteran. A taxpayer is totally and permanently disabled when he or she has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life. Due to this requirement, current law allows this partial exemption to be requested in a single application.

**BILL ANALYSIS:** House Bill 2 would increase the property tax exclusion for disabled veterans from the first \$45,000 of the property's appraised value to the total appraised value. The PCS would provide for a hold harmless provision to reimburse local governments harmed by the resulting loss of tax revenue this exclusion would create.

In order to receive this reimbursement, a county tax assessor would be required to notify the Secretary of Revenue, in a manner prescribed by the Secretary, of the county's total hold harmless amount by September 1 of each year. The hold harmless amount would be defined as the assessed value over \$45,000 of a property excluded from taxation, multiplied by the applicable local tax rate. The total hold harmless amount would be the sum of the hold harmless amounts for all properties excluded from taxation in the county, including cities located within the county. If the county fails to notify the Secretary by September 1, it would be barred from receiving a reimbursement for that year.

<sup>&</sup>lt;sup>2</sup> See G.S. 105-277.1(b)(4).





Legislative Analysis Division 919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

<sup>&</sup>lt;sup>1</sup> See G.S. 105-277.1(b)(3)

### **House PCS 2**

Page 2

Disbursements by the Secretary would be made on or before December 31 of each year. A county must distribute to a city any funds received attributable to that city. Also, if a county or city is collecting taxes on behalf of another unit of government, the funds must be credited to that unit in accordance with Local Government Commission regulations.

The bill would also create a full property tax exclusion for surviving spouses of emergency personnel officers who are killed in the line of duty. A definition for "emergency personnel officer" would be created and would include firefighters and law enforcement, among others. To keep the exclusion, the surviving spouse could not remarry. Lastly, the disabled veteran exclusion and surviving spouse exclusion would require a single application; thus, if the application is approved, the exclusion would continue unless the taxpayer is disqualified at a later date.

**EFFECTIVE DATE:** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

D

### HOUSE BILL 2 PROPOSED COMMITTEE SUBSTITUTE H2-PCS40157-BA-3

Short Title:	Provide Certain Property Tax Relief.	(Public)
Sponsors:		
Referred to:		
	Ionyow, 26, 2017	

January 26, 2017

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE DISABLED VETERAN PROPERTY TAX HOMESTEAD

EXCLUSION, TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING
REVENUE LOSS, AND TO PROVIDE A PROPERTY TAX HOMESTEAD EXCLUSION
FOR THE SURVIVING SPOUSE OF QUALIFYING EMERGENCY PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1C reads as rewritten:

### "§ 105-277.1C. Disabled veteran property tax homestead exclusion.

- (a) Classification. A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and is taxable in accordance with this section. The first forty-five thousand dollars (\$45,000) of appraised value of the residence is excluded from taxation. A qualifying owner who receives an exclusion under this section may not receive other property tax relief.
  - (b) Definitions. The following definitions apply in this section:

(2a) Hold harmless amount. – The assessed value over forty-five thousand dollars (\$45,000) of a property excluded from taxation under subsection (a) of this section, multiplied by the applicable local tax rate.

(8) Total hold harmless amount. – The sum of the following:

- a. The hold harmless amount for all property excluded from taxation under subsection (a) of this section in the county.
- b. The hold harmless amount for all property excluded from taxation under subsection (a) of this section in the cities located in the county.

(g) Reimbursement. – On or before September 1 of each year, each county tax collector shall notify the Secretary of Revenue, in a manner prescribed by the Secretary, of the county's total hold harmless amount. A county that fails to notify the Secretary of Revenue of its total hold harmless amount by the due date is barred from receiving a reimbursement under this subsection for that taxable year. On or before December 31 of each year, the Secretary of Revenue shall distribute to each county its respective total hold harmless amount.

Any funds received by a county that are attributable to a city within the county must be distributed to that respective city. Any funds received by a county or city because the county or city was collecting taxes for another unit of government or special district must be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.



 In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Part 2 of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

SECTION 2.(a) Article 12 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-277.1E. Surviving spouse property tax homestead exclusion.

(a) Classification. – A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and is taxable in accordance with this section. The appraised value of the residence is excluded from taxation. A qualifying owner who receives an exclusion under this section may not receive other property tax relief.

(b) Definitions. – The following definitions apply in this section:

- (1) Emergency personnel officer. Firefighting, search and rescue, or emergency medical services personnel or any employee of any duly accredited State or local government agency possessing authority to enforce the criminal laws of the State who (i) is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State and (ii) possesses the power of arrest by virtue of an oath administered under the authority of the State.
- (2) Permanent residence. Defined in G.S. 105-277.1.
- (3) Property tax relief. Defined in G.S. 105-277.1.
- Qualifying owner. An owner, as defined in G.S. 105-277.1, who is a North Carolina resident and is the surviving spouse who has not remarried of an emergency personnel officer who was killed in the line of duty.
- (c) Temporary Absence. An owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by a dependent of the owner, other than a spouse.
- (d) Other Multiple Owners. This subsection applies to co-owners who are not husband and wife. Each co-owner of a permanent residence must apply separately for the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and none of the co-owners qualifies for the exclusion allowed under G.S. 105-277.1, each co-owner is entitled to the full amount of the exclusion allowed under this section. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the exclusion allowed under this section.

When one or more co-owners of a permanent residence qualify for the exclusion allowed under this section and one or more of the co-owners qualify for the exclusion allowed under G.S. 105-277.1, each co-owner who qualifies for the exclusion allowed under this section is entitled to the full amount of the exclusion. The exclusion allowed to one co-owner may not exceed the co-owner's proportionate share of the valuation of the property, and the amount of the exclusion allowed to all the co-owners may not exceed the greater of the exclusion allowed under this section and the exclusion allowed under G.S. 105-277.1.

(e) Application. – An application for the exclusion allowed under this section should be filed during the regular listing period but may be filed and must be accepted at any time up to and through June 1 preceding the tax year for which the exclusion is claimed. Persons may apply for this property tax relief by entering the appropriate information on a form made available by the assessor under G.S. 105-282,1."

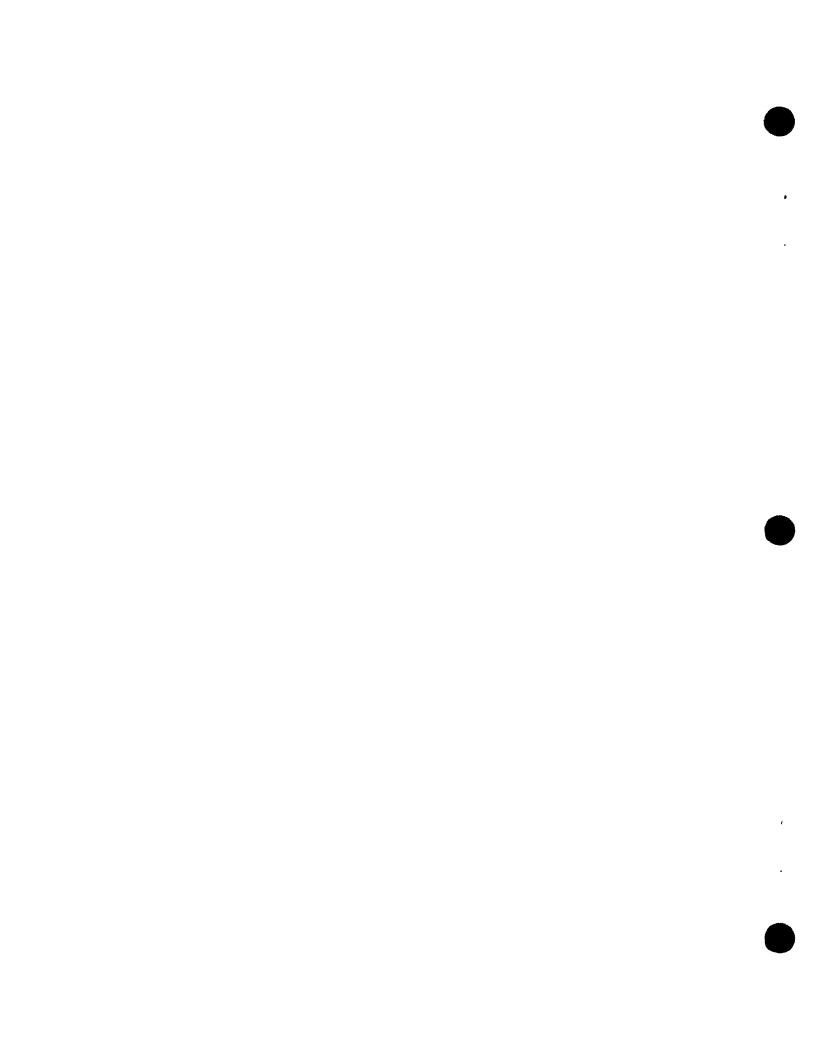
**SECTION 2.(b)** G.S. 105-282.1(a) reads as rewritten:

"(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

- (2) Single application required. An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.
  - a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
  - b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35), (36), (38), (39), (41), or (45) or under <u>G.S. 105-277.1C</u>, G.S. 105-277.1E, or G.S. 131A-21.
  - c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.1C, 105-277.10, 105-277.13, 105-277.14, 105-277.15, 105-277.17, or 105-278.

**SECTION 3.** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2017.



# GENERAL ASSEMBLY OF NORTH CAROLINA

# Session 2017

# Legislative Fiscal Note

**BILL NUMBER**: House Bill 2 (First Edition)

SHORT TITLE: Provide Certain Property Tax Relief.

**SPONSOR(S)**: Representatives Dollar, Saine, Hardister, and R. Turner

		FISCAL I (\$ in mil			
	<b>▼</b> Yes	□ No	□ No Estimate Av	ailable	
State Impact	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
General Fund Revenues:		N	o General Fund Imp	act	
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Local Impact					
Revenues: Sec. 1	(\$25.2)	(\$26.5)	(\$26.7)	(\$26.9)	(\$27.2)
Sec. 2	(\$0.7)	(\$0.7)	(\$0.7)	(\$0.7)	(\$0.8)
NET LOCAL IMPACT	(\$25.9)	(\$27.2)	(\$27.4)	(\$27.6)	(\$28.0)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue; NC Local Governments

EFFECTIVE DATE: Taxable years beginning on or after 7/1/2017.

TECHNICAL CONSIDERATIONS:

None

#### **BILL SUMMARY:**

Section 1 increases the Disabled Veteran Property Tax Exclusion from \$45,000 to a full exclusion of the homestead appraised value.

Section 2 creates a homestead property tax exemption for the surviving spouse of an emergency personnel officer who was killed in the line of duty.

#### ASSUMPTIONS AND METHODOLOGY:

#### **Disabled Veteran Property Tax Exclusion**

Because the bill increases the exclusion amount from \$45,000 to the full value of the homestead, the amount of the exclusion will vary depending on the value of each taxpayer's property. For purposes of the fiscal note, the full value is assumed to be the median home value for North

				_



Carolina. According to the NC Department of Revenue, approximately \$1.1 billion in property value is excluded currently. Based on the median home value of \$154,900, the additional value excluded would be \$2.7 billion. The statewide weighted average property tax rate is applied to determine the total property tax loss of \$25.2 million. Moody's Analytics projections for home prices are used to determine the increase in cost for future years.

# **Emergency Personnel Surviving Spouse Exclusion**

Based on data from the Department of State Treasurer, a total of 371 emergency personnel have been eligible for death benefit payments since 1971. The death benefit payment is made to the dependents of emergency personnel killed in the discharge of their official duties.

Assuming a total of 371 eligible beneficiaries and a median home value for NC of \$154,900, the cost of the bill in lost property tax revenue to counties and municipalities would be approximately \$700,000. It is not known how many of the 371 personnel have unmarried surviving spouses or if there are eligible surviving spouses of personnel killed prior to 1971. Therefore, it is not possible to estimate the cost more precisely; however, given the length of time covered by the data, the cost is estimated to be less than \$700,000.

**SOURCES OF DATA**: U.S. Census Bureau; NC Dept. of Revenue; Moody's Analytics; NC Dept. of State Treasurer

**TECHNICAL CONSIDERATIONS: None** 

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Rodney Bizzell and Emma Turner

#### APPROVED BY:

Mark Trogdon, Director Fiscal Research Division

DATE: February 27, 2017

Official Fiscal Research Division Publication

Signed Copy Located in the NCGA Principal Clerk's Offices



# **HOUSE BILL 16:** Enhance Oversight of Service Contracts/PED.

2017-2018 General Assembly

Committee:

Introduced by: Reps. Davis, Horn, Lucas, R. Turner

Date: March 8, 2017

Prepared by: Cindy Avrette

Analysis of: Second Edition Staff Attorney

OVERVIEW: House Bill 16 is a recommendation of the Performance Evaluation Division (PED) that would impact the process a State agency must follow when it contracts with a provider for a service the agency must provide.<sup>1</sup>

CURRENT LAW AND BACKGROUND: The Division of Purchase and Contract (P&C) in the Department of Administration provides general direction and oversight to ensure purchasing decisions are in compliance with State law and administrative rules. The individual State agencies take responsibility for each of the three phases of contract procurement: sourcing evaluation, contract formation, and contract management. For purposes of purchase and contract, the term "State agency" includes any State department, institution, or agency.<sup>2</sup>

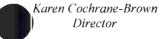
State agencies awarded more than \$1 billion to non-State entities to provide services that the State agency is required or authorized by law to provide. The Joint Legislative Program Evaluation Oversight Committee's 2015-17 Work Plan directed PED to examine these agency service contracts and to evaluate the process used by State agencies to obtain these services from private sector providers. The examination found the following:

- State agencies are not ensuring procurement of contracted services achieves best value.
- State agencies are not documenting the basis for their decisions to contract with private providers.
- Agency procurements for high-value contracted services do not consistently include necessary attributes.
- State agencies and state-level monitoring are not consistently ensuring compliance with terms and conditions of high-value service contracts.

The Secretary of the Department of Administration sent a letter to PED on December 16, 2015. The Secretary agreed with the findings made in the PED report. The Secretary noted that agencies will need additional resources to train or hire employees with the necessary skillset to prepare an adequate business case.

The State Budget Director sent a letter to the PED on December 16, 2015, generally agreeing with the findings cited in the report. The Director noted that the Office of State Budget and Management (OSBM) had recently recommended the State adopt a standard methodology for comparing public and private costs when making decisions on whether to contract for services. The standard business case template and approval process for agencies seeking to contract for services, recommended in the bill,

<sup>2</sup> G.S. 143-50.





Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> As introduced, this bill was identical to S90, as introduced by Sens. Randleman, Krawiec, Edwards, which is currently in Senate Rules and Operations of the Senate.

# House Bill 16

Page 2

would help move the State in this direction. The Director also noted that the additional responsibility placed on the OSBM would require additional resources. The bill does not provide additional resources to any State agency.

**BILL ANALYSIS:** House Bill 16 would make the following changes in the way State agencies procure service contracts:

- It would require an agency to utilize a business case justification template for procuring a provider service contract.
- It would require an agency to consult with the Joint Legislative Commission on Governmental Operations (Gov Opps) about the selection of a provider under a service contract.
- It would require an agency to receive advance written approval before it could select a provider to fulfill a service contract.
- It would require the Department of Administration to schedule a review of an agency's service contracts at least once every five years to verify that the providers of those contracted services are the most cost-effective providers available.
- It would require the Division of P&C to develop a contract management system that all State agencies must use to manage their service contracts. The Division of P&C is currently in the process of soliciting bids for a proposed contract management system. It is anticipated that the new system will be undertaken this calendar year. The new system will enable all contracts to be stored and searchable in one, easy to use location.
- It would direct OSBM to develop and submit a plan to determine whether services provided by State agencies could be more effectively and appropriately provided by private providers. The plan must be submitted to Gov Opps and to the Fiscal Research Division by December 1, 2017.

#### **Business Case Justification Template**

Section 1 of the bill would direct the OSBM to develop a business case justification template. The bill outlines the minimally required information and details the template must contain. The types of information required are substantially the same as the types of information that would be included in an agency's Request for Proposal for a service contract. Examples of the items that must be included in the template are:

- Description of the manner in which the service is currently provided.
- Description of metrics to be sued to evaluate the service and the expected level of performance for each metric.
- An assessment of the availability of private providers who could provide the service.
- Identification of key project team members and their responsibilities.
- Identification of funding requirements and sources.

#### **Documentation and Prior Approval Required**

A State agency cannot select a provider of an agency service until it has done all of the following:

- Used the business case justification template to document the business case for making the selection of a provider.
- Consulted with Gov Opps<sup>3</sup> about the selection of a provider.

<sup>&</sup>lt;sup>3</sup> This requirement is deemed satisfied if Gov Opps does not have a meeting at which the matter is heard within 15 days of receiving the submission, unless the chairs notify the agency that additional time is needed.

# **House Bill 16**

Page 3

- Received written approval from the appropriate officials:
  - o The State Purchasing Officer<sup>4</sup> if the cost of the service is \$5 million<sup>5</sup> or less.
  - o The State Purchasing Officer and the OSBM if the cost of the service exceeds \$5 million.

## **Exceptions from Documentation and Prior Approval**

The documentation and approval provisions outlined above do not apply if one or more of the following exceptions apply:

- The proposed provider of the agency services is a governmental entity other than the State agency required tor authorized to provide the service. The governmental entity may be a county or a municipality.
- The total cost of providing the agency service does not exceed \$1 million.
- The procurement of a service contract would not be subject to the Secretary's authority to purchase or contract for services under G.S. 143-49(3).

# Contract Management System

Section 3 of the bill would require the Department of Administration to develop a contract management system that has the capacity to ensure all of the following:

- That the contract terms and conditions are easily reviewable during the invoice approval process to verify that payments are made in accordance with the applicable terms and conditions.
- That key documents related to contracts can be stored, searched, and retrieved from the system by appropriate personnel.
- That customizable management reports can be generate by State agencies that are parties to contracts or that have contract oversight responsibilities.

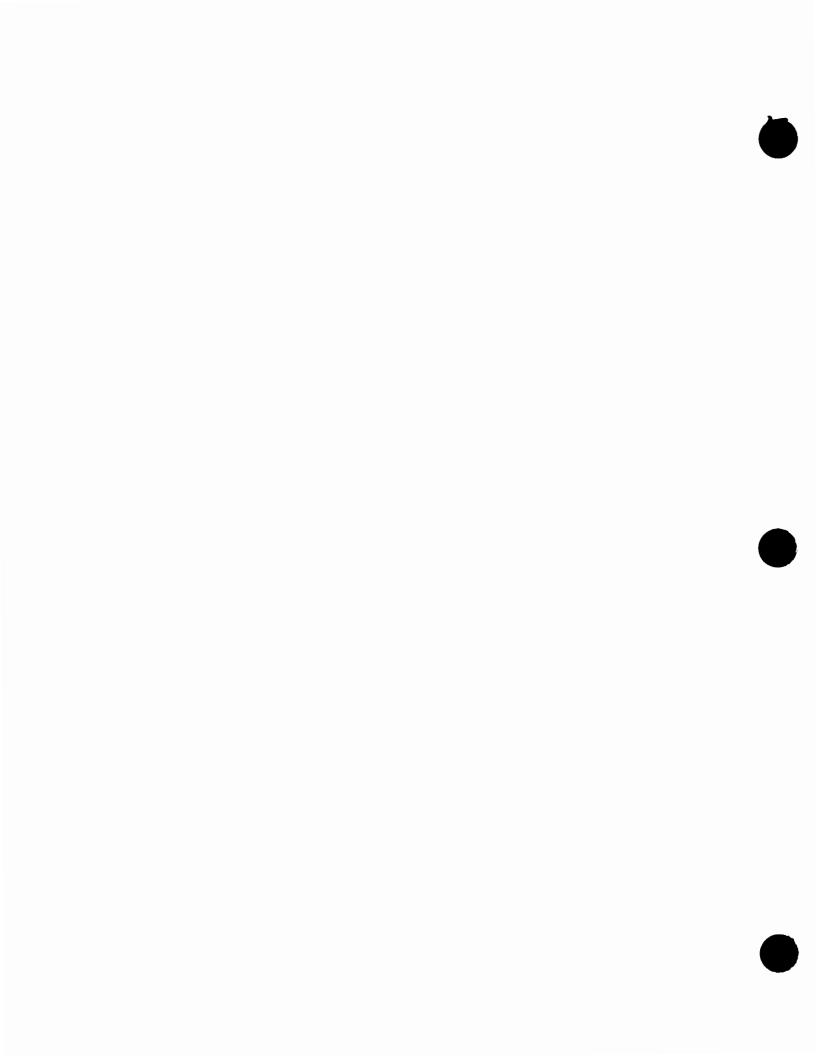
The Division of P&C must notify State agencies within 30 days after that the contract management system is developed and operational. Once notified, agencies must use the contract management system to manage all service contracts entered into by the agency.

**EFFECTIVE DATE:** Section 1 of the bill would become effective October 1, 2017. The remainder of the bill would become effective when it becomes law.

<sup>&</sup>lt;sup>4</sup> The State Purchasing Officer may delegate the authority to make approvals for service contracts whose total cost is \$5 million or less to the head of a State agency if the Officer determines that the State agency's procurement staff have demonstrated competency with respect to the skills necessary to effectively utilize government-vendor partnerships to achieve best value, and that the results of recent P&C compliance reviews of the agency's procurement processes have been satisfactory.

<sup>&</sup>lt;sup>5</sup> The total cost is the total amount of revenue that a service provider or combination of service providers would be estimated to receive during the first three years of providing the service IF the proposed service provider is a private provider. If the provider is a State entity, the total cost is the total amount of funds that the State agency would be estimated to expend providing the agency service during the first three years of operation.

<sup>&</sup>lt;sup>6</sup> There are some contracts statutorily exempt from P&C oversight, such as the investment management contracts administered by the State Treasurer. These services contract would be excluded from this evaluation.



# GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

2 3

Short Title:

# **HOUSE BILL 16** PROPOSED COMMITTEE SUBSTITUTE H16-PCS40174-BA-6

Enhance Oversight of Service Contracts/PED.

D

(Public)

Sponsors:	
Referred to:	
	January 26, 2017
	A BILL TO BE ENTITLED
AN ACT TO	,
	NDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION
	T COMMITTEE.
	embly of North Carolina enacts:
	<b>FION 1.</b> Article 3 of Chapter 143 of the General Statutes is amended by adding
two new sections	
	ersight of certain service contracts.
	ion of Business Case Justification Template The Office of State Budget and
	ill develop a business case justification template to be used by State agencies to
	usiness case for selecting the provider of one or more agency services. The
	ovide for inclusion of at least all of the following:
$\frac{(1)}{(2)}$	A detailed description of the manner in which the service is currently provided.
(2)	The unit and total cost of performing the service during the most recently
(2)	completed fiscal year.
(3)	A description of the metrics to be used to evaluate the service, the current level of performance for each metric, and the expected level of performance for each
	metric once the selection has been made.
(4)	Identification of resources required to effectively procure the service, if
(4)	applicable.
<u>(5)</u>	An assessment of the availability of private providers who could provide the
(3)	service.
(6)	Justification for a waiver from competitive bidding requirements, if applicable.
(7)	Justification for use of multiple private providers to perform the service, if
1.7	applicable.
(8)	Information security requirements that a private provider would need to satisfy,
1-1	if applicable.
(9)	Identification of roles, organizational placement, responsibilities, and
	qualifications of key project team members, including demonstrated
	competency incorporating government-vendor partnerships into the
	procurement process, if applicable.
(10)	Identification of funding requirements and funding sources for the proposed
	contract period, if applicable.
(11)	A description of the transition process for selecting the provider of the service.



1 Documentation and Approval of Provider Selection Required. – A State agency shall (b) 2 not select the provider of an agency service until it has done all of the following, regardless of 3 whether the new provider of that service will be the State agency itself or a private provider: 4 Documented the business case for making the selection on the business case (1)5 justification template developed pursuant to subsection (a) of this section. 6 Obtained written approvals from all of the following, as applicable, upon a (2) 7 determination that there is an adequate business case for making the selection: 8 If the total cost of providing the service is five million dollars 9 (\$5,000,000) or less, the State Purchasing Officer. The State Purchasing 10 Officer may delegate the authority to make approvals pursuant to this 11 sub-subdivision to the head of a State agency if the State Purchasing 12 Officer determines that at least all of the following conditions are 13 satisfied: 14 1. The State agency's procurement staff have demonstrated competency with respect to the skills necessary to effectively 15 16 utilize government-vendor partnerships to achieve best value. 17 <u>2.</u> The results of recent Division of Purchase and Contract 18 compliance reviews of the agency's procurement processes have 19 been satisfactory. 20 If the total cost of providing the service exceeds five million dollars <u>b.</u> (\$5,000,000): 21 22 The State Purchasing Officer. 1. 23 The Office of State Budget and Management. Consulted with the Joint Legislative Commission on Governmental Operations 24 (3) 25 about the selection. The requirement to consult shall be deemed satisfied if the 26 Commission does not have a meeting at which the matter is heard within 15 27 days of receiving the required submission, unless the chairs of the Commission 28 notify the agency during that period that they need additional time to review the selection, in which case G.S. 12-3(15)b. shall govern when the requirement to 29 30 consult shall be deemed to have been satisfied. Exceptions. - Subsection (b) of this section shall not apply if any of the following 31 (c) 32 conditions are satisfied: 33 The proposed new provider of the agency service is a county, municipality, or (1)34 some other governmental entity other than the State agency required or 35 authorized to provide the service. The total cost of providing the agency service does not exceed one million 36 (2)37 dollars (\$1,000,000). The procurement of a contract to obtain the service would not be subject to the 38 (3) Secretary of Administration's authority under G.S. 143-49(3) to purchase or 39 40 contract for services. Definitions. – The following definitions apply in this section: 41 (d) 42 Agency service. – A service that a State agency is required or authorized to (1)43 provide. 44 (2)Private provider. – A non-State entity other than a county, municipality, or 45 other governmental entity. 46 (3) Service contract. – A contract between a State agency and a private provider 47 that is a new contract for one or more agency services, is for the renewal of an 48 existing contract for one or more agency services, or is an extension of an 49 existing contract for one or more agency services. 50 (4) Total cost. – If the proposed service provider is a private provider, the total amount of revenue that a service provider or combination of service providers 51

would be estimated to receive during the first three years of providing the agency service. Otherwise, the total amount of funds that the State agency would be estimated to expend providing the agency service during the first three years of providing the service.

## "§ 143-50.3. Periodic review of certain service contracts.

The Department of Administration shall establish a schedule for each State agency to review the business case justification for each agency service, regardless of whether the provider of that service is the State agency itself or a private provider, to verify that the current provider is the most cost-effective provider available. Each State agency shall document the results of its review on the business case justification template developed pursuant to G.S. 143-50.2(a). The schedule shall provide for the review of agency services to occur no less than every five years, but the Department of Administration shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances."

**SECTION 2.(a)** The Office of State Budget and Management shall develop and submit a plan to determine whether services provided by State agencies could be both more effectively and appropriately provided by private providers, as that term is defined in G.S. 143-50.2(d)(2), as enacted by Section 1 of this act. No later than December 1, 2017, the Office of State Budget and Management shall report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly. The plan developed pursuant to this section shall do all of the following:

- (1) Provide for an examination of each service provided by each State agency.
- (2) Include an examination of methods for providing each service through contracts with non-State entities.
- (3) Include an analysis of the costs and benefits to the State of providing each service through contracts with non-State entities.
- (4) If the Office of State Budget and Management determines that a service is not appropriate for performance by a private provider, the plan shall describe the basis for that determination.

**SECTION 2.(b)** Each State agency shall fully cooperate with the Office of State Budget and Management in the development and submission of the plan required by subsection (a) of this section.

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

# "§ 143-50.4. Contract management system.

- (a) Operation of Contract Management System. The State Purchasing Officer shall operate a contract management system and require each State agency to use the system to manage all service contracts entered into by the agency. The system developed pursuant to this subsection shall include the capacity to ensure at least all of the following:
  - (1) That the contract terms and conditions are easily reviewable during the invoice approval process to verify that payments are made in accordance with the applicable terms and conditions.
  - (2) That key documents related to contracts can be stored, searched, and retrieved from the system by appropriate personnel.
  - (3) That customizable management reports can be generated by State agencies that are parties to contracts or that have contract oversight responsibilities.
- (b) Reporting. No later than December 1 of each year, the State Purchasing Officer shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly on service contracts entered into by State agencies. Each report shall include the following information about each service contract entered into between State agencies and non-State entities during the previous fiscal year:
  - (1) The description, value, and procurement method of the contract.

	General Assemb	ly Of North Carolina Session 2017
1	(2)	The amount of payments made under the contract during the previous fiscal
2		year.
3	<u>(3)</u>	The total amount of payments made under the contract.
4	<u>(4)</u>	A description of the business case for entering the contract as submitted to the
5		Department of Administration and the date on which the business case was
6		submitted and approved in accordance with G.S. 143-50.2(b).
7	<u>(5)</u>	The results of any reviews of the State agency's procurement processes
8		conducted by the contract management system.
9	(c) For pu	irposes of this section, the term "service contract" shall have the same meaning as
10	in G.S. 143-50.2(	<u>d).</u> "
11	SECT	<b>TION 3.(b)</b> Notwithstanding G.S. 143-50.4(a), as enacted by subsection (a) of
12	this section, a S	State agency shall not be required to use the contract management system
13	established pursu	ant to that section until the agency is notified by the Division of Purchase and
14	Contract of the I	Department of Administration that the system is operational. The Division shall

Contract of the Department of Administration that the system is operational. The Division shall notify each State agency within 30 days of the contract management system becoming operational.

**SECTION 4.** G.S. 143-48.3 is amended by adding a new subsection to read:

- The requirements of this section shall be construed consistently with G.S. 143-50.4." "(g)**SECTION 5.** G.S. 143-50.1(e) reads as rewritten:
- The Consistently with the requirements of G.S. 143-50.4, the Department of Administration shall adopt procedures for the record keeping of the information provided by State agencies and that has been received by the Secretary or the Secretary's designee pursuant to G.S. 114-8.3(c). The Department shall keep the records, and shall include a log with information that provides identification of individual contracts and where the contract documents are located. The Secretary is authorized to require that entities reporting pursuant to G.S. 114-8.39(c) provide additional information that may be required to identify the individual contracts."

**SECTION 6.** Section 1 of this act becomes effective October 1, 2017. The remainder of this act is effective when it becomes law.

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(Public)

# GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

# **HOUSE BILL 16\*** Committee Substitute Favorable 3/8/17

Short Title: E	nhance Oversight of Service Contracts/PED. (Public)
Sponsors:	
Referred to:	
	January 26, 2017
	A BILL TO BE ENTITLED
AN ACT TO	
RECOMME	NDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION T COMMITTEE.
	sembly of North Carolina enacts:
	TION 1. Article 3 of Chapter 143 of the General Statutes is amended by adding
two new section	
"§ 143-50.2. Ov	versight of certain service contracts.
	tion of Business Case Justification Template The Office of State Budget and
Management sha	all develop a business case justification template to be used by State agencies to
	business case for selecting the provider of one or more agency services. The
template shall pr	ovide for inclusion of at least all of the following:
(1)	A detailed description of the manner in which the service is currently provided.
(2)	The unit and total cost of performing the service during the most recently
	completed fiscal year.
(3)	A description of the metrics to be used to evaluate the service, the current level
	of performance for each metric, and the expected level of performance for each
	metric once the selection has been made.
<u>(4)</u>	Identification of resources required to effectively procure the service, it
	applicable.
<u>(5)</u>	An assessment of the availability of private providers who could provide the
	service.
<u>(6)</u>	Justification for a waiver from competitive bidding requirements, if applicable.
(7)	Justification for use of multiple private providers to perform the service, it
	applicable.
(8)	Information security requirements that a private provider would need to satisfy
(0)	if applicable.
<u>(9)</u>	Identification of roles, organizational placement, responsibilities, and
	qualifications of key project team members, including demonstrated
	competency incorporating government-vendor partnerships into the
	procurement process, if applicable.
(10)	Identification of funding requirements and funding sources for the proposed
	contract period, if applicable.
(11)	A description of the transition process for selecting the provider of the service.



1 Documentation and Approval of Provider Selection Required. - A State agency shall (b) 2 not select the provider of an agency service until it has done all of the following, regardless of 3 whether the new provider of that service will be the State agency itself or a private provider: 4 (1) Documented the business case for making the selection on the business case 5 justification template developed pursuant to subsection (a) of this section. 6 (2) Obtained written approvals from all of the following, as applicable, upon a 7 determination that there is an adequate business case for making the selection: 8 If the total cost of providing the service is five million dollars (\$5,000,000) or less, the State Purchasing Officer. The State Purchasing 9 10 Officer may delegate the authority to make approvals pursuant to this sub-subdivision to the head of a State agency if the State Purchasing 11 12 Officer determines that at least all of the following conditions are satisfied: 13 14 1. The State agency's procurement staff have demonstrated competency with respect to the skills necessary to effectively 15 16 utilize government-vendor partnerships to achieve best value. 17 2. The results of recent Division of Purchase and Contract 18 compliance reviews of the agency's procurement processes have 19 been satisfactory. 20 If the total cost of providing the service exceeds five million dollars <u>b.</u> 21 (\$5,000,000): 22 The State Purchasing Officer. The Office of State Budget and Management. 23 Consulted with the Joint Legislative Commission on Governmental Operations 24 (3) about the selection. The requirement to consult shall be deemed satisfied if the 25 26 Commission does not have a meeting at which the matter is heard within 15 days of receiving the required submission, unless the chairs of the Commission 27 28 notify the agency during that period that they need additional time to review the selection, in which case G.S. 12-3(15)b. shall govern when the requirement to 29 consult shall be deemed to have been satisfied. 30 Exceptions. – Subsection (b) of this section shall not apply if any of the following 31 (c) 32 conditions are satisfied: 33 (1) The proposed new provider of the agency service is a county, municipality, or some other governmental entity other than the State agency required or 34 35 authorized to provide the service. The total cost of providing the agency service does not exceed one million 36 (2) 37 dollars (\$1,000,000). The procurement of a contract to obtain the service would not be subject to the 38 (3) Secretary of Administration's authority under G.S. 143-49(3) to purchase or 39 40 contract for services. Definitions. – The following definitions apply in this section: 41 (d) Agency service. - A service that a State agency is required or authorized to 42 (1)43 44 Private provider. – A non-State entity other than a county, municipality, or (2) other governmental entity. 45 Service contract. – A contract between a State agency and a private provider (3) 46 that is a new contract for one or more agency services, is for the renewal of an 47 existing contract for one or more agency services, or is an extension of an 48 existing contract for one or more agency services. 49 Total cost. – If the proposed service provider is a private provider, the total 50 (4) amount of revenue that a service provider or combination of service providers 51

would be estimated to receive during the first three years of providing the agency service. Otherwise, the total amount of funds that the State agency would be estimated to expend providing the agency service during the first three years of providing the service.

"§ 143-50.3. Periodic review of certain service contracts.

The Department of Administration shall establish a schedule for each State agency to review the business case justification for each agency service, regardless of whether the provider of that service is the State agency itself or a private provider, to verify that the current provider is the most cost-effective provider available. Each State agency shall document the results of its review on the business case justification template developed pursuant to G.S. 143-50.2(a). The schedule shall provide for the review of agency services to occur no less than every five years, but the Department of Administration shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances."

**SECTION 2.(a)** The Office of State Budget and Management shall develop and submit a plan to determine whether services provided by State agencies could be both more effectively and appropriately provided by private providers, as that term is defined in G.S. 143-50.2(d)(2), as enacted by Section 1 of this act. No later than December 1, 2017, the Office of State Budget and Management shall report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly. The plan developed pursuant to this section shall do all of the following:

- (1) Provide for an examination of each service provided by each State agency.
- (2) Include an examination of methods for providing each service through contracts with non-State entities.
- (3) Include an analysis of the costs and benefits to the State of providing each service through contracts with non-State entities.
- (4) If the Office of State Budget and Management determines that a service is not appropriate for performance by a private provider, the plan shall describe the basis for that determination.

**SECTION 2.(b)** Each State agency shall fully cooperate with the Office of State Budget and Management in the development and submission of the plan required by subsection (a) of this section.

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

# "§ 143-50.4. Contract management system.

- (a) Operation of Contract Management System. The State Purchasing Officer shall operate a contract management system and require each State agency to use the system to manage all service contracts entered into by the agency. The system developed pursuant to this subsection shall include the capacity to ensure at least all of the following:
  - (1) That the contract terms and conditions are easily reviewable during the invoice approval process to verify that payments are made in accordance with the applicable terms and conditions.
  - (2) That key documents related to contracts can be stored, searched, and retrieved from the system by appropriate personnel.
  - (3) That customizable management reports can be generated by State agencies that are parties to contracts or that have contract oversight responsibilities.
- (b) Reporting. No later than December 1 of each year, the State Purchasing Officer shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly on service contracts entered into by State agencies. Each report shall include the following information about each service contract entered into between State agencies and non-State entities during the previous fiscal year:
  - (1) The description, value, and procurement method of the contract.

#### General Assembly Of North Carolina Session 2017 1 (2) The amount of payments made under the contract during the previous fiscal 2 3 The total amount of payments made under the contract. (3) 4 A description of the business case for entering the contract as submitted to the (4) 5 Department of Administration and the date on which the business case was submitted and approved in accordance with G.S. 143-50.2(b). 6 The results of any reviews of the State agency's procurement processes 7 (5)conducted by the contract management system. 8 For purposes of this section, the term "service contract" shall have the same meaning as 9 (c) in G.S. 143-50.2(d)." 10 **SECTION 3.(b)** Notwithstanding G.S. 143-50.4(a), as enacted by subsection (a) of 11 12 this section, a State agency shall not be required to use the contract management system established pursuant to that section until the agency is notified by the Division of Purchase and 13 14 Contract of the Department of Administration that the system is operational. The Division shall notify each State agency within 30 days of the contract management system becoming operational. 15 **SECTION 4.** G.S. 143-48.3 is amended by adding a new subsection to read: 16 The requirements of this section shall be construed consistently with G.S. 143-50.4." 17 "(g) **SECTION 5.** G.S. 143-50.1(e) reads as rewritten: 18 19 "(e) The Consistently with the requirements of G.S. 143-50.4, the Department of Administration shall adopt procedures for the record keeping of the information provided by State 20 21 agencies and that has been received by the Secretary or the Secretary's designee pursuant to G.S. 114-8.3(c). The Department shall keep the records, and shall include a log with information 22 that provides identification of individual contracts and where the contract documents are located. 23 The Secretary is authorized to require that entities reporting pursuant to G.S. 114-8.39(c) provide 24 additional information that may be required to identify the individual contracts." 25

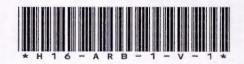
**SECTION 6.** Section 1 of this act becomes effective October 1, 2017. The remainder

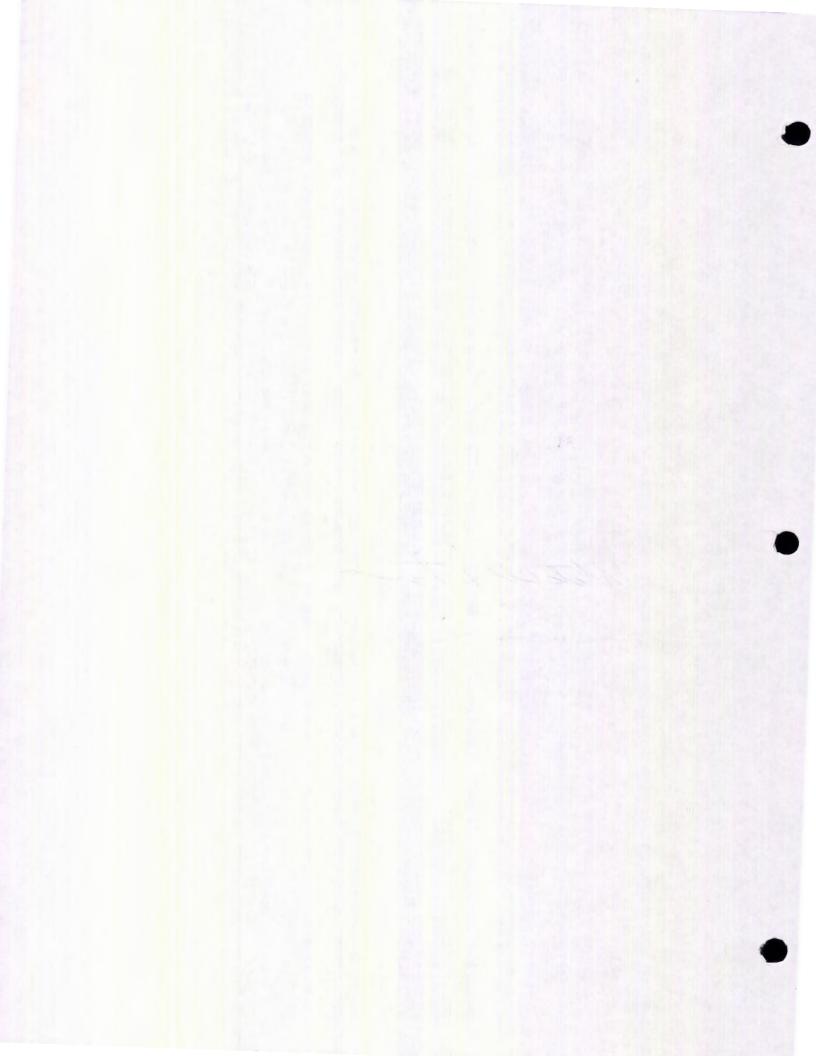


# NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 16\*

AMENDMENT NO.

	(to be filled in by	
H16-ARB-1 [v.1]	Principal Clerk)	
		Page 1 of 1
Amends Title [NO]	Date MANA &	,2017
First Edition		
Representative Settler		
moves to amend the bill on page 1, lines	9 and 10, by rewriting the lines to read:	
	ustification Template The Office of	State Budget and
Management shall develop";		
39		
And on page 3, lines 38 and 40, by rewri		
	ns and conditions are easily reviewable d	
	verify that payments are made in acco	ordance with the
applicable terms and o	conditions.".	
SIGNED Whitele &	L	
Amendmen	t Sponsor	
SIGNED RES		
Committee Chair if Senate	Committee Amendment	
Committee Chair it Schale	Committee Amendment	
ADOPTED FAIL	ED TABLED	





# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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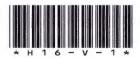
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(11)

# **HOUSE BILL 16\***

(Public) Short Title: Enhance Oversight of Service Contracts/PED. Representatives Davis, Horn, Lucas, and R. Turner (Primary Sponsors). Sponsors: State and Local Government II Referred to: January 26, 2017 A BILL TO BE ENTITLED AN ACT TO ENHANCE OVERSIGHT OF STATE SERVICE CONTRACTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE. The General Assembly of North Carolina enacts: SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by adding two new sections to read: "§ 143-50.2. Oversight of certain service contracts. Creation of Business Case Justification Template. – The Secretary of the Department of Administration, in consultation with the Office of State Budget and Management, shall develop a business case justification template to be used by State agencies to document the business case for selecting the provider of one or more agency services. The template shall provide for inclusion of at least all of the following: A detailed description of the manner in which the service is currently provided. (1)The unit and total cost of performing the service during the most recently (2) completed fiscal year. A description of the metrics to be used to evaluate the service, the current level (3)of performance for each metric, and the expected level of performance for each metric once the selection has been made. Identification of resources required to effectively procure the service, if (4) applicable. An assessment of the availability of private providers who could provide the (5) service. Justification for a waiver from competitive bidding requirements, if applicable. (6) Justification for use of multiple private providers to perform the service, if (7) applicable. Information security requirements that a private provider would need to satisfy, (8) if applicable. (9)Identification of roles, organizational placement, responsibilities, and qualifications of key project team members, including demonstrated competency incorporating government-vendor partnerships into the procurement process, if applicable. Identification of funding requirements and funding sources for the proposed (10)



A description of the transition process for selecting the provider of the service.

contract period, if applicable.

- (b) Documentation and Approval of Provider Selection Required. A State agency shall not select the provider of an agency service until it has done all of the following, regardless of whether the new provider of that service will be the State agency itself or a private provider:
  - (1) Documented the business case for making the selection on the business case justification template developed pursuant to subsection (a) of this section.
  - (2) Obtained written approvals from all of the following, as applicable, upon a determination that there is an adequate business case for making the selection:
    - a. If the total cost of providing the service is five million dollars (\$5,000,000) or less, the State Purchasing Officer. The State Purchasing Officer may delegate the authority to make approvals pursuant to this sub-subdivision to the head of a State agency if the State Purchasing Officer determines that at least all of the following conditions are satisfied:
      - 1. The State agency's procurement staff have demonstrated competency with respect to the skills necessary to effectively utilize government-vendor partnerships to achieve best value.
      - 2. The results of recent Division of Purchase and Contract compliance reviews of the agency's procurement processes have been satisfactory.
    - b. If the total cost of providing the service exceeds five million dollars (\$5,000,000):
      - 1. The State Purchasing Officer.
      - The Office of State Budget and Management.
  - (3) Consulted with the Joint Legislative Commission on Governmental Operations about the selection. The requirement to consult shall be deemed satisfied if the Commission does not have a meeting at which the matter is heard within 15 days of receiving the required submission, unless the chairs of the Commission notify the agency during that period that they need additional time to review the selection, in which case G.S. 12-3(15)b. shall govern when the requirement to consult shall be deemed to have been satisfied.
- (c) Exceptions. Subsection (b) of this section shall not apply if any of the following conditions are satisfied:
  - (1) The proposed new provider of the agency service is a county, municipality, or some other governmental entity other than the State agency required or authorized to provide the service.
  - (2) The total cost of providing the agency service does not exceed one million dollars (\$1,000,000).
  - (3) The procurement of a contract to obtain the service would not be subject to the Secretary of Administration's authority under G.S. 143-49(3) to purchase or contract for services.
  - (d) <u>Definitions. The following definitions apply in this section:</u>
    - (1) Agency service. A service that a State agency is required or authorized to provide.
    - (2) Private provider. A non-State entity other than a county, municipality, or other governmental entity.
    - (3) Service contract. A contract between a State agency and a private provider that is a new contract for one or more agency services, is for the renewal of an existing contract for one or more agency services, or is an extension of an existing contract for one or more agency services.
    - (4) Total cost. If the proposed service provider is a private provider, the total amount of revenue that a service provider or combination of service providers

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48 50 would be estimated to receive during the first three years of providing the agency service. Otherwise, the total amount of funds that the State agency would be estimated to expend providing the agency service during the first three years of providing the service.

# "§ 143-50.3. Periodic review of certain service contracts.

The Department of Administration shall establish a schedule for each State agency to review the business case justification for each agency service, regardless of whether the provider of that service is the State agency itself or a private provider, to verify that the current provider is the most cost-effective provider available. Each State agency shall document the results of its review on the business case justification template developed pursuant to G.S. 143-50.2(a). The schedule shall provide for the review of agency services to occur no less than every five years, but the Department of Administration shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances."

SECTION 2.(a) The Office of State Budget and Management shall develop and submit a plan to determine whether services provided by State agencies could be both more effectively and appropriately provided by private providers, as that term is defined in G.S. 143-50.2(d)(2), as enacted by Section 1 of this act. No later than December 1, 2017, the Office of State Budget and Management shall report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly. The plan developed pursuant to this section shall do all of the following:

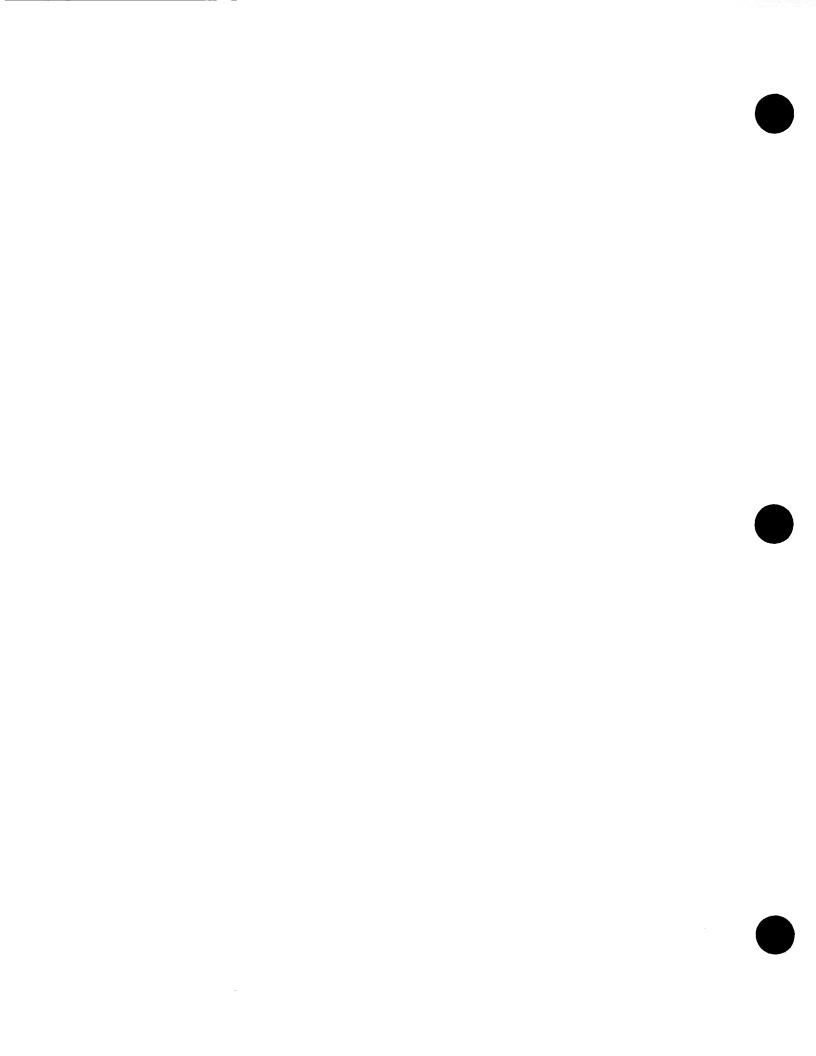
- Provide for an examination of each service provided by each State agency.
- Include an examination of methods for providing each service through contracts (2) with non-State entities.
- Include an analysis of the costs and benefits to the State of providing each (3) service through contracts with non-State entities.
- If the Office of State Budget and Management determines that a service is not (4) appropriate for performance by a private provider, the plan shall describe the basis for that determination.

SECTION 2.(b) Each State agency shall fully cooperate with the Office of State Budget and Management in the development and submission of the plan required by subsection (a) of this section.

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

#### "§ 143-50.4. Contract management system.

- Operation of Contract Management System. The State Purchasing Officer shall operate a contract management system and require each State agency to use the system to manage all service contracts entered by the agency. The system developed pursuant to this subsection shall include the capacity to ensure at least all of the following:
  - That payments are made in accordance with the applicable contract terms and (1)conditions.
  - That key documents related to contracts can be stored, searched, and retrieved (2) from the system by appropriate personnel.
  - That customizable management reports can be generated by State agencies that (3) are parties to contracts or that have contract oversight responsibilities.
- Reporting. No later than December 1 of each year, the State Purchasing Officer shall (b) report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly on service contracts entered into by State agencies. Each report shall include the following information about each service contract entered into between State agencies and non-State entities during the previous fiscal year:
  - The description, value, and procurement method of the contract. (1)



Session 2017

**General Assembly Of North Carolina** 

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# HOUSE BILL 17: Office of State Auditor/Corrective Action/PED.

#### 2017-2018 General Assembly

Committee: House State and Local Government II. If Date: March 8, 2017

favorable, re-refer to Appropriations

Introduced by: Reps. Davis, R. Turner Prepared by: Nicholas Giddings

Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 17 would require the State Auditor to follow up with an underperforming State agency and report any failure to take corrective action to the General Assembly. The bill would also require the State Auditor to annually report all findings of deficiencies to the General Assembly.

The <u>Proposed Committee Substitute</u> makes minor stylistic changes<sup>1</sup> as well as a couple of changes requested by the State Auditor:

- Clarifies that the Auditor will follow-up with an underperforming State agency to ensure it is correcting any noted deficiencies. The follow-up is NOT an additional audit.
- Provides that the Auditor must follow-up with an underperforming State agency within a year of its audit, as opposed to six months.

**CURRENT LAW:** The State Auditor has a duty to independently examine whether State agencies are properly managing State funds and to identify any deficiencies in its audit reports. The Auditor offers recommendations to the agency to help resolve any deficiencies, but the specific solutions are the responsibility of agency management. The Auditor does not have authority to enforce recommendations, nor does the Auditor have a general duty to follow up or make legislative recommendations.

**BILL ANALYSIS:** House Bill 17 would require the Auditor to recommend how an agency may correct any deficiencies, and require the Auditor to follow-up with the agency within one year (PCS) to determine whether the agency is making progress in correcting the identified deficiencies. The bill would also require the Auditor to publish an annual report identifying the deficiencies noted in audits conducted during the prior calendar year.

Section 1 of the bill would create two new General Statute sections. The first section, G.S. 147-64.6E, would impose the following requirements on the Auditor:

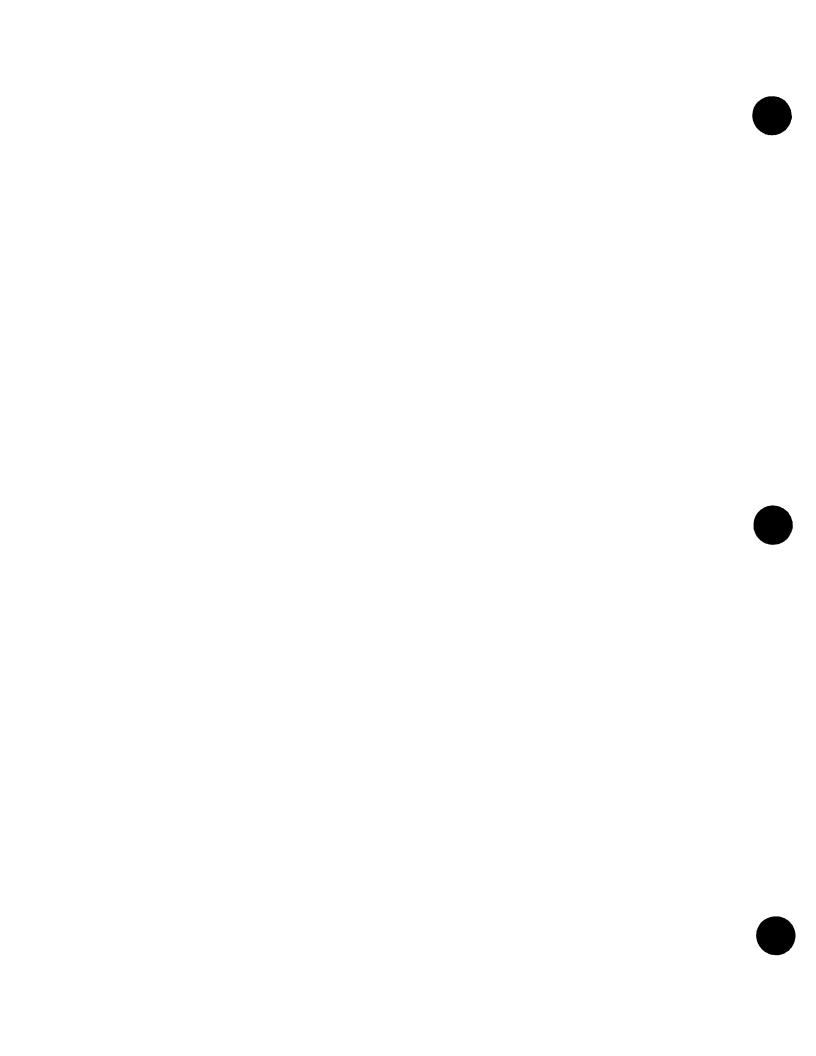
- If the Auditor identifies any deficiencies, the Auditor must include recommendations in the audit report on how the State agency should correct the deficiencies.
- One year<sup>2</sup> later, the Auditor must conduct a follow-up audit to determine whether the State agency has made significant progress in correcting the deficiencies.

<sup>&</sup>lt;sup>2</sup> The time period in the bill as introduced was six months; the PCS would change the time period to one year.





<sup>&</sup>lt;sup>1</sup> Combines the provisions of subsections (a) and (b) into one subsection; replaces the word "Invite" on page 1, line 24, with the word "Direct".



# House Bill 17

Page 2

- If the Auditor finds that the State agency has not made significant progress, the Auditor must report its findings to the chairs of both appropriations committees and make one or more recommendations for legislative action:
  - O Direct<sup>3</sup> the State agency to appear before a legislative committee to explain how it is resolving the deficiencies.
  - o Enact legislation modifying the State agency's authority to implement the deficient process or program.
  - o Change the amount of State funds appropriated to the State agency for the deficient process or program.
  - o Other specified lawful action.

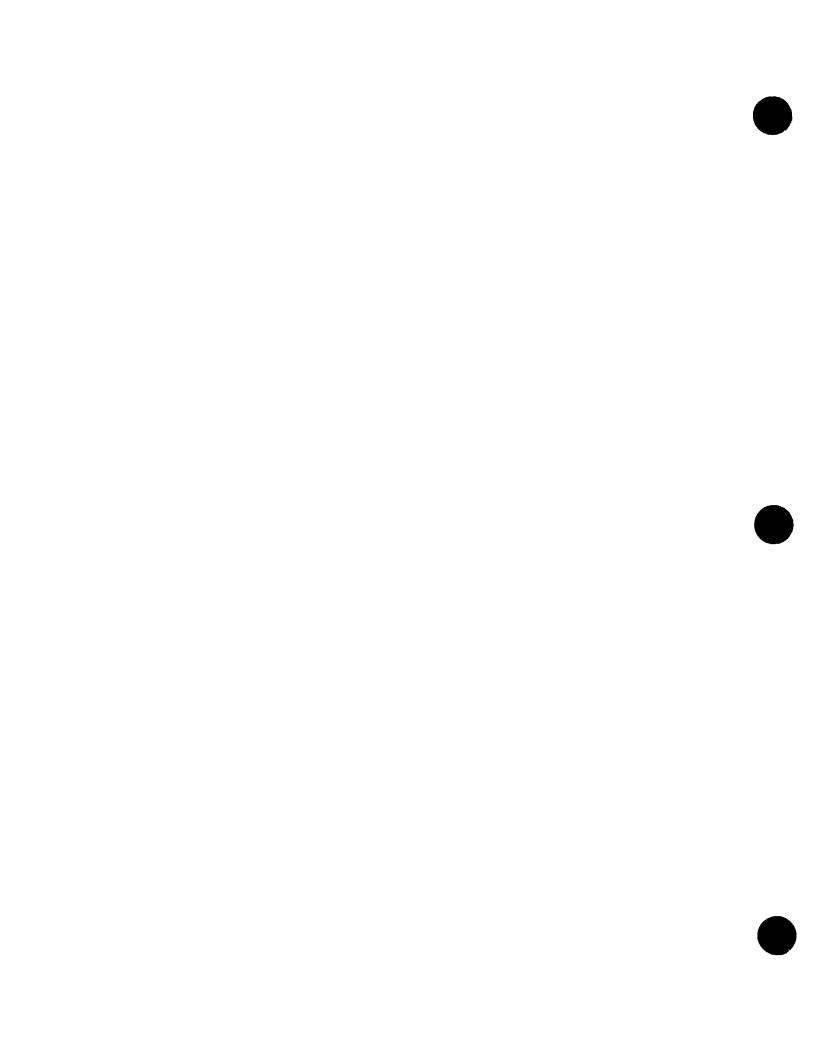
The second section, G.S. 147-64.6F, would require an annual report from the Auditor regarding all findings of deficiencies to the General Assembly beginning January 1, 2018. The report must distinguish between findings resulting in financial loss to the State, findings of noncompliance with State law regarding the expenditure of public funds, and other findings.

**EFFECTIVE DATE:** This act would become effective when it becomes law.

**BACKGROUND:** The bill addresses concerns raised by the State Auditor at the Joint Legislative Program Evaluation Oversight Committee's September 16, 2016, meeting. The Committee approved the bill draft and voted to recommend the legislation to the 2017 General Assembly at its December 12, 2016, meeting.

David Unwin, Staff Attorney, substantially contributed to this summary.

<sup>&</sup>lt;sup>3</sup> The bill as introduced used the term "Invite"; the PCS would change the term to "Direct".



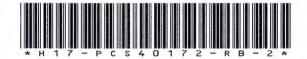
# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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# HOUSE BILL 17 PROPOSED COMMITTEE SUBSTITUTE H17-PCS40172-RB-2

Short Title: (	Office of State Auditor/Corrective Action/PED.	(Public)
Sponsors:		
Referred to:		
	January 26, 2017	
UNDERPEI A STATE A ANNUALL JOINT LEG The General As	A BILL TO BE ENTITLED EQUIRE THE OFFICE OF THE STATE AUDITOR TO RFORMING STATE AGENCY, TO REPORT TO THE G AGENCY'S FAILURE TO TAKE CORRECTIVE ACTIO Y ON ALL FINDINGS OF DEFICIENCIES, AS RECO ISLATIVE PROGRAM EVALUATION OVERSIGHT CO seembly of North Carolina enacts:	ENERAL ASSEMBLY ON, AND TO REPORT OMMENDED BY THE OMMITTEE.
	TION 1. Article 5A of Chapter 147 of the General Statute	es is amended by adding
two new section	s to read: Corrective action.	
	ommendations. – If the Auditor finds that a State agency is a	not following one of the
	in G.S. 147-64.6(b), the Auditor shall include as part of	
ALC: NO.	dations to the State agency to correct the deficiencies. Or	
	ations to the State agency, the Auditor shall follow up w	
	her the State agency has made significant progress in c	
deficiencies.		
(b) Repo	ort to the General Assembly If the Auditor finds that the	State agency has failed
	ant progress in correcting the deficiencies, the Auditor sha	
	Senate Appropriations/Base Budget Committee and to the	
	Committee. In the report, the Auditor shall include the re	
	llow-up and shall make recommendations for legislative	
more of the foll	owing:	
(1)	Direct the State agency to appear before a legislative	e committee to provide
	information regarding the cited deficiencies and actions	the agency has taken to
	correct the deficiencies.	
<u>(2)</u>	Enact legislation modifying the authority of the State as	gency to implement the
	process or program that is the source of the deficiency.	
(3)	Change the amount of State funds appropriated to the a	gency to implement the
	process or program that is the source of the deficiency.	
(4)	Other specified lawful action.	
"§ 147-64.6F.	Annual report; findings of deficiencies.	
(a) Begi	nning January 1, 2018, and annually thereafter, the State	Auditor shall publish
report identifying	g all findings of deficiencies identified during the prior ca	alendar year. The repor
shall be publish	ed on the Auditor's Web site, and the Auditor shall deliver	r copies of the report to
the Speaker of t	he House of Representatives, the President Pro Tempore o	of the Senate, the Chair



	General Assembly Of North Carolina					
1	of the Sei	nate App	propriations/Base Budget Committee, and the Chairs of the Hous	se Appropriations		
2	Committe	ee.				
3	<u>(b)</u>	The re	port shall identify the findings of deficiencies as follows:			
4		<u>(1)</u>	Those resulting in financial loss to the State.			
5		<u>(2)</u>	Those involving a failure to comply with State law regarding the	ne expenditure of		
6			public funds.			
7		<u>(3)</u>	All other findings."			
8		SECT	ION 2. This act is effective when it becomes law.			

# GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

#### **HOUSE BILL 17\***

Short Title: Office of State Auditor/Corrective Action/PED. (Public) Representatives Davis and R. Turner (Primary Sponsors). Sponsors: Referred to: State and Local Government II, if favorable, Appropriations

# January 26, 2017

A BILL TO BE ENTITLED 1 2 AN ACT TO REQUIRE THE OFFICE OF THE STATE AUDITOR TO CONDUCT A 3 FOLLOW-UP AUDIT ON AN UNDERPERFORMING STATE AGENCY, TO REPORT TO 4 THE GENERAL ASSEMBLY A STATE AGENCY'S FAILURE TO TAKE CORRECTIVE ACTION, AND TO REPORT ANNUALLY ON ALL FINDINGS OF DEFICIENCIES. AS 5 6 RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION 7 OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5A of Chapter 147 of the General Statutes is amended by adding two new sections to read:

#### "§ 147-64.6E. Corrective action.

- Recommendations. If the Auditor finds that a State agency is not following one of the practices listed in G.S. 147-64.6(b), the Auditor shall include as part of the audit report one or more recommendations to the State agency to correct the deficiencies.
- Follow-Up Audit. Six months after submitting the recommendations to the State (b) agency, the Auditor shall conduct a follow-up audit to determine whether the State agency has made significant progress in correcting the identified deficiencies.
- Report to the General Assembly. If the Auditor finds that the State agency has failed to make significant progress in correcting the deficiencies, the Auditor shall submit a report to the Chairs of the Senate Appropriations/Base Budget Committee and to the Chairs of the House Appropriations Committee. In the report, the Auditor shall include the results of both the initial audit and the follow-up audit and shall make recommendations for legislative action including one or more of the following:
  - Invite the State agency to appear before a legislative committee to provide (1)information regarding the cited deficiencies and actions the agency has taken to correct the deficiencies.
  - Enact legislation modifying the authority of the State agency to implement the (2) process or program that is the source of the deficiency.
  - Change the amount of State funds appropriated to the agency to implement the (3) process or program that is the source of the deficiency.
  - Other specified lawful action.

## "§ 147-64.6F. Annual report; findings of deficiencies.

Beginning January 1, 2018, and annually thereafter, the State Auditor shall publish a report identifying all findings of deficiencies identified during the prior calendar year. The report shall be published on the Auditor's Web site, and the Auditor shall deliver copies of the report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chairs



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	General A	Assembly Of I	North Carolina	Session 2017
1	of the Sen	ate Appropriat	tions/Base Budget Committee, and the Chairs of the	House Appropriations
2	Committe	<u>e.</u>		
3	<u>(b)</u>	The report sh	all identify the findings of deficiencies as follows:	
4		(1) Those	e resulting in financial loss to the State.	
5		(2) Those	involving a failure to comply with State law regard	ing the expenditure of
6		public	c funds.	
7		(3) All ot	her findings."	
8		<b>SECTION 2</b>	. This act is effective when it becomes law.	

# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 55 Apex/Cary/Police Assistance on School Grounds.

Draft Number:
Serial Referral:
Recommended Referral:
Long Title Amended:
No
Floor Manager:
None
No
Adcock

#### **FAVORABLE AND RE-REFERRED**

HB **89** Housing Authority Transfers.

Draft Number: None
Serial Referral: None
Recommended Referral: FINANCE
Long Title Amended: No

Floor Manager: No Adams

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 16 Enhance Oversight of Service Contracts/PED.

Draft Number: H16-PCS40174-BA-6
Serial Referral: None
Recommended Referral: None

Long Title Amended: No Pavis

None None No Davis

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 2 Provide Certain Property Tax Relief.

Draft Number: H2-PCS40157-BA-3

Recommended Referral:
Long Title Amended:
Floor Manager:

FINANCE
None
Yes
Dollar

HB 17 Office of State Auditor/Corrective Action/PED.

Draft Number: H17-PCS40172-RB-2

Serial Referral: APPROPRIATIONS

Recommended Referral: None Long Title Amended: Yes Floor Manager: Davis



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Cindy Awrette Nick Orddings Bree Krenheetley

Dinne Rissee

Committee Sergeonts at Arms

NAME O	F COMMITTEE	State & Local	Govern	ment
DATE: _	03/08/2017	Room:_	544	10:00AM
		House Set-At	Arms:	
1. Name:	Jonas Cherry		-	
2. Name:	Marvin Lee			
Name: _	Terry McCraw			
4. Name: _	Thomas Terry			b
5. Name: _			<u> </u>	•
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l. Name:				
Name:				

Hse. Comm. on State and Local Government II

3/8/2017

Name of Committee

Date

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

## FIRM OR AGENCY AND ADDRESS

Alex Remember	atas
Evan Hutchison	Atlas International School
Nicco Avallane	Atlas International School
Bobbi-Jo McCormick	Atlas International School
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Toylor Morris	^
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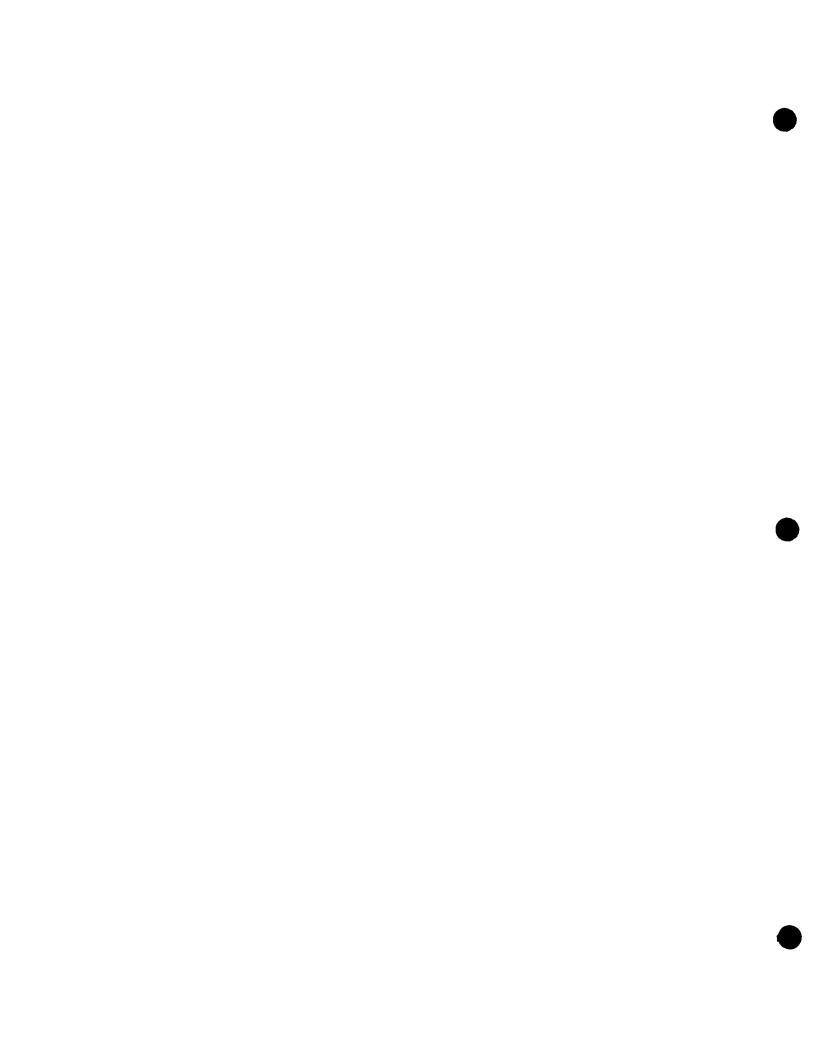
Hse. Comm. on State and Local Government II

3/8/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Tim Minim	NC Hime Builders ASSN
Hayden Bauguess	Electri Cities
J.W. JOYNER	NEW FRAME
Starnes	057
Mul	505
Antrony Starr	WPLOG
Icolesar Coxesco	135
Resha Fortsin	SEANC
Tonga Horton	T55.
Sharon Sagrison	Atlan International School
Keseling Smith	Atlas



Hse. Comm. on State and Local Government II

3/8/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
DebClary	NCSP
Tim BARDURY	NCSFA
ED BRINSON	NOSFA
Leah Recletorkora	Allas Intil School
Courtney Morris	AMAS INTURNATIONAL SCHOOL
Adam Pridemore	NCASA

State & Local Government

03/08/2017 10:00AM

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Hugh Johnson	MCACC
John Turner	
Marilyn Avila	Rep Stevens
Erin Wynia	NCLM
Rose williams	NCLM
Susan Harrison	YCJ57589
Johanna Reese	NCACC
Aciley Johnson	
Pany Jan /-	60G
Sure David	Newframe
Ben Bobzien	New Harover Country Prof. Firefighters

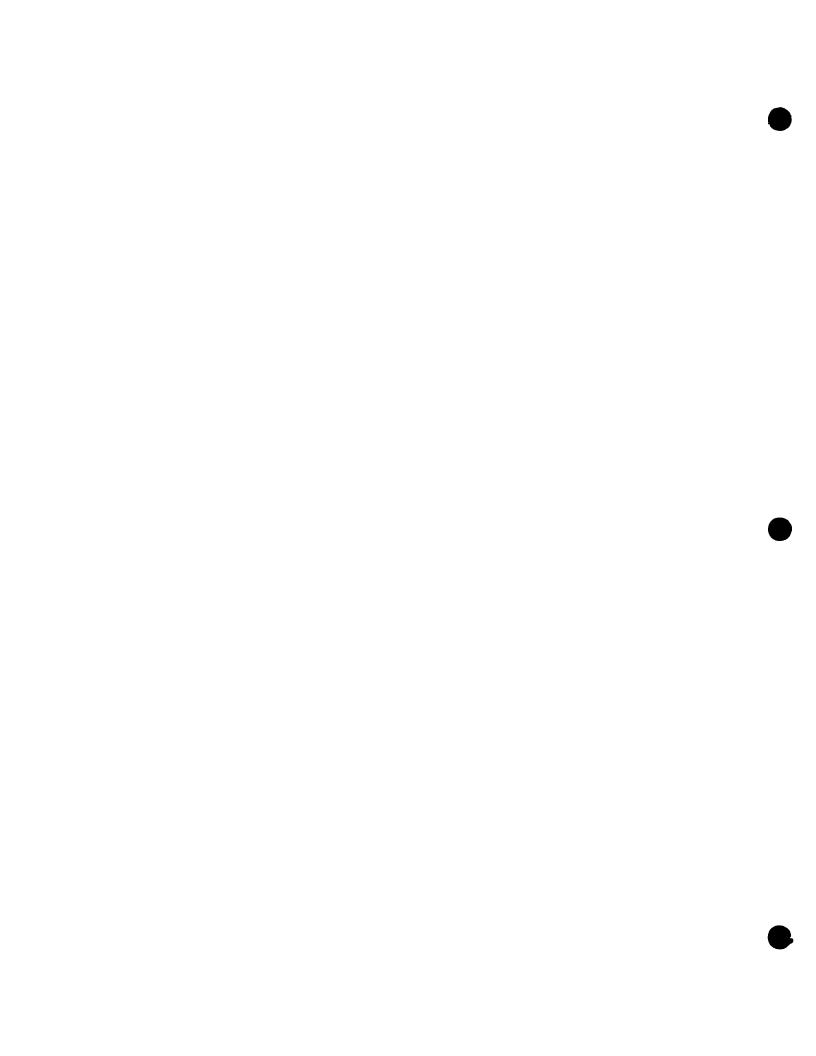
State & Local Government

03/08/2017 10:00AM

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Douglassilv	NCSTA
Savah collins	NCLM
trabel Villa-Garia	NEREPLTORS
tall	(-)
DAVIER BAUN	· Treerna SADERS
Smeeze	WMR5
Josh Laner	SMC
Stephen Kouba	KMA
Cam Hanly	NUM.
SHANE NANTZ	CHARLOTE FIREFIBIATERS
David Hemen	NC Conter for Nonprotits



State & Local Government

03/08/2017 10:00AM

Name of Committee

Date

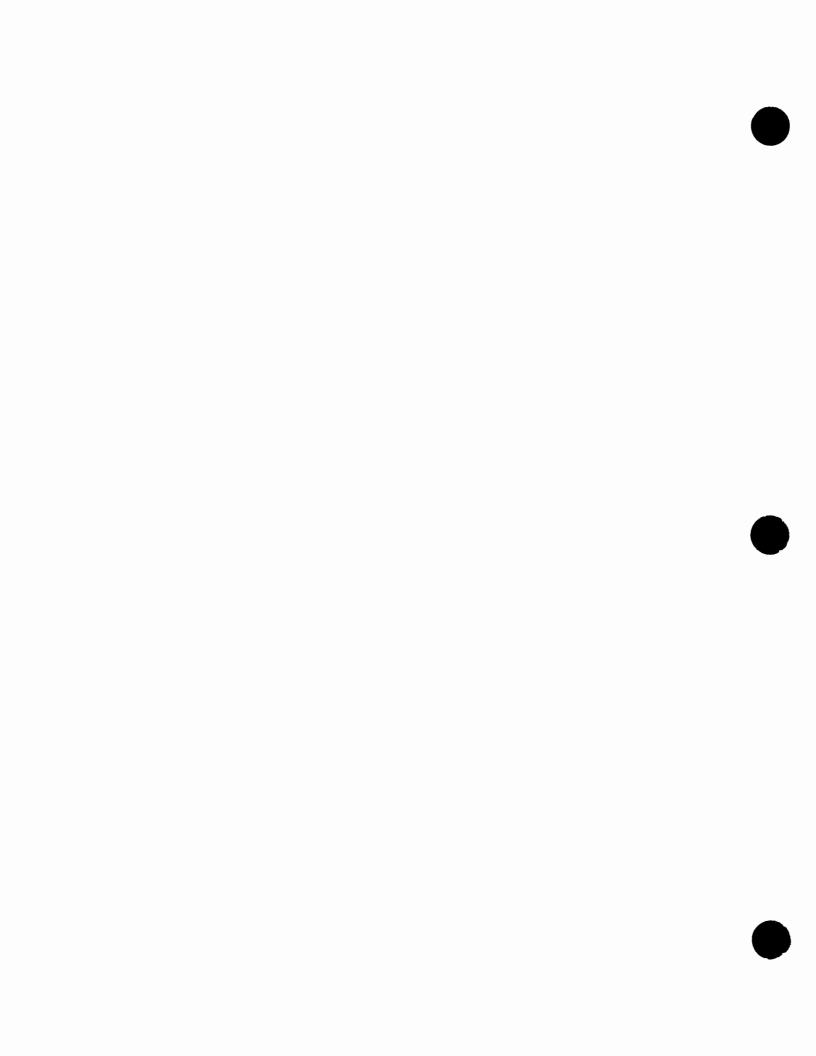
NAME	FIRM OR AGENCY AND ADDRESS
JOHN MIDGETTE	NCPBA.
LAURA PUHEAR	MWC
Jeri graham	north carolina Veterans Council
Sam Brassee	Perchase 4 Contract
	•

# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

MEMBERS	3,00						
REP. BRADFORD CHAIR	1						
REP. ADAMS	/						
REP. AUTRY	1						
REP. BALL	<b>V</b>						
REP. BOLES	1						
REP. BOSWELL	1						
REP. C. GRAHAM							
REP. G. GRAHAM	<b>V</b>						
REP. JOHN	/						
REP. LEHMAN	<b>/</b>						
REP. ROSS	<b>V</b>						
REP. SAULS							
REP. SETZER	<b>V</b>						
REP. STEINBURG	1						
REP. WATFORD	1						
REP. WILLIAMS	<b>V</b>						
Anita Spence, Committee Assistant	~						
Cindy Avrette, Staff	1						
Nick Giddings, Staff	1						
Brad Krehely, Staff	1						



# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, March 22, 2017

TIME: 10:00 AM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 190	Local Firefighter Relief Fund	Representative Hurley
	Eligibility.	Representative Warren
HB 222	State Auditor/Sharing RecordsAB	Representative Cleveland
		Representative Riddell
HB 287	Red Light Cameras/Hope Mills &	Representative Lucas
	Spring Lake.	Representative Szoka
		Representative W. Richardson
		Representative Floyd

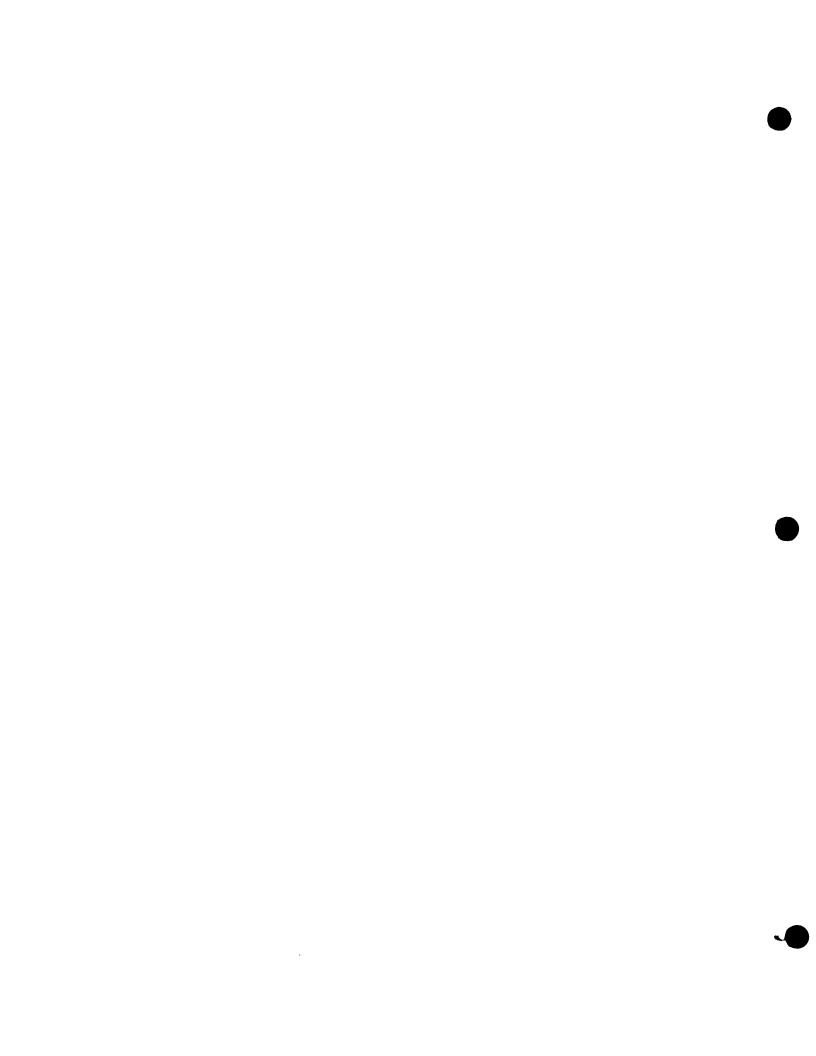
Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify the	nis notice was	filed by the	committee	assistant a	t the following	offices at	I:28 P	M on
Friday, March 17	, 2017.							

 Principal Clerk
 Reading Clerk - House Chamber

Anita Spence (Committee Assistant)



# House Committee on State and Local Government II Wednesday, March 22, 2017, 10:00 AM 544 Legislative Office Building

## AGENDA

Welcome and Opening Remarks

Introduction of Pages & Sergeant at Arms

## Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 190	Local Firefighter Relief Fund	Representative Hurley
	Eligibility.	Representative Warren
HB 222	State Auditor/Sharing Records	Representative Cleveland
	AB	Representative Riddell
HB 287	Red Light Carneras/Hope Mills &	Representative Lucas
	Spring Lake.	Representative Szoka
		Representative W.
		Richardson
		Representative Floyd

**Presentations** 

Other Business

Adjournment

## House Committee on State and Local Government II Wednesday, March 22, 2017 at 10:00 AM Room 544 of the Legislative Office Building

#### MINUTES

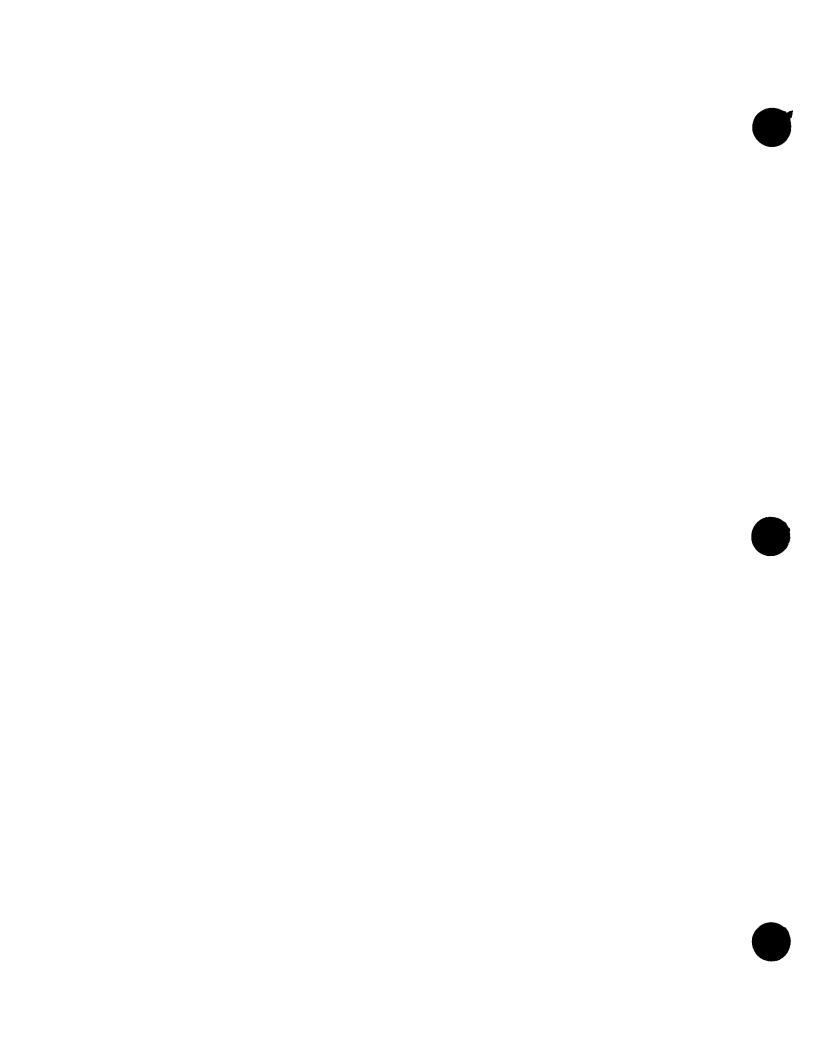
The House Committee on State and Local Government II met at 10:00 AM on March 22, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, Boles, Boswell, C. Graham, John, Lehman, Ross, Setzer, Steinburg, Watford and Williams attended.

Chairman Bradford presided and called the meeting to order at 10:02 am. He introduced the Sergeant at Arms and the pages who would be assisting the Committee. Copies of the attendance and visitor registration are attached to these minutes.

Chairman Bradford motioned for HB 190 Local Firefighter Relief Fund Eligibility AN ACT TO REDUCE THE NUMBER OF YEARS THAT A DESTITUTE FIREFIGHTER SERVING HONORABLY WITH A CERTIFIED FIRE DEPARTMENT MUST SERVE IN ORDER TO RECEIVE FINANCIAL ASSISTANCE FROM A LOCAL FIREFIGHTERS' RELIEF FUND AND TO SIMPLIFY VARIOUS LOCAL BOARD REPORTING REQUIREMENTS to be before the committee. Representative Hurley explained the bill. Representative Bradford recognized Tim Bradley the Executive Director of the North Carolina State Fire Fighters Association who spoke in favor of the bill. There was discussion on the bill. Representative Boles moved for a favorable report. Chairman Bradford called for a vote. The motion passed. HB 190 has a serial referral to Appropriations.

Chairman Bradford motioned for HB 222 State Auditor/Sharing Records AN ACT TO EXPAND THE TYPE OF RECORDS THE OFFICE OF THE STATE AUDITOR 2 MAY SHARE WITH STATE AND FEDERAL AGENCIES to be before the committee. Chairman Bradford recognized Representative Cleveland to explain the bill. There was no discussion on the bill. Representative Steinburg motioned for a favorable report. Chairman Bradford called for a vote. All the members were in favor. The motion passed.

Chairman Bradford motioned for HB 287 Red Light Cameras/Hope Mills & Spring Lake. AN ACT TO MAKE CHANGES TO THE LAW GOVERNING RED LIGHT

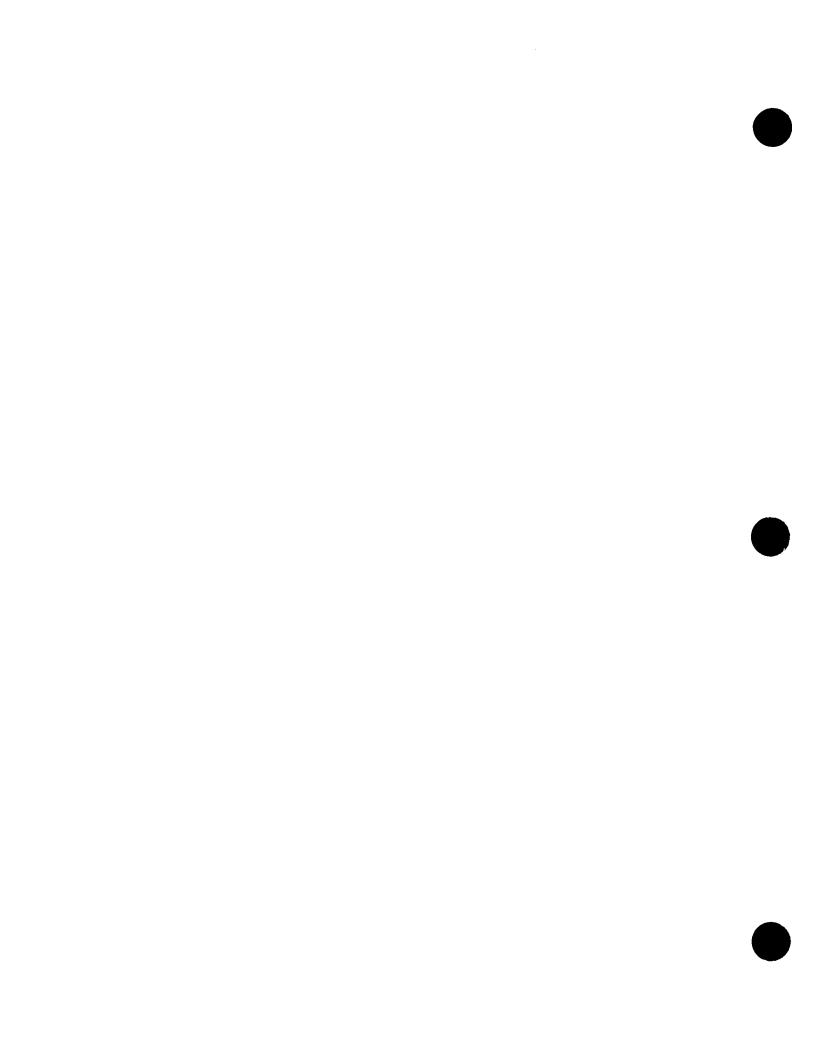


CAMERAS IN 2 THE TOWNS OF HOPE MILLS AND SPRING LAKE Chairman Bradford recognized Representative Lucas to explain the bill. There was no discussion on the bill. Representative Setzer motioned for a favorable report with a serial referral to Transportation. Chairman Bradford called for a vote. All members were in favor. The motion passed.

The meeting adjourned at 10:24 am.

Representative Bradford, Presiding Chair

Anita Spence, Committee Clerk





# **HOUSE BILL 190:** Local Firefighter Relief Fund Eligibility.

2017-2018 General Assembly

Analysis of:

Committee: House State and Local Government II. If Date:

March 22, 2017

favorable, re-refer to Appropriations

Introduced by: Reps. Hurley, Warren

Prepared by: Nicholas Giddings

Committee Counsel

## OVERVIEW: House Bill 190 would do the following:

First Edition

- Remove the requirement that a firefighter serve for at least five years before being eligible to receive financial assistance from a local Firefighters' Relief Fund.
- Require the North Carolina State Firefighters' Association to certify to the Department of Insurance a listing of local board of trustee members, including the chairman and treasurer.
- Require fire chiefs in certain districts to file a certificate of eligibility with the North Carolina State Firefighters' Association by January 31 or forfeit payment to that district's fund.

This bill does not change the amount of funds allotted to any local Firefighters' Relief Fund.

CURRENT LAW: North Carolina charges a tax on gross premiums of certain insurers and medical service corporations. Twenty percent (20%) of the net proceeds from this tax are credited to the Department of Insurance ("DOI") for disbursement to local Firefighters' Relief Funds. DOI allocates an amount to each county based on the amount allocated in the previous year. DOI distributes the county's allocated amount among the fire districts in that county based on the tax value of the property located in the fire district. The money must be held by the fire district in a separate and distinct fund. The amount in that fund cannot exceed the product of \$2,500 multiplied by the number of members on the fire department's roster as of January 1. If the fund exceeds this amount, then its allocated amount is distributed to other fire districts, first to those in the same county, then to other counties.

The clerk or finance officer of each city or county that has a board of trustees for its local relief fund, or fire chief if authorized, must file a certificate of eligibility with DOI to receive a disbursement or else forfeit the payment to the North Carolina State Firefighters' Association. The fund's board of trustees controls the funds and may only make a distribution under specific statutory circumstances, one of which is to provide financial assistance to a destitute member firefighter. To receive a disbursement, a destitute member firefighter must serve honorably for at least five years.

## **BILL ANALYSIS:** House Bill 190 would do the following:

• Section 1 would remove the requirement that a destitute member firefighter have to serve at least five years before being eligible for a distribution from the local Firefighters' Relief Fund. This would allow for firefighters who have served, or are serving, honorably for any period of time to be eligible for a distribution from the local relief fund.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> G.S. 105-228.5.

<sup>&</sup>lt;sup>2</sup> Article 84 of Chapter 58 of the General Statutes.

## House Bill 190

Page 2

- Section 2(a) would require the North Carolina State Firefighters' Association to certify to DOI a listing of the current members of the board of trustees of the local Firefighters' Relief Fund, including the chairman and treasurer, by January 1 of each year.
- Section 2(b) would require DOI to maintain a database of the certifications.
- Section 3 would require the fire chief of each city or county with a local board of trustees to file a certificate of eligibility with the North Carolina State Firefighters' Association before January 31 of each year or else forfeit its payment to the Association.

**EFFECTIVE DATE:** This act becomes effective July 1, 2017, and applies to distributions to local Firefighters' Relief Funds on or after that date.

**BACKGROUND:** For 2016, DOI allocated roughly \$7.2 million to local Firefighters' Relief Funds throughout North Carolina.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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**HOUSE BILL 190** 

Short Title: Local Firefighter Relief Fund Eligibility. (Public) Sponsors: Representatives Hurley and Warren (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: State and Local Government II, if favorable, Appropriations February 27, 2017 A BILL TO BE ENTITLED AN ACT TO REDUCE THE NUMBER OF YEARS THAT A DESTITUTE FIREFIGHTER SERVING HONORABLY WITH A CERTIFIED FIRE DEPARTMENT MUST SERVE IN ORDER TO RECEIVE FINANCIAL ASSISTANCE FROM A LOCAL FIREFIGHTERS' RELIEF FUND AND TO SIMPLIFY VARIOUS LOCAL BOARD REPORTING REQUIREMENTS. The General Assembly of North Carolina enacts: **SECTION 1.** G.S. 58-84-35(a) reads as rewritten: "§ 58-84-35. Disbursement of funds by trustees. The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes: To provide assistance, upon approval by the Executive Director of the North (2a) Carolina State Firefighters' Association, to a destitute member firefighter who has served or is serving honorably for at least five years with a certified fire department. The determination of destitute shall be based on the inability of the firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited to, assistance with housing, vehicle or commuting expenses, food, clothing, utilities, medical care, and funeral expenses. **SECTION 2.(a)** G.S. 58-84-40 reads as rewritten: "§ 58-84-40. Trustees to keep account and file certified reports. In turn, the North Carolina State Firefighters' Association shall certify to the Department of Insurance by January 1 of each year on a form prescribed by the Department, the following: (1) The local units that have complied with the requirements of subsection (a) of this section. A listing of the members of each of the local units. (2) (3) The fund balances for each of the local units' relief funds. Any departments that have exceeded the maximum balance provided under (4)



G.S. 58-84-33(a).

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**SECTION 4.** This act becomes effective July 1, 2017, and applies to distributions to

local firefighters' relief funds on or after that date.

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## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE BILL 222**

Short Title: State Auditor/Sharing Records.-AB (Public)

Sponsors: Representatives Cleveland and Riddell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II

March 2, 2017

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## A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TYPE OF RECORDS THE OFFICE OF THE STATE AUDITOR MAY SHARE WITH STATE AND FEDERAL AGENCIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 147-64.6(d) reads as rewritten:

"(d) Reports and Work Papers. – The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of the Auditor's office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of G.S. 126-24, pertinent work papers and other supportive material related to issued audit reports an audit or investigation made pursuant to this section may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of such the records in connection with some matter officially before them, including criminal investigations.

Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, audit work papers and related supportive material shall be kept confidential, including any interpretations, advisory opinions, or other information or materials furnished to or by the State Ethics Commission under this section."

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





# **HOUSE BILL 222:** State Auditor/Sharing Records.

2017-2018 General Assembly

Committee: House State and Local Government II Date:

March 21, 2017

Introduced by: Reps. Cleveland, Riddell Analysis of: First Edition

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 222 would give the State Auditor the discretion to share information and materials related to an investigation or audit with the appropriate State and federal governmental agencies prior to the issuance of an audit report. The bill is an agency bill, requested by the State Auditor.

CURRENT LAW: The State Auditor provides impartial, independent review or examination of government organizations, programs, activities, and functions. The Auditor's audit responsibilities include not only governmental agencies, but also entities supported partially or entirely by public funds. The Auditor is also charged with investigating allegations of improper governmental activities by State agencies and State employees. Sometimes these audits and investigations find criminal activity, such as misappropriation, mismanagement, or waste of State resources, fraud, or violations of State or federal law by State agencies or State employees.

Audit work papers and related supportive materials remain confidential, even after the issuance of an audit report. However, once an audit report is issued, the State Auditor has the discretion to make the work papers and related supported materials available for inspection by other governmental agencies that need access to them in connection with some matter officially before them, such as a criminal investigation. The purpose of allowing the Auditor to share the information is to promote intergovernmental cooperation and avoid unnecessary duplication of work effort.

BILL ANALYSIS: House Bill 222 would allow the State Auditor to share information obtained through an investigation or audit with other governmental agencies prior to the completion of an investigation or the issuance of an audit report. Whenever the Auditor's audits or investigations reveal information that suggests a finding of criminal activity, there is most often some level of law enforcement involved in a similar, parallel investigation. The Office of the State Auditor believes it would be advantageous to involve the responsible law enforcement agency in the process earlier than is allowed under current law. Under current law, the Auditor cannot share its confidential work papers and related supported materials until the audit report is issued. This bill would allow the Auditor to share this information with the relevant agency earlier in the audit process.

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

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



# HOUSE BILL 287: Red Light Cameras/Hope Mills & Spring Lake.

2017-2018 General Assembly

Analysis of:

Committee: House State and Local Government II. If Date:

March 21, 2017

favorable, re-refer to Transportation. If

favorable, re-refer to Finance

Introduced by: Reps. Lucas, Szoka, W. Richardson, Floyd

First Edition

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 287 authorizes the Town of Hope Mills to use cameras to identify and penalize persons who violate the red light statute, and it makes changes to the Town of Spring Lake's existing authorization to use red light cameras. Both Towns are located in Cumberland County. The City of Fayetteville currently has this authority.

CURRENT LAW: G.S. 160A-300.1 authorizes more than 20 municipalities<sup>1</sup> to use traffic control photographic systems to enforce the State law<sup>2</sup> prohibiting a driver from entering an intersection when a traffic light is emitting a steady red signal. The camera must meet standards set by the Department of Transportation, and appropriate warning signs must be conspicuously posted not more than 300 feet from the location of the red light camera system. The duration of the yellow light change interval at the intersection where a camera is used must be no less than the yellow light change interval duration specified on the traffic signal plan of record signed and sealed by a professional engineer and must be in compliance with the Manual on Uniform Traffic Control Devises.

S.L. 2007-341<sup>3</sup> amended G.S. 160A-300.1 to address constitutional issues raised by the North Carolina Court of Appeals in *Shavitz v. City of High Point*, 177 N.C. App. 465 (2006). Under G.S. 160A-300.1, as amended by S.L. 2007-341, a violation detected by a red light camera is a noncriminal violation for which a civil penalty of \$75 is assessed; no points or insurance points are assigned to the owner or driver of the vehicle. The owner of the vehicle must either pay the civil penalty or challenge<sup>4</sup> the assessment within 30 days after the date the citation is served or mailed. If the owner fails to respond to the citation within the time allowed, the civil penalty is increased to \$100 and the right to contest the citation is forfeited.

The clear proceeds of the penalty must be paid to the local school board, subject only to deductions for the costs of producing and mailing citation notices to the vehicle owners, and those costs cannot exceed 10% of the civil penalty assessed. A municipality may assess a collection assistance fee, not to exceed 20% of the civil penalty assessed, if the civil penalty has not been paid within 30 days after a second notice.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, Greenville, High Point, Locust, Lumberton, Newton, Rocky Mount, and Wilmington; the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, Pineville, and Spring Lake; and to the municipalities in Union County.

<sup>&</sup>lt;sup>2</sup> G.S. 20-158.

<sup>&</sup>lt;sup>3</sup> The changes made to G.S. 160A-300.1 by S.L. 2007-341 apply to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greenville, Locust, and Rocky Mount, and to the municipalities in Union County.

<sup>&</sup>lt;sup>4</sup> A municipality is required to establish a nonjudicial administrative hearing process to allow the citation and penalty to be contested.

## **House Bill 287**

Page 2

BILL ANALYSIS: House Bill 287 would amend the existing local authority for the Town of Spring Lake to use a red light camera system to include the changes made by S.L. 2007-341 and it would authorize the Town of Hope Mills to use a red light camera system, consistent with the law as amended by S.L. 2007-341.

In addition to the general authority granted to these two towns under G.S. 160A-300.1, as amended by S.L. 2007-341, the bill would do the following<sup>5</sup>:

- Provide that the Towns of Hope Mills and Spring Lake may enter into a contract with a contractor for the lease, lease purchase, or purchase of a traffic control photographic system. They may enter into only one contract, and the duration of the contract may be for no more than 60 months. After the period specified in the contract has expired, the system shall either be the property of the town, or the system shall be removed and returned to the contractor.
- Increase the civil penalty for an initial citation from \$75 to \$100. The bill would not change the \$100 penalty that would normally apply upon a second notice of the violation. Thus, the civil penalty amount would not increase if it remains unpaid after 30 days.
- Authorize the Towns of Hope Mills and Spring Lake to enter into an interlocal agreement with the Cumberland County School Board to carry out the purposes of the Act. The agreement may include provisions on sharing the cost of operating the red light camera system. The 2006 Court of Appeals decision<sup>6</sup> held that the deduction of the operating costs from the proceeds of the civil penalty was a violation of Article IX, Section 7 of the State Constitution, which requires the clear proceeds of a penalty be remitted to the county school board. However, the school board may voluntarily agree, through an interlocal agreement, to pay all or a portion of the operating costs of the system.

**EFFECTIVE DATE:** The act becomes effective July 1, 2017, except for the increase in the penalty, which becomes effective October 1, 2017.

Giles Perry substantially contributed to this summary.

<sup>&</sup>lt;sup>5</sup> The General Assembly has similar legislation that incorporates these changes for the following cities: Fayetteville, S.L. 2014-84, and Greenville, S.L. 2016-64.

<sup>&</sup>lt;sup>6</sup> The City of High Point filed a Petition for Discretionary Review with the North Carolina Supreme Court, but the Court denied the petition on June 28, 2007.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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2 3

#### **HOUSE BILL 287**

Short Title: Red Light Cameras/Hope Mills & Spring Lake. (Local)

Sponsors: Representatives Lucas, Szoka, W. Richardson, and Floyd (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Transportation, if favorable, Finance

### March 9, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE LAW GOVERNING RED LIGHT CAMERAS IN THE TOWNS OF HOPE MILLS AND SPRING LAKE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 3 of S.L. 2007-341, as amended by Section 1 of S.L. 2016-64, reads as rewritten:

"SECTION 3. Section 1 of this act applies to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greenville, Locust, and Rocky Mount Mount, the Towns of Hope Mills and Spring Lake, and to the municipalities in Union County."

**SECTION 2.** G.S. 160A-300.1(c), as amended by S.L. 2007-341, is amended by adding a new subdivision to read:

"(4a) A municipality enacting an ordinance implementing a traffic control photographic system may enter into a contract with a contractor for the lease, lease-purchase, or purchase of the system. The municipality may enter into only one contract for the lease, lease-purchase, or purchase of the system, and the duration of the contract may be for no more than 60 months. After the period specified in the contract has expired, the system shall either be the property of the municipality or be removed and returned to the contractor."

**SECTION 3.** G.S. 160A-300.1(c)(2), as amended by S.L. 2007-341, reads as rewritten:

"(2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of seventy five dollars (\$75.00)one hundred dollars (\$100.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65."

SECTION 4.(a) The Town of Hope Mills and the Cumberland County Board of Education may enter into an interlocal agreement necessary and proper to effectuate the purpose and intent of G.S. 160A-300.1 and this act. Any agreement entered into pursuant to this section may include provisions on cost-sharing and reimbursement that the Cumberland County Board of Education and the Town of Hope Mills freely and voluntarily agree to for the purpose of effectuating the provisions of G.S. 160A-300.1 and this act.

SECTION 4.(b) The Town of Spring Lake and the Cumberland County Board of Education may enter into an interlocal agreement necessary and proper to effectuate the purpose and intent of G.S. 160A-300.1 and this act. Any agreement entered into pursuant to this section



1 2 3 may include provisions on cost-sharing and reimbursement that the Cumberland County Board of Education and the Town of Spring Lake freely and voluntarily agree to for the purpose of effectuating the provisions of G.S. 160A-300.1 and this act.

4

SECTION 5. This act applies only to the Towns of Hope Mills and Spring Lake and the Cumberland County Board of Education.

5 6 7

SECTION 6. Section 3 of this act becomes effective October 1, 2017, and applies to violations committed on or after that date. The remainder of this act becomes effective July 1, 2017.

8

#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 222 State Auditor/Sharing Records.-AB

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No

Floor Manager: Cleveland

#### **FAVORABLE AND RE-REFERRED**

HB 190 Local Firefighter Relief Fund Eligibility.

Draft Number: None

Serial Referral: APPROPRIATIONS

Recommended Referral: None Long Title Amended: No Floor Manager: Hurley

HB 287 Red Light Cameras/Hope Mills & Spring Lake.

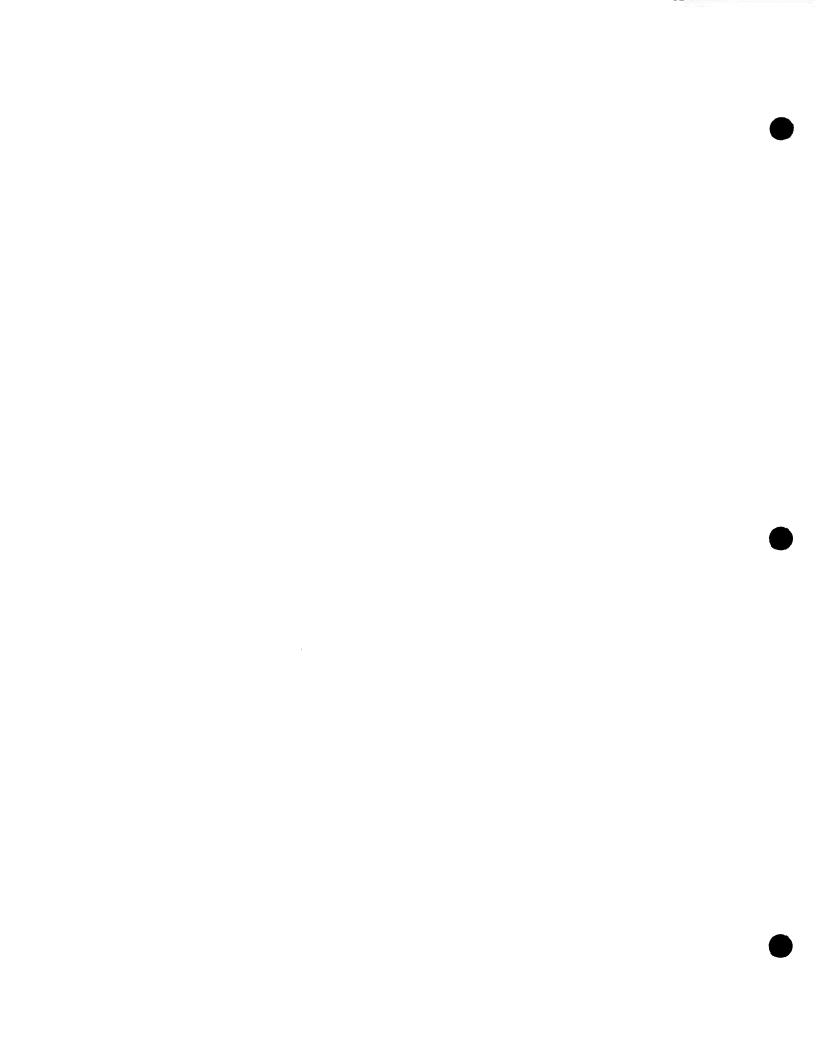
Draft Number: None

Serial Referral: TRANSPORTATION

Recommended Referral: None Long Title Amended: No Floor Manager: Lucas

TOTAL REPORTED: 3





## VISITOR REGISTRATION SHEET

Hse. Comm. on State and Local Government II

3/22/2017

Name of Committee

Date

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Meghan Cook	DOI
George Robinson	DOI
Butch Gunmelle	NC Ber
Michael Houser	TH/C6
Pero Frence	
Lex Janes	DNCR
Sour GRAMT	5. A
Mclobs Gummere	Stadoury Bob Steinburg
amanda Donoron	KTS.
Hogh Johnson	MCACC

		•

# VISITOR REGISTRATION SHEET

Hse. Comm. on State and Local Government II

3/22/2017

Name of Committee

Date

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Deb Clary	NCSP
Kotankirpsom	3p
Alana Tombin Denton	Dept of Ins Office of State Fire Marsh
Brian Cox	North Caroline Freeholders Assert
TIM BRADLE	NC STATE FINEFICIATORS ASSOC
Kim Sionkor	NCRLA
Chris Broughton	MWC
	•

SOGAKER VISITOR REGISTRATION SHEET

6	col lovt. TH	03/22/2017
	Name of Committee	Date

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS					
Tim BRADLEY	NOCSFA					

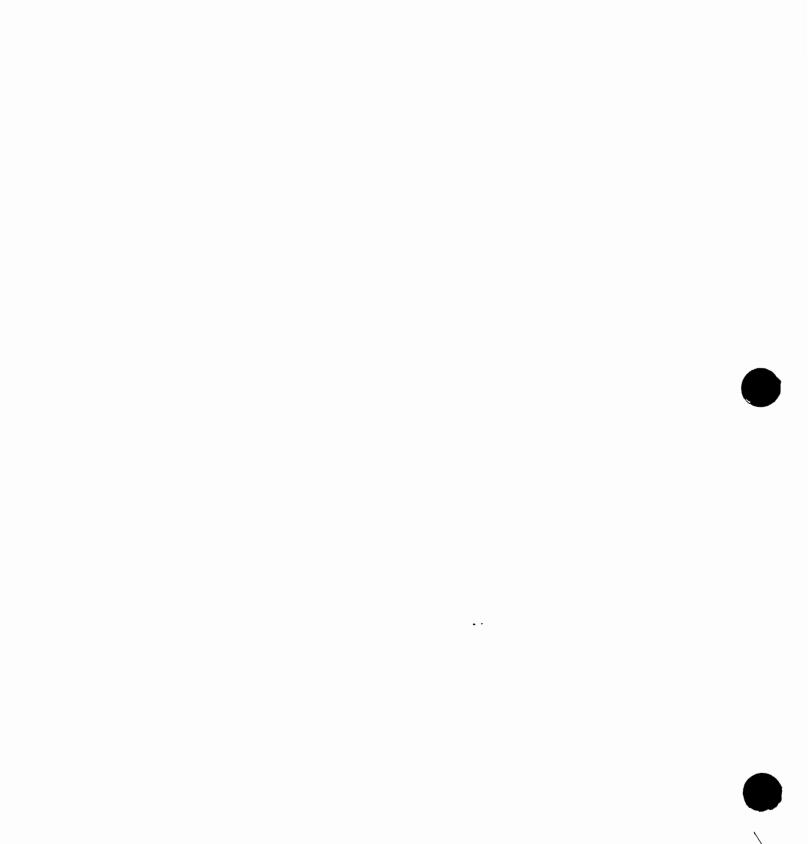


# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

MEMBERS	April 5, 2017								
REP. BRADFORD CHAIR	V								
REP. ADAMS	/								
REP. AUTRY	/								
REP. BALL	/								
REP. BOLES	V								
REP. BOSWELL	E		111						
REP. C. GRAHAM	V								
REP. G. GRAHAM	/								
REP. JOHN	<b>V</b>								
REP. LEHMAN resigned									
REP. ROSS	V								
REP. SAULS	/								
REP. SETZER	/								
REP. STEINBURG	/								
REP. WATFORD	V								
REP. WILLIAMS	E								
Anita Spence, Committee Assistant									
Cindy Avrette, Staff	V								
Nick Giddings, Staff	V								
Brad Krehely, Staff	/					***			



#### Corrected #1: Room Change & removed HB 312

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

DAY & DATE: Wednesday, April 5, 2017

TIME: 10:00 AM LOCATION: 423 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 311	State Auditor/Various Amendments	Representative Riddell
	AB	Representative Cleveland
		Representative Adcock
		Representative Floyd
HB 340	Special Separation Allowance	Representative Dollar
	Firefighters/RSW.	Representative Malone
		Representative Saine
		Representative Clampitt
HB 353	Authorize State Park System	Representative Dobson
	ExpansionAB	Representative Brisson
		Representative Brenden Jones
		Representative Hunter
HB 361	Coastal Crescent Trail/State Parks	Representative Shepard
	System.	Representative McElraft
		Representative White
		Representative Strickland
HB 371	Agency Powers and Duties/Technical	Representative McGrady
	ChangesAB	Representative McNeill
		Representative Hurley
HB 373	DOL/Carolina Star ProgramAB	Representative McElraft
		Representative Howard
		Representative Johnson
		Representative Hurley
HB 374	2017 DOL Technical ChangesAB	Representative McElraft

		Representative Howard
		Representative Johnson
IID 200	Madawia Matal Assistana Ctatata	Representative Hurley
HB 388	Modernize Mutual Assistance Statutes.	Representative McNeill
		Representative Faircloth
HD 415	H W WILL CO Y C A	Representative Meyer
HB 415	Hatteras Village Community Center District.	Representative Boswell
HB 429	City of Saluda Occupancy Tax.	Representative Henson
HB 509	Davidson County Zoning Procedure	Representative Watford
	Changes.	Representative Potts
	Respec	tfully,
	Represe	entative John R. Bradford, III, Chair
•	tify this notice was filed by the committee sday, April 04, 2017.	assistant at the following offices at 8:46
	Principal Clerk Reading Clerk – House Chamber	

Anita Spence (Committee Assistant)

#### Anita Spence (Rep. John Bradford)

From: Anita Spence (Rep. John Bradford)
Sent: Monday, April 03, 2017 02:30 PM

**To:** Rep. George Cleveland; Rep. Elmer Floyd; Rep. Dennis Riddell; Rep. Gale Adcock; Rep.

Chris Millis; Rep. John Bradford; Rep. Nelson Dollar; Rep. Jason Saine; Rep. Chris Malone; Rep. Mike Clampitt; Rep. William Brisson; Rep. Josh Dobson; Rep. Howard Hunter III; Rep. Brenden Jones; Rep. Pat McElraft; Rep. Phil Shepard; Rep. Larry Strickland; Rep. Donna White; Rep. Pat Hurley; Rep. Chuck McGrady; Rep. Allen McNeill; Rep. Julia Howard; Rep. Linda Johnson; Rep. John Faircloth; Rep. Graig Meyer; Rep. Beverly

Boswell; Rep. Cody Henson; Rep. Sam Watford; Rep. Larry Potts

Cc: Pamela Ahlin (Rep. George Cleveland); Dorothy McLean (Rep. Elmer Floyd); Polly Riddell

(Rep. Dennis Riddell); Suzanne Smith (Rep. Gale Adcock); John Ganem (Rep. Chris Millis); Anita Spence (Rep. John Bradford); Candace Slate (Rep. Nelson Dollar); Stephen Wiley (Rep. Jason Saine); Christian Campbell (Rep. Chris Malone); Edward Stiles (Rep. Mike Clampitt); Caroline Stirling (Rep. William Brisson); Julie Ryan (Rep. Josh Dobson); Brenda Bennett (Rep. Howard Hunter III); Andrew Bailey (Rep. Brenden Jones); Nancy Fox (Rep. Pat McElraft); Pamela Pate (Rep. Phil Shepard); Kermit Stancil (Rep. Larry Strickland); Susan Mullins (Rep. Donna White); Deborah Holder (Rep. Pat Hurley); Laura Sullivan (Rep. Allen McNeill); Cody Huneycutt (Rep. Julia Howard); Rhonda Todd (Rep. Linda Johnson); Becky Bauerband (Rep. John Faircloth); Daphne Quinn (Rep. Graig Meyer); Beth Strandberg (Rep. Beverly Boswell); Megan Kluttz (Rep. Cody Henson); Regina Irwin

(Rep. Sam Watford); Caroline Craig (Rep. Larry Potts)

Subject: < NCGA> House State and Local Government II Committee Meeting Notice for

Wednesday, April 05, 2017 at 10:00 AM

Attachments: Add Meeting to Calendar\_LINC\_ics

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, April 5, 2017

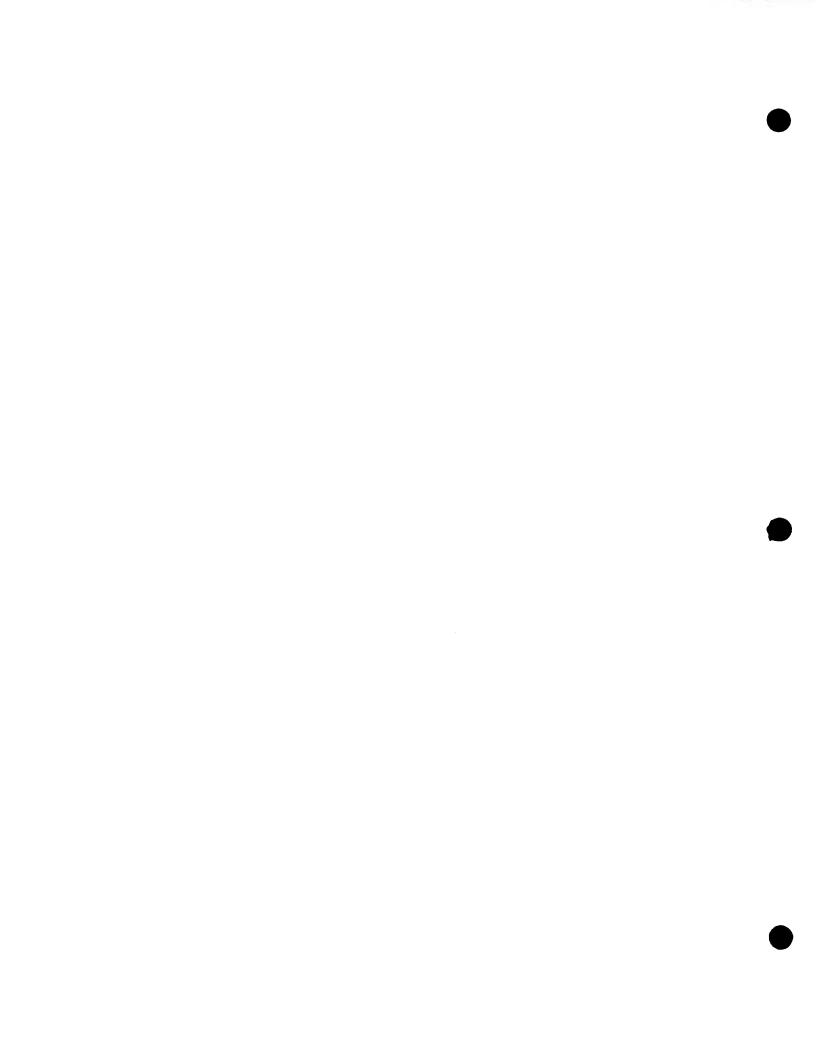
TIME: 10:00 AMI LOCATION: 544 LOB

**HB 311** 

The following bills will be considered:

BILL NO. SHORT TITLE SPONSOR

State Auditor/Various Amendments.AB Representative Riddell
Representative Cleveland
Representative Adcock



		Representative Floyd
HB 312	Clarify Rules Review Commission	Representative Riddell
	Review.	Representative Bradford
		Representative Millis
HB 340	Special Separation Allowance	Representative Dollar
	Firefighters/RSW.	Representative Malone
		Representative Saine
		Representative Clampitt
HB 353	Authorize State Park System	Representative Dobson
	ExpansionAB	Representative Brisson
	1	Representative Brenden Jones
		Representative Hunter
HB 361	Coastal Crescent Trail/State Parks	Representative Shepard
	System.	Representative McElraft
	<b>,</b>	Representative White
		Representative Strickland
HB 371	Agency Powers and Duties/Technical	Representative McGrady
	ChangesAB	Representative McNeill
	<u>c</u>	Representative Hurley
HB 373	DOL/Carolina Star ProgramAB	Representative McElraft
	-	Representative Howard
		Representative Johnson
		Representative Hurley
HB 374	2017 DOL Technical ChangesAB	Representative McElraft
		Representative Howard
		Representative Johnson
		Representative Hurley
HB 388	Modernize Mutual Assistance Statutes.	Representative McNeill
		Representative Faircloth
		Representative Meyer
HB 415	Hatteras Village Community Center	Representative Boswell
	District.	
HB 429	City of Saluda Occupancy Tax.	Representative Henson
HB 509	Davidson County Zoning Procedure	Representative Watford
	Changes.	Representative Potts

# Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:29 PM on Monday, April 03, 2017.

\_\_\_\_ Principal Clerk
\_\_\_ Reading Clerk – House Chamber

Anita Spence (Committee Assistant)

# House Committee on State and Local Government II Wednesday, April 5, 2017, 10:00 AM 423 Legislative Office Building

#### **AGENDA**

# Welcome and Opening Remarks

# Introduction of Pages and Sergeant at Arms

BILL NO. HB 311	SHORT TITLE State Auditor/Various AmendmentsAB	SPONSOR Representative Riddell Representative Cleveland
HB 353	Authorize State Park System ExpansionAB	Representative Adcock Representative Floyd Representative Dobson Representative Brisson
HB 361	Coastal Crescent Trail/State	Representative Brenden Jones Representative Hunter Representative Shepard
	Parks System.	Representative McElraft Representative White Representative Strickland
HB 371	Agency Powers and Duties/Technical ChangesAB	Representative McGrady Representative McNeill Representative Hurley
HB 373	DOL/Carolina Star ProgramAB	Representative McElraft Representative Howard Representative Johnson
HB 374	2017 DOL Technical ChangesAB	Representative Hurley Representative McElraft Representative Howard Representative Johnson
HB 388	Modernize Mutual Assistance Statutes.	Representative Hurley Representative McNeill Representative Faircloth

		Representative Meyer
HB 415	Hatteras Village Community	Representative Boswell
	Center District.	
HB 429	City of Saluda Occupancy Tax.	Representative Henson
HB 509	Davidson County Zoning Procedure	Representative Watford
	Changes.	Representative Potts
HB 340	Special Separation Allowance	Representative Dollar
	Firefighters/RSW.	Representative Malone
		Representative Saine
		Representative Clampitt

# **Presentations**

# Adjournment

# House Committee on Regulatory Reform Wednesday April 5, 2017 at 10:00 am Room 423 LOB

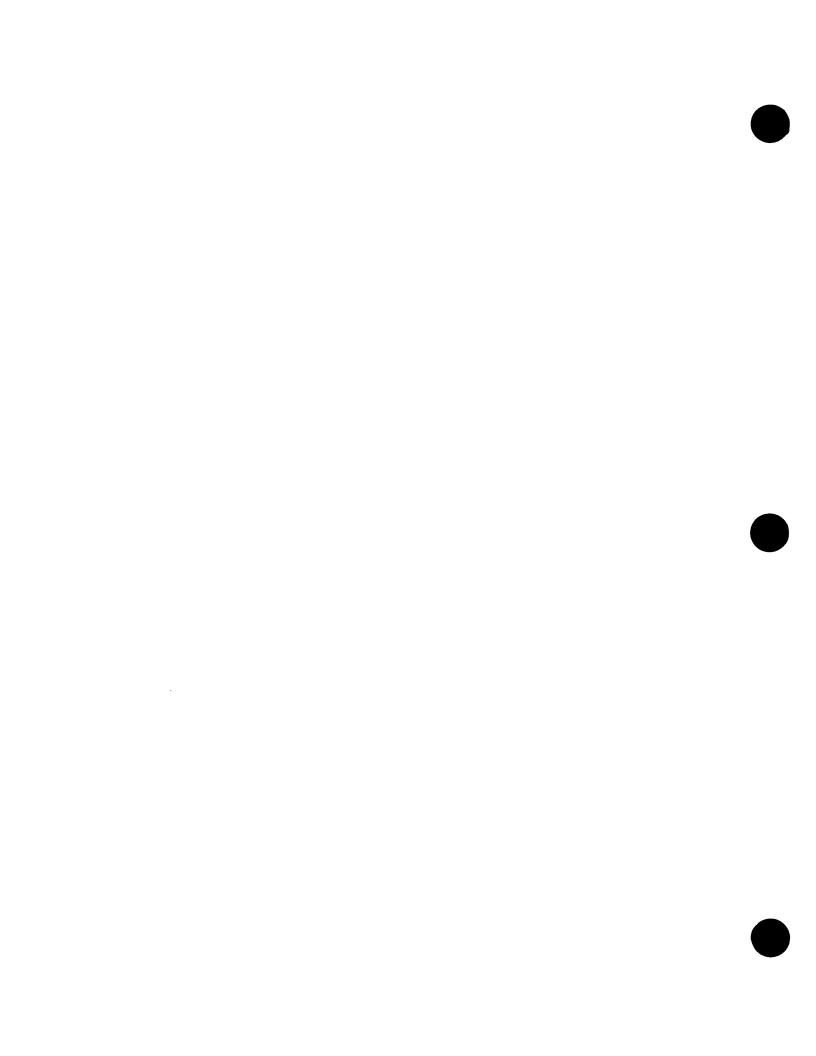
#### MINUTES

The House Committee on Regulatory Reform met at 10 am on April 5th in Room 423 LOB. Representatives Bell, Blackwell, Bradford, Brisson, Cunningham, Dixon, Dobson, Floyd, Goodman, Grange, Harrison, Henson, Holley, Jones, Jordan, Martin, McElraft, Millis, Moore, Richardson, Riddell, Speciale, Stevens, Watford, and Yarborough attended.

Chairman Bradford presided and called the meeting to order at 10:01. He introduced the Sergeant at Arms staff and pages who would be assisting with the committee.

Chairman Bradford motioned for HB 311 State Auditor/Various Amendments AN ACT TO CLARIFY THAT THE OFFICE OF THE STATE AUDITOR DOES NOT HAVE OVERSIGHT AUTHORITY OVER LICENSING BOARDS, TO CLARIFY THAT THE OFFICE OF THE STATE AUDITOR IS NOT REQUIRED TO ADOPT UNNECESSARY RULES, TO REQUIRE A NON-STATE ENTITY THAT RECEIVES STATE FUNDS TO POST THE OFFICE OF THE STATE AUDITOR'S HOTLINE, TO CLARIFY THAT THE PRODUCTION OF DOCUMENTS TO THE OFFICE OF THE STATE AUDITOR DOES NOT WAIVE THE ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGES, AND TO ALLOW THE OFFICE OF THE STATE AUDITOR TO DETERMINE THE LENGTH OF TIME THAT A STATE AGENCY MAY RESPOND TO AN AUDIT OF ECONOMY AND EFFICIENCY OR AN AUDIT OF PROGRAM RESULTS to be before the committee. Representative Riddell was recognized explain the bill. There was no discussion on the bill. Representative Setzer motioned for a favorable report for HB 311 with a serial referral to Regulatory Reform. Chairman Bradford called for a vote. All members were in favor. The bill passed.

Chairman Bradford motioned for HB 371Agency Powers and Duties/Technical Changes AN ACT TO CLARIFY CERTAIN POWERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES WITH RESPECT TO RECREATION AND FEDERAL RECREATION-RELATED FUNDING AND WITH RESPECT TO THE NORTH CAROLINA ZOOLOGICAL PARK, TO ADD SWORN LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES



TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR WORKERS' COMPENSATION, AND TO CHANGE THE NAME OF THE CLEAN WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE DEPARTMENT to be before the committee. Representative McGrady was recognized to explain the bill. There was no discussion on the bill. Representative Setzer motioned for a favorable report with a serial referral to Appropriations. Chairman Bradford called for a vote, All members were in favor. The bill passed.

Chairman Bradford motioned for HB 373 DOL/Carolina Star Program AN ACT CODIFYING THE CAROLINA STAR PROGRAM IN THE DEPARTMENT OF LABOR to be before the committee. Representative McElraft was recognized to explain the bill. There was no discussion on the bill. Representative Setzer motioned for a favorable report. Chairman Bradford called for a vote. All members were in favor. The bill passed.

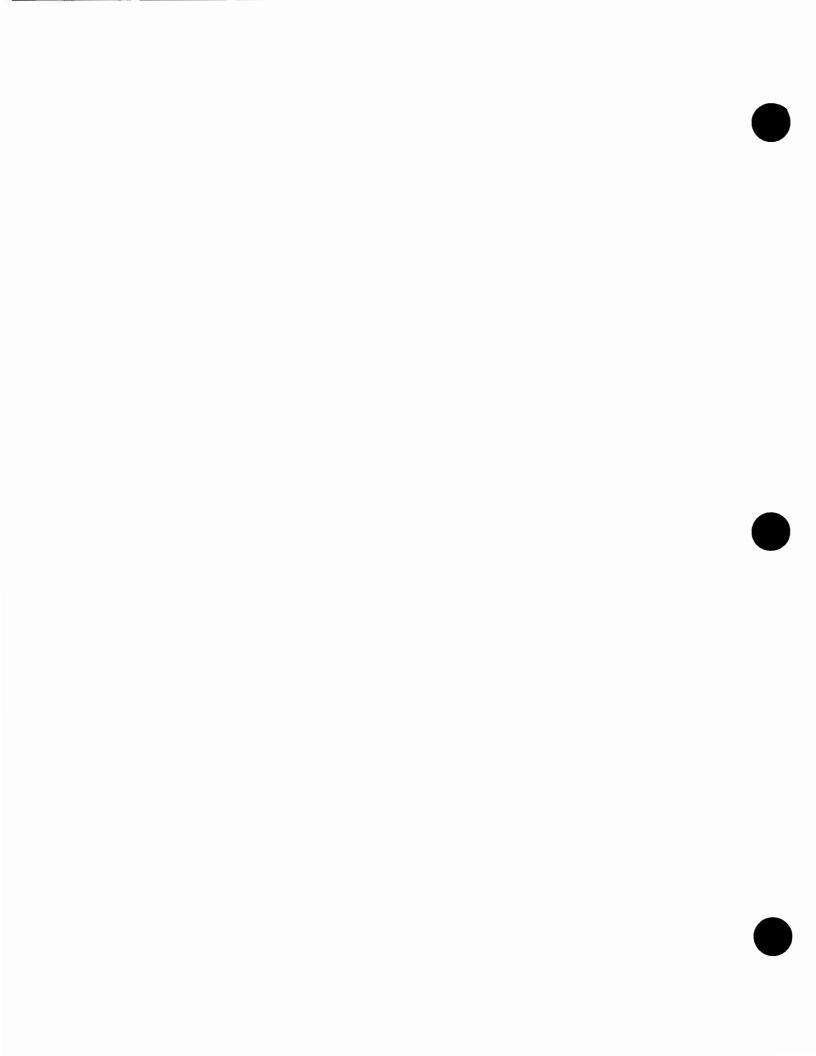
Chairman Bradford motioned for HB 374 2017 DOL Technical Changes AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER CHANGES TO THE LABOR LAWS OF NORTH CAROLINA to be before the committee. There is an amendment for HB 374. Chairman Bradford recognized Representative Ross to explain the amendment. The amendment passed. Chairman Bradford recognized Representative Setzer who motioned for an adoption of the amendment, unfavorable to the original bill. The amendment passed. The bill moves on as amended.

Chairman Bradford motioned for HB 353 Authorize State Park System Expansion AN ACT TO AUTHORIZE THE ADDITION OF BLACK RIVER STATE PARK, BOB'S POCKET STATE NATURAL AREA, WARWICK MILL BAY STATE NATURAL AREA, AND SALMON CREEK STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE DEPARTMENT OF NATURAL AND CULTURAL 5 RESOURCES to be before the committee. Chairman Bradford recognized Representative Dobson to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report. All members were in favor. HB 353 has a serial referral to Appropriations. The bill passed.

Chairman Bradford motioned for HB 361 Costal Crescent Trail/State Parks

System AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE

MOUNTAINS-TO-SEA STATE TRAIL to be before the committee. Chairman



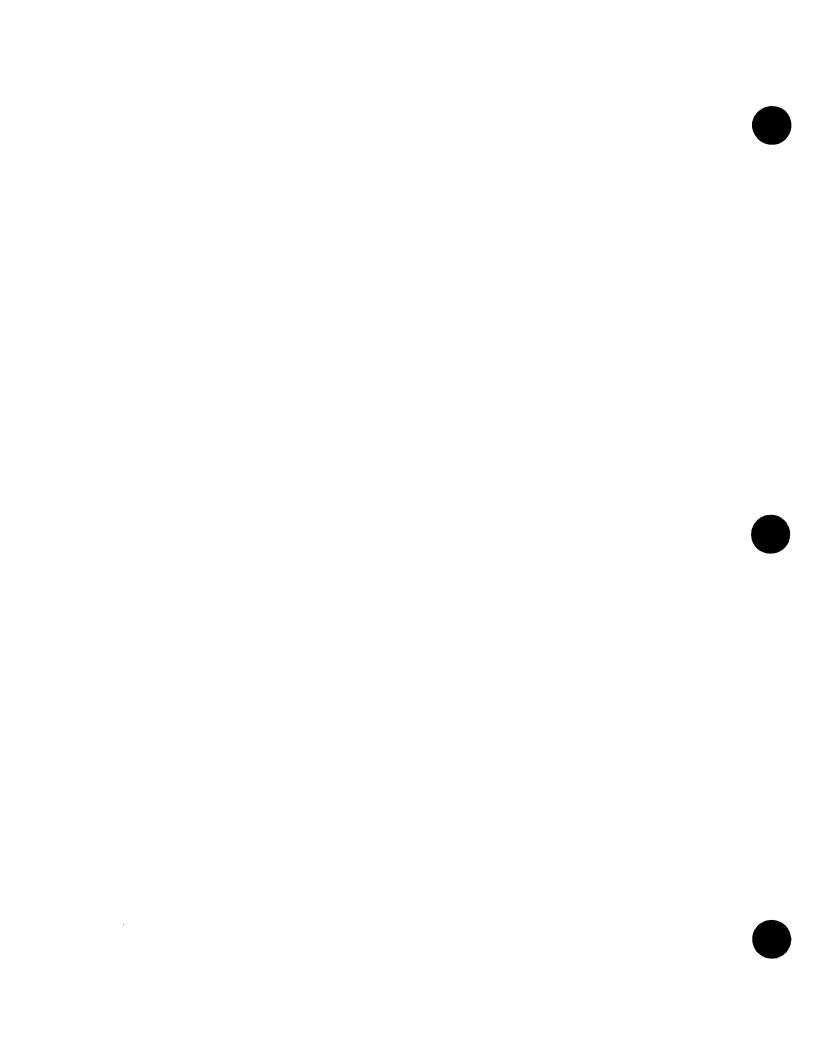
Bradford recognized Representative Shepard to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for a favorable report. All members were in favor. The bill passed.

Chairman Bradford motioned for HB 388 Modernize Mutual Assistance Statues AN ACT TO CREATE A PRESUMPTION THAT ALLOWS ONE LAW ENFORCEMENT AGENCY TO EASILY ASSIST ANOTHER LAW ENFORCEMENT AGENCY WHENEVER NECESSARY AND TO MAKE TECHNICAL CHANGES to be before the committee. Chairman Bradford recognized Representative McNeil to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Ross who motioned for a favorable report, unfavorable to the original bill. The bill passes.

Chairman Bradford motioned for HB 429 City of Saluda Occupancy Tax AN ACT TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF THE PORTION OF THE CITY OF SALUDA THAT LIES IN POLK COUNTY AND TO AUTHORIZE THE SPECIAL TAXING DISTRICT TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX to be before the committee. Chairman Bradford recognized Representative Setzer to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Steinburg who motioned for a favorable report. All members in were favor. The bill passed.

Chairman Bradford motioned for HB 509 Davidson County Zoning Procedure
Changes AN ACT TO ALLOW FOR PLANNING BOARDS TO HOLD HEARINGS
AND MAKE FINAL DECISIONS FOR ZONING AMENDMENT REQUESTS IN
DAVIDSON COUNTY to be before the committee. Chairman Bradford recognized
Representative Watford to explain the bill. There was no discussion on the bill.
Chairman Bradford recognized Representative Setzer who motioned for a
favorable report. All members were in favor. The bill passed.

Chairman Bradford motioned for HB 415 Hatteras Village Community Center District AN ACT PROVIDING FOR AN ELECTION IN THE VILLAGE OF HATTERAS ON THE QUESTION OF ALLOWING THE HATTERAS VILLAGE COMMUNITY CENTER DISTRICT TO EXPAND THE USES OF AD VALOREM TAX FUNDS COLLECTED BY THE COUNTY ON BEHALF OF THE DISTRICT FOR THE CONSTRUCTION AND MAINTENANCE OF MULTIUSE PATHWAYS AROUND THE VILLAGE to be before the committee. Chairman Bradford recognized Legislate staff Cindy Avrette to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a



favorable report, with a serial referral to Finance. All members were in favor. The bill passed.

Chairman Bradford motioned for HB 340 Special Separation Allowance Firefighters/RSW AN ACT TO CREATE A SPECIAL SEPARATION ALLOWANCE FOR STATE AND LOCAL FIREFIGHTERS AND RESCUE SQUAD WORKERS to be before the committee. Chairman Bradford recognized Representative Dollar to explain the bill. There was some discussion on the bill. Representative C. Graham and Presentative Watford asked Rep. Dollar a question. Representative Ross said he fully supports the bill. Chairman Bradford then allowed for public comment. Those who spoke were Ed Brinson, from the NC State Firefighters Association, Sarah Collins with the NC League of Municipalities, Scott Mullins for the Asheville Fire Department, Steve Hunt from the New Hanover County Fire Department and Fred Bone, a lobbyist with Bone and Associates. Chairman Bradford recognized Representative Setzer who motioned for a favorable report. All members were in favor. The bill passed.

The meeting adjourned at 10:43 pm.

Representative Bradford, Presiding Chair

nito Spence, Committee Clerk



# **HOUSE BILL 311:** State Auditor/Various Amendments.

2017-2018 General Assembly

House State and Local Government II. If Date: Committee:

April 4, 2017

favorable, re-refer to Regulatory Reform

Introduced by: Reps. Riddell, Cleveland, Adcock, Floyd

Prepared by: Cindy Avrette

Analysis of:

First Edition

Staff Attorney

OVERVIEW: House Bill 311 is an agency recommendation from the Office of the State Auditor.

CURRENT LAW AND BILL ANALYSIS: House Bill 311 is an agency bill requested by the Office of the State Auditor. The bill would do the following:

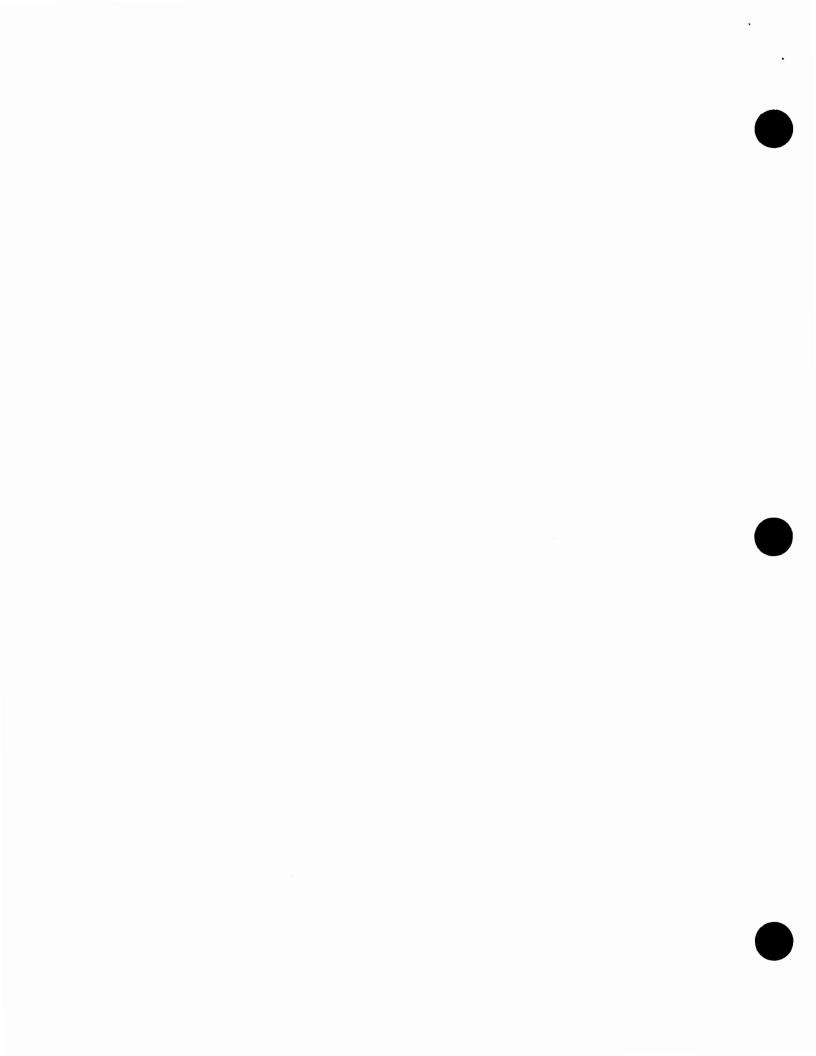
Section	Explanation		
1	Clarifies that the State Auditor has a responsibility to audit occupational licensing boards in regards to their books, records, and operations. The Auditor is not responsible for <i>overseeing</i> occupational licensing boards.		
2	Provides that the Auditor determines what rules are necessary for the agency to adopt in regards to its operation. The section also modernizes the language in the statute.		
3	Requires the grantee or subgrantee of grant funds to post the State Auditor's hotline telephone number in a conspicuous place in the office of the grantee or subgrantee. The Auditor is required to provide a means to receive reports of allegations of improper governmental activities or misuse of governmental funds. Past audits and investigations of grant recipients revealed a pattern of grant recipients not spending the grant funds as intended. The posting of the telephone hotline number in the offices of the grant recipients may help deter some activity and give a means through which a person who witnesses an abuse may contact the Auditor. This section becomes effective July 1, 2017.		
4	Clarifies that the production of documents or information by a person the Auditor is auditing does not constitute a waiver or an impairment of the attorney client privilege or the attorney work product privilege. G.S. 147-64.7 gives the Auditor access to documentation related to its audits.		
5	Allows the Auditor to determine the length of time an auditee has to respond to a performance audit. Currently, the auditee has 30 days. This section would allow the Auditor to set the length of time between 15 and 30 days, commensurate with the number and complexity of the findings. The statutes do not set any minimum time periods for agencies to respond to other types of audits.		

EFFECTIVE DATE: Section 3 would become effective July 1, 2017. The remainder of the bill would become effective when it becomes law.





Legislative Analysis Division 919-733-2578



## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 311**

1

Short Title: State Auditor/Various Amendments.-AB (Public)

Sponsors: Representatives Riddell, Cleveland, Adcock, and Floyd (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Regulatory Reform

#### March 13, 2017

1 A BILL TO BE ENTITLED 2 AN ACT TO CLARIFY THAT THE OFFICE OF THE STATE AUDITOR DOES NOT HAVE 3 OVERSIGHT AUTHORITY OVER LICENSING BOARDS, TO CLARIFY THAT THE 4 OFFICE OF THE STATE AUDITOR IS NOT REQUIRED TO ADOPT UNNECESSARY 5 RULES, TO REQUIRE A NON-STATE ENTITY THAT RECEIVES STATE FUNDS TO 6 POST THE OFFICE OF THE STATE AUDITOR'S HOTLINE, TO CLARIFY THAT THE 7 PRODUCTION OF DOCUMENTS TO THE OFFICE OF THE STATE AUDITOR DOES 8 NOT WAIVE THE ATTORNEY CLIENT OR ATTORNEY WORK PRODUCT 9 PRIVILEGES, AND TO ALLOW THE OFFICE OF THE STATE AUDITOR TO 10 DETERMINE THE LENGTH OF TIME THAT A STATE AGENCY MAY RESPOND TO

RESULTS.
The General Assembly of North Carolina enacts:

#### **SECTION 1.** 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 audit by 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.

AN AUDIT OF ECONOMY AND EFFICIENCY OR AN AUDIT OF PROGRAM

(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 2.** G.S. 147-64.9 reads as rewritten:

#### "§ 147-64.9. Rules and regulations. Rules.

The Auditor shall make and enforce such reasonable only those rules and regulations as are that the Auditor determines are reasonably necessary for the operation of his the Auditor's office. The Auditor shall install an adequate accounting system for his the office and shall keep or cause to be kept a complete, accurate, and adequate record of all fiscal transactions of his the office."

#### SECTION 3. G.S. 143C-6-23(g) reads as rewritten:

"(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, shall, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of



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21 22 23 grant funds received by the grantee or subgrantee. The grantee or subgrantee must-shall furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds. The grantee or subgrantee shall post conspicuously in its office the State Auditor's hotline telephone number, as described in G.S. 147-64.6B(a)."

**SECTION 4.** G.S. 147-64.7 is amended by adding a new subsection to read:

''(d)No Waiver. – The production of documents or information required by this section does not constitute a waiver or an impairment of the attorney client privilege or the attorney work product privilege."

**SECTION 5.** G.S. 147-64.6(c) reads as rewritten:

- The Auditor shall be responsible for the following acts and activities: "(c)
  - At the conclusion of an audit, the Auditor or the Auditor's designated (13)representative shall discuss the audit with the official whose office is subject to audit and submit necessary underlying facts developed for all findings and recommendations which may be included in the audit report. On audits of economy and efficiency and program results, the auditee's written response shall be included in the final report if received within 15 to 30 days from receipt of the draft report. The length of time shall be determined by the Auditor and shall be commensurate with the number and complexity of the findings.

**SECTION 6.** Section 3 of this act becomes effective July 1, 2017. The remainder of this act is effective when it becomes law.



# **HOUSE BILL 353: Authorize State Park System Expansion.**

2017-2018 General Assembly

Committee: House State and Local Government II. If Date: Apr.

April 5, 2017

favorable, re-refer to Appropriations

Introduced by: Reps. Dobson, Brisson, Brenden Jones, Prepared by: Nicholas Giddings

Hunter Committee Counsel

Analysis of: First Edition

OVERVIEW: House Bill 353 would authorize the North Carolina State Parks System to be able to accept the transfer of four properties and to preserve the lands as part of the State Parks System. The properties to be transferred are as follows:

- Black River State Park.
- Bob's Pocket State Natural Area.
- Warwick Mill Bay State Natural Area.
- Salmon Creek State Natural Area.

**CURRENT LAW:** The State Parks Act requires General Assembly authorization before the Department of Natural and Cultural Resources can add or remove a park from the State Parks System. All additions must be accompanied by adequate authorization and appropriations for land acquisition, development and operations.

BILL ANALYSIS: House Bill 353 would authorize the State Parks System to add Black River State Park, Bob's Pocket State Natural Area, Warwick Mill Bay State Natural Area, and Salmon Creek State Natural Area. All of the sites are being acquired with the help of private conservation organizations and additional funds requested from the Parks and Recreation Trust Fund or other grants. No appropriations for land acquisition or operating funds are requested in this bill.

Additionally, the bill authorizes the State to receive donations of land and to purchase other needed lands for the four transferred sites with existing funds from the Clean Water Management Trust Fund, the Parks and Recreation Trust Fund, the federal Land and Water Trust Fund, and other available sources of funding.

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

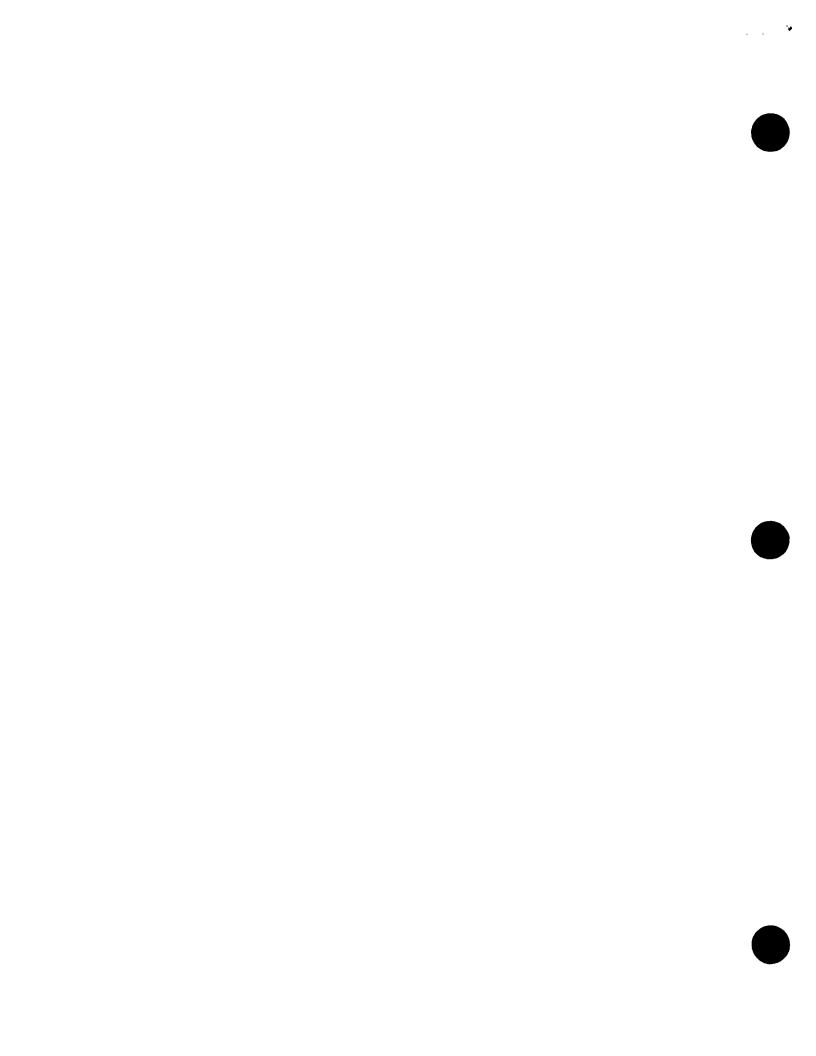
**BACKGROUND:** Bob's Pocket State Natural Area and Salmon Creek State Natural Area would be operated with existing staff at nearby state parks. Warwick Mill Bay State Natural Area would be managed by Audubon NC at no cost to the state. Black River State Park would be independently operated and would need staff after land is acquired and public facilities are open. Approximately \$200,000 in annual operating costs would be requested in the 2019-21 Biennium for Black River.

A State Natural Area is part of the State Parks System, but differs from a State Park. A State Park protects important natural resources, but also includes the development of recreational facilities. A State Natural Area is focused on preserving and protecting areas of scientific and ecological value, with more limited recreation, although trails, educational activities, and low-impact recreation can be accommodated.





Legislative Analysis Division 919-733-2578



## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

**HOUSE BILL 353** 

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Short Title:	Authorize State Park System ExpansionAB	(Public)
Sponsors:	Representatives Dobson, Brisson, Brenden Jones, and Hunter (Primary Sponsors).	
	For a complete list of sponsors, refer to the North Carolina General Assembly we	eb site.
Referred to:	State and Local Government II, if favorable, Appropriations	

March 15, 2017

#### A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF BLACK RIVER STATE PARK, BOB'S POCKET STATE NATURAL AREA, WARWICK MILL BAY STATE NATURAL AREA, AND SALMON CREEK STATE NATURAL AREA TO THE STATE PARKS SYSTEM. AS RECOMMENDED BY THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, the Black River in Sampson, Bladen, and Pender counties is one of North Carolina's most important scenic landmarks and is nationally significant for excellent examples of blackwater wetland natural communities, for huge cypress trees more than 1,600 years old, which are some of the most ancient trees in the world with immense scientific value, and for outstanding opportunities for outdoor recreation; and

Whereas, the Bob's Pocket area in McDowell County is significant for its scenic beauty, high-quality natural communities, rare and unusual natural features, and opportunities for natural resource preservation, outdoor recreation, and regional trail connections; and

Whereas, Warwick Mill Bay in Robeson County is a large Carolina Bay with one of the State's largest inland heronries, providing habitat for herons, egrets, moorhens, anhingas, ibises, wood storks, alligators, and many other species of wildlife and plants, and preservation of Warwick Mill Bay would protect an important ecological and scientific resource for future North Carolinians: and

Whereas, the Salmon Creek area in Bertie County is ecologically significant for its high-quality natural communities and also contains important prehistoric and historic archaeological sites offering opportunities for important archaeological discoveries, including an Indian occupation site containing evidence of late 16th or early 17th century English presence; Now, therefore,

The General Assembly of North Carolina enacts:



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Session 2017

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**SECTION 1.** The General Assembly authorizes the Department of Natural and Cultural Resources to add Black River State Park, Bob's Pocket State Natural Area, Warwick Mill Bay State Natural Area, and Salmon Creek State Natural Area to the State Parks System as provided in G.S. 143B-135.54(b).

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**SECTION 2.** The State may receive donations of appropriate land and may purchase other needed lands for Black River State Park, Bob's Pocket State Natural Area, Warwick Mill Bay State Natural Area, and Salmon Creek State Natural Area with existing funds in the Clean Water Management Trust Fund, the Parks and Recreation Trust Fund, the federal Land and Water Trust Fund, and other available sources of funding.

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



# **HOUSE BILL 361:** Coastal Crescent Trail/State Parks System.

#### 2017-2018 General Assembly

Committee: House State and Local Government II Introduced by:

Reps. Shepard, McElraft, White, Strickland

Analysis of: First Edition Date: April 5, 2017

Prepared by: Nicholas Giddings

Committee Counsel

OVERVIEW: House Bill 361 would require the Department of Natural and Cultural Resources to add the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail.

[As introduced, this bill was identical to S244, as introduced by Sen. B. Jackson, which is currently in Senate Agriculture/Environment/Natural Resources.]

**CURRENT LAW:** The State Parks Act defines the types of units in the North Carolina State Parks System to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes. All of these types of units are subject to the requirements of the State Parks Act, including planning responsibilities and the requirement for new units to be authorized by the General Assembly.

BILL ANALYSIS: House Bill 361 would require the Department of Natural and Cultural Resources (DNCR) to add the Coastal Crescent Trail (CCT) to the Mountains-to-Sea State Park Trail (MST) unit of the State Parks System. The CCT would include public and private lands as authorized by G.S. 143B-135.98. DNCR must work with the staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal Crescent route. DNCR must also amend the State Parks System Plan to reflect the addition of the CCT to the MST by October 1, 2017.

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

**BACKGROUND:** A State Trail is a linear corridor on land or water, separated from vehicular traffic, providing public access for non-motorized recreation or transportation. Currently there are five authorized State Trails: the French Broad River State Trail, the Yadkin River State Trail, the Mountainsto-Sea State Trail, the Deep River State Trail, and the Fonta Flora State Trail. See the handout included with the House Bill 361 materials for more information on State Trails.

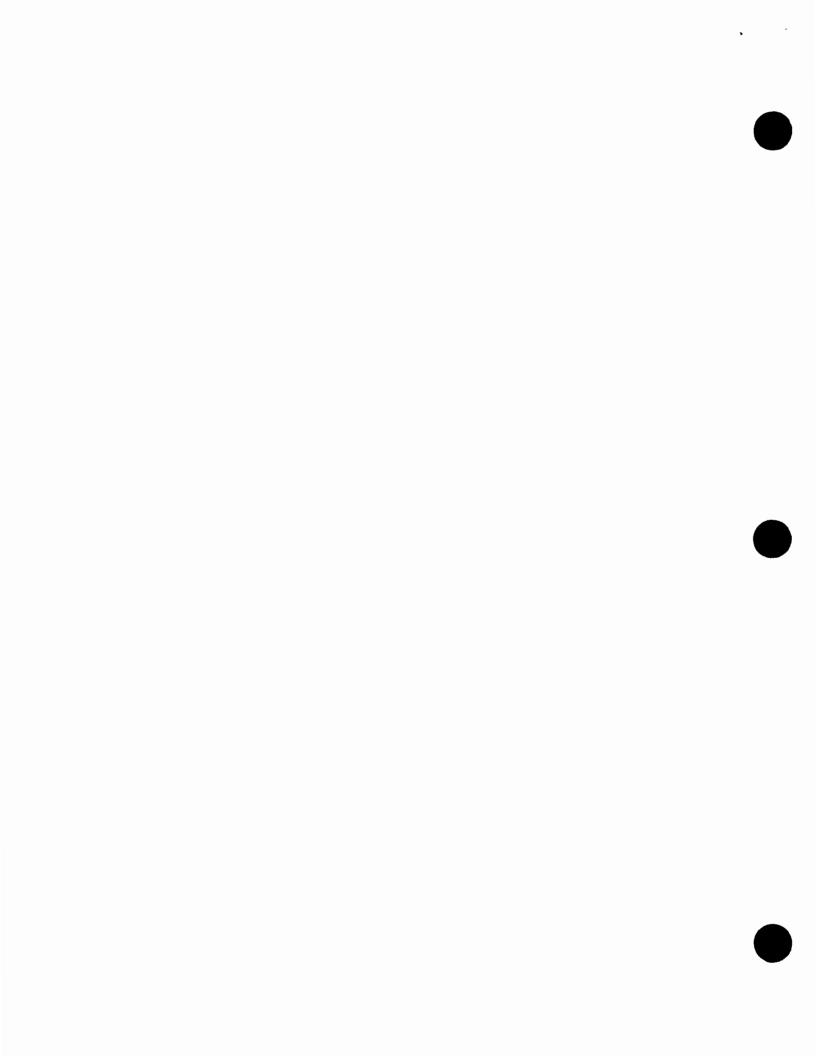
The CCT runs through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow counties, and was originally established as a temporary detour around portions of the MST that have not yet been constructed. Currently, the majority of the CCT route is on road shoulders, not along a traditional offroad trail separated from vehicular traffic. According to DNCR, the CCT counties and communities have expressed interest in developing a separated trail for the CCT, and would like technical and financial assistance from Division of Parks and Recreation (DPR) in developing a regional off-road trail in the southern coastal plain.

Adding the CCT to the State Parks System would make it eligible for the State share of funds from the Parks and Recreation Trust Fund and for the State Trail portion of the Connect NC Bond funds, and would make DPR responsible for overall planning and coordination for the trail. However, DPR would not be responsible for constructing and operating the entire trail.





Legislative Analysis Division 919-733-2578



H HOUSE BILL 361

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Short Title:	Coastal Crescent Trail/State Parks System.	(Public)		
Sponsors:	Representatives Shepard, McElraft, White, and Strickland (Primary Sponsors).  For a complete list of sponsors, refer to the North Carolina General Assembly web site.			
Referred to:	State and Local Government II			

March 16, 2017

1 A BILL TO BE ENTITLED 2 AN ACT TO ADD THE COASTAL CRESCENT TRAIL T

AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE MOUNTAINS-TO-SEA STATE TRAIL.

The General Assembly of North Carolina enacts:

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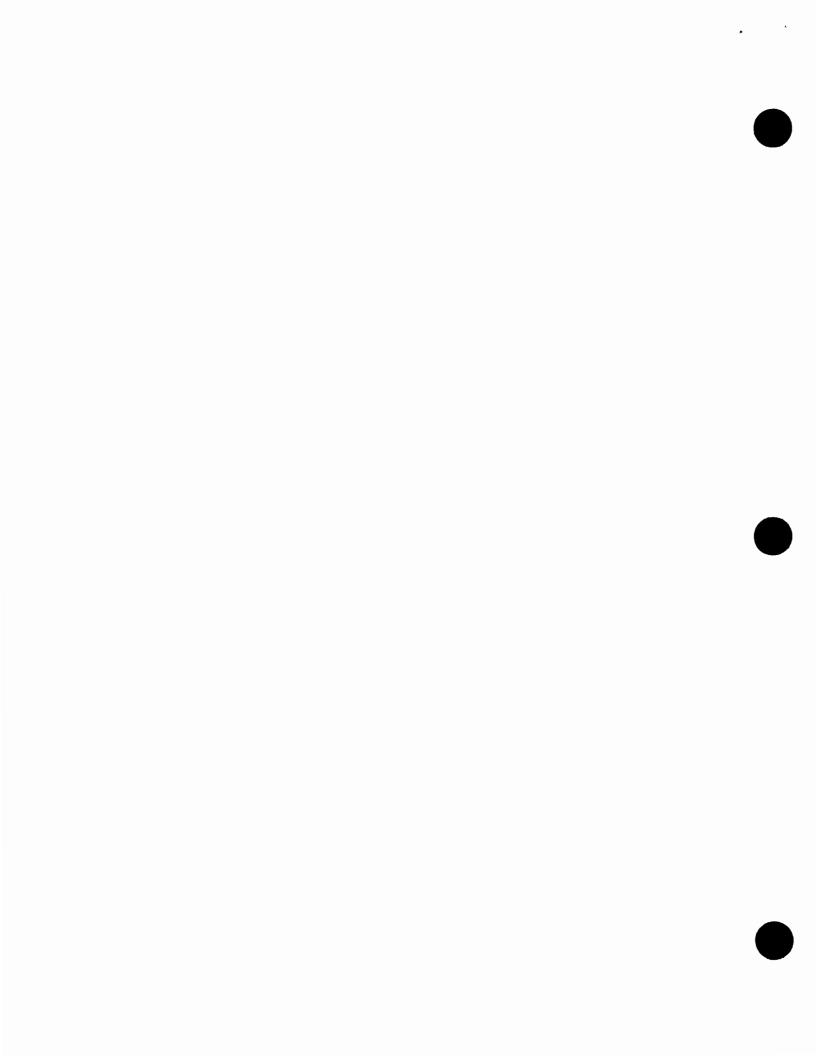
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**SECTION 1.** The Department of Natural and Cultural Resources shall add the Coastal Crescent Trail through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow Counties, as well as other counties designated by the Secretary of the Department of Natural and Cultural Resources, to the Mountains-to-Sea State Park Trail unit of the State Parks System as provided in G.S. 143B-135.54(b). The Coastal Crescent route of the Mountains-to-Sea Trail shall include public and private lands as authorized by G.S. 143B-135.98. The Secretary and staff of the Department of Natural and Cultural Resources shall work cooperatively with the staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal Crescent route.

**SECTION 2.** No later than October 1, 2017, the Department of Natural and Cultural Resources shall amend the State Parks System Plan required by G.S. 143B-135.48 to reflect the addition of the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail.

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





# STATE TRAILS IN NORTH CAROLINA

# What is a State Trail?

A State Trail is a linear corridor on land or water, separated from vehicular traffic, providing public access for non-motorized recreation or transportation. All State Trails must be authorized by the General Assembly.

# Where are the State Trails?

Currently, there are five State Trails in North Carolina:

- · Deep River State Trail from Jamestown to Moncure
- Fonta Flora State Trail which circles Lake James in Burke and McDowell Counties and extends west to Asheville
- French Broad River State Trail in Transylvania, Henderson, Buncombe and Madison Counties
- Mountains to Sea State Trail stretching from Clingman's Dome to Jockey's Ridge State Park
- Yadkin River State Trail in Wilkes, Surry, Yadkin, Forsyth, Davidson, Rowan and Davie Counties

These trails share legal status as components of the State Parks System. This distinguishes them from other regional and local trails and pathways. These trails offer opportunities for regional connectivity and public access to some of North Carolina's most significant and scenic landscapes.

# Who manages State Trails?

State Trails epitomize partnerships. While a State Park is operated and managed by the Division of Parks and Recreation, a State Trail is comprised of multiple connected sections and each section of the trail is sponsored by a state or federal agency, local government or private landowner.

Section sponsors build, maintain and manage their section of the trail. This includes location, design, surface, permitted uses and amenities. Section sponsors retain authority on lands under their jurisdiction. They are encouraged to showcase places of natural, scenic, historic and cultural significance; to feature the diversity of the natural communities and landscapes in the state; to consider the needs of both long and short distance hikers; and to employ recognized standards of sustainable trail design and construction. Often, and ideally, section sponsors are supported by dedicated volunteers.

The overall trail corridor planning and coordination are the responsibility of the Division of Parks and Recreation. The Division will provide guidance, coordination and assistance for the multiple section sponsors whose individual and diverse sections link together to form the State Trail. Working together on connecting sections of a State Trail is a way for communities to leverage their investments in trails to maximize the value for their citizens.

# How is a State Trail Created?

Enlarging the state parks system is important, but potential new park units must be selected carefully to insure that they fulfill the purposes of the system and justify the considerable public investment in planning, coordination, acquisition and management.

Before the General Assembly authorizes the creation of a new State Trail, the Division may develop a feasibility plan or a conceptual plan. The conceptual plan basically identifies the planning area; identifies potential partners, stakeholders and section sponsors; determines whether the proposal meets the criteria for establishment of a new unit; and evaluates the feasibility of implementing the proposed trail.

The Division of Parks and Recreation has developed criteria to evaluate potential new State Trails. This provides a system for evaluation, as well as a mechanism to remove unsuitable trails from consideration.

Three minimum criteria are used for the initial evaluation of proposed State Trails.

- 1. Statewide significant natural, cultural, scenic and recreation value
- Sufficient potential length and beauty to attract varied and significant use from regions outside the local area.
- 3. Minimal and surmountable incompatible features such as roads, intrusive development or large water bodies.

If a potential State Trail meets these basic requirements, then the feasibility of inclusion as a State Trail is based on:

- Local public support for the general concept of a public trail and the availability
  of trail volunteers
- 2. Presence of viable section sponsors committed to the design, construction, maintenance and management of the trail.
- 3. Environmental and economic sustainability of the trail route.

Constructed trail within the planned corridor is NOT part of the State Trail until it is designated by the Secretary of the Department of Natural and Cultural Resources. Section sponsors may apply for designation once the trail is completed. Criteria for designation include public access, developing an emergency management plan, outlining amenities provided to the public and inspection by a regional trails specialist.

Please contact the state trails program if you have any questions about state trails.

**Scott Crocker** 

State Trails Program Manager scott.crocker@ncparks.gov

**Smith Raynor** 

State Trails Planner smith.raynor@ncparks.gov





# **HOUSE BILL 371:**

# Agency Powers and Duties/Technical Changes.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date: Ap

April 5, 2017

favorable, re-refer to Appropriations

Introduced by: Reps. McGrady, McNeill, Hurley Prepared by: Nicholas Giddings

Analysis of: First Edition Committee Counsel

OVERVIEW: House Bill 371 would recodify certain statutes to clarify the Department of Natural and Cultural Resources' authority over recreation, federal recreation-related funding, and the North Carolina Zoological Park. The bill would also change the name of the Clean Water Management Trust Fund to the North Carolina Land and Water Preservation Trust Fund.

These changes were recommended by the Department of Natural and Cultural Resources.

CURRENT LAW/BILL ANALYSIS: House Bill 371 would do the following:

#### Section 1:

- Recodifies G.S. 143-320(3) as G.S. 143B-135.44(3a) and G.S. 143-323(a) as G.S. 143B-153.58(a). This would transfer the duties concerning "recreation" from the Department of Environmental Quality (DEQ) to the Department of Natural and Cultural Resources (DNCR). This would simply correct the department name which was incorrectly changed during the transition to the two departments (DEQ and DNCR).
- Recodifies G.S. 143-323(d) as G.S. 143B-153.58(b). This would transfer authority from DEQ to DNCR to apply for, and accept, recreation-related funding from the federal government. The bill would also designate the Director of the Division of Parks and Recreation the authority to accept and administer funding through the federal Land and Water Conservation Fund or its successor.
  - O This is an existing responsibility of the Parks and Recreation Director. The National Parks Service requires each state to have a "State Liaison Officer" (SLO) to administer the Land and Water Conservation Fund (LWCF) program, which has existed since the 1960's. The Parks and Recreation Director acts as the SLO, but the appointment must be made anew each time a new Governor is elected. This provision would reduce paperwork without changing the way the LWCF program works or altering the administrative responsibility of the Division of Parks and Recreation.

#### Section 2:

- Changes the title of Part 39 of Article 2 of Chapter 143B to "North Carolina Zoological Park".
- Enacts a new statute (G.S. 143B-135.204). This would assert DNCR's authority over the Zoo, including the acquisition and disposition of property.

#### Section 3:

 Changes the name of the "Clean Water Management Trust Fund" to the "Land and Water Preservation Trust Fund". This more accurately reflects the scope of the Fund's work and was recommended by the Fund's board.





Legislative Analysis Division 919-733-2578

# **House Bill 371**

Page 2

• Makes conforming changes throughout Chapter 143B of the General Statutes and directs the Revisor of Statutes to make conforming changes throughout the General Statutes.

**EFFECTIVE DATE:** Section 3 becomes effective January 1, 2018. The remainder of the act is effective when it becomes law.

HOUS

#### **HOUSE BILL 371**

Short Title: Agency Powers and Duties/Technical Changes.-AB (Public)

Sponsors: Representatives McGrady, McNeill, and Hurley (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Appropriations

March 16, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN POWERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES WITH RESPECT TO RECREATION AND FEDERAL RECREATION-RELATED FUNDING AND WITH RESPECT TO THE NORTH CAROLINA ZOOLOGICAL PARK AND TO CHANGE THE NAME OF THE CLEAN WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE DEPARTMENT.

The General Assembly of North Carolina enacts:

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#### STATUTORY AUTHORITY REGARDING RECREATION

SECTION 1.(a) Subdivision (3) of G.S. 143-320 is recodified as subdivision (3a) of G.S. 143B-135.44.

**SECTION 1.(b)** Subsections (a) and (d) of G.S. 143-323 are recodified as subsections (a) and (b) of G.S. 143B-135.58, to be entitled "Additional powers and duties of the Department regarding recreation."

SECTION 1.(c) G.S. 143B-135.58, as enacted by Section 1(b) of this act, reads as rewritten:

#### "§ 143B-135.58. Additional powers and duties of the Department regarding recreation.

- (a) Recreation. The Department of Environmental Quality shall have the following powers and duties with respect to recreation:
  - (1) To study and appraise the recreation needs of the State and to assemble and disseminate information relative to recreation.
  - (2) To cooperate in the promotion and organization of local recreation systems for counties, municipalities, and other political subdivisions of the State, to aid them in the administration, finance, planning, personnel, coordination and cooperation of recreation organizations and programs.
  - (3) To aid in recruiting, training, and placing recreation workers, and to promote recreation institutes and conferences.
  - (4) To establish and promote recreation standards.
  - (5) To cooperate with appropriate State, federal, and local agencies and private membership groups and commercial recreation interests in the promotion of recreation opportunities, and to represent the State in recreation conferences, study groups, and other matters of recreation concern.



(6)To accept gifts, devises, and endowments. The funds, if given as an endowment, shall be invested in securities designated by the donor, or if there is no such designation, in securities in which the State sinking fund may be invested. All such gifts and devises and all proceeds from such invested endowments shall be used for carrying out the purposes for which they were made. (7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or

Department's objectives and responsibilities.

water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.

(8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the

administered by the State for recreation programs and services on land and

(b) Federal Assistance. – The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the Executive Budget Act. State Budget Act. The Director of the Department's Division of Parks and Recreation shall be designated as having the authority and responsibility to accept and administer funding through the federal Land and Water Conservation Fund or any successor fund established for similar purposes, and the Secretary may designate additional personnel to assist the Director in the responsibilities imposed by this subsection."

#### ZOOLOGICAL PARK STATUTORY AUTHORITY

**SECTION 2.(a)** The title of Part 39 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"North Carolina Zoological Park Council. Park."

SECTION 2.(b) Part 39 of Article 2 of Chapter 143B of the General Statutes, as amended by subsection (a) of this act, is amended by adding a new section to read:

"§ 143B-135.204. Administration of the North Carolina Zoological Park.

- (a) The Secretary of the Department of Natural and Cultural Resources shall have the authority to administer the operations of the North Carolina Zoological Park. The Secretary's powers and duties include, but are not limited to, the following:
  - (1) To adopt goals and objectives for the Zoological Park.
  - (2) To advise the Zoological Park Director on the goals and objectives of the Zoological Park.
  - (3) To adopt reasonable rules governing the operation of the Zoological Park, including rules regulating its use and enjoyment by the public. Nothing in this subdivision is intended to limit the power of the North Carolina Zoological Park Council to establish and set admissions fees as set forth in G.S. 143B-135.205.
  - (4) To acquire, dispose of, and develop Zoological Park property, both real and personal, in accordance with the Secretary's goals and objectives."

#### RENAME CLEAN WATER MANAGEMENT TRUST FUND

**SECTION 3.(a)** Part 41 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"Part 41. Clean Water Management-Land and Water Preservation Trust Fund. "§ 143B-135.230. Purpose.

It is the intent of the General Assembly that moneys from the Fund created under this Part shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties.

"§ 143B-135.232. **Definitions.**The following definitions apply in this Part:

(1) Council. – The advisory council for the Clean Water Management-Land and Water Preservation Trust Fund.

(2) Fund. – The Clean Water Management Land and Water Preservation Trust Fund created pursuant to this Part.

(3) Land. – Real property and any interest in, easement in, or restriction on real property.

(4) Local government unit. – Defined in G.S. 159G-20.

(5) Trustees. – The trustees of the Clean Water Management Land and Water Preservation Trust Fund.

#### "§ 143B-135.234. Clean Water Management Land and Water Preservation Trust Fund.

- (a) Fund Established. The Clean Water Management Land and Water Preservation Trust Fund is established as a special revenue fund to be administered by the Department of Environmental Quality. The Fund receives revenue from the following sources and may receive revenue from other sources:
  - (1) Annual appropriations.
  - (2) Special registration plates under G.S. 20-81.12.
  - (3) Other special registration plates under G.S. 20-79.7.

### "§ 143B-135.236. North Carolina Conservation Easement Endowment Fund.

- (a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the Clean-Water Management-Land and Water Preservation Trust Fund for stewardship activities related to projects for conservation easements funded from the Clean Water Management-Land and Water Preservation Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.
- (b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State.
- "§ 143B-135.240. Clean Water Management-Land and Water Preservation Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.
- (a) Board of Trustees Established. There is established the Clean Water Management Land and Water Preservation Trust Fund Board of Trustees. The Clean Water Management

<u>Land and Water Preservation</u> Trust Fund Board of Trustees shall be administratively located within the Department of Natural and Cultural Resources.

- (b) Membership. The Clean Water Management-Land and Water Preservation Trust Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:
  - (1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
  - (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.
  - (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

"§ 143B-135.242. Clean Water Management Land and Water Preservation Trust Fund Board of Trustees: powers and duties.

"§ 143B-135.244. Clean Water Management Land and Water Preservation Trust Fund: reporting requirement.

# "§ 143B-135.246. Clean Water Management-Land and Water Preservation Trust Fund: Executive Director and staff.

The Secretary of Natural and Cultural Resources shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Land and Water Preservation Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary of Natural and Cultural Resources, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the



# **HOUSE BILL 373: DOL/Carolina Star Program.**

2017-2018 General Assembly

Committee: House State and Local Government II Date: April 3, 2017
Introduced by: Reps. McElraft, Howard, Johnson, Hurley Prepared by: Brad Krehely

Analysis of: First Edition Committee Co-Counsel

OVERVIEW: House Bill 373 would codify the Carolina Star Program in the Department of Labor. The act would become effective July 1, 2017.

[As introduced, this bill was identical to S502, as introduced by Sens. Wade, Brock, which is currently in Senate Rules and Operations of the Senate.]

#### **BILL ANALYSIS:**

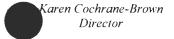
Section 1 defines the Carolina Star Program as: "A voluntary program designed to recognize work sites that implement effective safety and health management systems and that meet standards adopted by the Commissioner pursuant to G.S. 95-157. The Carolina Star Program is inclusive of four distinct programs, which includes the following: Carolina Star, Rising Star, Building Star, and Public Sector Star."

Section 2 codifies the Carolina Star Program as part of the Occupational Safety and Health Act. It allows the Commissioner of Labor to adopt rules that will promote safe workplaces in the State. The rules must pertain to all of the following:

- Upper management leadership and active and meaningful employee involvement.
- Assessment of occupational hazards.
- Comprehensive hazard prevention, control, and mitigation programs.
- Employee safety and health training.
- Annual safety and health program evaluation.
- Star Annual Report.
- Attendance and active participation on Carolina Star Safety Conference Regional Teams and conference related activities.

The workplace's management submits applications for participation in the program and must show that the employer meets standards for participation. The Department must provide for on-site evaluations, as resources allow, for each workplace applicant to determine if that workplace complies with standards for participation in the program.

To continue to participate in the Carolina Star Program, the workplace must meet requirements established by the Carolina Star Program Policies and Procedures Manual, Star Annual Report, and successful completion of periodic on-site evaluations.





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# **House Bill 373**

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If a workplace is participating in the program, the workplace is exempt from inspections under G.S. 95-136. However, the exception does not apply to inspections or investigations arising from complaints, referrals, fatalities, catastrophes, nonfatal accidents, or significant toxic chemical releases.

Section 3 provides that a workplace that was a participant in the uncodified Carolina Star Program prior to July 1, 2017, may continue as a participant in the Carolina Star Program established pursuant to G.S. 95-157, as enacted by this act. On and after July 1, 2017, the continued participation by that workplace in the program is conditioned upon the workplace's ability to meet all guidelines for participation in the program and adopted by the Commissioner.

**EFFECTIVE DATE:** July 1, 2017.

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#### **HOUSE BILL 373**

(Public) Short Title: DOL/Carolina Star Program.-AB Representatives McElraft, Howard, Johnson, and Hurley (Primary Sponsors). Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: State and Local Government II

	March 16, 2017
1	A BILL TO BE ENTITLED
2	AN ACT CODIFYING THE CAROLINA STAR PROGRAM IN THE DEPARTMENT OF
3	LABOR.
4	The General Assembly of North Carolina enacts:
5	<b>SECTION 1.</b> G.S. 95-127 is amended by adding a new subdivision to read:
6	"(2a) Carolina Star Program A voluntary program designed to recognize work
7	sites that implement effective safety and health management systems and
8	that meet standards adopted by the Commissioner pursuant to G.S. 95-157.
9	The Carolina Star Program is inclusive of four distinct programs, which
10	includes the following: Carolina Star, Rising Star, Building Star, and Public
11	Sector Star."
12	SECTION 2. Article 16 of Chapter 95 of the General Statutes is amended by
13	adding a new section to read:
14	"§ 95-157. Carolina Star Program.
15	(a) The Commissioner may adopt rules for the operation of the Carolina Star Program
16	in a manner that will promote safe and healthy workplaces throughout the State. The rules for
17	the Carolina Star Program adopted by the Commissioner shall pertain to the following matters:
18	(1) Upper management leadership and active and meaningful employee
19	involvement.
20	(2) Systematic assessment of occupational hazards.
21	(3) Comprehensive hazard prevention, control, and mitigation programs.
22	(4) Employee safety and health training.
23	(5) Annual safety and health program evaluation.
24	(6) Star Annual Report.
25	(7) Attendance and active participation on Carolina Star Safety Conference
26	Regional Teams and conference related activities.
27	(b) Applications for participation in the Carolina Star Program shall be submitted by the
28	workplace's management. Applications shall include documentation establishing to the
29	satisfaction of the Commissioner that the employer meets all standards for Carolina Star
30	Program participation

The Department shall provide for on-site evaluations, as resources allow, by Carolina Star Program evaluation teams of each workplace that has applied to participate in the Carolina Star Program to determine if the applicant's workplace complies with the standards for Carolina Star Program participation.



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- (d) A workplace's continued participation in the Carolina Star Program shall be conditioned on meeting the requirements and expectations established by the Carolina Star Program Policies and Procedures Manual, Star Annual Report, and successful completion of periodic on-site evaluations conducted by the Carolina Star Program evaluation team.

(e) During periods in which a workplace is a participant in the Carolina Star Program, the workplace shall be exempt from inspections under G.S. 95-136; however, this exception shall not apply to inspections or investigations of the workplace arising from complaints, referrals, fatalities, catastrophes, nonfatal accidents, or significant toxic chemical releases."

 SECTION 3. A workplace that was a participant in the uncodified Carolina Star Program prior to July 1, 2017, may continue as a participant in the Carolina Star Program established pursuant to G.S. 95-157, as enacted by this act. On and after July 1, 2017, the continued participation by that workplace in the Carolina Star Program shall be conditioned upon the workplace's ability to meet the requirements and expectations established by all guidelines for participation in the Carolina Star Program adopted by the Commissioner under G.S. 95-157.

**SECTION 4.** This act becomes effective July 1, 2017.



# HOUSE BILL 374: 2017 DOL Technical Changes.

#### 2017-2018 General Assembly

Committee: House State and Local Government II Date:

the labor laws of North Carolina. The act would become effective July 1, 2017.

Introduced by: Reps. McElraft, Howard, Johnson, Hurley
Analysis of: First Edition

Prepared by: Brad Krehely
Committee Co-Counsel

OVERVIEW: House Bill 374 would make a number of technical, conforming, and other changes to

[As introduced, this bill was identical to S501, as introduced by Sens. Wade, Brock, which is currently in Senate Rules and Operations of the Senate.]

#### **BILL ANALYSIS:**

#### Section 1:

Under current law, the Wage and Hour Act allows the Commissioner of Labor and county directors of social services to review and approve youth employment certificates. Section I would remove the ability of county directors of social services or their designees from approving youth employment certificates.

#### **Section 2:**

Section 2 makes a number of changes to the Passenger Tramway Safety Act. It adds definitions for "funicular" and "gondola" and clarifies that these terms fit within the definition of "passenger tramway."

#### **Section 3:**

Under current law, the Commissioner of Labor has authority to adopt and modify rules for carrying out the Passenger Tramway Safety Act. The rules must conform to standards contained in the B77.1-American National Standards Safety Requirements for Aerial Passenger Tramways and conform with good engineering and safety standards, formulas, and practices.

Section 3 removes the requirement that rules must conform to standards contained in the B77.1-American National Standards Safety Requirements for Aerial Passenger Tramways.

#### Section 4:

Section 4 makes the following changes to the Passenger Tramway Safety Act:

**Operation of Unsafe Devices**- provides that no person must operate, permit to be operated, or use any device subject to the provisions of this Article if the person knows or reasonably should know that the operation or use of the device will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

**Reports Required-** requires the owner or an agent to notify the Commissioner within 24 hours when either of the following occurs:





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April 3, 2017

### **House Bill 374**

Page 2

- 1. Death or injury requiring medical treatment, other than first aid, by a physician.
- 2. Damage to the device indicating a substantial defect in design, mechanics, structure, or equipment that affects the future safe operation of the device. (No reporting required for normal wear and tear).

Upon receipt of an occurrence, the Commissioner must complete an investigation, and a report is placed on file. The owner may include independent investigations in the file.

If #1 or #2 above occurs, then: (i) a person may not operate or attempt to move a device without the approval of the Commissioner unless doing so to prevent injury of another person and (ii) a person shall not remove or attempt to remove any part of the device or repair or attempt to repair any damaged part necessary to a complete investigation.

#### Civil Penalties- Section 4 creates the following civil penalties:

- 1. Violation of registration and application procedures- A civil penalty for not to exceed \$1,250 for each day each device is so operated or used.
- 2. Violation of required liability insurance or reporting requirements- A civil penalty not to \$2.500 for each day each device is so operated and used.
- 3. Violation of operation of unsafe device- Civil penalty not to exceed \$5,000 for each day each device is so operated and used.

In determining the amount of the penalty, the Commissioner must consider the annual gross volume of the person charged, the gravity of the violation, whether good faith was exercised, and the record of previous violations. There is a mechanism for appealing the decision of the Commissioner under Chapter 150B. The Commissioner may file with the clerk of superior court a certified copy of a final order unappealed from or a final order affirmed upon appeal. The clerk shall enter judgment and notify the parties, and the judgment has the same affect as if entered by the superior court.

#### Criminal Penalties-

It is a Class 2 misdemeaner to willfully violate any provision of Article 15 of Chapter 95 and may include a fine of up to \$10,000.

It is a Class 1 misdemeanor if a conviction is for a violation committed after a first conviction and may include a fine of not more than \$20,000.

A person who willfully violates Article 15 of Chapter 95 and the violation causes the serious injury or death of a person, is guilty of a Class E felony which shall include a fine.

Nothing in these provisions prevents a prosecution charging any degree of willful or culpable homicide.

#### Sections 5-10

Sections 5-10 update terminology throughout the Hazardous Chemicals Right to Know Act. They delete the term "Standard Industrial Classification (SIC)" and substitute the term "North American Classification System (NAICS)." These sections also delete the term "Material Safety Data Sheets (MSDS)" and substitute the term "Safety Data Sheets (SDS)."

# House Bill 374

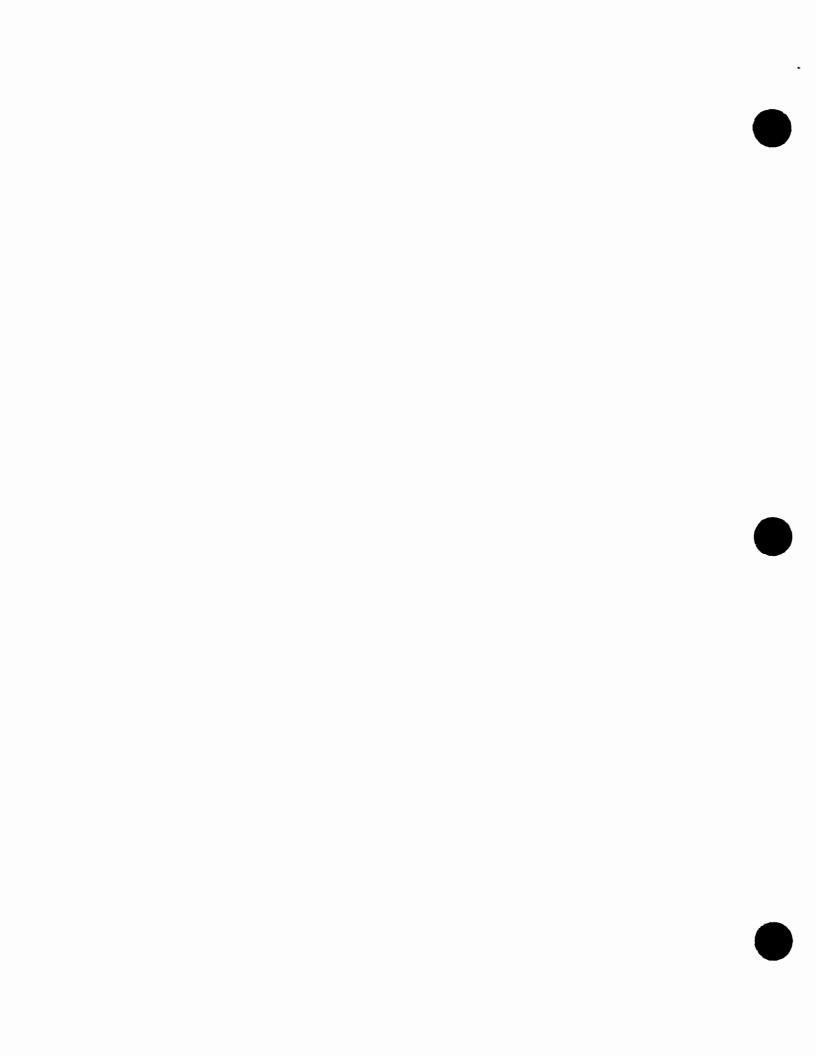
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#### Section 11

Under current law, employers with rate modifiers (an experience rating set by the Rate Bureau in determining workers' comp premiums) higher than 1.5 must establish safety and health program committees.

Section 11 would repeal the requirement that the Commission notify an employer when the employer's experience rate modifier falls below 1.5 and the requirement that an employer subject to these provisions notify the Commissioner if the employer no longer employs 11 or more employees and has discontinued or will discontinue the safety and health committee.

**EFFECTIVE DATE:** July 1, 2017.



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#### **HOUSE BILL 374**

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(Public) Short Title: 2017 DOL Technical Changes.-AB Representatives McElraft, Howard, Johnson, and Hurley (Primary Sponsors). Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. State and Local Government II Referred to:

#### March 16, 2017

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#### A BILL TO BE ENTITLED

AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER CHANGES TO THE LABOR LAWS OF NORTH CAROLINA.

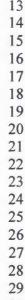
The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 95-25.5(a) reads as rewritten:

No youth under 18 years of age shall be employed by any employer in any occupation without a youth employment certificate unless specifically exempted. The Commissioner of Labor shall prescribe regulations for youths and employers concerning the issuance, maintenance and revocation of certificates. Certificates will be issued, subject to review by the Department of Labor, by county directors of social services and such of their designees as are approved by the Commissioner; provided, the Commissioner may also issue certificates, issued by the Commissioner, both directly and electronically."

SECTION 2. G.S. 95-117(4) reads as rewritten:

- "Passenger tramway" means a Passenger tramway. A device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans. "Passenger tramway" shall include The term includes any of the following devices:
  - "Chairlift," a Chairlift. A type of transportation on which passengers are carried on chairs suspended in the air and attached to a moving cable, chain or link belt supported by trestles or towers with one or more spans, or similar devices; devices.
  - "Conveyor," a Conveyor. A type of transportation on which passengers are transported uphill on a flexible moving element a1. (conveyor belt) that travels uphill on one path and generally returns underneath the uphill portion.
  - Funicular. A system in which passengers are transported in or on <u>a2.</u> carriers that are supported and guided by a level or inclined guideway and propelled by means of a haul rope or other flexible element that is driven by a power unit remaining essentially at a single location.
  - Gondola. An enclosed cabin attached to a cable that mechanically a3. transports people or cargo.
  - "J bar, T bar or platter pull, so-called and similar types of devices or b. means of transportation J bar, T bar, or platter pull. - Devices which



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pull skiers riding on skis by means of an attachment to a main overhead cable supported by trestles or towers with one or more spans; spans.

- c. "Multicar aerial passenger tramway," a Multicar aerial passenger tramway. A device used to transport passengers in several open or in closed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope, or similar device; device.
- d. "Rope tow," a Rope tow. A type of transportation which pulls the skiers, riding on skis as the skier grasps the rope manually, or similar devices; device.
- e. "Skimobile," a Skimobile. A device in which a passenger car running on steel or wooden tracks is attached to and pulled by a steel cable, or similar device; device.
- f. "Two car aerial passenger tramway," a Two-car aerial passenger tramway. A device used to transport passengers in two open or enclosed cars attached to, and suspended from, a moving wire rope or attached to a moving wire rope and supported on a standing wire rope or similar device."

#### SECTION 3. G.S. 95-120(1) reads as rewritten:

- To adopt, modify, or revoke the rules necessary for carrying out the provisions of this Article, including those governing the design, construction, installation, operation, use, and maintenance of devices subject to the provisions of this Article. The rules adopted under this section shall conform as nearly as possible to the standards contained in the B77.1 American National Standards Safety Requirements for Aerial Passenger Tramways and with good engineering and safety standards, formulas, and practices. Rules adopted under this subdivision shall conform with good engineering and safety standards, formulas, and practices."
- **SECTION 4.** Article 15 of Chapter 95 of the General Statutes is amended by adding the following new sections to read:

#### "§ 95-125.1. Operation of unsafe device.

No person shall operate, permit to be operated, or use any device subject to the provisions of this Article if the person knows or reasonably should know that the operation or use of the device will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

#### "§ 95-125.2. Reports required.

- (a) The owner of any device regulated under the provisions of this Article, or the owner's authorized agent, shall, within 24 hours, notify the Commissioner of each and every occurrence involving the device when either of the following occurs:
  - (1) Death or injury requiring medical treatment, other than first aid, by a physician. For the purposes of this section, "first aid" means (i) the one-time treatment or observation of scratches, cuts not requiring stitches, burns, splinters, or contusions or (ii) performing a diagnostic procedure, including examination and X rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel.
  - (2) Damage to the device indicating a substantial defect in design, mechanics, structure, or equipment that affects the future safe operation of the device. No reporting is required in the case of normal wear and tear.
- (b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) of this section has

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occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

- (c) No person, after an occurrence specified in subsection (a) of this section, shall do either of the following:
  - (1) Operate, attempt to operate, use, or move or attempt to move such device or part thereof, without the approval of the Commissioner, unless so as to prevent injury to any person or persons.
  - (2) Remove or attempt to remove from the premises any damaged or undamaged part of such device or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The Department must initiate its investigation within 24 hours of being notified.

"§ 95-125.3. Violations; civil penalties; appeal; criminal penalties.

- (a) Any person who violates G.S. 95-118 (Registration required; application procedures) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each day each device is so operated or used.
- (b) Any person who violates G.S. 95-120.1 (Liability insurance) or G.S. 95-125.2 (Reports required) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated and used.
- (c) Any person who violates G.S. 95-125.1 (Operation of unsafe device) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated and used.
- (d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.
- (e) The Commissioner's determination of the amount of the penalty is final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedures Act.
- (f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed form, or of a final order of the Commissioner affirmed upon appeal. Upon such filing, the clerk of said court shall enter judgment in accordance with the final order and notify the parties. The judgment shall have the same effect, and all proceedings in relation to the judgment shall thereafter be the same, as though the judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.
- (g) Except as provided under subsection (h) of this section, any person who willfully violates any provision of this Article is guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of the person, the person shall be guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000).
- (h) Any person who willfully violates any provision of this Article and that violation causes the serious injury or death of any person, then the person is guilty of a Class E felony, which shall include a fine.

(i) Nothing in this section prevents any prosecuting officer of the State of North Carolina from proceeding against a person who violates this Article on a prosecution charging any degree of willful or culpable homicide."

**SECTION 5.** G.S. 95-174 reads as rewritten:

#### "§ 95-174. Definitions.

- (a) "Chemical manufacturer" shall mean a manufacturing facility classified in Standard Industrial Classification (SIC) Codes 20 through 39 North American Industry Classification System (NAICS) Codes 31 through 33 where chemicals are produced for use or distribution in North Carolina.
- (b) "Chemical name" shall mean means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC), or the Chemical Abstracts Service (CAS) rules of nomenclature or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.
- (c) "Common name" shall mean means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.
- (d) "Distributor" shall mean means any business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to purchasers.
- (e) "Employee" shall mean means any person who is employed by an employer under normal operating conditions.
- (f) "Employer" means a person engaged in business who has employees, including the State and its political subdivisions but excluding an individual whose only employees are domestic workers or casual laborers who are hired to work at the individual's residence.
- (g) "Facility" shall mean means one or more establishments, factories, or buildings located at one contiguous site in North Carolina.
- (h) "Fire Chief" shall mean means Fire Chief or Fire Marshall, or Emergency Response Coordinator in the absence of a Fire Chief or Fire Marshall for the appropriate local fire department.
  - (i) Repealed by Session Laws 1987, c. 489, s. 1.
- (j) "Fire Department" shall mean means the fire department having jurisdiction over the facility.
- (k) "Hazardous chemical" shall mean means any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the OSHNC Standard or a hazardous substance as defined in standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).
  - (1) "Hazardous Substance List" shall mean means the list required by G.S. 95-191.
- (m) "Hazardous substance trade secret" means any formula, plan, pattern, device, process, production information, or compilation of information, which is not patented, which is known only to the employer, the employer's licensees, the employer's employees, and certain other individuals, and which is used or developed for use in the employer's business, and which gives the employer possessing it the opportunity to obtain a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the identity or composition of the substance cannot be readily ascertained without undue expense by analytical techniques, laboratory procedures, or other lawful means available to a competitor.
- (n) "Label" shall mean means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

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- (o) "Manufacturing facility" shall mean means a facility classified in SIC Codes 20 through 39 NAICS Code 31 through 33 which manufactures or uses a hazardous chemical or chemicals in North Carolina.
- (p) "Material Safety Safety Data Sheets" or "MSDS" shall mean "SDS" means chemical information sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).
- (q) "Nonmanufacturing facility" shall mean means any facility in North Carolina other than a facility in SIC Code 20 through 39, NAICS Code 31 through 33, the State of North Carolina (and its political subdivisions) and volunteer emergency service organizations whose members may be exposed to chemical hazards during emergency situations.
- (r) "OSHNC Standard" shall mean means the current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).
- (s) "Storage and Container" shall have has the ordinary meaning however it does not include pipes used in the transfer of substances or the fuel tanks of self propelled self-propelled internal combustion vehicles."

#### SECTION 6. G.S. 95-191(a) reads as rewritten:

- "(a) All employers who manufacture, process, use, store, or produce hazardous chemicals, shall compile and maintain a Hazardous Substance List which shall contain <u>all of</u> the following information for each hazardous chemical stored in the facility in quantities of 55 gallons or 500 pounds, whichever is greater:
  - (1) The chemical name or the common name used on the MSDS\_SDS\_or container label; label.
  - (2) The maximum amount of the chemical stored at the facility at any time during a year, using the following ranges:

Class A, which shall include includes quantities of less than 55 gallons or 500 pounds; pounds.

Class B, which shall include includes quantities of between 55 gallons to 550 gallons, and quantities of between 500 pounds and 5,000 pounds; and pounds.

Class C, which shall include includes quantities of between 550 gallons and 5500 gallons, and quantities between 5,000 pounds and 50,000 pounds; and pounds.

Class D, which shall include includes quantities of greater than 5500 gallons or 50,000 pounds; and pounds.

(3) The area in the facility in which the hazardous chemical is normally stored and to what extent the chemical may be stored at altered temperature or pressure."

#### SECTION 7. G.S. 95-192 reads as rewritten:

#### "§ 95-192. Material safety Safety data sheets.

- (a) Chemical manufacturers and distributors shall provide material safety data sheets (MSDS's)(SDS's) to manufacturing and nonmanufacturing purchasers of hazardous chemicals in North Carolina for each hazardous chemical purchased.
- (b) Employers shall maintain the most current MSDS-SDS received from manufacturers or distributors for each hazardous chemical purchased. If an MSDS-SDS has not been provided by the manufacturer or distributor for chemicals on the Hazardous Substance List at the time the chemicals are received at the facility, the employer shall request one in writing from the manufacturer or distributor within 30 days after receipt of the chemical. If the employer does not receive an MSDS-SDS within 30 days after his written request, he shall notify the

1 Commissioner of Labor of the failure by manufacturer or distributor to provide the 2 MSDS.SDS."

**SECTION 8.** G.S. 95-194 reads as rewritten:

"§ 95-194. Emergency information.

(d) Employers shall provide to the Fire Chief, upon written request of the Fire Chief, a copy of the MSDS-SDS for any chemical on the Hazardous Substance List.

...."

(f) The Fire Chief shall make information from the Hazardous Substance List, the emergency response plan, and MSDS's-SDS's available to members of the Fire Department having jurisdiction over the facility and to personnel responsible for preplanning emergency response, police, medical or fire activities, but shall not otherwise distribute or disclose (or allow the disclosure of) information not available to the public under G.S. 95-208. Such persons receiving such information shall not disclose the information received and shall use such information only for the purpose of preplanning emergency response, police, medical or fire activities.

#### **SECTION 9.** G.S. 95-208 reads as rewritten:

#### "§ 95-208. Community information on hazardous chemicals.

- Any person in North Carolina may request in writing from the employer a list of chemicals used or stored at the facility. The request shall include the name and address of the person making the request and a statement of the purpose for the request. If the person is requesting the list on behalf of or for the use of an organization, partnership, or corporation, he shall also disclose the name and business address of such organization, partnership, or corporation. The request may include, at the option of the employer, a statement to the effect that the information will be used only for the purpose stated. The employer shall furnish to the person making the request a list containing, at a minimum, all chemicals included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an MSDS\_SDS\_for each chemical for which an MSDS\_SDS\_is available and is requested. Whenever an employer has withheld a chemical under the provisions of G.S. 95-197 from the information provided under G.S. 95-208, the employer must state that the information is being withheld and, upon request, must provide the MSDS-SDS for the chemical. Additional information may be furnished to the person making the request at the option of the employer. The employer shall provide, at a fee not to exceed the cost of reproducing the materials, the materials requested within 10 working days of the date the employer receives the written request for information.
- (b) If the employer fails or refuses to provide the information required under subsection (a) of this section, the person requesting the information may request in writing that the Commissioner of Labor review the request. The Commissioner of Labor may conduct an investigation in the same manner as provided in G.S. 95-195(b). Following the investigation, the Commissioner shall make appropriate findings. Either the employer or the person making the initial request may request an administrative hearing pursuant to Chapter 150B of the General Statutes. This request for an administrative hearing shall be submitted to the Commissioner of Labor within 30 days following the Commissioner making his findings. The Commissioner of Labor shall within 30 days of receiving the request hold an administrative hearing to consider the request for information under subsection (a) of this section. This hearing shall be held as provided for in G.S. Chapter 150B, Article 3. If the Commissioner of Labor finds that the request complies with the requirements of subsection (a) of this section, the Commissioner of Labor shall direct that the employer provide to the person making the request a list containing, at a minimum, all chemicals used or stored at the facility included on the Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an

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MSDS-SDS for each chemical for which an MSDS-SDS is available and is requested and may in his discretion assess civil penalties as provided in G.S. 95-195(c); provided that it shall be a defense to such disclosure if the employer proves that the information has been requested directly or indirectly by, or in behalf of, a competitor of the employer, or that such information is a Hazardous Substance Trade Secret, or that the request did not comply with the requirements of subsection (a) of this section.

Any order by the Commissioner of Labor under subsection (b) of this section shall be subject to judicial review as provided under G.S. Chapter 150B, Article 4."

SECTION 10. G.S. 95-216 reads as rewritten:

#### "§ 95-216. Exemptions.

Notwithstanding any language to the contrary, the provisions of this Article shall not apply to chemicals in or on any of the following:

- Hazardous substances while being transported in interstate commerce into or (1) through this State; State.
- Products intended for personal consumption by employees in the (2) facilities: facilities.
- Retail food sale establishments and all other retail trade establishments in (3) Standard Industrial Classification Codes 53 through 59, North American Industry Classification System Codes 44 through 45, exclusive of processing and repair areas, except that the employer must comply with the provisions of G.S. 95-194(a)(i); G.S. 95-194(a)(i).
- Any food, food additive, color additive, drug or cosmetic as such terms are (4) defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.);(21 U.S.C. § 301 et seq.).
- A laboratory under the direct supervision or guidance of a technically (5) qualified individual provided that:
  - Labels on containers of incoming chemicals shall not be removed or defaced:
  - MSDS's SDS's received by the laboratory shall be maintained and b. made accessible to employees and students;
  - The laboratory is not used primarily to produce hazardous chemicals C. in bulk for commercial purposes; and
  - The laboratory operator complies with the provisions of d. G.S. 95-194(a)(i); G.S. 95-194(a)(i).
- Any farming operation which employs 10 or fewer full-time employees, (6) except that if any hazardous chemical in an amount in excess of 55 gallons or 500 pounds, whichever is greater, is normally stored at the farming operation, the employer must comply with the provisions of G.S. 95-194(a)(i); and G.S. 95-194(a)(i).
- Any distilled spirits, tobacco, and untreated wood products; and products. (7)
- Medicines used directly in patient care in health care facilities and health (8) care facility laboratories."

**SECTION 11.** G.S. 95-255(c) reads as rewritten:

The Commissioner shall notify an employer when his experience rate modifier falls below 1.5. An employer subject to the provisions of G.S. 95-252 shall notify the Commissioner if he no longer employs 11 or more employees and has discontinued or will discontinue the safety and health committee."

**SECTION 12.** This act becomes effective July 1, 2017.

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# **HOUSE BILL 388:** Modernize Mutual Assistance Statutes.

2017-2018 General Assembly

**Committee:** 

House State and Local Government II

Introduced by:

Reps. McNeill, Faircloth, Meyer

Analysis of:

PCS to First Edition H388-CSBA-7

Date:

April 5, 2017

Prepared by: Nicholas Giddings

Committee Counsel

OVERVIEW: House Bill 388 would allow for a law enforcement agency to provide assistance to another law enforcement agency unless specifically prohibited or limited by ordinance. The PCS makes the following technical corrections:

- Changes Section 2 (page 2, lines 3-4 of the PCS) to read "prohibited or limited" which conforms to language in Section 1 (was "limited or prohibited").
- Incorporates subsection (b) in Sections 1 and 2 and changes "sheriff's department" to "sheriff's office" which is the proper reference.

**CURRENT LAW:** North Carolina's Mutual Assistance statutes provide that law enforcement agencies may only provide temporary assistance to other agencies when authorized in accordance with the rules, policies, or guidelines of the governing body and requested in writing by the other agency. In practice, this requires a resolution at the county level authorizing assistance as well as a mutual aid agreement between the assisting agency and requesting agency. Without the resolution and mutual aid agreement in place, the assisting agency would have no authority to assist in the jurisdiction of the requesting agency.

BILL ANALYSIS: House Bill 388 would amend G.S. 160A-288 (cooperation between lawenforcement agencies) and G.S. 160A-288.2 (assistance to State law-enforcement agencies) to allow a law-enforcement agency to provide temporary assistance to another law-enforcement agency, including a State law-enforcement agency, unless specifically prohibited or limited by an ordinance. This would streamline the process by no longer requiring a county to pass a resolution to assist and have the agencies obtain a mutual aid agreement. Instead, the bill would permit an agency to assist another agency unless the county passes an ordinance prohibiting or limiting assistance. This change would reduce the paperwork and potential liability involved when a law-enforcement agency provides assistance to another agency, especially in a time of emergency.

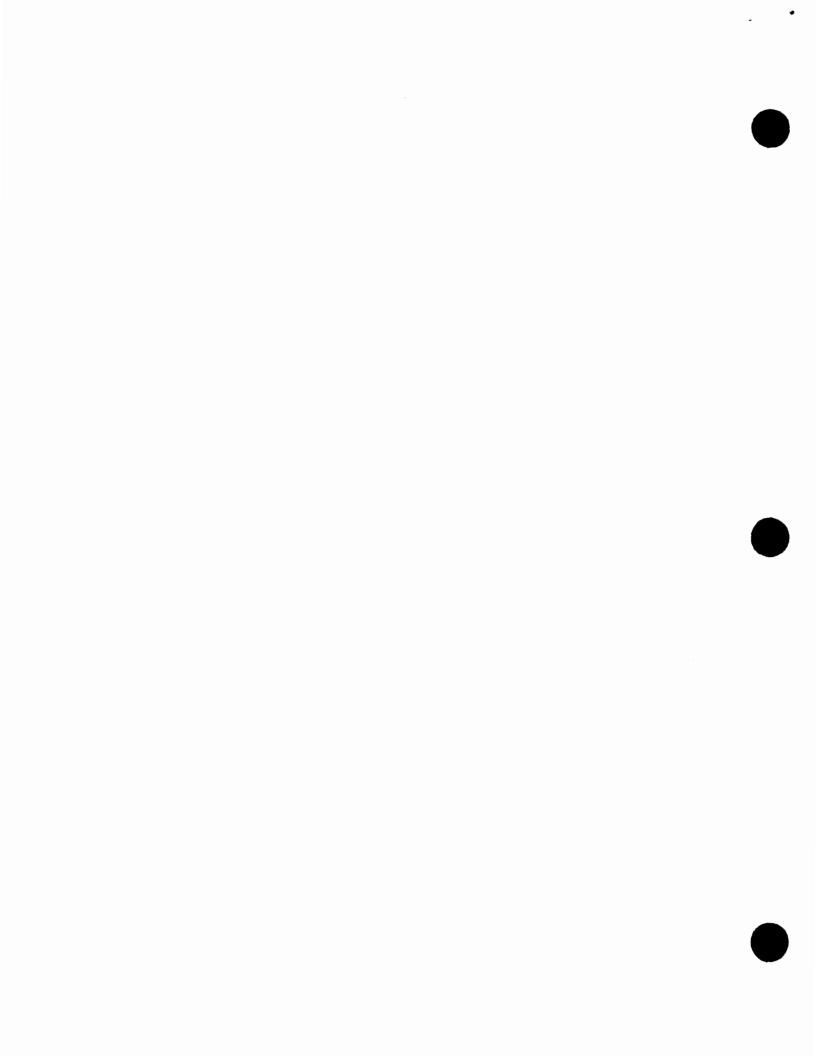
The PCS makes clarifying and technical changes to the original bill by conforming language in Section 2 with language in Section 1 and changing "sheriff's department" to "sheriff's office" which is the proper reference.

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





Legislative Analysis Division 919-733-2578



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#### HOUSE BILL 388 PROPOSED COMMITTEE SUBSTITUTE H388-PCS40348-BA-7

Short Title: Modernize Mutual Assistance Statutes.		(Public)	
Sponsors:			
Referred to:			

#### March 20, 2017

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# A BILL TO BE ENTITLED N ACT TO CREATE A PRESUMPTION THAT ALLOW

AN ACT TO CREATE A PRESUMPTION THAT ALLOWS ONE LAW ENFORCEMENT AGENCY TO EASILY ASSIST ANOTHER LAW ENFORCEMENT AGENCY WHENEVER NECESSARY AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-288 reads as rewritten:

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# "§ 160A-288. Cooperation between law-enforcement agencies.

- In accordance with rules, policies, or guidelines Unless specifically prohibited or limited by an ordinance officially adopted by the governing body of the city or county by which he-the person is employed, and subject to any conditions or restrictions included therein, appointed, or elected to serve, the head of any law-enforcement agency may temporarily provide assistance to another agency in enforcing the laws of North Carolina if so requested in writing by the head of the requesting agency. The assistance may comprise allowing officers of the agency to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the officers of the requesting agency in addition to those he the officer normally possesses. While on duty with the requesting agency, he-the officer shall be subject to the lawful operational commands of his the officer's superior officers in the requesting agency, but he-the officer shall for personnel and administrative purposes, remain under the control of his the officer's own agency, including for purposes of pay. He The officer shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though he-the officer were functioning within the normal scope of his the officer's duties.
  - (b) As used in this section:
    - (1) "Head" means any director or chief officer of a law-enforcement agency including the chief of police of a local department, chief of police of county police department, and the sheriff of a county, or an officer of one of the above named agencies to whom the head of that agency has delegated authority to make or grant requests under this section, but only one officer in the agency shall have this delegated authority at any time.
    - (2) "Law-enforcement agency" means only a municipal police department, a county police department, or a sheriff's department. office. All other State and local agencies are exempted from the provisions of this section.

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**SECTION 2.** G.S. 160A-288.2 reads as rewritten:

"§ 160A-288.2. Assistance to State law-enforcement agencies.

In accordance with rules, policies, or guidelines Unless specifically prohibited or limited by an ordinance officially adopted by the governing body of the city or county by which he the officer is employed, and subject to any conditions or restrictions included therein, appointed, or elected to serve, the head of any local law-enforcement agency may temporarily provide assistance to a State law-enforcement agency in enforcing the laws of North Carolina if so requested in writing by the head of the State agency. The assistance may comprise allowing officers of the local agency to work temporarily with officers of the State agency (including in an undercover capacity) and lending equipment and supplies. While working with the State agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and the payment of judgments) as the officers of the State agency in addition to those he-the officer normally possesses. While on duty with the State agency, he the officer shall be subject to the lawful operational commands of his-the officer's superior officers in the State agency, but he the officer shall for personnel and administrative purposes, remain under the control of the local agency, including for purposes of pay. He The officer shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though he-the officer were functioning within the normal scope of his-the officer's duties.

(b) As used in this section:

- (1) "Head" means any director or chief officer of any State or local law-enforcement agency including the chief of police of a local department, chief of police of a county police department, and the sheriff of a county, or an officer of the agency to whom the head of that agency has delegated authority to make or grant requests under this section, but only one officer in the agency shall have this delegated authority at any time.
- (2) "Local law-enforcement agency" means any municipal police department, a county police department, or a sheriff's department.office.

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

**HOUSE BILL 388** 

(Public)

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Short Title:

Modernize Mutual Assistance Statutes.

Sponsors:

H

Representatives McNeill, Faircloth, and Meyer (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II

March 20, 2017

1 2 A BILL TO BE ENTITLED

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AN ACT TO CREATE A PRESUMPTION THAT ALLOWS ONE LAW ENFORCEMENT AGENCY TO EASILY ASSIST ANOTHER LAW ENFORCEMENT AGENCY WHENEVER NECESSARY.

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The General Assembly of North Carolina enacts:

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SECTION 1. G.S. 160A-288(a) reads as rewritten:

7 8 9 "§ 160A-288. Cooperation between law-enforcement agencies.

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In accordance with rules, policies, or guidelines Unless specifically prohibited or limited by an ordinance officially adopted by the governing body of the city or county by which hethe person is employed, and subject to any conditions or restrictions included therein, appointed, or elected to serve, the head of any law-enforcement agency may temporarily provide assistance to another agency in enforcing the laws of North Carolina if so requested in writing by the head of the requesting agency. The assistance may comprise allowing officers of the agency to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the officers of the requesting agency in addition to those hethe officer normally possesses. While on duty with the requesting agency, hethe officer shall be subject to the lawful operational commands of histhe officer's superior officers in the requesting agency, but hethe officer shall for personnel and administrative purposes, remain under the control of histhe officer's own agency, including for purposes of pay. He The officer shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though hethe officer were functioning within the normal scope of histhe officer's duties."

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SECTION 2. G.S. 16A-288.2(a) reads as rewritten:

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"§ 160A-288.2. Assistance to State law-enforcement agencies.

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In accordance with rules, policies, or guidelines Unless specifically limited or prohibited by an ordinance officially adopted by the governing body of the city or county by which hethe person is employed, and subject to any conditions or restrictions included therein, appointed, or elected to serve, the head of any local law-enforcement agency may temporarily provide assistance to a State law-enforcement agency in enforcing the laws of North Carolina if so requested in writing by the head of the State agency. The assistance may comprise allowing officers of the local agency to work temporarily with officers of the State agency (including in an undercover capacity) and lending equipment and supplies. While



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working with the State agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and the payment of judgments) as the officers of the State agency in addition to those hethe officer normally possesses. While on duty with the State agency, hethe officer shall be subject to the lawful operational commands of histhe officer's superior officers in the State agency, but hethe officer shall for personnel and administrative purposes, remain under the control of the local agency, including for purposes of pay. HeThe officer shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though hethe officer were functioning within the normal scope of histhe officer's duties."

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



# **HOUSE BILL 415:** Hatteras Village Community Center District.

2017-2018 General Assembly

House State and Local Government II. If Date: Committee:

April 4, 2017

favorable, re-refer to Finance

Introduced by: Rep. Boswell First Edition Analysis of:

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 4151 would allow the voters of Hatteras Village to decide whether part of the property tax revenue imposed on property in the Hatteras Village Community Center District may be used for the construction and maintenance of multiuse pathways around the Village. If the bill is enacted, the referendum could be held at the same time as a county general election; the next county general election is most likely the primary election of 2018.

CURRENT LAW: The Hatteras Village Community Center District is a special district<sup>2</sup> created by the General Assembly to establish, operate, and maintain the community center in Hatteras Village for the use and benefit of all the residents of the district. Chapter 991 of the 1983 Session provided for an election to be held on the question of establishing the district and the imposition of a property tax in the district for the purpose of maintaining and operating the Hatteras Community Center. The tax rate is set by the Board of County Commissioners of Dare County and cannot exceed 15c on the \$100 of property value. The powers and duties of the District are limited to the establishment, operation, and maintenance of the community center.

BILL ANALYSIS: House Bill 415 would provide for an election in the Hatteras Village Community Center District for the purpose of submitting to the voters in the district the single issue of expanding the uses of the property tax revenue to include funding the construction and maintenance of multiuse pathways around Hatteras Village. The election must be held in accordance with G.S. 163-287. Under the provisions of that statute, the special election authorized under this bill could only be held at the same time as a county general election; the next county general election will more than likely be the primary election of 2018.

The bill does not change the current maximum tax rate that may be imposed. The Dare County Board of Commissioners passed a Resolution on March 6, 2017, supporting this legislation. If a majority of the qualified voters voting in the election vote in favor of expanding the uses of the property tax to include funding the construction and maintenance of multiuse pathways, then the local session law establishing the District will be amended to expand the powers of the district and its governing body to fund the construction and maintenance of multiuse pathways and to allow the use of the property tax revenue for this purpose.

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

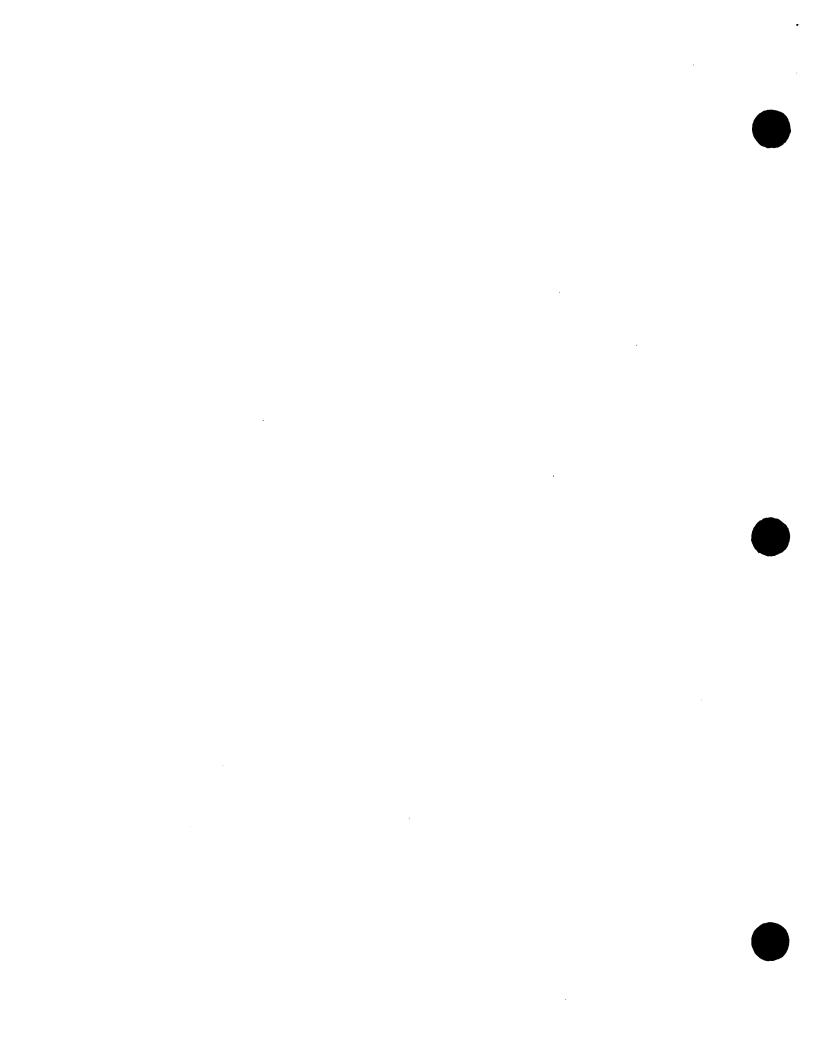
<sup>&</sup>lt;sup>2</sup> The district is a special district established under Article VII of the North Carolina Constitution. Examples of other special districts include Duck District and Outer Banks District in Dare County; Currituck Outer Banks District and Coinjock Canals District in Currituck County; and Poplar Tent District in Cabarrus County.





Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> As introduced, this bill was identical to S282, as introduced by Sen. Cook, which is currently in Senate Finance.



H **HOUSE BILL 415\*** 

Short Title:

Hatteras Village Community Center District.

(Local)

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Sponsors:

Representative Boswell.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II, if favorable, Finance

March 22, 2017

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#### A BILL TO BE ENTITLED

AN ACT PROVIDING FOR AN ELECTION IN THE VILLAGE OF HATTERAS ON THE QUESTION OF ALLOWING THE HATTERAS VILLAGE COMMUNITY CENTER DISTRICT TO EXPAND THE USES OF AD VALOREM TAX FUNDS COLLECTED BY THE COUNTY ON BEHALF OF THE DISTRICT FOR THE CONSTRUCTION AND MAINTENANCE OF MULTIUSE PATHWAYS AROUND THE VILLAGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Board of County Commissioners of Dare County is hereby authorized to call an election to be conducted by the Board of Elections of Dare County in Hatteras voting precinct as described in this subsection for the purpose of submitting to the voters therein the single issue of authorizing the Hatteras Village Community Center District to expand the uses of the ad valorem tax authorized in Chapter 212 of the Session Laws of 1981 to include funding the construction and maintenance of multiuse pathways around the village of Hatteras.

The area of the district is more specifically described as follows: All of the Hatteras Voting Precinct bounded on the west by Hyde County, on the north by Avon Voting Precinct, on the east by Frisco Voting Precinct, and on the south by the Atlantic Ocean, all as shown on the map in the office of the Board of Elections of Dare County, North Carolina, entitled "ELECTION PRECINCT BOUNDARIES – DARE COUNTY" dated July 13, 1978, signed by Orman L. Mann, Chairman, Dare County Board of Elections, which said map is incorporated herein by reference.

**SECTION 1.(b)** The election provided for in this section shall be conducted in accordance with Chapter 163 of the General Statutes. The Board of Elections of Dare County shall determine and declare the results of the election and certify the same to the Board of County Commissioners of Dare County, and the same shall thereupon be spread upon the minutes of the Board.

SECTION 1.(c) The ballot shall contain the date of the election, the words "Hatteras Village", and shall further be in the following form:

- FOR allowing the Hatteras Village Community Center District to expand the uses of the ad valorem tax authorized in Chapter 212 of the Session Laws of 1981 to include funding the construction and maintenance of multiuse pathways around the village of Hatteras."
- AGAINST allowing the Hatteras Village Community Center District to "[]" expand the uses of the ad valorem tax authorized in Chapter 212 of the



Session Laws of 1981 to include funding the construction and maintenance of multiuse pathways around the village of Hatteras."

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The ballot shall contain the facsimile signature of the Chairman of the Board of Elections of Dare County.

SECTION 1.(d) If a majority of the qualified voters voting at the election shall vote in favor of allowing the Hatteras Village Community Center District to expand the uses of the ad valorem tax to include funding the construction and maintenance of multiuse pathways around the village of Hatteras, the Board of County Commissioners of Dare County shall, upon receipt of the certified copy of the results of the election from the Board of Elections, adopt a resolution to that effect and shall file a copy of the resolution with the Clerk of the Superior Court of Dare County.

**SECTION 2.(a)** Sections 4 and 5 of Chapter 212 of the Session Laws of 1981 read as rewritten:

"Sec. 4. If a majority of the qualified voters voting at said election shall vote in favor of creating the Hatteras Village Community Center District and the levying of a tax as aforesaid for the operation, maintenance and repair of a community center building, as provided by this act, the Board of County Commissioners of Dare County shall upon receipt of the certified copy of the results of said election from the Board of Elections adopt a resolution creating the Hatteras Township Community Center District, and shall file a copy of the said resolution so adopted with the Clerk of the Superior Court of Dare County. Upon creation and establishment of the Hatteras Village Community Center District, the Board of County Commissioners of Dare County be and it is hereby authorized and directed to levy and collect an ad valorem tax on all taxable property in said district in such amount as it may deem necessary, not exceeding fifteen cents (15c) on each one hundred dollar (\$100.00) taxable valuation of property in said district from year to year, and shall cause the same to be kept in a separate and special fund, to be used only for the maintenance, operation and repair of a community center within said district, district and for the construction and maintenance of multiuse pathways around the village of Hatteras, as provided by Section 5 of this act.

"Sec. 5. The Hatteras Village Community Center District shall constitute a political subdivision of the State of North Carolina, and shall be a body corporate and politic, exercising public power. The Hatteras Village Community Center District is authorized to establish, operate and maintain the community center for the use and benefit of all the residents of the district by: providing suitable facilities for public meetings; for public agencies providing services to the public; providing recreational park and playground facilities; providing facilities for meetings of civic and fraternal organizations; and providing facilities for the general use of residents of the district in all matters relating to the improvement of the general health and welfare of said district and all matters of community interest. The Hatteras Village Community Center District is also authorized to fund the construction and maintenance of multiuse pathways around the village of Hatteras.

The district and its governing body shall have the following powers:

(7) To fund the construction and maintenance of multiuse pathways around the village of Hatteras."

SECTION 2.(b) This section becomes effective only if a majority of the qualified voters voting at the election provided for in Section 1 of this act vote in favor of allowing the Hatteras Village Community Center District to expand the uses of the ad valorem tax to include funding the construction and maintenance of multiuse pathways around the village of Hatteras.

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



# HOUSE BILL 429: City of Saluda Occupancy Tax.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

April 3, 2017

favorable, re-refer to Finance

Introduced by: Rep. Henson Analysis of: First Edition

Prepared by: Trina Griffin

Staff Attorney

OVERVIEW: House Bill 429 would create a special taxing district consisting of the part of the City of Saluda that is located in Polk County and would authorize that special taxing district to levy a 3% room occupancy tax. The proceeds must be remitted to a Tourism Development Authority and must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures. The bill conforms to the Occupancy Tax Guidelines established by the House Finance Committee.

CURRENT LAW: Saluda does not currently have an occupancy tax. Saluda lies in both Henderson and Polk Counties. The occupancy tax guidelines set a maximum total rate of 6% (county and city combined). Henderson County already has authority to levy a 6% occupancy tax, which effectively prevents Saluda from levying an occupancy tax in that part of the city that lies in Henderson County. Polk County has authority to levy 3%, which means that the maximum rate that Saluda could levy on the Polk side would be 3%.

BILL ANALYSIS: In order to effectuate the levy of a tax in only part of the city that meets the constitutional uniformity requirement, House Bill 429 would create a special taxing district consisting of the part of the City of Saluda that is located in Polk County. The Saluda Board of Commissioners would serve as the governing body for the district and would be authorized to levy a 3% room occupancy tax in the district. The proceeds of the tax must be remitted to a district Tourism Development Authority. The Authority must use at least two-thirds of the funds for tourism promotion and the remainder for tourism-related expenditures.

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

**BACKGROUND:** In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax, which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties. In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

<sup>&</sup>lt;sup>1</sup> G.S. 153A-155 and G.S. 160A-215.





Legislative Analysis Division 919-733-2578

#### UNIFORM OCCUPANCY TAX PROVISIONS

Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.

Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.

**Definitions** The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.

Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.

Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.

#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 429**

1

Short Title: City of Saluda Occupancy Tax. (Local) Sponsors: Representative Henson. For a complete list of sponsors, refer to the North Carolina General Assembly web site. State and Local Government II, if favorable, Finance Referred to:

#### March 23, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF THE PORTION OF THE CITY OF SALUDA THAT LIES IN POLK COUNTY AND TO AUTHORIZE THE SPECIAL TAXING DISTRICT TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Saluda District D created. - Saluda District D is created as a taxing district. Its jurisdiction consists of only that part of Saluda that is located within Polk County. Saluda District D is a body politic and corporate and has the power to carry out the provisions of this act. The Saluda Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the County shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

**SECTION 2.** Occupancy tax. – (a) Authorization and Scope. – The governing body of Saluda District D may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

SECTION 2.(b) Administration. - A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215 as if Saluda District D were a city. The penalties provided in G.S. 160A-215 apply to a tax levied under this act.

**SECTION 2.(c)** Definitions. – The following definitions apply in this act:

- Net proceeds. Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- Promote travel and tourism. To advertise or market an area or activity, (2) publish and distribute pampalets and other materials, conduct market research, or engage in similar promotional-activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- Tourism-related expenditures. Expenditures that, in the judgment of the (3) Tourism Development Authority, are designed to increase the use of lodging



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facilities, meeting facilities, or convention facilities in the district or to attract tourists or business travelers to the district. The term includes tourism-related capital expenditures.

SECTION 2.(d) Distribution and use of tax revenue. – Saluda District D shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Saluda District D Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds remitted to it to promote travel and tourism in Saluda District D and shall use the remainder for tourism-related expenditures. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Saluda District D. None of the proceeds may be used to promote travel or tourism in areas within Saluda that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

SECTION 3. Saluda District D Tourism Development Authority. — (a) Appointment and Membership. — When the governing body of the district adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Saluda District D Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Saluda shall be the ex officio finance officer of the Authority.

**SECTION 3.(b)** Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 2 of this act. The Authority shall promote travel, tourism, and conventions in the district, sponsor tourist-related events and activities in the district, and finance tourist-related capital projects in the district.

**SECTION 3.(c)** Reports. – The Authority shall report quarterly and at the close of the fiscal year to the governing body of the district on its receipts and expenditures for the preceding quarter and for the year in such detail as the governing body of the district may require.

#### **SECTION 4.** G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and—Yanceyville, and—to the municipalities in Avery and Brunswick Counties. Counties, and to Saluda District D."

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



# HOUSE BILL 509: **Davidson County Zoning Procedure Changes.**

#### 2017-2018 General Assembly

Committee: Introduced by:

House State and Local Government II

Date:

April 5, 2017 Prepared by: Nicholas Giddings

Analysis of:

First Edition

Reps. Watford, Potts

Committee Counsel

OVERVIEW: House Bill 509 authorizes the planning boards of Davidson County to hold hearings and make the final decisions on zoning amendments.

CURRENT LAW: Article 18 of Chapter 153A (applicable to counties) establishes the procedure under the General Statutes for the governing boards of counties to adopt, amend, and repeal their zoning ordinances. For zoning amendments, the role of the county planning board is limited to review and comment upon whether the proposed zoning amendment is consistent with any comprehensive plan and to provide written recommendations to the governing board addressing plan consistency. Final decisions on zoning amendments are made by the county board of commissioners after a public hearing and adoption of a statement that the amendment is consistent with a comprehensive plan.

BILL ANALYSIS: House Bill 509 adds a new subsection to G.S. 153A-343, applicable only to Davidson County, which would do the following:

- Authorize the board of commissioners to pass an ordinance delegating the authority to conduct the required public hearing, adopt the statement of plan consistency, and make the final decision on zoning map amendments to its planning board as well as prescribe the planning board's public hearing procedures.
- Require a majority vote of the planning board to pass the amendment.
- Provide that a person with standing may appeal a final decision of the planning board to the board of commissioners, who shall then conduct a de novo review.
- Authorize the board of commissioners to pass an ordinance to rescind or modify the authority delegated to the planning board.

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

**BACKGROUND:** The following other local government planning boards, agencies, or commissions have been delegated final zoning amendment decision-making authority by local act:

City of Gastonia: SL 1993-247

• Cabarrus County & its various municipalities: SL 1993-247

• City of Greensboro: Session Laws of 1969, Chapter 142

• Guilford County: SL 1985-485

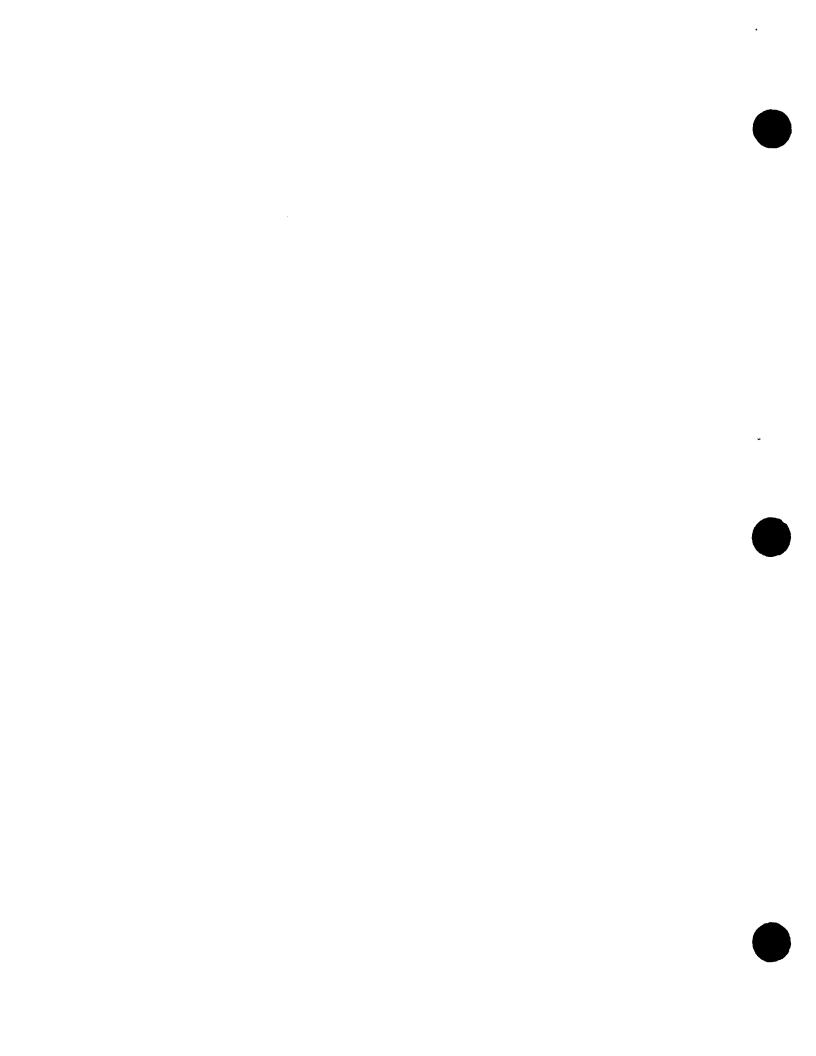
• City of Fayetteville: SL 1995-684

• City of Durham: SL 1993-264





Legislative Analysis Division 919-733-2578



#### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H **HOUSE BILL 509** 

Short Title:

Davidson County Zoning Procedure Changes.

(Local)

Sponsors:

Representatives Watford and Potts (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II

March 29, 2017

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## A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR PLANNING BOARDS TO HOLD HEARINGS AND MAKE FINAL DECISIONS FOR ZONING AMENDMENT REQUESTS IN DAVIDSON COUNTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-343 reads as rewritten:

#### "§ 153A-343. Method of procedure.

- 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 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.
- The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, a county may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearings required by G.S. 153A-323, but provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.



- (b1) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a county-initiated zoning map amendment.
- (d) When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.
- (e) The board of commissioners may, by ordinance, delegate to the planning board the authority to conduct the public hearing required under this Article and make the final decision on zoning map amendment proposals, including the adoption of a consistency statement pursuant to G.S. 153A-341. The board of commissioners may prescribe procedures for the public hearing that are not inconsistent with this Article. The planning board shall make its final decision by majority vote of the members of the planning board. Any person with standing may appeal a decision of the planning board made pursuant to this subsection to the board of commissioners by providing written notice to the county clerk within 15 days of the final decision. The board of commissioners may charge the costs of the hearing on appeal to the appealing party. On appeal, the board of commissioners shall review the decision of the planning board de novo. If no notice of appeal is provided within 15 days of the final decision, the zoning map amendment proposals may be placed on the consent agenda for discussion or action at the next regular meeting of the board of commissioners. The board of commissioners may, by ordinance, rescind or modify any authority delegated to the planning board pursuant to this subsection."
  - SECTION 2.(a) Section 1 of this act applies to Davidson County.
  - SECTION 2.(b) This act is effective when it becomes law.



# **HOUSE BILL 340:** Special Separation Allowance Firefighters/RSW.

2017-2018 General Assembly

Committee: House State and Local Government II Date: April 4, 2017
Introduced by: Reps. Dollar, Malone, Saine, Clampitt Prepared by: Cindy Avrette
Analysis of: Second Edition Staff Attorney

OVERVIEW: House Bill 340 creates a special separation allowance for State and local firefighters and rescue squad workers. To receive the retirement benefit, a person must have completed at least 5 years of continuous service rendered on or after July 1, 2017, as a firefighter or rescue squad worker. Therefore, no one retiring prior to July 1, 2022 would be eligible for the allowance. The cost of the allowance would be borne by the State agency from funds appropriated to it for salaries and related fringe benefits or by the local government, whichever one last employed the retiree.

#### **BILL ANALYSIS:**

Section 1 adds a new Article 12I to Chapter 143 of the General Statutes to provide the following:

- Definitions for "creditable service", "firefighter", and "rescue squad worker" to apply in this Article.
- A firefighter or rescue squad worker who qualifies under this section will receive an annual separation allowance of 0.85% of the annual base rate of compensation most recently applicable for each year of creditable service.
- To qualify for this allowance the eligible firefighter or worker must have 1) completed 30 or more years of creditable service or have attained 60 years of age and completed 25 or more years of creditable service; 2) not attained 62 years of age; and 3) must have completed at least 5 years of continuous service rendered on or after July 1, 2017.
- Payments would cease upon the earlier of any of the following: 1) death of the eligible firefighter or worker; 2) last day of the month in which the firefighter or worker attains 62 years of age; 3) first day of reemployment by any State department, agency, or institution, or by a local government employer, as applicable.

**EFFECTIVE DATE:** This bill would become effective when it becomes law.

Tawanda Foster, counsel to the House Pensions and Retirement Committee, substantially contributed to this summary.





Legislative Analysis Division 919-733-2578

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### HOUSE BILL 340 PROPOSED COMMITTEE SUBSTITUTE H340-PCS40310-TV-3

Short Title: Special Separation Allowance Firefighters/RSW. (Public) Sponsors: Referred to: March 15, 2017 A BILL TO BE ENTITLED AN ACT TO CREATE A SPECIAL SEPARATION ALLOWANCE FOR STATE AND LOCAL FIREFIGHTERS AND RESCUE SQUAD WORKERS. The General Assembly of North Carolina enacts: SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read: "Article 12I. "Special Separation Allowances for State and Local Firefighters and Rescue Squad Workers. "§ 143-166.90. Special separation allowances for State firefighters and rescue squad workers. The following definitions apply in this section: (a) "Creditable service" means the service for which credit is allowed under the (1) retirement system of which the firefighter or rescue squad worker is a member, provided that at least fifty percent (50%) of the service is as a firefighter or rescue squad worker. (2)"Firefighter" shall mean a full-time paid employee of any State department, agency, or institution actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of (3) "Rescue squad worker" shall mean a full-time paid employee of any State department, agency, or institution who meets the definition of "emergency medical services personnel" under G.S. 131E-155. Every firefighter or rescue squad worker who qualifies under this section shall receive, beginning in the month in which the firefighter or rescue squad worker retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the firefighter or rescue squad worker for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the firefighter or rescue squad worker shall meet all of the following criteria: The firefighter or rescue squad worker has either (i) completed 30 or more (1) years of creditable service or (ii) attained 60 years of age and completed 25 or more years of creditable service. The firefighter or rescue squad worker has not attained 62 years of age. (2) The firefighter or rescue squad worker has completed at least five years of (3)continuous service rendered on or after July 1, 2017, as a firefighter or



"Rescue squad worker" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees'
Retirement System and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in

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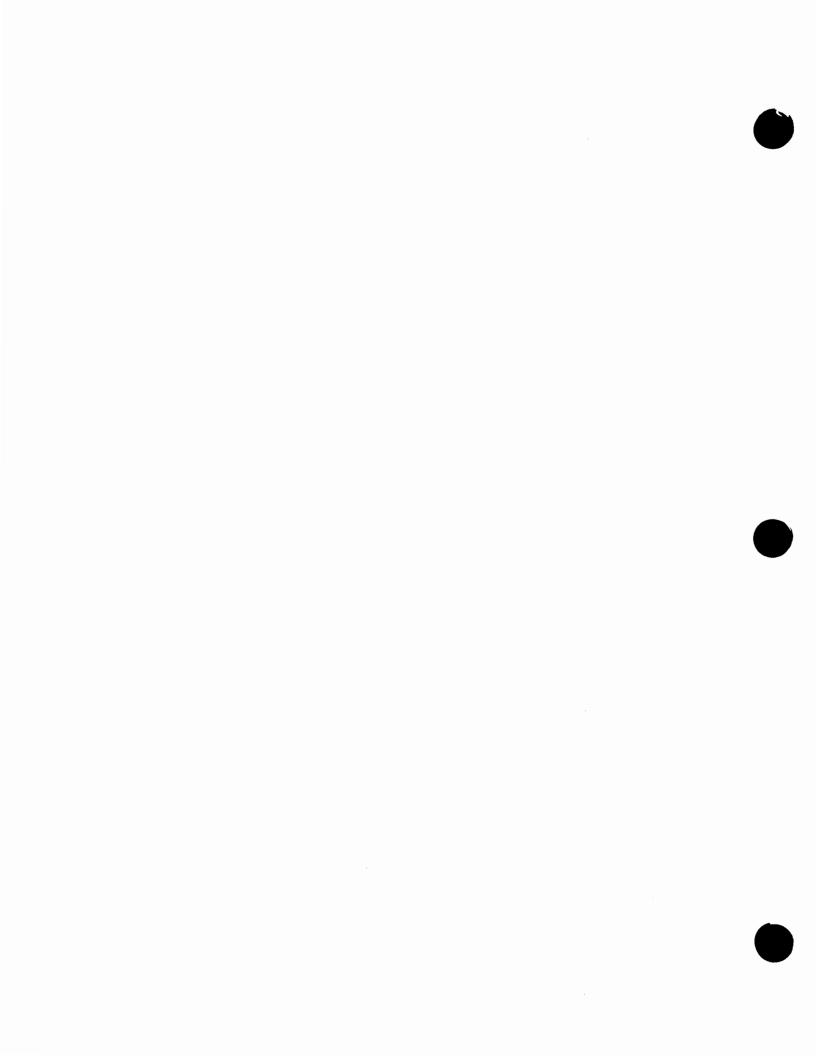
difficulty, who are injured, or who become suddenly ill, by providing proper and efficient care or emergency medical services.

- (b) Every firefighter or rescue squad worker who qualifies under this section shall receive an annual separation allowance beginning in the month in which the firefighter or rescue squad worker retires on a basic service retirement under the provisions of G.S. 128-27(a) or a locally sponsored retirement plan. The annual separation allowance shall be equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the firefighter or rescue squad worker for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the firefighter or rescue squad worker shall meet all of the following criteria:
  - (1) The firefighter or rescue squad worker has either (i) completed 30 or more years of creditable service or (ii) attained 60 years of age and completed 25 or more years of creditable service.
  - (2) The firefighter or rescue squad worker has not attained 62 years of age.
  - (3) The firefighter or rescue squad worker has completed at least five years of continuous service rendered on or after July 1, 2017, as a firefighter or rescue squad worker immediately preceding a service retirement. Any break in the continuous service required by this subdivision because of disability retirement or disability salary continuation benefits shall not adversely affect a firefighter's or rescue squad worker's qualification to receive the allowance, provided the firefighter or rescue squad worker returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (c) Payment to a retired firefighter or rescue squad worker under the provisions of this section shall cease upon the earlier of following:
  - (1) The death of the firefighter or rescue squad worker.
  - (2) The last day of the month in which the firefighter or rescue squad worker attains 62 years of age.
  - (3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may employ retired firefighters and rescue squad workers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System or an equivalent locally sponsored retirement plan, and doing so shall not cause payment to cease to those firefighters and rescue squad workers under the provisions of this section.

- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.
- (e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided under this section.
- (f) The governing body of each local employer shall make the payments set forth in subsection (b) of this section to those persons certified under subsection (e) of this section from funds available."

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

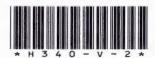


## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### HOUSE BILL 340 Committee Substitute Favorable 3/29/17

Snort 11t	ie: S	special Separation Allowance Firefighters/RSW. (1	Public)
Sponsors			
Referred	to:		
		March 15, 2017	
		A BILL TO BE ENTITLED	
AN ACT	то от	CREATE A SPECIAL SEPARATION ALLOWANCE FOR STATE	<b>AND</b>
LOCA	AL FIR	REFIGHTERS AND RESCUE SQUAD WORKERS.	
The Gene		sembly of North Carolina enacts:	
		TION 1. Chapter 143 of the General Statutes is amended by adding	a new
Article to	read:		
		"Article 12I.	
		ation Allowances for State and Local Firefighters and Rescue Squad Wor	
" <u>§ 143-1</u>		Special separation allowances for State firefighters and rescue	<u>squad</u>
	work		
<u>(a)</u>		following definitions apply in this section:	
	<u>(1)</u>	"Creditable service" means the service for which credit is allowed unc	
		retirement system of which the firefighter or rescue squad worke	
		member, provided that at least fifty percent (50%) of the service i	s as a
	(2)	firefighter or rescue squad worker.	t
	<u>(2)</u>	"Firefighter" shall mean a full-time paid employee of any State depart agency, or institution actively serving in a position with assigned programmed programmed assigned programmed assigned programmed programmed assigned programmed programmed assigned programmed p	
		duties and responsibilities for the prevention, detection, and suppress	
		fire.	1011 01
	(3)	"Rescue squad worker" shall mean a full-time paid employee of any	State
	157	department, agency, or institution who meets the definition of "emer	
		medical services personnel" under G.S. 131E-155.	Series
(b)	Every	y firefighter or rescue squad worker who qualifies under this section	shall
		ng in the month in which the firefighter or rescue squad worker retires	
		irement under the provisions of G.S. 135-5(a), an annual separation allo	
		five hundredths percent (0.85%) of the annual equivalent of the base r	
		nost recently applicable to the firefighter or rescue squad worker for eac	
of credita	ble ser	vice. The allowance shall be paid in equal installments on the payroll freq	uency
		loyer. To qualify for the allowance, the firefighter or rescue squad worke	
		ollowing criteria:	
	(1)	The firefighter or rescue squad worker has either (i) completed 30 or	more
		years of creditable service or (ii) attained 60 years of age and comple	ted 25
		or more years of creditable service.	
	(2)	The firefighter or rescue squad worker has not attained 62 years of age.	_
	<u>(3)</u>	The firefighter or rescue squad worker has completed at least five ye	
		continuous service rendered on or after July 1, 2017, as a firefigh	iter or



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rescue squad worker immediately preceding a service retirement. Any break in the continuous service required by this subdivision because of disability retirement or disability salary continuation benefits shall not adversely affect a firefighter's or rescue squad worker's qualification to receive the allowance, provided the firefighter or rescue squad worker returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

- (c) Payment to a retired firefighter or rescue squad worker under the provisions of this section shall cease upon the earlier of following:
  - (1) The death of the firefighter or rescue squad worker.
  - (2) The last day of the month in which the firefighter or rescue squad worker attains 62 years of age.
  - (3) The first day of reemployment by any State department, agency, or institution, except that this subdivision does not apply to a firefighter or rescue squad worker returning to State employment in a position exempt from the North Carolina Human Resources Act in an agency other than the agency from which that firefighter or rescue squad worker retired.
- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by the General Assembly for employees of the State or retired employees of the State.
- (e) The head of each State department, agency, or institution shall determine the eligibility of employees for the benefits provided under this section.
- (f) The Director of the Budget may authorize the transfer of funds within the budgets of each State department, agency, or institution necessary to carry out the purposes of this section. These funds shall be taken from those appropriated to the department, agency, or institution for salaries and related fringe benefits.
- (g) The head of each State department, agency, or institution shall make the payments set forth in subsection (b) of this section to those persons certified under subsection (e) of this section from funds available in subsection (f) of this section.

# "§ 143-166.92. Special separation allowances for local firefighters and rescue squad workers.

- (a) The following definitions apply in this section:
  - "Creditable service" means the service for which credit is allowed under the retirement system of which the firefighter or rescue squad worker is a member, provided that at least fifty percent (50%) of the service is as a firefighter or rescue squad worker.
  - "Firefighter" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees'
    Retirement System, or an equivalent locally sponsored retirement plan, and maintains a fire department certified by the North Carolina Department of Insurance or a County Fire Marshal's Office and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.
  - "Rescue squad worker" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees'
    Retirement System and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in

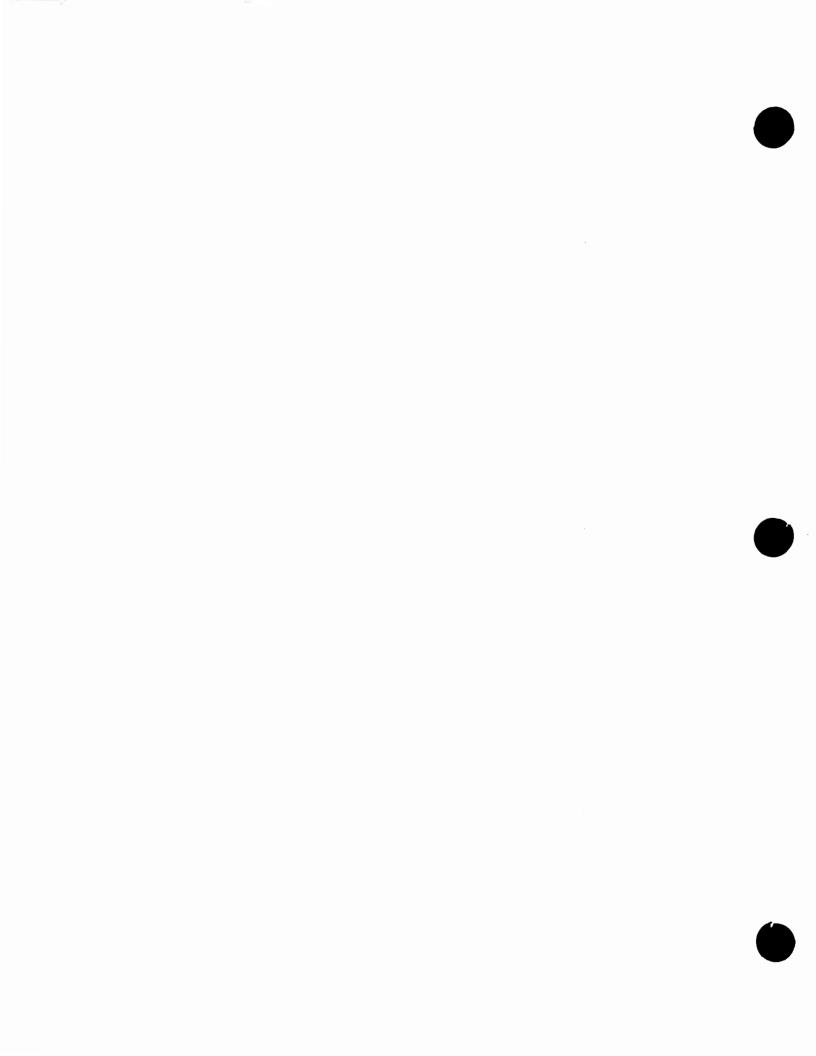
difficulty, who are injured, or who become suddenly ill, by providing proper and efficient care or emergency medical services.

- (b) Every firefighter or rescue squad worker who qualifies under this section shall receive an annual separation allowance beginning in the month in which the firefighter or rescue squad worker retires on a basic service retirement under the provisions of G.S. 128-27(a) or a locally sponsored retirement plan. The annual separation allowance shall be equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the firefighter or rescue squad worker for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the firefighter or rescue squad worker shall meet all of the following criteria:
  - (1) The firefighter or rescue squad worker has either (i) completed 30 or more years of creditable service or (ii) attained 60 years of age and completed 25 or more years of creditable service.
  - (2) The firefighter or rescue squad worker has not attained 62 years of age.
  - (3) The firefighter or rescue squad worker has completed at least five years of continuous service rendered on or after July 1, 2017, as a firefighter or rescue squad worker immediately preceding a service retirement. Any break in the continuous service required by this subdivision because of disability retirement or disability salary continuation benefits shall not adversely affect a firefighter's or rescue squad worker's qualification to receive the allowance, provided the firefighter or rescue squad worker returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (c) Payment to a retired firefighter or rescue squad worker under the provisions of this section shall cease upon the earlier of following:
  - (1) The death of the firefighter or rescue squad worker.
  - (2) The last day of the month in which the firefighter or rescue squad worker attains 62 years of age.
  - (3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may employ retired firefighters and rescue squad workers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System or an equivalent locally sponsored retirement plan, and doing so shall not cause payment to cease to those firefighters and rescue squad workers under the provisions of this section.

- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.
- (e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided under this section.
- (f) The governing body of each local employer shall make the payments set forth in subsection (b) of this section to those persons certified under subsection (e) of this section from funds available."

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



#### GENERAL ASSEMBLY OF NORTH CAROLINA

## Session 2017

# Legislative Retirement Note

BILL NUMBER: Propos

Proposed Committee Substitute to House Bill 340

(H340-CSTV-3 [v.2])

**SHORT TITLE:** 

Special Separation Allowance for Firefighters.

SPONSOR(S):

Representatives Dollar, Malone, Saine, and Clampitt

FUNDS AFFECTED: State General Fund, other State employer receipts; local government funds

**SYSTEM OR PROGRAM AFFECTED:** Special Separation Allowances for State and local government employees.

**BILL SUMMARY:** The proposed legislation creates new Special Separation Allowances for State and local firefighters and rescue squad workers. These Allowances are similar, but not identical, to those in current law for law enforcement officers. The key features are as follows:

- The Allowances would be payable upon unreduced retirement with 30 years of service or at age 60 with 25 years of service.
- The Allowances would be payable until the retiree reaches age 62, unless he dies or is reemployed under certain conditions prior to reaching age 62.
- The Allowances would only be payable if the firefighter or rescue squad worker has completed at least five years of continuous service rendered on or after July 1, 2017 as a firefighter or rescue squad worker immediately prior to retirement. Thus, no one retiring prior to July 1, 2022 would be eligible for these Allowances.
- The amount of the Allowances would be 0.85% x creditable service x the annual equivalent of the most recent base rate of compensation.
- The Allowances would be paid by the State agency or local government that last employed the retiree.

**EFFECTIVE DATE:** The proposed legislation is effective when it becomes law.

#### **ESTIMATED IMPACT ON STATE:**

Conduent, the actuary for the Retirement Systems, and Hartman & Associates, the actuary for the General Assembly, estimate the following cash flow impact due to the additional separation allowances:

	Conduent		Hartman &	Associates
Year	State	Local	State	Local
FY 2017-18	\$0	\$0	\$0	\$0
FY 2018-19	\$0	\$0	\$0	\$0
FY 2019-20	\$0	\$0	\$0	\$0
FY 2020-21	\$0	\$0	\$0	\$0
FY 2021-22	\$0	\$0	\$0	\$0
FY 2022-23	\$6,000	\$718,000	\$3,947	\$1,267,177
FY 2023-24	\$30,000	\$2,742,000	\$17,821	\$3,485,790
FY 2024-25	\$54,000	\$5,117,000	\$42,860	\$5,726,585
FY 2025-26	\$70,000	\$7,060,000	\$45,700	\$7,776,730
FY 2026-27	\$61,000	\$8,939,000	\$45,869	\$9,797,940

Conduent further estimates that the present value of the additional payments to current State employees is \$1 million and to current local employees is \$298 million. The present values are calculated at a discount rate of 3.20%, which is based on the yield of the S&P Municipal Bond 20 Year High Grade Rate Index as of December 31, 2015.

#### ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2015 actuarial valuations for the Teachers' and State Employees' Retirement System (TSERS) and Local Governmental Employees' Retirement System (LGERS) and the July 1, 2015 actuarial valuation for the Charlotte Firefighters' Retirement System (CFRS). Significant membership statistics are shown in the following table:

	Count	Payroll
Active Local Firefighters in LGERS	6,900	\$336.9 M
Active Local Rescue Squad Workers	4,206	\$193.4 M
Active State Firefighters	119	\$4.8 M
Active State Rescue Squad Workers	17	\$0.9 M
Active Charlotte Firefighters (7/1/2015)	1,029	\$65.8 M

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

#### **SOURCES OF DATA:**

Conduent, "Special Separation Allowance Firefighters/RSW – House Bill 340 – Proposed Committee Substitute H340-CSTV-3 [v.2]", March 28, 2017, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 340 Proposed Committee Substitute H340-CSTV-3 [v.2]: An Act to Create a Special Separation Allowance for State and Local Firefighters and

Rescue Squad Workers", March 27, 2017, original of which is on file in the General Assembly's Fiscal Research Division.

#### **TECHNICAL CONSIDERATIONS:**

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY:

David Vanderweide

David Vanlaruide

**APPROVED BY:** 

Mark Trogdon, Director Fiscal Research Division

**DATE:** March 29, 2017

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# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 340 (CS#1) Special Separation Allowance Firefighters/RSW.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Dollar

HB 361 Coastal Crescent Trail/State Parks System.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McElraft

HB 373 DOL/Carolina Star Program.-AB

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McElraft

HB 509 Davidson County Zoning Procedure Changes.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Watford

#### **FAVORABLE AND RE-REFERRED**

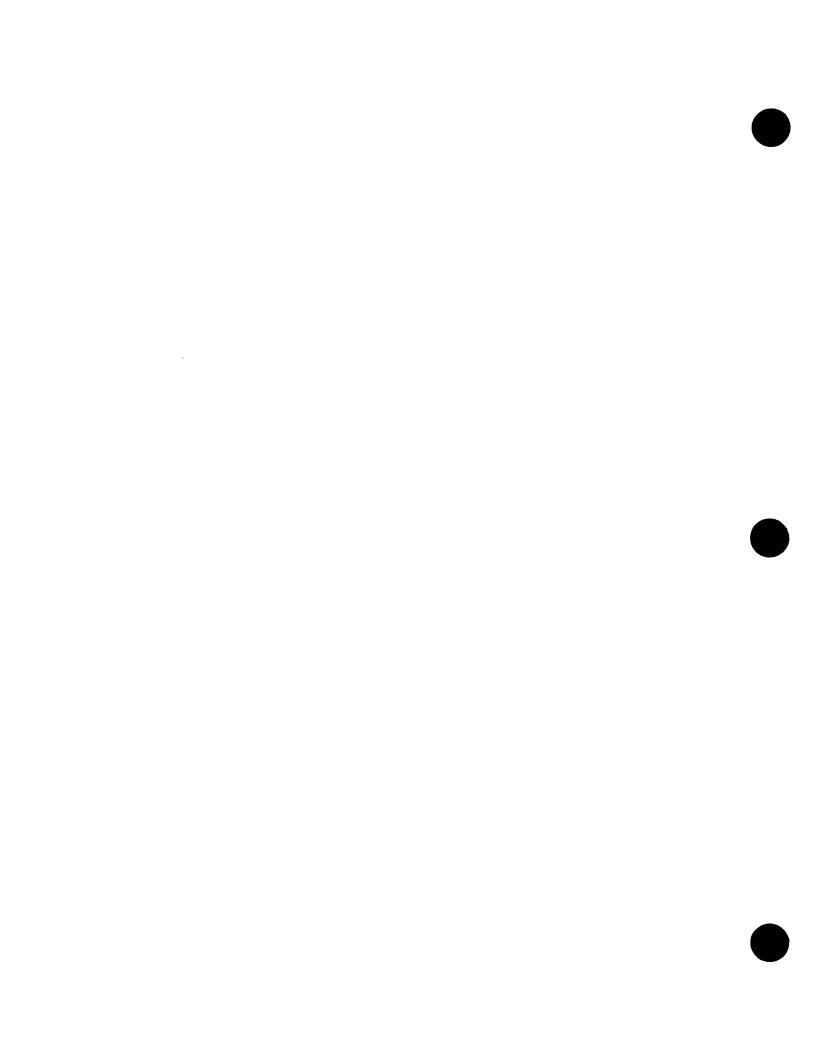
HB 311 State Auditor/Various Amendments.-AB

Draft Number: None

Serial Referral: REGULATORY REFORM

Recommended Referral: None Long Title Amended: No Floor Manager: Riddell





HB 353 Authorize State Park System Expansion.-AB

Draft Number:

Serial Referral: **APPROPRIATIONS** 

Recommended Referral: None Long Title Amended: No

Floor Manager: Dobson

Agency Powers and Duties/Technical Changes.-AB HB 371

> Draft Number: None

Serial Referral: **APPROPRIATIONS** 

Recommended Referral: None Long Title Amended: No Floor Manager: McGrady

Hatteras Village Community Center District. HB 415

Draft Number:

Serial Referral: FINANCE Recommended Referral: None Long Title Amended: No Floor Manager: Boswell

City of Saluda Occupancy Tax.

Draft Number: None

FINANCE Serial Referral: Recommended Referral: None Long Title Amended: No

Floor Manager: Henson

FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 374 2017 DOL Technical Changes.-AB

HB

429

Draft Number: H374-PCS30258-RN-7

Serial Referral: None Recommended Referral: None Long Title Amended: No Floor Manager: McElraft

HB 388 Modernize Mutual Assistance Statutes.

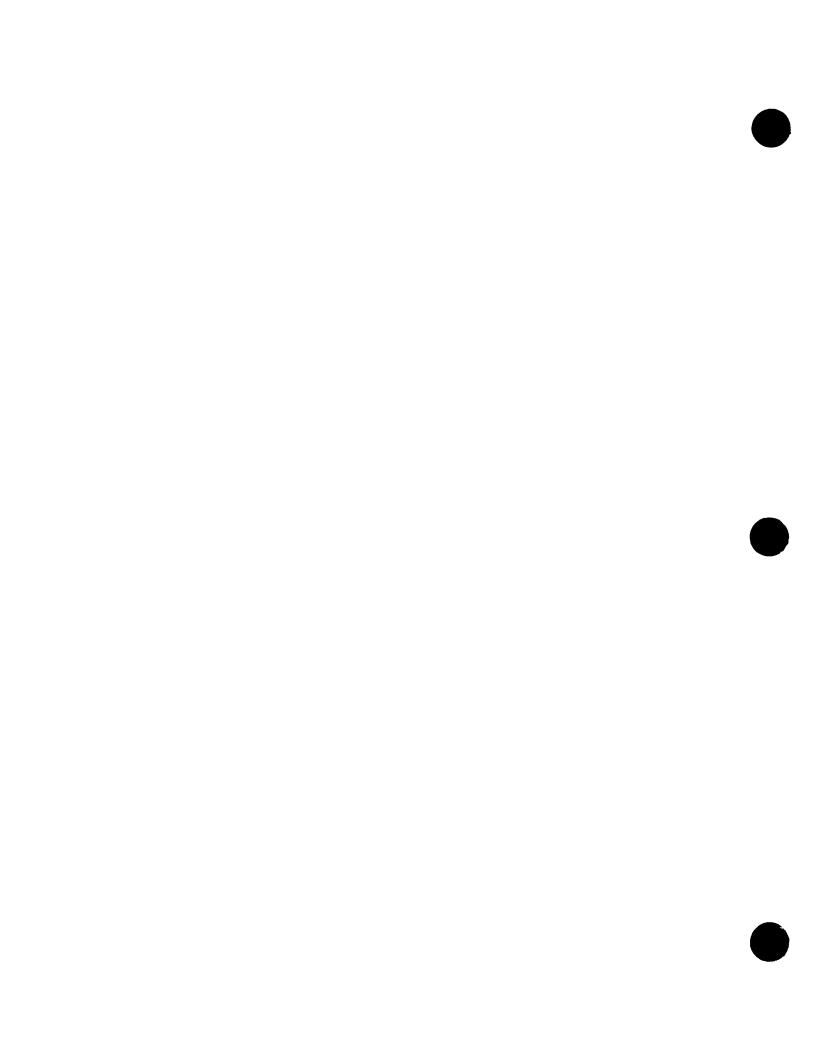
> Draft Number: H388-PCS40348-BA-7

Serial Referral: None Recommended Referral: None Yes

Long Title Amended: Floor Manager: McNeill

TOTAL REPORTED: 11



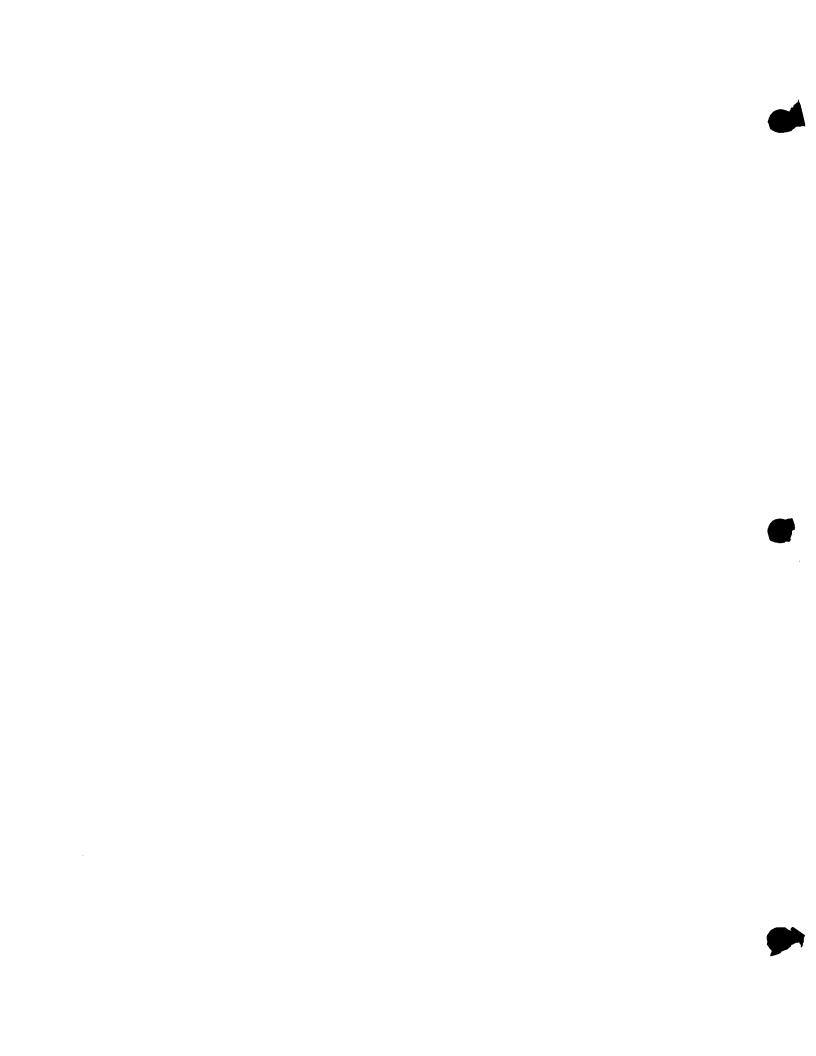


# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

## 2017 LONG SESSION

MEMBERS	4.19.17	
EP. BRADFORD CHAIR		
EP. ADAMS		
EP. AUTRY	✓	
EP. BALL	✓	
EP. BOLES		
EP. BOSWELL		
EP. C. GRAHAM		
EP. G. GRAHAM		
EP. JOHN	✓	
EP. MOREY	✓	
EP. RØSS		
EP. SAULS	✓	
EP. SETZER		
EP. STEINBURG		
EP. WATFORD	1	
EP. WILLIAMS	✓	
nita Spence, Committee Assistant		
lindy Avrette, Staff	V	
lick Giddings, Staff	V	
rad Krehely, Staff	V	



Corrected #2: REMOVE HB 794

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, April 19, 2017

TIME: 10:00 AM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 110</u>	DOT/DMV Changes.	Representative Torbett
		Representative Iler
		Representative Shepard
<u>HB 482</u>	County Comm. Role in School Bldg Acquisition.	Representative Blackwell
HB 371	Agency Powers and Duties/Technical	Representative McGrady
	ChangesAB	Representative McNeill
		Representative Hurley
<u>HB 376</u>	Subdivision Improvement Guarantee	Representative McGrady
	Changes.	Representative Henson
HB 491	Henderson County Fire Tax Districts.	Representative McGrady
		Representative Henson
<u>HB 530</u>	Counties/Condemnation of Unsafe	Representative Lewis
	Bldgs/Liens.	Representative Sauls
		Representative Willingham
HB 533	Modernize Symbol of Access.	Representative Hardister
		Representative Torbett
		Representative Dobson
		Representative Adcock
<u>HB 591</u>	Study/LEO Interaction With Disabled Drivers.	Representative C. Graham
HB 349	Currituck-Developer Funds for Road Constr.	Representative Steinburg
<u>HB 596</u>	Study/MPO Voting Power Distribution.	Representative Bradford Representative Millis

## Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:07 PM or Tuesday, April 18, 2017.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)

## NORTH CAROLINA HOUSE OF REPRESENTATIVES **COMMITTEE MEETING NOTICE** AND **BILL SPONSOR NOTIFICATION 2017-2018 SESSION**

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, April 19, 2017

TIME:

10:00 AM

**LOCATION:** 

**544 LOB** 

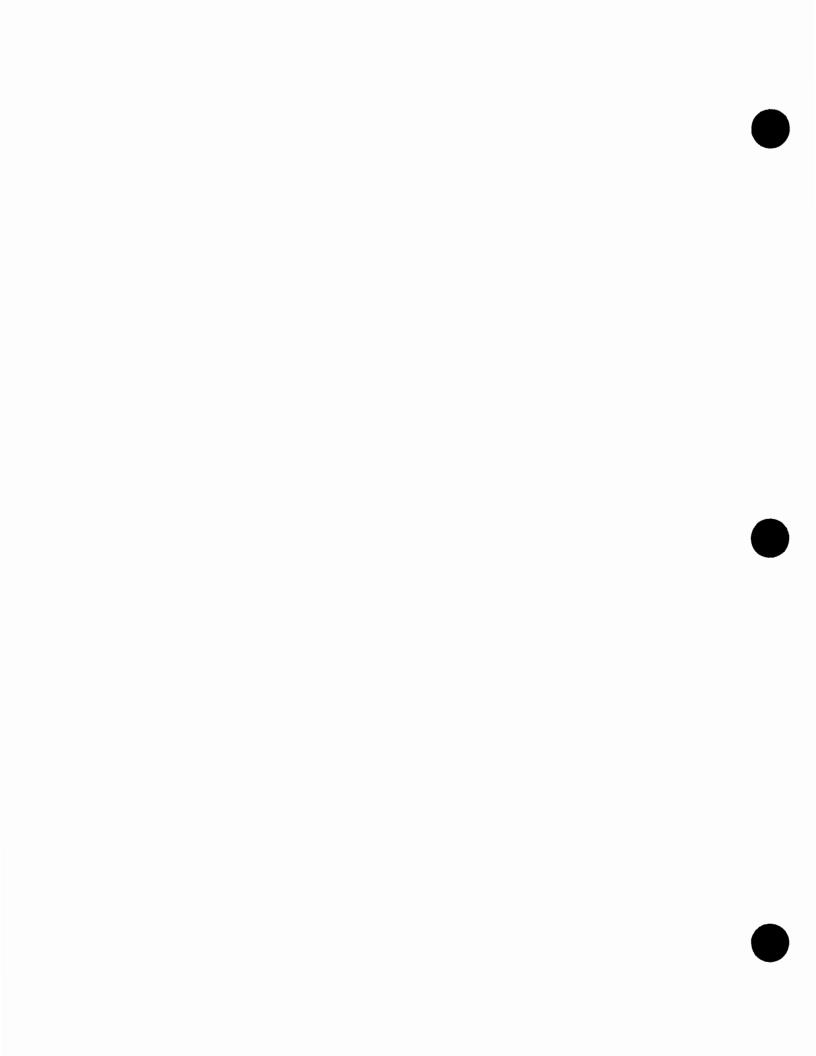
The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 110</u>	DOT/DMV Changes.	Representative Torbett
		Representative Iler
		Representative Shepard
HB 482	County Comm. Role in School Bldg Acquisition.	Representative Blackwell
HB 371	Agency Powers and Duties/Technical	Representative McGrady
	ChangesAB	Representative McNeill
		Representative Hurley
<u>HB 376</u>	Subdivision Improvement Guarantee	Representative McGrady
	Changes.	Representative Henson
<u>HB 491</u>	Henderson County Fire Tax Districts.	Representative McGrady
	•	Representative Henson
HB 530	Counties/Condemnation of Unsafe	Representative Lewis
	Bldgs/Liens.	Representative Sauls
	8	Representative Willingham
HB 533	Modernize Symbol of Access.	Representative Hardister
	,	Representative Torbett
		Representative Dobson
		Representative Adcock
HB 591	Study/LEO Interaction With Disabled	Representative C. Graham
	Drivers.	representative c. Granam
<u>HB 349</u>	Currituck-Developer Funds for Road Constr.	Representative Steinburg
<u>HB 596</u>	Study/MPO Voting Power Distribution.	Representative Bradford
	<del>-</del>	Representative Millis

## Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:56 PM of Wednesday, April 12, 2017.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)



# House Committee on State and Local Government II Wednesday, April 19, 2017, 10:00 AM 544 Legislative Office Building

#### **AGENDA**

# Welcome and Opening Remarks

# Introduction of Pages

BILL NO.	SHORT TITLE	SPONSOR
HB 110	DOT/DMV Changes.	Representative Torbett
		Representative Iler
		Representative Shepard
HB 482	County Comm. Role in School Bldg Acquisition.	Representative Blackwell
HB 371	Agency Powers and	Representative McGrady
	Duties/Technical ChangesAB	Representative McNeill
	_	Representative Hurley
HB 376	Subdivision Improvement	Representative McGrady
	Guarantee Changes.	Representative Henson
HB 491	Henderson County Fire Tax	Representative McGrady
	Districts.	Representative Henson
HB 530	Counties/Condemnation of Unsafe	Representative Lewis
	Bldgs/Liens.	Representative Sauls
		Representative Willingham
HB 533	Modernize Symbol of Access.	Representative Hardister
		Representative Torbett
		Representative Dobson
		Representative Adcock
HB 591	Study/LEO Interaction With Disabled Drivers.	Representative C. Graham
HB 349	Currituck-Developer Funds for Road Constr.	Representative Steinburg
HB 596	Study/MPO Voting Power	Representative Bradford
	Distribution.	Representative Millis

# Adjournment

# House Committee on State and Local Government II Wednesday, April 19, 2017 at 10:00 AM Room 544 of the Legislative Office Building

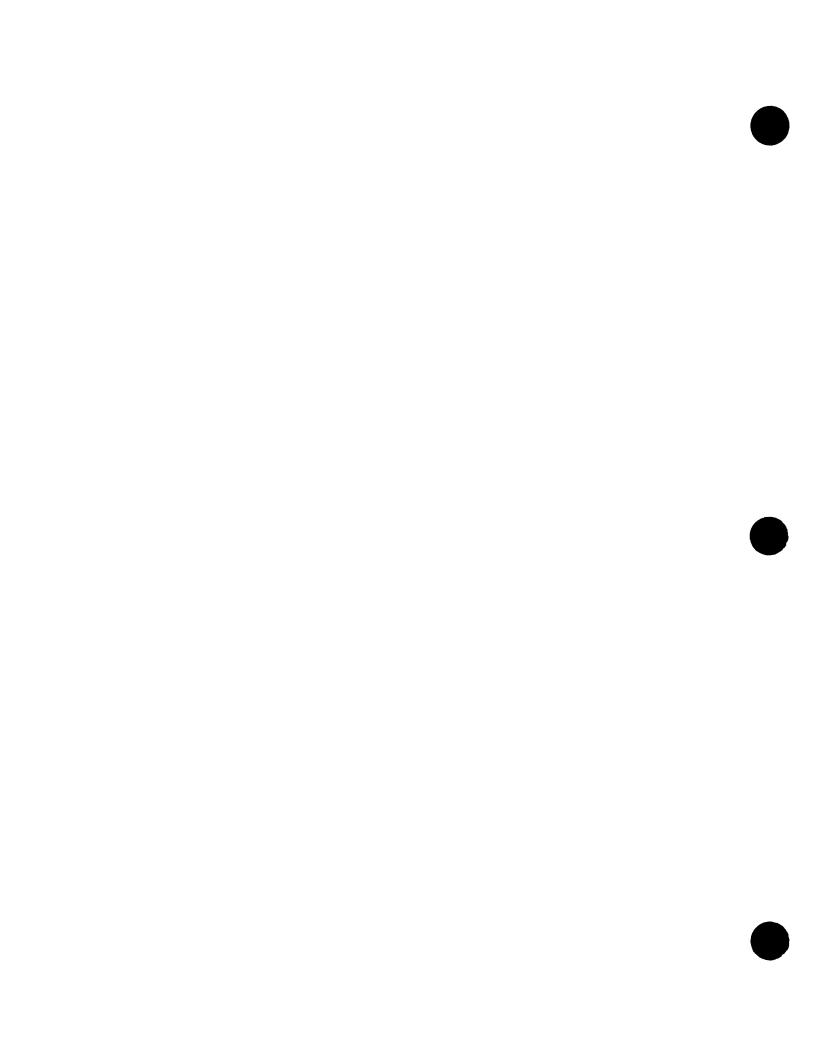
#### MINUTES

The House Committee on State and Local Government II met at 10:04 AM on April 19, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, Boswell, C. Graham, John, Morey, Sauls, Steinberg, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:05 am. He introduced the Sargent at Arms staff.

Chairman Bradford motioned for the PCS for HB 110 DOT/DMV Changes -Megaproject Funding. (Representatives Torbett, Iler, Shepard) AN ACT TO MAKE CHANGES TO STATE LAW RELATED TO THE DEPARTMENT OF TRANSPORTATION AND THE DIVISION OF MOTOR VEHICLES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE, AND TO ESTABLISH A MEGAPROJECT FUND TO FUND HIGHER-COST AND LARGER-SCALE TRANSPORTATION PROJECTS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS to be before the committee. Chairman Bradford recognized Representative Torbett to explain the bill. There was discussion on the bill. Chairman Bradford recognized Representative John who asked a question about the bill. Mr. Caldwell was recognized to answer a question about the bill. Representatives Autry, Williams, Sauls, John and Ball were all recognized to ask questions about the bill. Luke Gillenwater from bill drafting was recognized to explain the bill. Chairman Bradford recognized Representative Watford who motioned for a favorable report for the PSC unfavorable to the original bill. Chairman Bradford called for a vote. The HB 110 passes.

Chairman Bradford motioned for the PCS for HB 371 Agency Powers and Duties/Technical Changes (Representatives McGrady, McNeill, Hurley) AN ACT TO CLARIFY CERTAIN POWERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES WITH RESPECT TO RECREATION AND FEDERAL RECREATION-RELATED FUNDING AND WITH RESPECT TO THE NORTH CAROLINA ZOOLOGICAL PARK, TO ADD SWORN LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR



TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR WORKERS' COMPENSATION, AND TO CHANGE THE NAME OF THE CLEAN WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE DEPARTMENT to be before the committee. Chairman Bradford recognized Representative McGrady to explain the bill. Chairman Bradford recognized Representative McNeill who also explained the bill. Chairman Bradford recognized Representative Ball who motioned for a favorable report to the PCS, unfavorable to the original bill. All members were in favor. The bill passes.

Chairman Bradford motioned for the PCS to HB 376 Subdivision Improvement Guarantee Changes. (Representatives McGrady, Henson) AN ACT TO MAKE CHANGES TO THE GENERAL STATUTES RELATING TO SUBDIVISION IMPROVEMENT GUARANTEES to be before the committee. Chairman Bradford recognized Representative McGrady to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Autry who motioned for a favorable report to the PCS, unfavorable to the original bill. The bill passes.

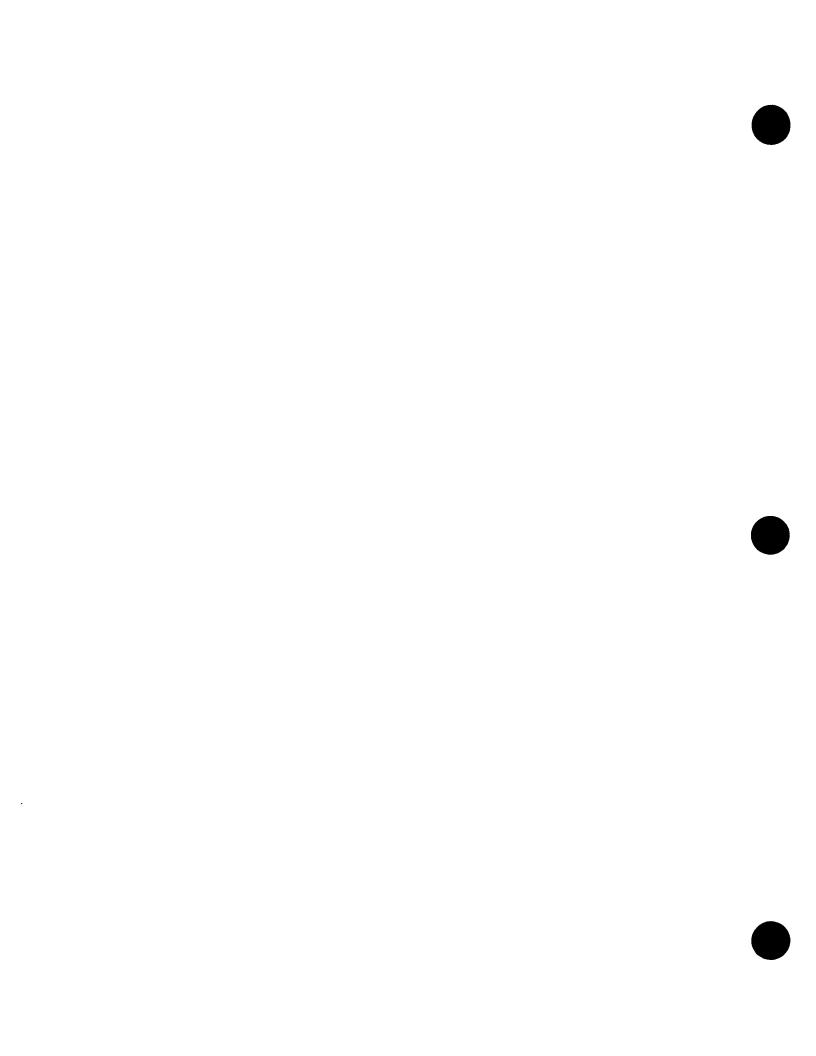
Chairman Bradford motioned for HB 349 Currituck-Developer Funds for Road Constr. (Representative Steinburg) AN ACT TO ALLOW CURRITUCK COUNTY TO USE DEVELOPER FUNDS FOR THE CONSTRUCTION OF ROADS TO ALLOW FOR INTERCONNECTIVITY OF SUBDIVISION STREETS AND ROADS to be before the committee. Chairman Bradford recognized Representative Steinburg to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Watford who motioned for a favorable report. All members were in favor. The HB 349 passes.

Chairman Bradford motioned for HB 482 County Comm. Roles in School Bldg.

Acquisition (Representative Blackwell) AN ACT TO CLARIFY THE ROLE OF THE

COUNTY COMMISSIONERS IN SCHOOL BUILDING ACQUISITION to be before
the committee. Chairman Bradford recognized Representative Blackwell to explain
the bill. There was no discussion on the bill. Chairman Bradford recognized
Representative Ball who motioned for favorable report. All members were in favor.
The HB 482 passes.

Chairman Bradford motioned for HB 491 Henderson County Fire Tax Districts. (Representatives McGrady, Henson) AN ACT TO ALLOW HENDERSON COUNTY TO CHANGE THE BOUNDARY OF CERTAIN FIRE TAX DISTRICTS BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS to be before the

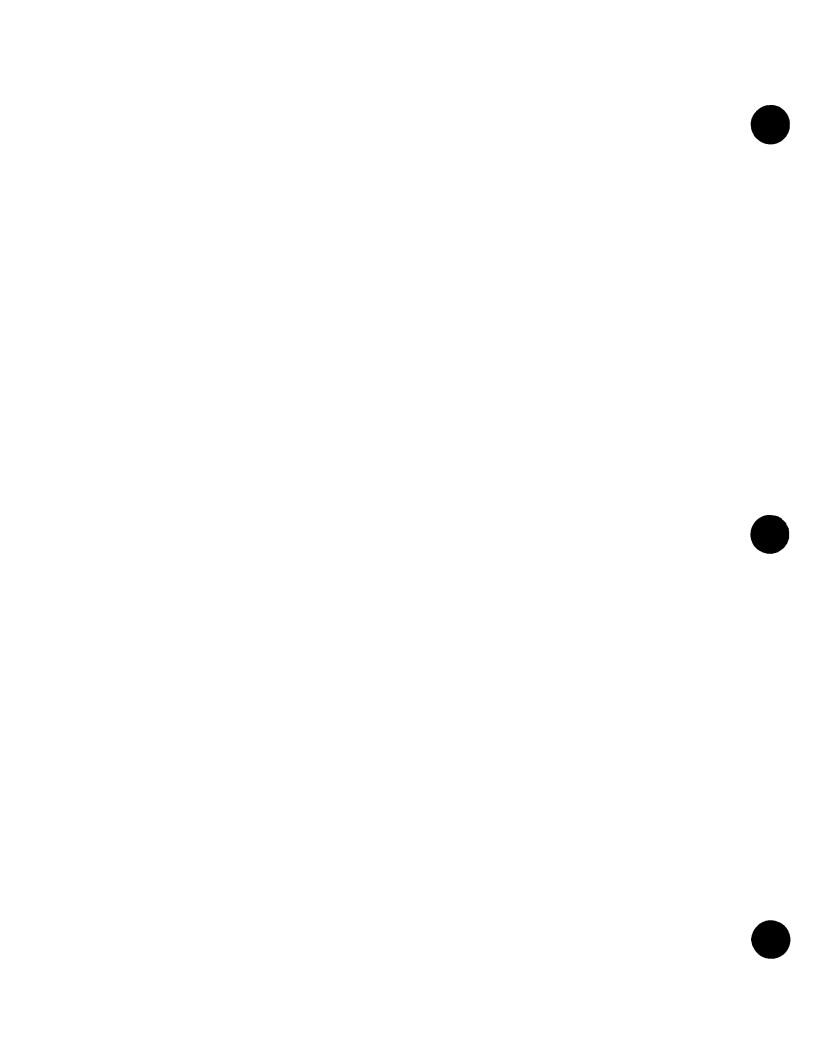


committee. Chairman Bradford recognized Representative McGrady to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Steinberg who motioned for a favorable report with a serial referral to finance. All members were in favor. The **HB 491**passes.

Chairman Bradford motioned for HB 530 Counties/Condemnation of Unsafe Bldgs/Liens. (Representatives Lewis, Sauls, Willingham) AN ACT GRANTING COUNTIES THE SAME AUTHORITY AS CITIES TO DECLARE CERTAIN BUILDINGS OR STRUCTURES UNSAFE AND TO REMOVE OR DEMOLISH UNSAFE BUILDINGS OR STRUCTURES AND TO PLACE A LIEN ON THE OWNER'S REAL PROPERTY FOR THE COSTS INCURRED to be before the committee. Chairman Bradford recognized Representative Lewis to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Watford who motioned for a favorable report. All members were in favor. The HB 530 passes.

Chairman Bradford motioned for HB 591Study/LEO INTERACTION WITH DISABLED DRIVERS (Representative C. Graham) AN ACT DIRECTING THE DEPARTMENT OF JUSTICE AND PUBLIC SAFETY TO STUDY TRAINING THAT MAY BE PROVIDED TO A LAW ENFORCEMENT OFFICER TO IMPROVE THE OFFICER'S ABILITY DURING A TRAFFIC STOP TO IDENTIFY WHETHER A PERSON IS DEAF OR HARD OF HEARING OR HAS A DEVELOPMENTAL DISABILITY, TRAUMATIC BRAIN INJURY, OR MENTAL ILLNESS AND THE CONDITION IS AFFECTING THE PERSON'S ABILITY TO COMPLY WITH THE OFFICER'S ORDERS AND TO IMPROVE THE OFFICER'S INTERACTION WITH THE PERSON UPON MAKING THAT IDENTIFICATION to be before the committee. Chairman Bradford recognized Representative C. Graham to explain the bill. Chairman Bradford recognized Representatives Adams, Boswell and Ball who had questions and comments about the bill. Chairman Bradford recognized Matthew Herr a lobbyist for Disability Rights NC to speak on the bill. Chairman Bradford recognized Representative Steinberg who motioned for a favorable report. Chairman Braford called for a vote. Representative Boswell is in opposition to HB 591. The rest of the members are in favor. The HB 591 passes.

Chairman Bradford motioned for HB 596 Study/MPO Voting Power Distribution. (Representatives Bradford, Millis) AN ACT TO STUDY THE DISTRIBUTION OF VOTING POWER AMONG THE VOTING MEMBERS OF METROPOLITAN PLANNING ORGANIZATIONS AND RURAL TRANSPORTATION PLANNING ORGANIZATIONS to be before the committee. Chairman Bradford recognized Representative Millis to explain the bill. Chairman Bradford recognized



Representative John who had a question. Chairman Bradford recognized Representative Watford who motioned or a favorable report. All members are in favor. The **HB 596** passes.

The meeting adjourned at 10:46 am.

Representative Bradford, Presiding Chair

Anita Spende, Committee Clerk



# **HOUSE BILL 110:** DOT/DMV Changes - Megaproject Funding.

2017-2018 General Assembly

Committee:

House State and Local Government II

Reps. Torbett, Iler, Shepard Introduced by:

Analysis of:

PCS to Second Edition

H110-CSRB-5

Date:

April 18, 2017

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 110 1 makes changes to State law related to DOT and DMV, as recommended by the Joint Legislative Transportation Oversight Committee. The PCS makes a technical change in Section 10.

The PCS also incorporates the substance of House Bill 219 into a new Part III of this bill. House Bill 219 would establish a Megaproject Fund to fund higher cost and larger scale transportation projects, as recommended by the House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions.

### **CURRENT LAW and BILL ANALYSIS:**

### **PART I. Department of Transportation Changes**

Section 1. This section codifies and makes modifications to DOT's existing residual property disposal procedures. Residual property must be sold by public sale and approved by the Board of Transportation except in the following circumstances:

- Properties located adjacent to controlled access projects that are landlocked may be sold to adjoining property owner by negotiation.
- Properties may be sold to State agencies or institutions by negotiation.
- Properties may be exchanged with a public utility company in consideration for property to be acquired for highway purposes from the utility.
- Properties with an area of one acre or less and a value of \$25,000 or less, and the highest and best use is for assemblage with adjacent property, may be sold to adjoining owner by negotiation.
- Properties with values of less than \$5,000 may be sold by negotiation without approval of the Governor and Council of State.
- Properties located outside the right-of-way for a project may be sold by negotiation to property owners and tenants displaced by the project.

As introduced, this bill was identical to S3, as introduced by Sens. Rabon and Harrington, which is currently in the Senate Committee on Judiciary.





Page 2

**Section 2.** This section extends the sunset of DOT's minority-owned and women-owned business program from August 31, 2017 to August 31, 2019. The sunset has been extended four times since enacted in 2009. The statute does not establish a percentage goal. It requires DOT to conduct periodic studies on the availability and utilization of minority-owned and women-owned businesses and to report to the Transportation Oversight Committee on the results of the study.

Section 3. This section repeals a requirement that the Department of Administration, Office of State Human Resources, Department of Transportation, and Department of Environmental Quality jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and private sector employees. The requirement was part of a State goal to reduce air pollution. There continues to be a State goal to replace light duty cars and trucks with alternative-fueled vehicles and to reduce State employee vehicle miles traveled in commuting without reducing total work hours or productivity.

### **PART II. Division of Motor Vehicles Changes**

**Section 4.** This section amends current law applicable to vehicle emissions inspections in certain counties by clarifying that fuel cell electric and plug-in electric vehicles with a gasoline engine component are subject to the requirement.

**Section 5.** This section modifies the process by which DMV determines whether to revoke the driver's license of a person who has been adjudicated incompetent.

- It provides that if a clerk of court, in any incompetency adjudication order under Chapter 35A of the General Statutes recommends that any person's driving privilege be revoked, DMV shall immediately revoke it.
- If the clerk of court, in the order, recommends that the person retain their driving privilege or makes no recommendation concerning the driving privilege, DMV must determine whether the person can retain their driving privilege, based upon an inquiry of the facts.
- Any revocation would be subject to review by the DMV Medical Review Board.

This section would become effective February 1, 2018, and apply to adjudications on or after that date.

Section 6. This section redesignates DMV License and Theft "inspectors" as "agents".

**Section** 7. This section restricts issuance of 10-day temporary license plates to no more than two per year per person.

This section would become effective January 1, 2018.

**Section 8.** In 2016, in House Bill 959, enacted as S.L. 2016-90, the General Assembly repealed the requirement for an owner to sign a motor vehicle registration card. This section makes a technical correction to the prior change, to repeal the requirement of "space for the owner's signature" on the registration card.

**Section 9.** This section authorizes remote renewal and conversion of a full provisional license to a regular Class C license, provides that a full provisional license expires on the 60th day after the holder's 21st birthday; and authorizes persons remotely renewing a license to update their address.

This section would become effective March 1, 2018.

**Section 10.** This section requires a motor vehicle dealer who issues a temporary registration plate to a purchaser to deliver the sales documents and fees to DMV within 20 days (10 working days under current law). G.S. 20-58.2 provides that a security interest is perfected as of the date of the execution of the agreement if the application for notation of a security interest is delivered to DMV within 20 days

Page 3

after the date of the security agreement. This section conforms the deadline dates for dealers with the date in G.S. 20-58.2.

This section would become effective when it becomes law.

Section 11. This section modifies the law governing special identification cards issued by DMV, to:

- Provide that special ID cards issued to persons under age 18 expire after five years; to persons over age 18 after 8 years; and to non-citizens who are legally present under authority issued by the United States government at the expiration of their authorized legal presence.
- Clarify that the fee (\$13) for a special identification card also applies to the renewal, unless the special ID card applicant is eligible for a fee exception.
- Authorize an application for a free special ID card by a person with a developmental disability to be made on a form approved by DMV.
- Authorize remote renewal of special ID cards, in specified circumstances.
- Provide for central issuance and mailing of special ID cards.

This section becomes effective December 1, 2017.

Section 12. This section amends the law enforcement authority of officers and inspectors (renamed agents by Section 6) of DMV, to authorize them to enforce criminal laws "when they are responding to an emergency situation that (i) is occurring in their immediate vicinity and (ii) would likely result in bodily harm or loss of property without immediate intervention."

**Section 13.** This section repeals the Driver's License Technology Fund, which was established in 2001 to fund a driver license information verification system for ABC permittees. DMV reports the fund has a zero balance and is no longer in use.

**Section 14.** This section makes a technical correction to the definition of "motor vehicle" in the NC Motor Vehicle Reinsurance Facility statutes, to correct an error from the 2016 session in House Bill 959, S.L. 2016-90, in which the statute was inconsistently amended by two different sections of that bill.

### PART III. Megaproject Fund to Fund Higher Cost and Larger Scale Transportation Projects

In 2013, the General Assembly enacted the Strategic Transportation Investments Act, known as STI, which created a Transportation Investment Strategy Formula for funding State transportation projects. The Act funds projects in three categories: Statewide, Regional, and Divisional.

- Statewide category projects are ranked based 100% on data from multiple criteria.
- Regional category projects are ranked based 70% on data from multiple criteria, and 30% on local input (Division Engineer, MPO and RPO input).
- Divisional category projects are ranked based 50% on data, and 50% on local input (Division Engineer, MPO and RPO input).

Section 15. This section creates a Megaproject Fund within the Highway Trust Fund and provides that the Megaproject Fund would consist of appropriations or transfers made by the General Assembly to the Fund. It directs DOT to use funds in the Megaproject Fund to fund transportation projects, of statewide or regional significance that exceed two hundred million dollars (\$200,000,000) in total project cost. The projects would be selected by a workgroup overseen by DOT, using project selection criteria established pursuant to Section 17 of this bill. This section directs DOT to shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Megaproject

Page 4

Fund, the selection criteria, and DOT's anticipated schedule for future projects. The Department is required to submit the report to the Joint Legislative Transportation Oversight Committee by November 1 of each year.

**Section 16.** This section amends the Strategic Transportation Investment Act formula to exclude funds appropriated or transferred to the Megaproject Fund.

**Section 17.** This section directs DOT to establish a workgroup for the purposes of developing megaproject selection criteria, and selecting projects using the criteria. This section becomes effective when it becomes law.

The Megaproject Fund selection criteria must do the following:

- Address large scale, significant transportation needs of the State.
- Provide for interstate and intrastate connectivity between urban and rural areas and between rural areas.
- Encourage economic development in both urban and rural areas of the State.
- Improve existing major highway corridors by increasing capacity and relieving congestion.
- Provide for infrastructure improvements and rail and highway connectivity to the State ports.
- Encourage delivery of projects in the most effective, efficient, and expeditious manner.

In addition, Section 17 of the bill:

- Provides for workgroup membership meeting times, and meeting frequency.
- Requires, with 45 days of its initial convening, for the workgroup to provide a report to the Joint Legislative Transportation Oversight Committee on its progress in creating the megaproject selection criteria.
- Requires, within 3 months of the workgroup's initial convening, for it to provide a report to the Joint Legislative Transportation Oversight Committee on the megaproject selection criteria it has developed.

### **PART IV. Effective Date**

Section 18. Except as otherwise provided, this act becomes effective July 1, 2017.

Giles Perry, counsel to House Transportation, substantially contributed to this summary.

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE BILL 110**

# Committee Substitute Favorable 4/4/17 PROPOSED COMMITTEE SUBSTITUTE H110-CSRB-5 [v.2]

04/18/2017 05:39:45 PM

Short Title: DOT/DMV Changes - Megaproject Funding. (Public)

Sponsors:

Referred to:

### February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO STATE LAW RELATED TO THE DEPARTMENT OF TRANSPORTATION AND THE DIVISION OF MOTOR VEHICLES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; AND TO ESTABLISH A MEGAPROJECT FUND TO FUND HIGHER-COST AND LARGER-SCALE TRANSPORTATION PROJECTS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STRATEGIC TRANSPORTATION PLANNING AND LONG TERM FUNDING SOLUTIONS.

The General Assembly of North Carolina enacts:

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### PART I. DEPARTMENT OF TRANSPORTATION CHANGES

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### DOT RESIDUE PROPERTY DISPOSAL

14 15 **SECTION 1.(a)** G.S. 136-19 is amended by adding a new subsection to read:

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"(j) Remainder properties acquired in connection with acquisition of right-of-way shall be disposed of as follows:

17 18 (1) The sale of all residues will be by public sale, except as hereinafter specified.

19 20 (2) Residue properties sold by public sale may be sold by sealed bid or by auction at the election of the Right of Way Branch. The sale of such properties must be advertised by at least one of the following methods:

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Publication in a newspaper having general circulation in the county in which the property is situated.

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b. On a Department of Transportation Web site.

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By placement of a "For Sale" sign on the residue.

After opening bids or closing of auction, upset bids may be considered. The high bid shall be presented to the Board of Transportation at its next regular meeting after the date of the sale for rejection or acceptance. The Department of Transportation may reject all bids if the Department does not consider the bids to be in accord with the appraised or fair market value as

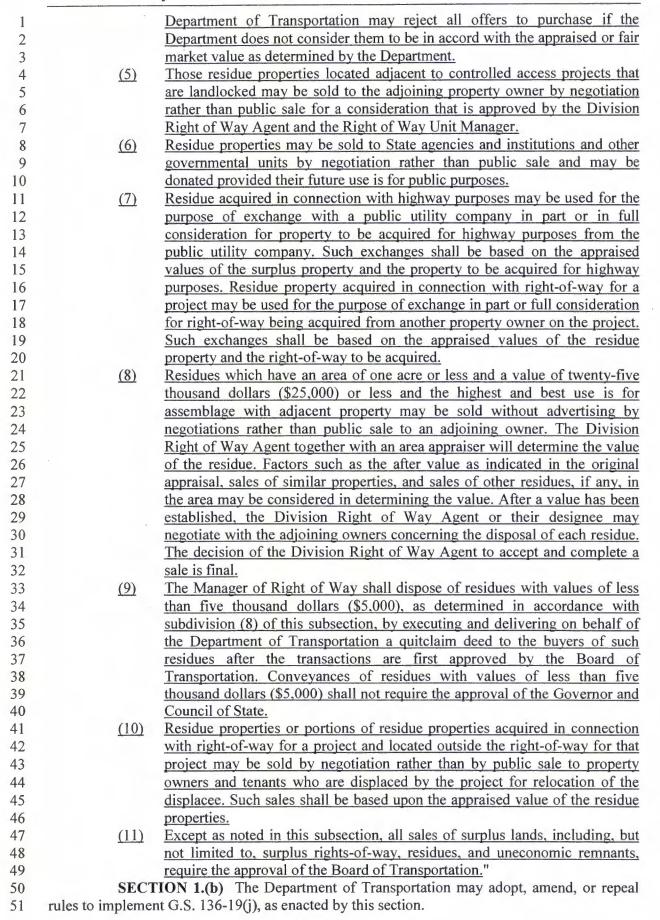
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(4)

determined by the Department.

32 33 34 Residue properties sold by public sale may also be sold by real estate brokers licensed in North Carolina at the election of the Chief Engineer. The highest offer to purchase shall be presented to the Board of Transportation at its next regular meeting after the acceptance of the offer to purchase. The





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<b>EXTEND</b>	SUNSET	<b>FOR</b>	DOT	MINORITY-OWNED/WOMEN-OWNED	<b>BUSINESSES</b>
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**SECTION 2.** G.S. 136-28.4(e) reads as rewritten:

"(e) This section expires August 31, <del>2017.</del>2019."

# ELIMINATE ANNUAL REPORT ON REDUCING VEHICLE MILES TRAVELED BY STATE EMPLOYEES

**SECTION 3.** Subsections (d) and (e) of G.S. 143-215.107C are repealed.

#### PART II. DIVISION OF MOTOR VEHICLES CHANGES

# CLARIFY THAT HYBRID VEHICLES WITH EMISSIONS COMPONENTS ARE SUBJECT TO EMISSIONS INSPECTIONS

**SECTION 4.** G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

- (12a) Fuel cell electric vehicle. A four-wheeled motor vehicle that <u>does not have</u> the ability to be propelled by a gasoline engine and that meets each of the following requirements:
  - a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
  - b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
  - c. Uses hydrogen and a fuel cell to produce electricity on board to power an electric motor to propel the vehicle.
  - d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
  - e. Has a maximum speed capability of at least 65 miles per hour.
- (28a) Plug-in electric vehicle. A four-wheeled motor vehicle that <u>does not have</u> the ability to be propelled by a gasoline engine and that meets each of the following requirements:
  - a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
  - b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
  - c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
  - d. Has a maximum speed capability of at least 65 miles per hour.
  - e. Draws electricity from a battery that has all of the following characteristics:
    - 1. A capacity of not less than four kilowatt hours.
    - 2. Capable of being recharged from an external source of electricity.

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# MODIFY PROCESS BY WHICH DMV DETERMINES WHETHER TO REVOKE A DRIVERS LICENSE OF A PERSON WHO HAS BEEN ADJUDICATED INCOMPETENT

**SECTION 5.(a)** G.S. 20-17.1(a) reads as rewritten:

The Commissioner, upon receipt of notice that any person has been legally adjudicated incompetent or has been involuntarily committed to an institution for the treatment of alcoholism or drug addiction, an alcohol abuse or substance abuse disorder, shall forthwith make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle. If a person has been adjudicated incompetent under Chapter 35A of the General Statutes, in making an inquiry into the facts, the Commissioner shall consider the clerk of court's recommendation regarding whether the incompetent person should be allowed to retain his or her driving privilege. If a clerk of court, in any incompetency adjudication order under Chapter 35A of the General Statutes, recommends that any person's driving privilege be revoked, the Division shall immediately revoke such person's driving privilege. If the clerk of court, in any such order, recommends that the person retain their driving privilege, or makes no recommendation concerning their driving privilege, the Division shall determine whether the person shall retain their driving privilege, based upon an inquiry of the facts. Unless the Commissioner is satisfied that such person is competent to operate a motor vehicle with safety to persons and property, he the Commissioner shall revoke such person's driving privilege. Provided that if such person requests, in writing, a hearing, he shall retain his license until after the hearing, and if the revocation is sustained after such hearing, the person whose driving privilege has been revoked under the provisions of this section, Any person whose driving privilege is revoked pursuant to this subsection shall have the right to a review by the review board as provided in G.S. 20-9(g)(4) upon written request filed with the Division."

**SECTION 5.(b)** This section becomes effective February 1, 2018, and applies to adjudications on or after that date.

### REDESIGNATE DMV LICENSE AND THEFT INSPECTORS AS AGENTS

**SECTION 6.(a)** G.S. 20-16.5(e) reads as rewritten:

Procedure if Report Filed with Judicial Official When Person Is Present. - If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall enter an order revoking the person's driver's license for the period required in this subsection. The judicial official shall order the person to surrender his license and if necessary may order a law-enforcement officer to seize the license. The judicial official shall give the person a copy of the revocation order. In addition to setting it out in the order the judicial official shall personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. The revocation under this subsection begins at the time the revocation order is issued and continues until the person's license has been surrendered for the period specified in this subsection, and the person has paid the applicable costs. The period of revocation is 30 days, if there are no pending offenses for which the person's license had been or is revoked under this section. If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event, may the period of revocation under this subsection be less than 30 days. If within five working days of the effective date of the order, the person does not surrender his license or demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued to a member of a local law-enforcement agency if the law

enforcement officer was employed by the agency at the time of the charge and the person resides in or is present in the agency's territorial jurisdiction. In all other cases, the pick-up order shall be issued to an officer or inspector-agent of the Division. A pick-up order issued pursuant to this section is to be served in accordance with G.S. 20-29 as if the order had been issued by the Division."

**SECTION 6.(b)** G.S. 20-49 reads as rewritten:

### "§ 20-49. Police authority of Division.

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The Commissioner and such officers and inspectors agents of the Division as he the Commissioner shall designate and all members of the Highway Patrol and law enforcement officers of the Department of Public Safety shall have the power:

**SECTION 6.(c)** G.S. 20-49.1 reads as rewritten:

### "§ 20-49.1. Supplemental police authority of Division officers.officers and agents.

- (a) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors agents of the Division whom the Commissioner designates have the authority to enforce criminal laws under any of the following circumstances:
  - (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.
  - (2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, the Division officers and agents shall have the same powers vested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this subsection, the Division officers and agents shall not be considered an officer, employee, or agent of the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this section shall be construed to expand the Division officers' or agents' authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction.

(b) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors agents of the Division whom the Commissioner designates have the authority to investigate drivers license fraud and identity thefts related to drivers license fraud and to make arrests for these offenses."

### **SECTION 6.(d)** G.S. 20-53(e) reads as rewritten:

"(e) No title shall be issued to an initial applicant for (i) out-of-state vehicles that are 1980 model year or older or (ii) a specially constructed vehicle prior to the completion of a vehicle verification conducted by the License and Theft Bureau of the Division of Motor Vehicles. These verifications shall be conducted as soon as practical. For an out-of-state vehicle that is 1980 model year or older, this inspection shall consist of verifying the public vehicle identification number to ensure that it matches the vehicle and ownership documents. No covert vehicle identification numbers are to be examined on an out-of-state vehicle 1980 model year or older unless the inspector agent develops probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined. However, upon such application and the submission of any required documentation, the Division shall be authorized to register the vehicle pending the completion of the verification of the vehicle. The registration shall be valid for one year but shall not be renewed unless and until the vehicle examination has been completed.

If an inspection and verification is not conducted by the License and Theft Bureau of the Division of Motor Vehicles within 15 days after receiving a request for such and the inspector

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agent has no probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined, the vehicle shall be deemed to have satisfied all inspection and verification requirements and title shall issue to the owner within 15 days thereafter. If an inspection and verification is timely performed and the vehicle passes the inspection and verification, title shall issue to the owner within 15 days of the date of the inspection."

**SECTION 6.(e)** G.S. 20-108 reads as rewritten:

"§ 20-108. Vehicles or component parts of vehicles without manufacturer's numbers.

- (b) The Commissioner and such officers and inspectors agents of the Division of Motor Vehicles as he has designated may take and possess any motor vehicle or component part if its engine number, vehicle identification number, or manufacturer's serial number has been altered, changed, or obliterated or if such officer or agent has probable cause to believe that the driver or person in charge of the motor vehicle or component part has violated subsection (a) above. Any officer or agent who so takes possession of a motor vehicle or component part shall immediately notify the Division of Motor Vehicles and the rightful owner, if known. The notification shall contain a description of the motor vehicle or component part and any other facts that may assist in locating or establishing the rightful ownership thereof or in prosecuting any person for a violation of the provisions of this Article.
- Within 15 days after seizure of a motor vehicle or component part pursuant to this section, the Division shall send notice by certified mail to the person from whom the property was seized and to all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles that the Division has taken custody of the motor vehicle or component part. The notice shall also contain the following information:
  - The name and address of the person or persons from whom the motor vehicle or component part was seized;
  - A statement that the motor vehicle or component part has been seized for (2) investigation as provided in this section and that the motor vehicle or component part will be released to the rightful owner:
    - Upon a determination that the identification number has not been a. altered, changed, or obliterated; or
    - b. Upon presentation of satisfactory evidence of the ownership of the motor vehicle or component part if no other person claims an interest in it within 30 days of the date the notice is mailed. Otherwise, a hearing regarding the disposition of the motor vehicle or component part may take place in a court having jurisdiction.
  - The name and address of the officer or agent to whom evidence of (3) ownership of the motor vehicle or component part may be presented; and
  - A copy statement of the text contained in this section.
- Whenever a motor vehicle or component part comes into the custody of an officer, officer or agent, the Division of Motor Vehicles may commence a civil action in the District Court in the county in which the motor vehicle or component part was seized to determine whether the motor vehicle or component part should be destroyed, sold, converted to the use of the Division or otherwise disposed of by an order of the court. The Division shall give notice of the commencement of such an action to the person from whom the motor vehicle or component part was seized and all claimants to the property whose interest or title is in the registration records of the Division of Motor Vehicles. Notice shall be by certified mail sent within 10 days after the filing of the action. In addition, any possessor of a motor vehicle or component part described in this section may commence a civil action under the provisions of this section, to which the Division of Motor Vehicles may be made a party, to provide for the proper disposition of the motor vehicle or component part.

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An officer or agent taking into custody a motor vehicle or component part under the (j) provisions of this section is authorized to obtain necessary removal and storage services, but shall incur no personal liability for such services. The person or company so employed shall be entitled to reasonable compensation as a claimant under (e), and shall not be deemed an unlawful possessor under (a)."

# LIMIT ISSUANCE OF 10-DAY TEMPORARY VEHICLE REGISTRATION TAGS

**SECTION 7.(a)** G.S. 20-50(b) reads as rewritten:

"(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days. Except for a vehicle that is model year 1980 or older and is being transported directly to or from a vehicle show or exhibition, the Division shall not issue more than two 10-day temporary license plates to a person for a particular vehicle during an annual registration period.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is ten dollars (\$10.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

- It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
- It expires on midnight of the day set for expiration. (2)
- It may be used only on the vehicle for which issued and may not be (3) transferred, loaned, or assigned to another.
- If it is lost or stolen, the person who applied for it must notify the Division. (4)
- It may not be issued by a dealer. (5)
- The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license (6) plates apply to temporary license plates insofar as possible."

SECTION 7.(b) This section becomes effective January 1, 2018, and applies to applications received on or after that date.

# REMOVE SIGNATURE LINE FROM MOTOR VEHICLE REGISTRATION CARD

**SECTION 8.** G.S. 20-57(b) reads as rewritten:

The registration card shall be delivered to the owner and shall contain upon the face thereof the name and address of the owner, space for the owner's signature, the registration number assigned to the vehicle, and a description of the vehicle as determined by the Commissioner, provided that if there are more than two owners the Division may show only two owners on the registration card and indicate that additional owners exist by placing after the names listed "et al." An owner may obtain a copy of a registration card issued in the owner's name by applying to the Division for a copy and paying the fee set in G.S. 20-85."

### ALLOW REMOTE CONVERSION OF CERTAIN FULL PROVISIONAL LICENSES TO CLASS C LICENSES

**SECTION 9.(a)** G.S. 20-7(f)(1) reads as rewritten:

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"(1) Duration of license for persons under age 18. — A full provisional license issued to a person under the age of 18 expires on the <u>sixtieth day following</u> the person's twenty-first birthday."

### **SECTION 9.(b)** G.S. 20-7(f)(6) reads as rewritten:

- (6) Remote renewal renewal or conversion. Subject to the following requirements and limitations, the Division may offer remote renewal of a drivers license license, or remote conversion of a full provisional license, issued by the Division:
  - Requirements. To be eligible for remote renewal <u>or conversion</u> under this subdivision, a person must meet all of the following requirements:
    - 1. The license holder (i) possesses a valid, unexpired valid Class C drivers license that was issued when the person was at least 18 years old or (ii) possesses a valid full provisional license and is at least 18 years old at the time of the remote conversion request.
    - 2. The license holder's current license includes no restrictions other than a restriction for corrective lenses.
    - 3. The license holder attests, in a manner designated by the Division, that (i) the license holder is a resident of the State and currently resides at the address on the license to be renewed, renewed or converted, (ii) the license holder's name as it appears on the license to be renewed or converted has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully. If the license holder does not currently reside at the address on the license to be renewed or converted, the license holder may comply with the address requirement of this sub-sub-subdivision by providing the address at which the license holder resides at the time of the remote renewal or conversion request.
    - 4. The For a remote renewal, the most recent renewal was an in-person renewal and not a remote renewal under this subdivision.
    - 5. The license holder is otherwise eligible for renewal <u>or</u> conversion under this subsection.
  - b. Waiver of requirements. When renewing <u>or converting</u> a drivers license pursuant to this subdivision, the Division may waive the examination and photograph that would otherwise be required for the <u>renewal-renewal or conversion</u>.
  - c. Duration of remote <u>renewal.renewal or conversion</u>. A <u>renewed</u> drivers license issued to a person by remote renewal <u>or conversion</u> under this subdivision expires according to the following schedule:
    - 1. For a person at least 18 years old but less than 66 years old, on the birthday of the licensee in the eighth year after issuance.
    - 2. For a person at least 66 years old, on the birthday of the licensee in the fifth year after issuance.
  - d. Rules. The Division shall adopt rules to implement this subdivision.

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- e. Federal law. Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal <u>or conversion</u> of drivers licenses prescribed by federal law or regulation.
- f. Definition. For purposes of this subdivision, "remote renewal" renewal or conversion" means renewal or conversion of a drivers license or full provisional license by mail, telephone, electronic device, or other secure means approved by the Commissioner."

**SECTION 9.(c)** Subsection (a) of this section becomes effective March 1, 2018, and applies to full provisional licenses issued on or after that date. The remainder of this section becomes effective March 1, 2018.

# TEMPORARY REGISTRATION PLATES/EXTEND TIME LIMIT FOR DELIVERY OF SALES DOCUMENTS

**SECTION 10.(a)** G.S. 20-79.1(d)(3) reads as rewritten:

"(d) A dealer shall:

(3) Within 10 working 20 days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract."

SECTION 10.(b) This section is effective when it becomes law and applies to sales made on or after that date.

# SPECIAL IDENTIFICATION CARDS/MODIFY ISSUANCE PROCESS AND ALLOW REMOTE RENEWAL

SECTION 11.(a) G.S. 20-37.7 reads as rewritten: "§ 20-37.7. Special identification card.

- (d) Expiration and Fee. <u>Duration</u>. A special identification eard issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire. <u>cards</u> shall be issued and renewed pursuant to the provisions of this subsection:
  - (1) Duration for persons under age 18. A special identification card issued to or renewed by a person under the age of 18 expires on the birthday of the holder in the fifth year after issuance.
  - (2) Duration for persons age 18 and older. A special identification card issued to or renewed by a person at least 18 years old expires on the birthday of the holder in the eighth year after issuance.
  - Ouration for certain other drivers. The durations listed in subdivisions (1) and (2) of this subsection are valid unless the Division determines that a special identification card of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a special identification card of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States.
  - When to renew. A person may apply to the Division to renew a special identification card during the 180-day period before the special identification card expires. The Division may not accept an application for renewal made before the 180-day period begins.

1 Fee. – The fee for a new or renewed special identification card is the same as the fee 2 set in G.S. 20-14 for a duplicate license. The fee does not apply to a special identification card 3 issued to a resident of this State as follows: 4 5 The applicant has a developmental disability. To obtain a special (7) 6 identification card without paying a fee pursuant to this subdivision, an 7 applicant must present a letter from letter, or a form approved by the 8 Division, signed by his or her primary care provider certifying that the 9 applicant has a developmental disability. For purposes of this subdivision, 10 the term "developmental disability" has the same meaning as in G.S. 122C-3. 11 12 Remote Renewal. - Subject to the following limitations and requirements, the 13 Division may offer remote renewal of a special identification card issued by the Division: 14 Requirements. – To be eligible for remote renewal under this subsection, a (1) 15 person must meet all of the following requirements: The special identification card holder possesses a valid special 16 identification card that was issued when the person was at least 18 17 18 vears old. The special identification card holder attests, in a manner designated 19 <u>b.</u> 20 by the Division, that (i) the special identification card holder is a resident of the State and currently resides at the address on the 21 22 special identification card to be renewed, (ii) the special 23 identification card holder's name as it appears on the special 24 identification card to be renewed has not changed, and (iii) all other 25 information required by the Division for an in-person renewal under this Article has been provided completely and truthfully. If the 26 27 special identification card holder does not currently reside at the address on the special identification card to be renewed, the special 28 29 identification card holder may comply with the address requirement of this sub-subdivision by providing the address at which the special 30 identification card holder resides at the time of the remote renewal 31 32 request. The most recent renewal was an in-person renewal and not a remote 33 <u>c.</u> 34 renewal under this subsection. The special identification card holder is otherwise eligible for 35 <u>d.</u> 36 renewal under this subsection. Definition. - For purposes of this subsection, "remote renewal" means 37 (2) 38 renewal of a special identification card by mail, telephone, electronic device, or other secure means approved by the Commissioner. 39 40 Severe Disability. – For a person who has a physician's letter certifying that a severe disability causes the person to be homebound, the Division shall adopt rules allowing for 41 42 application for or renewal of a special photo identification card under this section by means other than a personal appearance. 43 44 Special Identification Card to Be Sent by Mail. - The Division shall issue to the applicant a temporary identification certificate valid for 60 days. The temporary identification 45 certificate shall not be valid for identification purposes, except when conducting business with 46 the Division and not otherwise prohibited by federal law. The Division shall produce the 47 applicant's special identification card at a central location and send it to the applicant by 48

first-class mail at the residence address provided by the applicant, unless the applicant is

ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address

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provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the special identification card to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division.

SECTION 11.(b) G.S. 20-9.2(c) reads as rewritten:

"(c) This section does not apply to special identification cards issued pursuant to G.S. 20-37.7(d)(5) or (6) subdivision (5) or (6) of subsection (d1) of G.S. 20-37.7."

**SECTION 11.(c)** G.S. 163-275(13) reads as rewritten:

"(13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting, including declarations made under this Chapter,

G.S. 20-37.7(d)(5), 20-37.7(d)(6),G.S. 20-37.7(d1)(5), 20-37.7(d1)(6), 130A-93.1(c), and 161-10(a)(8)."

**SECTION 11.(d)** Subsections (b) and (c) of this section and subsection (d2) of G.S. 20-37.7, as enacted by subsection (a) of this section, become effective December 1, 2017. The remainder of this section becomes effective December 1, 2017, and applies to initial applications and renewals on or after that date.

DMV OFFICERS/EXPAND LIST OF SITUATIONS WHERE POLICE AUTHORITY MAY BE EXERCISED

**SECTION 12.** G.S. 20-49.1(a) is amended by adding a new subdivision to read:

"(3) When they are responding to an emergency situation that (i) is occurring in their immediate vicinity and (ii) would likely result in bodily harm or loss of property without immediate intervention."

ELIMINATION OF DRIVERS LICENSE TECHNOLOGY FUND

SECTION 13. G.S. 20-37.01 and G.S. 20-37.02(e) are repealed.

MOTOR VEHICLE DEFINITION/TECHNICAL CORRECTION

**SECTION 14.** G.S. 58-37-1(6) reads as rewritten:

"(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d., and a moped, as defined in G.S. 20-4.01(27)d1. "Motor vehicle" does not mean an electric assisted bicycle, as defined in G.S. 20-4.01(7a)."

PART III: ESTABLISHMENT OF MEGAPROJECT FUND TO FUND HIGHER-COST AND LARGER-SCALE TRANSPORTATION PROJECTS

ESTABLISHMENT OF MEGAPROJECT FUND

**SECTION 15.** Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 14C.
"Megaproject Fund.

"§ 136-189.12. Creation of the Megaproject Fund.

- 1 (a) An account designated as the Megaproject Fund is hereby created within the
  2 Highway Trust Fund. The Megaproject Fund consists of revenue from appropriations or
  3 transfers by the General Assembly.
  4 (b) The amounts deposited to the Megaproject Fund shall be used as provided in this
  - (b) The amounts deposited to the Megaproject Fund shall be used as provided in this Article, notwithstanding any provision of Article 14B of this Chapter to the contrary. The provisions of Article 14B of this Chapter shall not apply to the application of the Megaproject Fund.

### "§ 136-189.13. Use of the Megaproject Fund.

The Department of Transportation shall use the Megaproject Fund to fund transportation projects, selected by a workgroup overseen by the Department, of statewide or regional significance that exceed two hundred million dollars (\$200,000,000) in total project cost. The workgroup selecting projects under this section shall establish project selection criteria based on the provisions of this Article.

### "§ 136-189.14. Reports by the Department of Transportation.

The Department of Transportation shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Megaproject Fund, including the selection criteria and reasoning used for each project. The annual update shall indicate the projects, or portions thereof, that were completed during the preceding fiscal year, any changes in the original completion schedules, and the reasons for the changes. The report shall also include the Department's anticipated schedule for future projects. The Department shall submit the report and the annual updates to the Joint Legislative Transportation Oversight Committee by November 1 of each year."

### EXCLUSION FROM TRANSPORTATION INVESTMENT STRATEGY FORMULA

**SECTION 16.** G.S. 136-189.11(b) is amended by adding a new subdivision to read:

- "(b) Funds Excluded From Formula. The following funds are not subject to this section:
  - (11) Funds appropriated or transferred to the Megaproject Fund, in accordance with Article 14C of this Chapter."

### WORKGROUP AND MEGAPROJECT SELECTION CRITERIA

SECTION 17.(a) Establishment of Workgroup and Megaproject Selection Criteria. – The Department of Transportation shall establish a workgroup for the purposes of developing megaproject selection criteria and selecting projects in accordance with G.S. 136-189.13, as enacted by Section 1 of this act. The megaproject selection criteria shall:

- (1) Address large-scale, significant transportation needs of the State.
- (2) Provide for interstate and intrastate connectivity between urban and rural areas and between rural areas.
- (3) Encourage economic development in both urban and rural areas of the State.
- (4) Improve existing major highway corridors by increasing capacity and relieving congestion.
- (5) Provide for infrastructure improvements and rail and highway connectivity to the State ports.
- (6) Encourage delivery of projects in the most effective, efficient, and expeditious manner.

SECTION 17.(b) Membership. – The workgroup shall consist of the following members:

(1) A representative from the workgroup established under G.S. 136-189.11(h).

- (2) A representative from the North Carolina Association of Municipal Planning Organizations.
- (3) A representative from the North Carolina Association of Rural Planning Organizations.
- (4) A representative from the North Carolina League of Municipalities.
- (5) A representative from the North Carolina Association of County Commissioners.
- (6) A representative from the North Carolina Metropolitan Mayors Coalition.
- (7) A representative from the North Carolina Council of Regional Governments.

**SECTION 17.(c)** Selection of Members; Cochairs. – The Department of Transportation shall select the members listed in subsection (b) of this section. The cochairs of the workgroup shall be the members listed in subdivisions (2) and (3) of subsection (b) of this section.

**SECTION 17.(d)** Meetings. – The Department of Transportation shall establish and convene the workgroup required under this section within 30 days of the effective date of this section. Within the three-month period from the date the workgroup is convened, the workgroup shall hold at least three meetings. One meeting shall set forth the goals and objectives of the workgroup, a second meeting shall discuss the progress made in meeting its goals and objectives, and a third meeting shall present the outcomes achieved from the workgroup process, including a presentation on the selection criteria established by the workgroup. Additional meetings shall be on the call of the cochairs. Each member may be represented by a designee, who shall have the same voting powers as the member. The workgroup shall meet in offices provided by the Department of Transportation. In addition, the Department of Transportation shall provide the necessary secretarial and clerical staff and supplies to help the workgroup accomplish its goals and objectives.

**SECTION 17.(e)** Quorum. – A quorum of the workgroup shall consist of a majority of the workgroup's total membership.

**SECTION 17.(f)** Reports. – No later than 45 days from the date the workgroup is convened, the workgroup shall provide a report to the Joint Legislative Transportation Oversight Committee on its progress in creating the megaproject selection criteria. Prior to the end of the three-month period from the date the workgroup is convened, the workgroup shall provide a report to the Joint Legislative Transportation Oversight Committee on the megaproject selection criteria created by the workgroup.

**SECTION 17.(g)** This section is effective when it becomes law.

### PART IV. EFFECTIVE DATE

**SECTION 18.** Except as otherwise provided, this act becomes effective July 1, 2017.



# **HOUSE BILL 110: DOT/DMV Changes - Megaproject Funding.**

#### 2017-2018 General Assembly

Committee:

House State and Local Government II

Introduced by: Reps. Torbett, Iler, Shepard

Analysis of:

PCS to Second Edition

H110-CSRB-5

Date:

April 18, 2017

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 110 makes changes to State law related to DOT and DMV, as recommended by the Joint Legislative Transportation Oversight Committee. The PCS makes a technical change in Section 10.

The PCS also incorporates the substance of House Bill 219 into a new Part III of this bill. House Bill 219 would establish a Megaproject Fund to fund higher cost and larger scale transportation projects, as recommended by the House Select Committee on Strategic Transportation Planning and Long Term Funding Solutions.

#### **CURRENT LAW and BILL ANALYSIS:**

### **PART I. Department of Transportation Changes**

**Section 1.** This section codifies and makes modifications to DOT's existing residual property disposal procedures. Residual property must be sold by public sale and approved by the Board of Transportation except in the following circumstances:

- Properties located adjacent to controlled access projects that are landlocked may be sold to adjoining property owner by negotiation.
- Properties may be sold to State agencies or institutions by negotiation.
- Properties may be exchanged with a public utility company in consideration for property to be acquired for highway purposes from the utility.
- Properties with an area of one acre or less and a value of \$25,000 or less, and the highest and best use is for assemblage with adjacent property, may be sold to adjoining owner by negotiation.
- Properties with values of less than \$5,000 may be sold by negotiation without approval of the Governor and Council of State.
- Properties located outside the right-of-way for a project may be sold by negotiation to property owners and tenants displaced by the project.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> As introduced, this bill was identical to S3, as introduced by Sens. Rabon and Harrington, which is currently in the Senate Committee on Judiciary.

Page 2

**Section 2**. This section extends the sunset of DOT's minority-owned and women-owned business program from August 31, 2017 to August 31, 2019. The sunset has been extended four times since enacted in 2009. The statute does not establish a percentage goal. It requires DOT to conduct periodic studies on the availability and utilization of minority-owned and women-owned businesses and to report to the Transportation Oversight Committee on the results of the study.

Section 3. This section repeals a requirement that the Department of Administration, Office of State Human Resources, Department of Transportation, and Department of Environmental Quality jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and private sector employees. The requirement was part of a State goal to reduce air pollution. There continues to be a State goal to replace light duty cars and trucks with alternative-fueled vehicles and to reduce State employee vehicle miles traveled in commuting without reducing total work hours or productivity.

### **PART II. Division of Motor Vehicles Changes**

**Section 4.** This section amends current law applicable to vehicle emissions inspections in certain counties by clarifying that fuel cell electric and plug-in electric vehicles with a gasoline engine component are subject to the requirement.

**Section 5.** This section modifies the process by which DMV determines whether to revoke the driver's license of a person who has been adjudicated incompetent.

- It provides that if a clerk of court, in any incompetency adjudication order under Chapter 35A of the General Statutes recommends that any person's driving privilege be revoked, DMV shall immediately revoke it.
- If the clerk of court, in the order, recommends that the person retain their driving privilege or makes no recommendation concerning the driving privilege, DMV must determine whether the person can retain their driving privilege, based upon an inquiry of the facts.
- Any revocation would be subject to review by the DMV Medical Review Board.

This section would become effective February 1, 2018, and apply to adjudications on or after that date.

Section 6. This section redesignates DMV License and Theft "inspectors" as "agents".

**Section** 7. This section restricts issuance of 10-day temporary license plates to no more than two per year per person.

This section would become effective January 1, 2018.

**Section 8.** In 2016, in House Bill 959, enacted as S.L. 2016-90, the General Assembly repealed the requirement for an owner to sign a motor vehicle registration card. This section makes a technical correction to the prior change, to repeal the requirement of "space for the owner's signature" on the registration card.

**Section 9.** This section authorizes remote renewal and conversion of a full provisional license to a regular Class C license, provides that a full provisional license expires on the 60th day after the holder's 21st birthday; and authorizes persons remotely renewing a license to update their address.

This section would become effective March 1, 2018.

Section 10. This section requires a motor vehicle dealer who issues a temporary registration plate to a purchaser to deliver the sales documents and fees to DMV within 20 days (10 working days under current law). G.S. 20-58.2 provides that a security interest is perfected as of the date of the execution of the agreement if the application for notation of a security interest is delivered to DMV within 20 days

Page 3

after the date of the security agreement. This section conforms the deadline dates for dealers with the date in G.S. 20-58.2.

This section would become effective when it becomes law.

Section 11. This section modifies the law governing special identification cards issued by DMV, to:

- Provide that special ID cards issued to persons under age 18 expire after five years; to persons over age 18 after 8 years; and to non-citizens who are legally present under authority issued by the United States government at the expiration of their authorized legal presence.
- Clarify that the fee (\$13) for a special identification card also applies to the renewal, unless the special ID card applicant is eligible for a fee exception.
- Authorize an application for a free special ID card by a person with a developmental disability to be made on a form approved by DMV.
- Authorize remote renewal of special ID cards, in specified circumstances.
- Provide for central issuance and mailing of special ID cards.

This section becomes effective December 1, 2017.

Section 12. This section amends the law enforcement authority of officers and inspectors (renamed agents by Section 6) of DMV, to authorize them to enforce criminal laws "when they are responding to an emergency situation that (i) is occurring in their immediate vicinity and (ii) would likely result in bodily harm or loss of property without immediate intervention."

**Section 13.** This section repeals the Driver's License Technology Fund, which was established in 2001 to fund a driver license information verification system for ABC permittees. DMV reports the fund has a zero balance and is no longer in use.

**Section 14.** This section makes a technical correction to the definition of "motor vehicle" in the NC Motor Vehicle Reinsurance Facility statutes, to correct an error from the 2016 session in House Bill 959, S.L. 2016-90, in which the statute was inconsistently amended by two different sections of that bill.

### PART III. Megaproject Fund to Fund Higher Cost and Larger Scale Transportation Projects

In 2013, the General Assembly enacted the Strategic Transportation Investments Act, known as STI, which created a Transportation Investment Strategy Formula for funding State transportation projects. The Act funds projects in three categories: Statewide, Regional, and Divisional.

- Statewide category projects are ranked based 100% on data from multiple criteria.
- Regional category projects are ranked based 70% on data from multiple criteria, and 30% on local input (Division Engineer, MPO and RPO input).
- Divisional category projects are ranked based 50% on data, and 50% on local input (Division Engineer, MPO and RPO input).

Section 15. This section creates a Megaproject Fund within the Highway Trust Fund and provides that the Megaproject Fund would consist of appropriations or transfers made by the General Assembly to the Fund. It directs DOT to use funds in the Megaproject Fund to fund transportation projects, of statewide or regional significance that exceed two hundred million dollars (\$200,000,000) in total project cost. The projects would be selected by a workgroup overseen by DOT, using project selection criteria established pursuant to Section 17 of this bill. This section directs DOT to shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Megaproject

Page 4

Fund, the selection criteria, and DOT's anticipated schedule for future projects. The Department is required to submit the report to the Joint Legislative Transportation Oversight Committee by November 1 of each year.

**Section 16.** This section amends the Strategic Transportation Investment Act formula to exclude funds appropriated or transferred to the Megaproject Fund.

**Section 17.** This section directs DOT to establish a workgroup for the purposes of developing megaproject selection criteria, and selecting projects using the criteria. This section becomes effective when it becomes law.

The Megaproject Fund selection criteria must do the following:

- Address large scale, significant transportation needs of the State.
- Provide for interstate and intrastate connectivity between urban and rural areas and between rural
  areas.
- Encourage economic development in both urban and rural areas of the State.
- Improve existing major highway corridors by increasing capacity and relieving congestion.
- Provide for infrastructure improvements and rail and highway connectivity to the State ports.
- Encourage delivery of projects in the most effective, efficient, and expeditious manner.

In addition, Section 17 of the bill:

- Provides for workgroup membership meeting times, and meeting frequency.
- Requires, with 45 days of its initial convening, for the workgroup to provide a report to the Joint Legislative Transportation Oversight Committee on its progress in creating the megaproject selection criteria.
- Requires, within 3 months of the workgroup's initial convening, for it to provide a report to the
  Joint Legislative Transportation Oversight Committee on the megaproject selection criteria it has
  developed.

#### PART IV. Effective Date

Section 18. Except as otherwise provided, this act becomes effective July 1, 2017.

Giles Perry, counsel to House Transportation, substantially contributed to this summary.

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### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

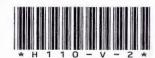
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Short Title:

DOT/DMV Changes.

# HOUSE BILL 110\* Committee Substitute Favorable 4/4/17

Sponsors: Referred to: February 16, 2017 1 A BILL TO BE ENTITLED 2 AN ACT TO MAKE CHANGES TO STATE LAW RELATED TO THE DEPARTMENT OF 3 TRANSPORTATION AND THE DIVISION OF MOTOR VEHICLES, AS 4 RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT 5 COMMITTEE. 6 The General Assembly of North Carolina enacts: 7 8 PART I. DEPARTMENT OF TRANSPORTATION CHANGES 9 10 DOT RESIDUE PROPERTY DISPOSAL 11 **SECTION 1.(a)** G.S. 136-19 is amended by adding a new subsection to read: Remainder properties acquired in connection with acquisition of right-of-way shall 12 be disposed of as follows: 13 14 The sale of all residues will be by public sale, except as hereinafter (1) specified. 15 16 Residue properties sold by public sale may be sold by sealed bid or by (2) auction at the election of the Right of Way Branch. The sale of such 17 properties must be advertised by at least one of the following methods: 18 Publication in a newspaper having general circulation in the county 19 a. in which the property is situated. 20 On a Department of Transportation Web site. 21 b. By placement of a "For Sale" sign on the residue. 22 C. After opening bids or closing of auction, upset bids may be considered. The 23 (3) high bid shall be presented to the Board of Transportation at its next regular 24 meeting after the date of the sale for rejection or acceptance. The 25 Department of Transportation may reject all bids if the Department does not 26 consider the bids to be in accord with the appraised or fair market value as 27 28 determined by the Department. Residue properties sold by public sale may also be sold by real estate 29 (4)30 brokers licensed in North Carolina at the election of the Chief Engineer. The highest offer to purchase shall be presented to the Board of Transportation at 31 32 its next regular meeting after the acceptance of the offer to purchase. The 33 Department of Transportation may reject all offers to purchase if the 34 Department does not consider them to be in accord with the appraised or fair 35 market value as determined by the Department.



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(Public)

EXTEND SUNSET FOR DOT MINORITY-OWNED/WOMEN-OWNED BUSINESSES PROGRAM

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**SECTION 2.** G.S. 136-28.4(e) reads as rewritten: 2 "(e) This section expires August 31, 2017.2019." 3 4 ELIMINATE ANNUAL REPORT ON REDUCING VEHICLE MILES TRAVELED BY 5 STATE EMPLOYEES **SECTION 3.** Subsections (d) and (e) of G.S. 143-215.107C are repealed. 6 7 8 PART II. DIVISION OF MOTOR VEHICLES CHANGES 9 10 CLARIFY THAT HYBRID VEHICLES WITH EMISSIONS COMPONENTS ARE 11 SUBJECT TO EMISSIONS INSPECTIONS 12 **SECTION 4.** G.S. 20-4.01 reads as rewritten: 13 "§ 20-4.01. Definitions. 14 Unless the context requires otherwise, the following definitions apply throughout this 15 Chapter to the defined words and phrases and their cognates: 16 17 (12a) Fuel cell electric vehicle. – A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the 18 following requirements: 19 20 Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety 21 22 Administration standards included in 49 C.F.R. § 571. Has not been modified from original manufacturer specifications 23 b. with regard to power train or any manner of powering the vehicle. 24 Uses hydrogen and a fuel cell to produce electricity on board to 25 c. power an electric motor to propel the vehicle. 26 27 Is rated at not more than 8,500 pounds unloaded gross vehicle d. 28 weight. Has a maximum speed capability of at least 65 miles per hour. 29 e. 30 31 Plug-in electric vehicle. – A four-wheeled motor vehicle that does not have 32 the ability to be propelled by a gasoline engine and that meets each of the following requirements: 33 Is made by a manufacturer primarily for use on public streets, roads, 34 a. and highways and meets National Highway Traffic Safety 35 Administration standards included in 49 C.F.R. § 571. 36 37 Has not been modified from original manufacturer specifications b. with regard to power train or any manner of powering the vehicle. 38 Is rated at not more than 8,500 pounds unloaded gross vehicle 39 c. 40 41 Has a maximum speed capability of at least 65 miles per hour. d. 42 Draws electricity from a battery that has all of the following e. 43 characteristics: 44 1. A capacity of not less than four kilowatt hours. Capable of being recharged from an external source of 45 2. 46 electricity. 47 ...." 48 49 50

MODIFY PROCESS BY WHICH DMV DETERMINES WHETHER TO REVOKE A DRIVERS LICENSE OF A PERSON WHO HAS BEEN ADJUDICATED INCOMPETENT

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### SECTION 5.(a) G.S. 20-17.1(a) reads as rewritten:

The Commissioner, upon receipt of notice that any person has been legally adjudicated incompetent or has been involuntarily committed to an institution for the treatment of alcoholism or drug addiction, an alcohol abuse or substance abuse disorder, shall forthwith make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle. If a person has been adjudicated incompetent under Chapter 35A of the General Statutes, in making an inquiry into the facts, the Commissioner shall consider the clerk of court's recommendation regarding whether the incompetent person should be allowed to retain his or her driving privilege. If a clerk of court, in any incompetency adjudication order under Chapter 35A of the General Statutes, recommends that any person's driving privilege be revoked, the Division shall immediately revoke such person's driving privilege. If the clerk of court, in any such order, recommends that the person retain their driving privilege, or makes no recommendation concerning their driving privilege, the Division shall determine whether the person shall retain their driving privilege, based upon an inquiry of the facts. Unless the Commissioner is satisfied that such person is competent to operate a motor vehicle with safety to persons and property, he the Commissioner shall revoke such person's driving privilege. Provided that if such person requests, in writing, a hearing, he shall retain his license until after the hearing, and if the revocation is sustained after such hearing, the person whose driving privilege has been revoked under the provisions of this section, Any person whose driving privilege is revoked pursuant to this subsection shall have the right to a review by the review board as provided in G.S. 20-9(g)(4) upon written request filed with the Division."

**SECTION 5.(b)** This section becomes effective February 1, 2018, and applies to adjudications on or after that date.

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### REDESIGNATE DMV LICENSE AND THEFT INSPECTORS AS AGENTS

SECTION 6.(a) G.S. 20-16.5(e) reads as rewritten:

Procedure if Report Filed with Judicial Official When Person Is Present. - If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall enter an order revoking the person's driver's license for the period required in this subsection. The judicial official shall order the person to surrender his license and if necessary may order a law-enforcement officer to seize the license. The judicial official shall give the person a copy of the revocation order. In addition to setting it out in the order the judicial official shall personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. The revocation under this subsection begins at the time the revocation order is issued and continues until the person's license has been surrendered for the period specified in this subsection, and the person has paid the applicable costs. The period of revocation is 30 days, if there are no pending offenses for which the person's license had been or is revoked under this section. If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event, may the period of revocation under this subsection be less than 30 days. If within five working days of the effective date of the order, the person does not surrender his license or demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued to a member of a local law-enforcement agency if the law enforcement officer was employed by the agency at the time of the charge and the person resides in or is present in the agency's territorial jurisdiction. In all other cases, the pick-up order shall be issued to an officer or inspector-agent of the Division. A pick-up order issued

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8 9 pursuant to this section is to be served in accordance with G.S. 20-29 as if the order had been issued by the Division."

**SECTION 6.(b)** G.S. 20-49 reads as rewritten:

### "§ 20-49. Police authority of Division.

The Commissioner and such officers and inspectors agents of the Division as he the Commissioner shall designate and all members of the Highway Patrol and law enforcement officers of the Department of Public Safety shall have the power:

### **SECTION 6.(c)** G.S. 20-49.1 reads as rewritten:

### "§ 20-49.1. Supplemental police authority of Division officers officers and agents.

- In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors agents of the Division whom the Commissioner designates have the authority to enforce criminal laws under any of the following circumstances:
  - (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.
  - When they are asked to provide temporary assistance by the head of a State (2) or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, the Division officers and agents shall have the same powers vested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this subsection, the Division officers and agents shall not be considered an officer, employee, or agent of the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this section shall be construed to expand the Division officers' or agents' authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction.

In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors agents of the Division whom the Commissioner designates have the authority to investigate drivers license fraud and identity thefts related to drivers license fraud and to make arrests for these offenses."

### **SECTION 6.(d)** G.S. 20-53(e) reads as rewritten:

No title shall be issued to an initial applicant for (i) out-of-state vehicles that are 1980 model year or older or (ii) a specially constructed vehicle prior to the completion of a vehicle verification conducted by the License and Theft Bureau of the Division of Motor Vehicles. These verifications shall be conducted as soon as practical. For an out-of-state vehicle that is 1980 model year or older, this inspection shall consist of verifying the public vehicle identification number to ensure that it matches the vehicle and ownership documents. No covert vehicle identification numbers are to be examined on an out-of-state vehicle 1980 model year or older unless the inspector agent develops probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined. However, upon such application and the submission of any required documentation, the Division shall be authorized to register the vehicle pending the completion of the verification of the vehicle. The registration shall be valid for one year but shall not be renewed unless and until the vehicle examination has been completed.

If an inspection and verification is not conducted by the License and Thefi Bureau of the Division of Motor Vehicles within 15 days after receiving a request for such and the inspector agent has no probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined, the vehicle shall be deemed to have satisfied all inspection and verification requirements and title shall issue to

the owner within 15 days thereafter. If an inspection and verification is timely performed and the vehicle passes the inspection and verification, title shall issue to the owner within 15 days of the date of the inspection."

**SECTION 6.(e)** G.S. 20-108 reads as rewritten:

"§ 20-108. Vehicles or component parts of vehicles without manufacturer's numbers.

)

- (b) The Commissioner and such officers and inspectors agents of the Division of Motor Vehicles as he has designated may take and possess any motor vehicle or component part if its engine number, vehicle identification number, or manufacturer's serial number has been altered, changed, or obliterated or if such officer or agent has probable cause to believe that the driver or person in charge of the motor vehicle or component part has violated subsection (a) above. Any officer or agent who so takes possession of a motor vehicle or component part shall immediately notify the Division of Motor Vehicles and the rightful owner, if known. The notification shall contain a description of the motor vehicle or component part and any other facts that may assist in locating or establishing the rightful ownership thereof or in prosecuting any person for a violation of the provisions of this Article.
- (c) Within 15 days after seizure of a motor vehicle or component part pursuant to this section, the Division shall send notice by certified mail to the person from whom the property was seized and to all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles that the Division has taken custody of the motor vehicle or component part. The notice shall also contain the following information:
  - (1) The name and address of the person or persons from whom the motor vehicle or component part was seized;
  - (2) A statement that the motor vehicle or component part has been seized for investigation as provided in this section and that the motor vehicle or component part will be released to the rightful owner:
    - a. Upon a determination that the identification number has not been altered, changed, or obliterated; or
    - b. Upon presentation of satisfactory evidence of the ownership of the motor vehicle or component part if no other person claims an interest in it within 30 days of the date the notice is mailed. Otherwise, a hearing regarding the disposition of the motor vehicle or component part may take place in a court having jurisdiction.
  - (3) The name and address of the officer <u>or agent</u> to whom evidence of ownership of the motor vehicle or component part may be presented; and
  - (4) A copy statement of the text contained in this section.
- (d) Whenever a motor vehicle or component part comes into the custody of an officer, officer or agent, the Division of Motor Vehicles may commence a civil action in the District Court in the county in which the motor vehicle or component part was seized to determine whether the motor vehicle or component part should be destroyed, sold, converted to the use of the Division or otherwise disposed of by an order of the court. The Division shall give notice of the commencement of such an action to the person from whom the motor vehicle or component part was seized and all claimants to the property whose interest or title is in the registration records of the Division of Motor Vehicles. Notice shall be by certified mail sent within 10 days after the filing of the action. In addition, any possessor of a motor vehicle or component part described in this section may commence a civil action under the provisions of this section, to which the Division of Motor Vehicles may be made a party, to provide for the proper disposition of the motor vehicle or component part.

(j) An officer or agent taking into custody a motor vehicle or component part under the provisions of this section is authorized to obtain necessary removal and storage services, but

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shall incur no personal liability for such services. The person or company so employed shall be entitled to reasonable compensation as a claimant under (e), and shall not be deemed an unlawful possessor under (a)."

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## LIMIT ISSUANCE OF 10-DAY TEMPORARY VEHICLE REGISTRATION TAGS SECTION 7.(a) G.S. 20-50(b) reads as rewritten:

"(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days. Except for a vehicle that is model year 1980 or older and is being transported directly to or from a vehicle show or exhibition, the Division shall not issue more than two 10-day temporary license plates to a person for a particular vehicle during an annual registration period.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is ten dollars (\$10.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

(1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.

(2) It expires on midnight of the day set for expiration.

- (3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.
- (4) If it is lost or stolen, the person who applied for it must notify the Division.

(5) It may not be issued by a dealer.

(6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible."

**SECTION 7.(b)** This section becomes effective January 1, 2018, and applies to applications received on or after that date.

# REMOVE SIGNATURE LINE FROM MOTOR VEHICLE REGISTRATION CARD SECTION 8. G.S. 20-57(b) reads as rewritten:

"(b) The registration card shall be delivered to the owner and shall contain upon the face thereof the name and address of the owner, space for the owner's signature, the registration number assigned to the vehicle, and a description of the vehicle as determined by the Commissioner, provided that if there are more than two owners the Division may show only two owners on the registration card and indicate that additional owners exist by placing after the names listed "et al." An owner may obtain a copy of a registration card issued in the owner's name by applying to the Division for a copy and paying the fee set in G.S. 20-85."

# ALLOW REMOTE CONVERSION OF CERTAIN FULL PROVISIONAL LICENSES TO CLASS C LICENSES

SECTION 9.(a) G.S. 20-7(f)(1) reads as rewritten:

 "(1) Duration of license for persons under age 18. — A full provisional license issued to a person under the age of 18 expires on the <u>sixtieth day following the person</u>'s twenty-first birthday."

**SECTION 9.(b)** G.S. 20-7(f)(6) reads as rewritten:

House Bill 110\*-Second Edition

Federal law. - Nothing in this subdivision shall be construed to

supersede any more restrictive provisions for renewal or conversion

Definition. - For purposes of this subdivision, "remote renewal"

of drivers licenses prescribed by federal law or regulation.

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license or full provisional license by mail, telephone, electronic device, or other secure means approved by the Commissioner."

SECTION 9.(c) Subsection (a) of this section becomes effective March 1, 2018, and applies to full provisional licenses issued on or after that date. The remainder of this section becomes effective March 1, 2018.

#### TEMPORARY REGISTRATION PLATES/EXTEND TIME LIMIT FOR DELIVERY OF SALES DOCUMENTS

**SECTION 10.(a)** G.S. 20-79.1(d)(3) reads as rewritten:

- "(d) A dealer shall:
  - (3) Within 10-20 working days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract."

SECTION 10.(b) This section is effective when it becomes law and applies to sales made on or after that date.

#### SPECIAL IDENTIFICATION CARDS/MODIFY ISSUANCE PROCESS AND ALLOW REMOTE RENEWAL

SECTION 11.(a) G.S. 20-37.7 reads as rewritten: "§ 20-37.7. Special identification card.

- (d) Expiration and Fee. Duration. - A special Special identification card issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire.cards shall be issued and renewed pursuant to the provisions of this subsection:
  - Duration for persons under age 18. A special identification card issued to (1)or renewed by a person under the age of 18 expires on the birthday of the holder in the fifth year after issuance.
  - (2)Duration for persons age 18 and older. - A special identification card issued to or renewed by a person at least 18 years old expires on the birthday of the holder in the eighth year after issuance.
  - Duration for certain other drivers. The durations listed in subdivisions (1) (3) and (2) of this subsection are valid unless the Division determines that a special identification card of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a special identification card of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States.
  - (4) When to renew. - A person may apply to the Division to renew a special identification card during the 180-day period before the special identification card expires. The Division may not accept an application for renewal made before the 180-day period begins.
- Fee. The fee for a new or renewed special identification card is the same as the fee set in G.S. 20-14 for a duplicate license. The fee does not apply to a special identification card issued to a resident of this State as follows:

- (7) The applicant has a developmental disability. To obtain a special identification card without paying a fee pursuant to this subdivision, an applicant must present a letter from letter, or a form approved by the Division, signed by his or her primary care provider certifying that the applicant has a developmental disability. For purposes of this subdivision, the term "developmental disability" has the same meaning as in G.S. 122C-3.
- (d2) Remote Renewal. Subject to the following limitations and requirements, the Division may offer remote renewal of a special identification card issued by the Division:
  - (1) Requirements. To be eligible for remote renewal under this subsection, a person must meet all of the following requirements:
    - a. The special identification card holder possesses a valid special identification card that was issued when the person was at least 18 years old.
    - b. The special identification card holder attests, in a manner designated by the Division, that (i) the special identification card holder is a resident of the State and currently resides at the address on the special identification card to be renewed, (ii) the special identification card holder's name as it appears on the special identification card to be renewed has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully. If the special identification card holder does not currently reside at the address on the special identification card to be renewed, the special identification card holder may comply with the address requirement of this sub-subdivision by providing the address at which the special identification card holder resides at the time of the remote renewal request.
    - <u>c.</u> The most recent renewal was an in-person renewal and not a remote renewal under this subsection.
    - <u>d.</u> The special identification card holder is otherwise eligible for renewal under this subsection.
  - (2) <u>Definition. For purposes of this subsection, "remote renewal" means renewal of a special identification card by mail, telephone, electronic device, or other secure means approved by the Commissioner.</u>
- (d1)(d3) Severe Disability. For a person who has a physician's letter certifying that a severe disability causes the person to be homebound, the Division shall adopt rules allowing for application for or renewal of a special photo identification card under this section by means other than a personal appearance.
- (d4) Special Identification Card to Be Sent by Mail. The Division shall issue to the applicant a temporary identification certificate valid for 60 days. The temporary identification certificate shall not be valid for identification purposes, except when conducting business with the Division and not otherwise prohibited by federal law. The Division shall produce the applicant's special identification card at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the special identification card to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a

post office box in this State may continue to receive their license at that post office box, 1 2 provided the applicant's residential address has been verified by the Division. 3 .....11 4 **SECTION 11.(b)** G.S. 20-9.2(c) reads as rewritten: 5 "(c) This section does not apply to special identification cards issued pursuant to G.S. 6 20-37.7(d)(5) or (6).subdivision (5) or (6) of subsection (d1) of G.S. 20-37.7." **SECTION 11.(c)** G.S. 163-275(13) reads as rewritten: 7 8 "(13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to 9 any person the privilege of voting, including declarations made under this 10 G.S. 20-37.7(d)(5), 20-37.7(d)(6), G.S. 20-37.7(d1)(5), 11 Chapter, 12 20-37.7(d1)(6), 130A-93.1(c), and 161-10(a)(8)." SECTION 11.(d) Subsections (b) and (c) of this section and subsection (d2) of 13 G.S. 20-37.7, as enacted by subsection (a) of this section, become effective December 1, 2017. 14 15 The remainder of this section becomes effective December 1, 2017, and applies to initial applications and renewals on or after that date. 16 17 DMV OFFICERS/EXPAND LIST OF SITUATIONS WHERE POLICE AUTHORITY 18 19 MAY BE EXERCISED 20 **SECTION 12.** G.S. 20-49.1(a) is amended by adding a new subdivision to read: When they are responding to an emergency situation that (i) is occurring in 21 "(3)their immediate vicinity and (ii) would likely result in bodily harm or loss of 22 property without immediate intervention." 23 24 ELIMINATION OF DRIVERS LICENSE TECHNOLOGY FUND 25 26 SECTION 13. G.S. 20-37.01 and G.S. 20-37.02(e) are repealed. 27 MOTOR VEHICLE DEFINITION/TECHNICAL CORRECTION 28 29 SECTION 14. G.S. 58-37-1(6) reads as rewritten: 30 "Motor vehicle" means every self-propelled vehicle that is designed for use "(6) 31 upon a highway, including trailers and semitrailers designed for use with 32 such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a 33 34 motorcycle, as defined in G.S. 20-4.01(27)d., and a moped, as defined in G.S. 20-4.01(27)d1., or G.S. 20-4.01(27)d1. "Motor vehicle" does not mean 35

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#### PART III. EFFECTIVE DATE

**SECTION 15.** Except as otherwise provided, this act becomes effective July 1, 2017.

an electric assisted bicycle, as defined in G.S. 20-4.01(7a)."



### **HOUSE BILL 371:**

### Agency Powers and Duties/Technical Changes.

2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Reps. McGrady, McNeill, Hurley

**Analysis of:** PCS to First Edition

H371-CSBA-8

**Date:** April 19, 2017

Prepared by: Nicholas Giddings

Committee Counsel

OVERVIEW: House Bill 371 would recodify certain statutes to clarify the Department of Natural and Cultural Resources' authority over recreation, federal recreation-related funding, and the North Carolina Zoological Park. The bill would also change the name of the Clean Water Management Trust Fund to the North Carolina Land and Water Preservation Trust Fund.

#### The PCS would do the following:

- Add sworn law-enforcement officers of the Department of Natural and Cultural Resources to the list of law-enforcement officers eligible for salary continuation for workers' compensation when injured in the line of duty.
- Remove the duty of the Secretary of the Department of Natural and Cultural Resources to adopt goals and objectives for the Zoological Park and require any sale, lease or trade by the Secretary to acquire, dispose of, or develop park property be conducted in accordance with generally accepted practices for accredited zoos and aquariums.

CURRENT LAW/BILL ANALYSIS: House Bill 371 would do the following:

#### Section 1:

- Recodify G.S. 143-320(3) as G.S. 143B-135.44(3a) and G.S. 143-323(a) as G.S. 143B-153.58(a). This would transfer the duties concerning "recreation" from the Department of Environmental Quality (DEQ) to the Department of Natural and Cultural Resources (DNCR). This would correct the department name which was incorrectly changed during the transition to the two departments (DEQ and DNCR).
- Recodify G.S. 143-323(d) as G.S. 143B-153.58(b). This would transfer authority from DEQ to DNCR to apply for, and accept, recreation-related funding from the federal government. The bill would also designate the Director of the Division of Parks and Recreation the authority to accept and administer funding through the federal Land and Water Conservation Fund or its successor.
  - O This is an existing responsibility of the Parks and Recreation Director. The National Parks Service requires each state to have a "State Liaison Officer" (SLO) to administer the Land and Water Conservation Fund (LWCF) program, which has existed since the 1960's. The Parks and Recreation Director acts as the SLO, but the appointment must be made anew each time a new Governor is elected. This provision would reduce paperwork without changing the way the LWCF program works or altering the administrative responsibility of the Division of Parks and Recreation.





#### House PCS 371

Page 2

 The PCS adds sworn law-enforcement officers of the Department of Natural and Cultural Resources to the list of law-enforcement officers eligible for salary continuation for workers' compensation when injured in the line of duty.

#### Section 2:

- Currently, the North Carolina Zoological Park Council has a duty to advise the Secretary of DNCR (Secretary) on the basic concepts of and for the park and approve conceptual plans for the park and its buildings. The Council also advises on the construction, furnishings, equipment and operations of the park.
- House Bill 371 would change the title of Part 39 of Article 2 of Chapter 143B to "North Carolina Zoological Park".
- The PCS would remove the duty of the Secretary to adopt goals and objectives for the Zoological Park and advise the Zoological Park Director on those goals and objectives.
- The PCS would also require any sale, lease or trade by the Secretary to acquire, dispose of, or develop park property be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums.

#### Section 3:

- Changes the name of the "Clean Water Management Trust Fund" to the "Land and Water Preservation Trust Fund". This more accurately reflects the scope of the Fund's work and was recommended by the Fund's board.
- Makes conforming changes throughout Chapter 143B of the General Statutes and directs the Revisor of Statutes to make conforming changes throughout the General Statutes.

**EFFECTIVE DATE:** Section 3 becomes effective January 1, 2018. The remainder of the act is effective when it becomes law.

#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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# HOUSE BILL 371 PROPOSED COMMITTEE SUBSTITUTE H371-CSBA-8 [v.6] 04/18/2017 05:54:56 PM

Short Title: Agency Powers and Duties/Technical Changes.-AB (Public)

Sponsors:

Referred to:

#### March 16, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN POWERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES WITH RESPECT TO RECREATION AND FEDERAL RECREATION-RELATED FUNDING AND WITH RESPECT TO THE NORTH CAROLINA ZOOLOGICAL PARK, TO ADD SWORN LAW-ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR WORKERS' COMPENSATION, AND TO CHANGE THE NAME OF THE CLEAN WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE DEPARTMENT.

The General Assembly of North Carolina enacts:

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#### STATUTORY AUTHORITY REGARDING RECREATION AND CERTAIN LAW-ENFORCEMENT OFFICER BENEFITS

SECTION 1.(a) Subdivision (3) of G.S. 143-320 is recodified as subdivision (3a) of G.S. 143B-135.44.

**SECTION 1.(b)** Subsections (a) and (d) of G.S. 143-323 are recodified as subsections (a) and (b) of G.S. 143B-135.58, to be entitled "Additional powers and duties of the Department regarding recreation."

**SECTION 1.(c)** G.S. 143B-135.58, as enacted by Section 1(b) of this act, reads as rewritten:

#### "§ 143B-135.58. Additional powers and duties of the Department regarding recreation.

- (a) Recreation. The Department of Environmental Quality shall have the following powers and duties with respect to recreation:
  - (1) To study and appraise the recreation needs of the State and to assemble and disseminate information relative to recreation.
  - (2) To cooperate in the promotion and organization of local recreation systems for counties, municipalities, and other political subdivisions of the State, to aid them in the administration, finance, planning, personnel, coordination and cooperation of recreation organizations and programs.
  - (3) To aid in recruiting, training, and placing recreation workers, and to promote recreation institutes and conferences.
  - (4) To establish and promote recreation standards.
  - (5) To cooperate with appropriate State, federal, and local agencies and private membership groups and commercial recreation interests in the promotion of



- recreation opportunities, and to represent the State in recreation conferences, study groups, and other matters of recreation concern.

  To accept gifts, devises, and endowments. The funds, if given as an
  - (6) To accept gifts, devises, and endowments. The funds, if given as an endowment, shall be invested in securities designated by the donor, or if there is no such designation, in securities in which the State sinking fund may be invested. All such gifts and devises and all proceeds from such invested endowments shall be used for carrying out the purposes for which they were made.
  - (7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or administered by the State for recreation programs and services on land and water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.
  - (8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the Department's objectives and responsibilities.
  - (b) Federal Assistance. The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the Executive Budget Act. State Budget Act. The Director of the Department's Division of Parks and Recreation shall be designated as having the authority and responsibility to accept and administer funding through the federal Land and Water Conservation Fund or any successor fund established for similar purposes, and the Secretary may designate additional personnel to assist the Director in the responsibilities imposed by this subsection."

**SECTION 1.(d)** G.S. 143-166.13(a) reads as rewritten:

#### "§ 143-166.13. Persons entitled to benefits under Article.

- (a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:
  - (21) Sworn State Law-Enforcement Officers with the power of arrest, Department of Natural and Cultural Resources."

#### **ZOOLOGICAL PARK STATUTORY AUTHORITY**

**SECTION 2.(a)** The title of Part 39 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"North Carolina Zoological Park Council.Park."

**SECTION 2.(b)** Part 39 of Article 2 of Chapter 143B of the General Statutes, as amended by subsection (a) of this act, is amended by adding a new section to read:

#### "§ 143B-135.204. Powers and Duties of the Secretary.

- (a) Operation of Park. The Secretary of the Department of Natural and Cultural Resources may adopt rules governing the operation of the Zoological Park, including rules regulating its use and enjoyment by the public. Nothing in this subsection is intended to limit the power of the North Carolina Zoological Park Council to establish and set admissions fees as set forth in G.S. 143B-135.205.
- (b) Park Property. The Secretary of the Department of Natural and Cultural Resources may acquire, dispose of, and develop Zoological Park property, both real and personal. A sale, lease, or trade under this subsection must be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums."

Page 2 House Bill 371 H371-CSBA-8 [v.6]

#### RENAME CLEAN WATER MANAGEMENT TRUST FUND

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**SECTION 3.(a)** Part 41 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

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"Part 41. Clean Water Management-Land and Water Preservation Trust Fund.

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#### "§ 143B-135.230. Purpose. It is the intent of the General Assembly that moneys from the Fund created under this Part

shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties.

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"§ 143B-135.232. Definitions. The following definitions apply in this Part:

- Council. The advisory council for the Clean Water Management-Land and Water Preservation Trust Fund.
- (2) Fund. - The Clean Water Management-Land and Water Preservation Trust Fund created pursuant to this Part.
- Land. Real property and any interest in, easement in, or restriction on real (3) property.
- Local government unit. Defined in G.S. 159G-20. (4)
- (5) Trustees. - The trustees of the Clean Water Management-Land and Water Preservation Trust Fund.

#### "§ 143B-135.234. Clean Water Management-Land and Water Preservation Trust Fund.

- Fund Established. The Clean Water Management-Land and Water Preservation Trust Fund is established as a special revenue fund to be administered by the Department of Environmental Quality. The Fund receives revenue from the following sources and may receive revenue from other sources:
  - Annual appropriations. (1)
  - (2) Special registration plates under G.S. 20-81.12.
  - (3) Other special registration plates under G.S. 20-79.7.

#### " § 143B-135.236. North Carolina Conservation Easement Endowment Fund.

- The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the Clean Water Management Land and Water Preservation Trust Fund for stewardship activities related to projects for conservation easements funded from the Clean Water Management Land and Water Preservation Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.
- The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State.

H371-CSBA-8 [v.6]

- "§ 143B-135.240. Clean Water Management Land and Water Preservation Trust Fund:
   Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.
   (a) Board of Trustees Established. There is established the Clean Water Management
- (a) Board of Trustees Established. There is established the Clean Water Management Land and Water Preservation Trust Fund Board of Trustees. The Clean Water Management Land and Water Preservation Trust Fund Board of Trustees shall be administratively located within the Department of Natural and Cultural Resources.
- (b) Membership. The Clean Water Management Land and Water Preservation Trust Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:
  - (1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
  - (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.
  - (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
  - (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
  - (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

"§ 143B-135.242. Clean-Water Management Land and Water Preservation Trust Fund Board of Trustees: powers and duties.

"§ 143B-135.244. Clean Water Management Land and Water Preservation Trust Fund: reporting requirement.

## "§ 143B-135.246. Clean Water Management Land and Water Preservation Trust Fund: Executive Director and staff.

The Secretary of Natural and Cultural Resources shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Land and Water Preservation Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall

serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary of Natural and Cultural Resources, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Secretary of Natural and Cultural Resources, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Secretary of Natural and Cultural Resources.

These employees shall be exempt from the North Carolina Human Resources Act, as provided in G.S. 126-5(c1).

## "§ 143B-135.248. Clean Water Management-Land and Water Preservation Trust Fund: Advisory Council.

There is established the <u>Clean Water Management Land and Water Preservation</u> Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

- (1) Commissioner of Agriculture.
- (2) Chair of the Wildlife Resources Commission.
- (3) Secretary of Environmental Quality.
- (4) Secretary of the Department of Commerce.
- (5) Secretary of Natural and Cultural Resources."

**SECTION 3.(b)** The Revisor of Statutes may conform names and titles changed by this section and may correct statutory references to the Clean Water Management Trust Fund throughout the General Statutes to effect the change to the name of the Clean Water Management Trust Fund made by this section. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

**SECTION 3.(c)** This section becomes effective January 1, 2018.

**SECTION 4.** Except as otherwise provided, this act is effective when it becomes

32 law.



### **HOUSE BILL 371:** Agency Powers and Duties/Technical Changes.

#### 2017-2018 General Assembly

Committee:

House State and Local Government II

Introduced by: Reps. McGrady, McNeill, Hurley

Analysis of: H371-CSBA-8

PCS to First Edition

Date:

April 19, 2017

Prepared by: Nicholas Giddings

Committee Counsel

OVERVIEW: House Bill 371 would recodify certain statutes to clarify the Department of Natural and Cultural Resources' authority over recreation, federal recreation-related funding, and the North Carolina Zoological Park. The bill would also change the name of the Clean Water Management Trust Fund to the North Carolina Land and Water Preservation Trust Fund.

#### The PCS would do the following:

- Add sworn law-enforcement officers of the Department of Natural and Cultural Resources to the list of law-enforcement officers eligible for salary continuation for workers' compensation when injured in the line of duty.
- Remove the duty of the Secretary of the Department of Natural and Cultural Resources to adopt goals and objectives for the Zoological Park and require any sale, lease or trade by the Secretary to acquire, dispose of, or develop park property be conducted in accordance with generally accepted practices for accredited zoos and aquariums.

**CURRENT LAW/BILL ANALYSIS:** House Bill 371 would do the following:

#### Section 1:

- Recodify G.S. 143-320(3) as G.S. 143B-135.44(3a) and G.S. 143-323(a) as G.S. 143B-153.58(a). This would transfer the duties concerning "recreation" from the Department of Environmental Quality (DEQ) to the Department of Natural and Cultural Resources (DNCR). This would correct the department name which was incorrectly changed during the transition to the two departments (DEQ and DNCR).
- Recodify G.S. 143-323(d) as G.S. 143B-I53.58(b). This would transfer authority from DEQ to DNCR to apply for, and accept, recreation-related funding from the federal government. The bill would also designate the Director of the Division of Parks and Recreation the authority to accept and administer funding through the federal Land and Water Conservation Fund or its successor.
  - This is an existing responsibility of the Parks and Recreation Director. The National Parks Service requires each state to have a "State Liaison Officer" (SLO) to administer the Land and Water Conservation Fund (LWCF) program, which has existed since the 1960's. The Parks and Recreation Director acts as the SLO, but the appointment must be made anew each time a new Governor is elected. This provision would reduce paperwork without changing the way the LWCF program works or altering the administrative responsibility of the Division of Parks and Recreation.

Karen Cochrane-Brown Director



#### **House PCS 371**

Page 2

• The PCS adds sworn law-enforcement officers of the Department of Natural and Cultural Resources to the list of law-enforcement officers eligible for salary continuation for workers' compensation when injured in the line of duty.

#### Section 2:

- Currently, the North Carolina Zoological Park Council has a duty to advise the Secretary of DNCR (Secretary) on the basic concepts of and for the park and approve conceptual plans for the park and its buildings. The Council also advises on the construction, furnishings, equipment and operations of the park.
- House Bill 371 would change the title of Part 39 of Article 2 of Chapter 143B to "North Carolina Zoological Park".
- The PCS would remove the duty of the Secretary to adopt goals and objectives for the Zoological Park and advise the Zoological Park Director on those goals and objectives.
- The PCS would also require any sale, lease or trade by the Secretary to acquire, dispose of, or develop park property be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums.

#### Section 3:

- Changes the name of the "Clean Water Management Trust Fund" to the "Land and Water Preservation Trust Fund". This more accurately reflects the scope of the Fund's work and was recommended by the Fund's board.
- Makes conforming changes throughout Chapter 143B of the General Statutes and directs the Revisor of Statutes to make conforming changes throughout the General Statutes.

**EFFECTIVE DATE:** Section 3 becomes effective January 1, 2018. The remainder of the act is effective when it becomes law.

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# **HOUSE BILL 376:** Subdivision Improvement Guarantee Changes.

2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Reps. McGrady, Henson

Analysis of: First Edition

**Date:** April 18, 2017

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 376 provides that if a county or city receives funds form a performance guarantee, and the funds are insufficient to complete the required improvement, the county or city may, at its discretion, administer the funds in accordance with standards adopted by the governing body.

CURRENT LAW: Counties and cities may adopt subdivision ordinances that require developers to construct or fund certain improvements, such as streets, utilities, recreation areas, and other public facilities. G.S. 153A-331 and G.S. 160A-372 authorize counties and cities, as a part of their subdivision ordinances, to require a developer to provide a performance guarantee to assure successful completion of improvements when the developer constructs the improvements. The amount of the performance guarantee cannot exceed 125% of the estimated cost of the improvement, and it may be in the form of a surety bond, a letter of credit, or another form of guarantee that provides equivalent security. If the developer fails to successfully complete the improvement, the county or city may make a claim on the performance guarantee. Any funds received from the performance guarantee must be used for completion of the required improvement; it cannot be used for repairs or maintenance after completion.

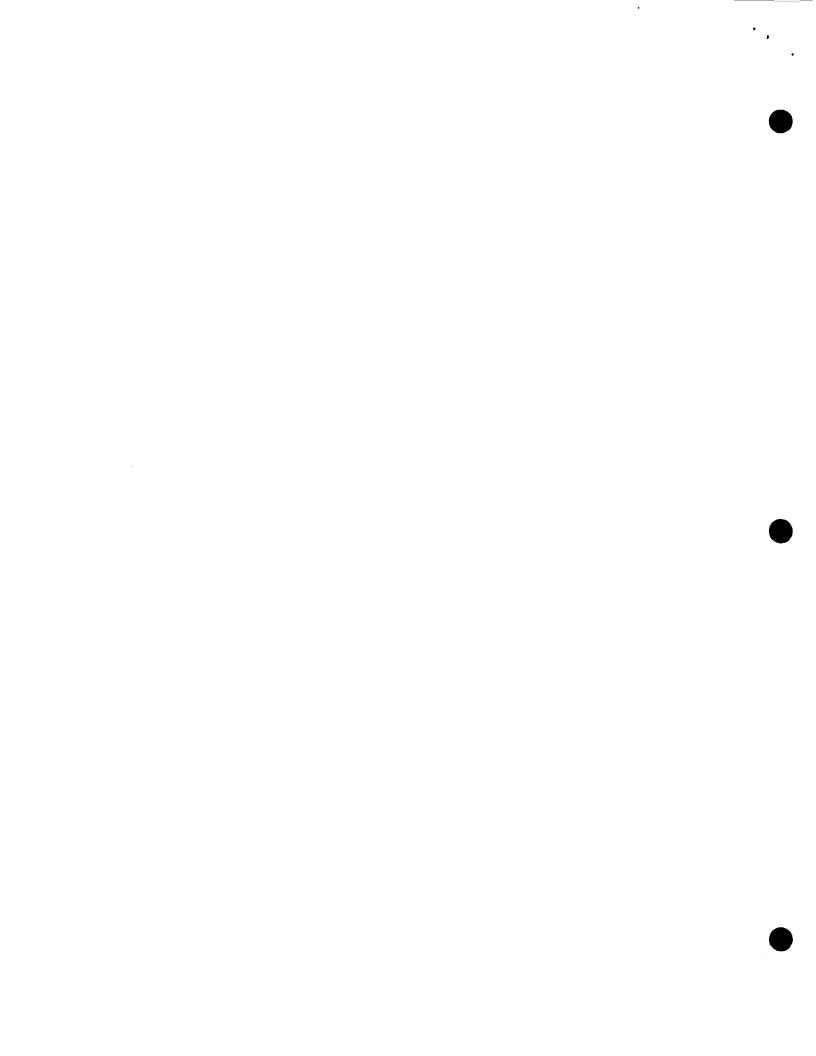
**BILL ANALYSIS:** House Bill 376 amends the current law governing county or city subdivision improvement performance guarantee ordinances, to provide the following:

- If funds from a subdivision improvement performance guarantee obtained by a developer are paid to the county or city, the county or city may administer the funds for the completion of the required improvements. This provision is a restatement of current law; G.S. 160A-372(g)(4) stipulates that a performance guarantee shall only be used for completion of the required improvements.
- Under a county subdivision ordinance, if a subdivision is not located in whole or in part within a
  municipality, then the county may contract with another entity to complete the required
  improvements. Under current law, if a developer provides funds to be used for the development
  of roads, in lieu of required street construction, the county must transfer the funds received from
  the developer to the municipality. This
- If the funds paid to the county or city from the performance guarantee are insufficient to complete the required improvements, the county or city may, at their discretion, administer the funds in accordance with standards adopted by the county or city board. The provisions of G.S. 160A-393 apply to the review of any decision of the county or city board administration of subdivision improvement performance guarantee funds.

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







#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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## HOUSE BILL 376 PROPOSED COMMITTEE SUBSTITUTE H376-CSRB-6 [v.2]

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Subdivision Improvement Guarantee Changes.	(Public)
	Subdivision Improvement Guarantee Changes.

Sponsors:
Referred to:

March 16, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE GENERAL STATUTES RELATING TO SUBDIVISION IMPROVEMENT GUARANTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-331(d) reads as rewritten:

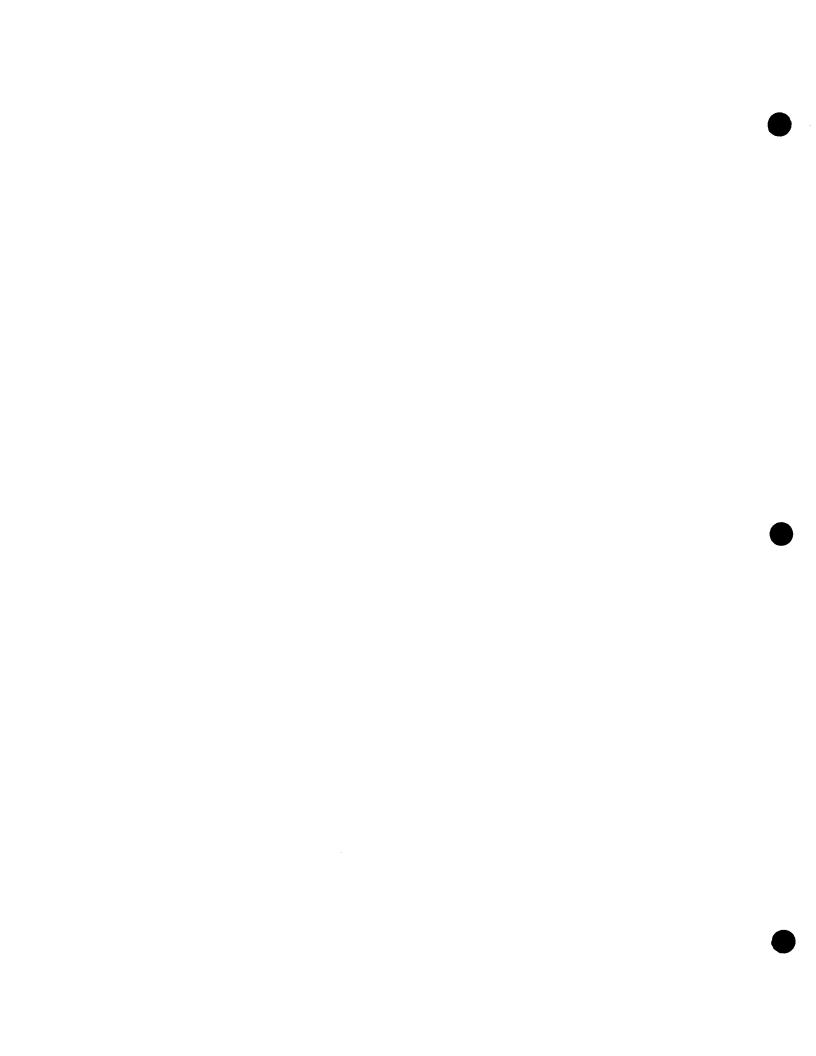
"(d) The ordinance may provide that in lieu of required street construction, a developer may provide funds to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this section shall be transferred to the municipality to be used solely for the development of roads, including design, land acquisition, and construction. If the subdivision is not located in whole or in part within a municipality, then the county may contract with another entity for the development of the roads. Any municipality receiving funds from a county under this section is authorized to expend such funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served."

**SECTION 2.** G.S. 160A-372(g) reads as rewritten:

- "(g) For purposes of this section, all of the following shall apply with respect to performance guarantees:
  - (4) The performance guarantee shall only must be used for completion of the required improvements and not for repairs or maintenance after completion. If the performance guarantee is insufficient to complete the required improvements, or the subdivision for which the performance guarantee is obtained is not completed, then the performance guarantee may be administered in accordance with standards adopted by the governing body to whom the performance guarantee is payable. The provisions of G.S. 160A-393 apply to the review of any decision made by the governing body concerning the standards adopted."

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





### SESSION 2017

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#### **HOUSE BILL 376**

GENERAL ASSEMBLY OF NORTH CAROLINA

Short Title: Subdivision Improvement Guarantee Changes. (Public)

Sponsors: Representatives McGrady and Henson (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, State and Local Government II

March 16, 2017

#### A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE GENERAL STATUTES RELATING TO SUBDIVISION IMPROVEMENT GUARANTEES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-331 reads as rewritten:

#### "§ 153A-331. Contents and requirements of ordinance.

- (a) A subdivision control ordinance may provide for the orderly growth and development of the county; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and the general welfare.
- (b) The ordinance may require that a plat be prepared, approved, and recorded pursuant to the provisions of the ordinance whenever any subdivision of land takes place. The ordinance may include requirements that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformity with good surveying practice.
- (c) A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area.
- (d) The ordinance may provide that in lieu of required street construction, a developer may provide funds to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this section shall be transferred to the municipality to be used solely for the development of roads, including design, land acquisition, and construction. Any municipality receiving funds from a county under this section is authorized to expend such funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The



ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served.

- (e) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees to assure successful completion of required improvements at the time the plat is recorded as provided in subsection (b) of this section. For any specific development, the type of performance guarantee from the range specified by the county shall be at the election of the developer.
- The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or the planning board. For the authorization to reserve school sites to be effective, the board of commissioners or planning board, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning board shall immediately notify the board of education. The board of education shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning board of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.
  - (g) Any performance guarantee shall comply with G.S. 160A-372(g).
- (h) In the event that the collateral for a performance guarantee obtained by a developer pursuant to this section is paid to the county, the county may administer the funds received in furtherance of the successful completion of the required improvements. Notwithstanding subsection (d) of this section, if the subdivision is not located in whole or in part within a municipality, then the county may contract with another entity to complete the required improvements. If the funds paid to the county from the performance guarantee are insufficient to complete the required improvements, the county may, at its discretion, administer the funds in accordance with standards adopted by the board of commissioners. The provisions of G.S. 160A-393 shall apply to the review of any decision of the board of commissioners pursuant to this subsection."

**SECTION 2.** G.S. 160A-372 reads as rewritten:

#### "§ 160A-372. Contents and requirements of ordinance.

(a) A subdivision control ordinance may provide for the orderly growth and development of the city; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area, and rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and the general welfare.

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- (b) The ordinance may require a plat be prepared, approved, and recorded pursuant to the provisions of the ordinance whenever any subdivision of land takes place. The ordinance may include requirements that plats show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.
- (c) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees to assure successful completion of required improvements at the time the plat is recorded as provided in subsection (b) of this section. For any specific development, the type of performance guarantee shall be at the election of the developer.
- The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the council or the planning board. In order for this authorization to become effective, before approving such plans the council or planning board and the board of education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land use plan. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the council or planning board shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the council or planning board and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.
- (e) The ordinance may provide that a developer may provide funds to the city whereby the city may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the city pursuant to this paragraph [subsection] shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this paragraph [subsection] shall be based on the value of the development or subdivision for property tax purposes. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the governing body of the city determines that this combination is in the best interests of the citizens of the area to be served.
- (f) The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this paragraph [subsection] shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the

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38 39 governing body of the city determines that a combination is in the best interests of the citizens of the area to be served.

- For purposes of this section, all of the following shall apply with respect to (g) performance guarantees:
  - The term "performance guarantee" shall mean any of the following forms of (1) guarantee:
    - a. Surety bond issued by any company authorized to do business in this
    - b. Letter of credit issued by any financial institution licensed to do business in this State.
    - Other form of guarantee that provides equivalent security to a surety c. bond or letter of credit.
  - (2) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the city or county that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.
  - The amount of the performance guarantee shall not exceed one hundred (3) twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
  - The performance guarantee shall only be used for completion of the required (4) improvements and not for repairs or maintenance after completion.
- In the event that a performance guarantee obtained by a developer pursuant to this section is called and paid to the city, the city may administer the funds in furtherance of the successful completion of the required improvements. If the funds paid to the city from the performance guarantee are insufficient to complete the required improvements, the city may, at its discretion, administer the funds in accordance with standards adopted by the council. The provisions of G.S. 160A-393 shall apply to the review of any decision of the council pursuant to this subsection."

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



# **HOUSE BILL 349:** Currituck-Developer Funds for Road Constr.

2017-2018 General Assembly

Committee: House State and Local Government II Date: April 6, 2017
Introduced by: Rep. Steinburg Prepared by: Cindy Avrette
Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 349<sup>1</sup> authorizes Currituck County to use funds contributed by a developer pursuant to a county subdivision road ordinance for the purpose of improving roads serving the subdivision or development, in conjunction with DOT.

The bill received a favorable report from the House Transportation Committee on April 4, 2017.

**CURRENT LAW:** Under G.S. 153A-331, a county subdivision ordinance may require a developer to contribute funds in lieu of required road construction to serve the residents of a subdivision or development. Funds contributed in accordance with this section must be transferred to a municipality for the construction of the roads serving the subdivision or development.

**BILL ANALYSIS:** House Bill 349, applicable to Currituck County only, amends the current law concerning developer contributions of funds to serve a county subdivision or development, under a county subdivision ordinance, to provide that the county may use the funds to undertake improvements to the roads serving the subdivision or development, pursuant to an agreement with NC DOT.

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

Giles Perry, counsel to House Transportation, substantially contributed to this summary.

<sup>&</sup>lt;sup>1</sup> As introduced, this bill was identical to S281, as introduced by Sen. Cook, which is currently in Senate Rules and Operations of the Senate.





#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H HOUSE BILL 349\*

Short Title:	Currituck-Developer Funds for Road Constr. (Le	ocal)
Sponsors:	Representative Steinburg.	
	For a complete list of sponsors, refer to the North Carolina General Assembly web site	
Referred to:	Transportation, if favorable, State and Local Government II	

March 15, 2017

A BILL TO BE ENTITLED

AN ACT TO ALLOW CURRITUCK COUNTY TO USE DEVELOPER FUNDS FOR THE CONSTRUCTION OF ROADS TO ALLOW FOR INTERCONNECTIVITY OF SUBDIVISION STREETS AND ROADS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-331 reads as rewritten:

"§ 153A-331. Contents and requirements of ordinance.

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(c) A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area.

(d) The ordinance may provide that in lieu of required street construction, a developer may provide funds to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this section shall be transferred to the municipality to be used solely for the development of roads, including design, land acquisition, and construction. Any municipality receiving funds from a county under this section is authorized to expend such funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county. However, a county may undertake these activities in conjunction with the Department of Transportation pursuant to an agreement between the county and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served.

**SECTION 2.** This act applies to Currituck County only.

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

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### HOUSE BILL 482: County Comm. Role in School Bldg Acquisition.

2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Rep. Blackwell

Analysis of: First Edition

**Date:** April 6, 2017

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 482 provides a statutory cross-reference in the statute that authorizes local boards of education to acquire sites to the uniform budget provision that requires prior approval by the board of county commissioners as to the amount to be spent for the site.

CURRENT LAW: Both county commissioners and school boards play a role in financing and providing public education. Local boards of education acquire property and build school facilities and boards of county commissioners provide a large percentage of the financial resources needed to finance the acquisition and building. Local boards of education must follow a uniform budget format that requires the use of several funds, one of which is a capital outlay fund. Revenues in the capital outlay fund come from a variety of sources, one of which are revenues made available by boards of county commissioners for capital outlay purposes. The revenues in the capital outlay fund may be used for acquisition of real property for school purposes.

The uniform budget provisions stipulate that a local board of education cannot execute a contract for, nor expend funds for, the acquisition of a site without the approval of the board of county commissioners as to the amount to be spent for the site. If a board of education determines that the amount of money appropriated to the capital outlay fund by the board of county commissioners is not sufficient, the two boards must arrange a joint meeting to be attended by a mediator either jointly selected by the two boards or appointed by the Resident Superior Court Judge. If no agreement is reached at the joint meeting, the statute provides a procedure for resolution through the use of a mediation settlement conference, and if that fails, an action through the courts.

BILL ANALYSIS: House Bill 482 does not substantively change the law. It does provide a statutory cross-reference in the statute that authorizes boards of education to acquire building sites to the uniform budget provisions that address the financing of those acquisitions. Specifically, the bill reiterates in G.S. 115C-517 that the acquisition of a building site is subject to the prior approval of the board of county commissioners as to the amount to be spent for the site.

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

**BACKGROUND:** G.S. 115C-426.2 recognizes the joint planning necessary to successfully accomplish the financing and acquisition of public school facilities. That statute encourages local boards of education and boards of county commissioners to conduct periodic joint meetings in order to promote greater mutual understanding of immediate and long-term budgetary issues and constraints affecting public schools and county governments. In particular, the boards are encouraged to assess the school capital outlay needs, to develop and update a joint five-year plan for meeting those needs, and to consider this plan in the preparation and approval of each year's budget.

<sup>&</sup>lt;sup>1</sup> G.S. 115C-426(f).





#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H HOUSE BILL 482

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Short Title:	County Comm. Role in School Bldg Acquisition.	(Public)	
Sponsors:	Representative Blackwell.		
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.		
Referred to:	State and Local Government II		

March 28, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE ROLE OF THE COUNTY COMMISSIONERS IN SCHOOL BUILDING ACQUISITION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-517 reads as rewritten:

"§ 115C-517. Acquisition of sites.

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Local boards of education may acquire suitable sites for schoolhouses or other school facilities either within or without the local school administrative unit; but no unit, subject to the approval of the board of county commissioners as to the amount to be spent for the site, as provided in G.S. 115C-426(f). No school may be operated by a local school administrative unit outside its own boundaries, although other school facilities such as repair shops, may be operated outside the boundaries of the local school administrative unit. Whenever any such board is unable to acquire or enlarge a suitable site or right-of-way for a school, school building, school bus garage or for a parking area or access road suitable for school buses or for other school facilities by gift or purchase, condemnation proceedings to acquire same may be instituted by such board under the provisions of Chapter 40A of the General Statutes, and the determination of the local board of education of the land necessary for such purposes shall be conclusive."

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



# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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fiscal year."

#### **HOUSE BILL 491**

Short Title:	Henderson County Fire Tax Districts. (Local)
Sponsors:	Representatives McGrady and Henson (Primary Sponsors).  For a complete list of sponsors, refer to the North Carolina General Assembly web site.
Referred to:	State and Local Government II, if favorable, Finance
	March 28, 2017
CERTAIN COMMIS The General A	A BILL TO BE ENTITLED  O ALLOW HENDERSON COUNTY TO CHANGE THE BOUNDARY OF INFIRE TAX DISTRICTS BY RESOLUTION OF THE BOARD OF COUNTY SIONERS.  Assembly of North Carolina enacts:  CCTION 1. Section 1 of S.L. 2000-4, as amended by S.L. 2011-50, reads as
rewritten: "Section I in Henderson be changed by	. (a) Notwithstanding G.S. 69-25.11, the boundaries of any fire protection district County established under Article 3A of Chapter 69 of the General Statutes may y resolution of the Board of Commissioners of Henderson County to follow the own on the map in Attachment A to a resolution adopted by that board on March
(b) No Henderson Co	otwithstanding G.S. 69-25.11, the boundaries of any fire protection district in ounty established under Article 3A of Chapter 69 of the General Statutes may be solution of the Board of Commissioners of Henderson County as follows:  to-To include any unincorporated area of the county not already in such a fire protection district if (i) in that resolution all of such unincorporated areas, other than those owned by the United States, are placed in some fire protection district and (ii) no fire district contains any new noncontiguous territory other than a noncontiguity caused by exclusion of property owned by the United States.
(2) Any resol	The state of the s

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





# **HOUSE BILL 491:** Henderson County Fire Tax Districts.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date: April 18, 2017

favorable, re-refer to Finance

Introduced by: Reps. McGrady, Henson Prepared by: Cindy Avrette

Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 491 is a local act that would allow Henderson County board of commissioners to transfer property, by resolution, from one fire protection district to another when the transfer is jointly requested by both fire districts.

CURRENT LAW: Article 3A of Chapter 69 of the General Statutes addresses the creation of rural fire protection districts. G.S. 69-25.11 governs changes in the area of a fire protection district. Under G.S. 69-25.11(3), the board of county commissioners may relocate boundary lines between fire districts upon petition of the fire protection commissioners and the boards of directors of the corporations furnishing fire protection to the districts. Upon receipt of the petition, the board must set a date and time for a public hearing on the petition and must give notice of the hearing once a week for two weeks preceding the time of the hearing.

BILL ANALYSIS: House Bill 491 would allow the Board of Commissioners of Henderson County to adopt a resolution transferring areas from one fire protection district to another when the transfer is jointly requested by the fire departments serving those areas before and after the proposed transfer. The resolution adopted by the board transferring the areas must include, as an appendix, a description or map of the areas to be transferred. The resolution would become effective the first day of the next fiscal year.

**EFFECTIVE DATE:** Effective when it becomes law.

BACKGROUND: The General Assembly enacted a local act in 2000<sup>1</sup> to permit the Henderson County Board of Commissioners to adjust the boundaries of its fire protection districts in accordance with a map attached to a resolution adopted by the Henderson County Board of Commissioners on March 17, 1999. In 2011, the General Assembly enacted another local act<sup>2</sup> applicable to Henderson County that allowed its board of commissioners to change the boundaries of fire districts by resolution to include any unincorporated area of the county not already in a fire protection district if certain conditions were met.



<sup>&</sup>lt;sup>2</sup> S.L. 2011-50.





### **HOUSE BILL 530:** Counties/Condemnation of Unsafe Bldgs/Liens.

#### 2017-2018 General Assembly

Committee: Introduced by: Reps. Lewis, Sauls, Willingham

House State and Local Government II

Date:

April 19, 2017 Prepared by: Nicholas Giddings

Analysis of:

First Edition

Committee Counsel

OVERVIEW: House Bill 530 would grant counties the same authority provided to cities in condemnation actions by allowing counties to do the following:

- Condemn nonresidential buildings or structures, and residential buildings if an ordinance is adopted, under certain conditions.
- Remove or demolish unsafe buildings or structures.
- Place a lien on real property of the owner for the cost of removal or demolition.

CURRENT LAW: Counties have authority to condemn unsafe buildings that appear to the county inspector to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other reasons.

BILL ANALYSIS: House Bill 530 would conform Chapter 153A (Counties) with Chapter 160A (Cities) of the General Statutes with regard to condemnation actions and requirements.

#### Condemnation of Buildings or Structures:

The bill would allow counties to condemn nonresidential buildings and structures if the county in spector determines the property to be vacant or abandoned, and in such a dilapidated condition that the property causes or contributes to blight, disease, vagrancy, fire, or safety hazard, is a danger to children, or may attract criminal, or other public nuisance, activities. This authority may be extended to cover residential buildings through ordinance.

If a property is condemned due to its unsafe condition, the inspector must conspicuously post notice of the unsafe condition on the exterior wall of the property. The bill also makes conforming changes to the statute requiring written notice be sent to a property owner that fails to correct the unsafe condition.

#### Removal or Demolition of Condemned Property and Lien Authorized:

If a building or structure is condemned due to its unsafe condition, the county would be authorized to remove or demolish the building. The cost incurred to remove or demolish the property would become a lien on that real property. An additional lien would also be placed against all real property in the county owned by the owner of the demolished building, except for the owner's primary residence. This additional lien would be inferior to prior liens and collected as a money judgment. The county must sell any usable materials of the building and any personal property, fixtures or appurtenances found in or on the building and credit any amount against the cost of demolition. Any balance remaining would be deposited with the clerk of superior court and disbursed to the person entitled to it upon final order or decree of the court.

**EFFECTIVE DATE:** This act would be effective when law.





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#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE BILL 530**

Short Title: Counties/Condemnation of Unsafe Bldgs/Liens. (Public)

Sponsors: Representatives Lewis, Sauls, and Willingham (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Judiciary III

#### March 30, 2017

A BILL TO BE ENTITLED

AN ACT GRANTING COUNTIES THE SAME AUTHORITY AS CITIES TO DECLARE CERTAIN BUILDINGS OR STRUCTURES UNSAFE AND TO REMOVE OR DEMOLISH UNSAFE BUILDINGS OR STRUCTURES AND TO PLACE A LIEN ON THE OWNER'S REAL PROPERTY FOR THE COSTS INCURRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-366 reads as rewritten:

"§ 153A-366. Unsafe buildings condemned.

- (a) Residential Building and Nonresidential Building or Structure. The inspector shall condemn as unsafe each building that appears to him to be especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes; and he shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall.
- (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 board of commissioners as being in special need of revitalization for the benefit and welfare of its citizens.
- (d) A county may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting the ordinance, the county shall hold a public hearing and shall provide notice of the hearing at least 10 days in advance of the hearing."

SECTION 2. G.S. 153A-368 reads as rewritten:



#### "§ 153A-368. Action in event of failure to take corrective action.

If the owner of a building that has been condemned as unsafe pursuant to G.S. 153A-366 fails to take prompt corrective action, the local inspector shall by certified or registered mail to his last known address or by personal service give him written notice:

- (1) That the building or structure is in a condition that appears to constitute meet one or more of the following conditions:
  - <u>a.</u> <u>Constitutes</u> a fire or safety <del>hazard or to be hazard.</del>
  - b. <u>Is</u> dangerous to life, health, or other <del>property; property.</del>
  - c. <u>Is likely to cause or contribute to blight, disease, vagrancy, or danger</u> to children.
  - d. Has a tendency to attract persons intent on criminal activities or other activities that 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 is 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 any order to repair, close, vacate, or demolish the building that 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 in question at least 10 days before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing."

#### **SECTION 3.** G.S. 153A-372 reads as rewritten:

#### "§ 153A-372. Equitable enforcement.

- (a) <u>Action Authorized.</u>—Whenever a violation is denominated a misdemeanor under the provisions of this Part, the county, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building involved.
- (b) Removal of Building. In the case of a building or structure declared unsafe under G.S. 153A-366 or an ordinance adopted pursuant to G.S. 153A-366, a county may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the county 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 9 of this Chapter. If the building or structure is removed or demolished by the county, the county shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The county 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.
- (b1) Additional Lien. The amounts incurred by the county in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the county's jurisdictional limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.
- (c) Nonexclusive Remedy. Nothing in this section shall be construed to impair or limit the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise."

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



### HOUSE BILL 591: Study/LEO Interaction With Disabled Drivers.

2017-2018 General Assembly

Committee:

House State and Local Government II

Date:

April 12, 2017

Introduced by:

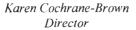
Rep. C. Graham

Prepared by:

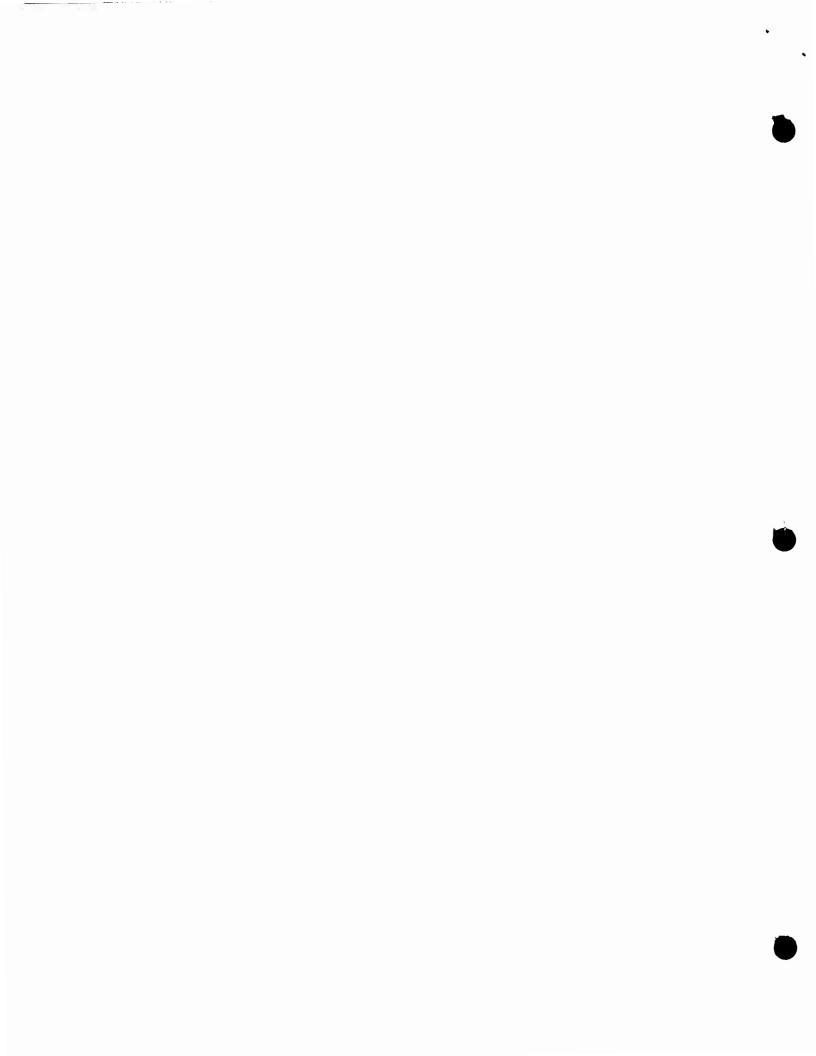
Brad Krehely

Analysis of: First Edition Committee Co-Counsel

OVERVIEW: House Bill 591 requires the Department of Justice and Public Safety (Department) to study and identify proper training for a law enforcement officer to improve (i) the officer's ability during a traffic stop to determine if a person is deaf or hard of hearing or has a developmental disability, traumatic brain injury, or mental illness and the condition is affecting the person's ability to comply with orders given by the officer and (ii) the officer's interaction during a traffic stop with a person who is deaf or hard of hearing or has a developmental disability, traumatic brain injury, or mental illness. The Department must report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017. The act is effective when it becomes law.







#### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

**HOUSE BILL 591** 

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Short Title:

Study/LEO Interaction With Disabled Drivers.

(Public)

Sponsors:

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Representative C. Graham.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II

April 6, 2017

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#### A BILL TO BE ENTITLED

AN ACT DIRECTING THE DEPARTMENT OF JUSTICE AND PUBLIC SAFETY TO STUDY TRAINING THAT MAY BE PROVIDED TO A LAW ENFORCEMENT OFFICER TO IMPROVE THE OFFICER'S ABILITY DURING A TRAFFIC STOP TO IDENTIFY WHETHER A PERSON IS DEAF OR HARD OF HEARING OR HAS A DEVELOPMENTAL DISABILITY, TRAUMATIC BRAIN INJURY, OR MENTAL ILLNESS AND THE CONDITION IS AFFECTING THE PERSON'S ABILITY TO COMPLY WITH THE OFFICER'S ORDERS AND TO IMPROVE THE OFFICER'S INTERACTION WITH THE PERSON UPON MAKING THAT IDENTIFICATION.

The General Assembly of North Carolina enacts:

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**SECTION 1.** Study. – The Department of Justice and Public Safety, in collaboration with the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission, shall study what training may be provided to a law enforcement officer to improve (i) the officer's ability during a traffic stop to identify whether a person is deaf or hard of hearing or has a developmental disability, traumatic brain injury, or mental illness and the condition is affecting the person's ability to comply with orders given by the officer and (ii) the officer's interaction during a traffic stop with a person who is deaf or hard of hearing or has a developmental disability, traumatic brain injury, or mental illness.

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SECTION 2. Report. - The Department of Justice and Public Safety shall report its findings, including any legislative recommendations, to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017.

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**SECTION 3.** Effective Date. – This act is effective when it becomes law.



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#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H HOUSE BILL 596

Short Title:	Study/MPO Voting Power Distribution. (Public	)
Sponsors: Representatives Bradford and Millis (Primary Sponsors).		
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.	
Referred to:	State and Local Government II	

#### April 6, 2017

#### A BILL TO BE ENTITLED

AN ACT TO STUDY THE DISTRIBUTION OF VOTING POWER AMONG THE VOTING MEMBERS OF METROPOLITAN PLANNING ORGANIZATIONS.

The General Assembly of North Carolina enacts:

 **SECTION 1.** The Study Committee on the Distribution of Voting Power in Metropolitan Planning Organizations is created. The Committee shall consist of five members of the House of Representatives, appointed by the Speaker of the House of Representatives, and five members of the Senate, appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate one member as a cochair. Vacancies to the Committee shall be filled by the same appointing authority making the initial appointment. The Committee shall meet upon the call of the cochairs. A quorum shall be a majority of the Committee members.

**SECTION 2.** The Committee shall study the process used and guidelines followed by Metropolitan Planning Organizations in determining how to distribute voting power among their voting members. The study shall include an examination of other state laws to determine if and how other states regulate the distribution of voting power among the voting members of Metropolitan Planning Organizations.

**SECTION 3.** The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet in the Legislative Building or the Legislative Office Building. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

**SECTION 4.** The Committee shall report its findings, including any proposed legislation, to the 2018 Regular Session of the 2017 General Assembly. The Committee shall terminate upon filing its final report or upon the convening of the 2018 Regular Session of the 2017 General Assembly, whichever is earlier.

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





# HOUSE BILL 596: Study/MPO Voting Power Distribution.

2017-2018 General Assembly

Introduced by:

Committee: House State and Local Government II

Reps. Bradford, Millis

Analysis of: First Edition

**Date:** April 19, 2017

Prepared by: Nicholas Giddings

Committee Counsel

OVERVIEW: House Bill 596 would create the Study Committee on the Distribution of Voting Power in Metropolitan Planning Organizations.

**CURRENT LAW:** Metropolitan Planning Organizations (MPOs) work with the Department of Transportation in developing transportation plans. Areas designated by the federal census as being urban in nature and having a population of 50,000 or more are required by federal law to have a continuing, cooperative, and comprehensive transportation planning process in order to qualify for federal funds. This process is carried out in North Carolina by MPOs.

BILL ANALYSIS: House Bill 596 would create the Study Committee on the Distribution of Voting Power in Metropolitan Planning Organizations, to consist of five members of the House appointed by the Speaker and five members of the Senate appointed by the President Pro Tempore. The committee would be directed to study the process used and the guidelines followed by MPOs in determining how to distribute voting power among their voting members. The study must include an examination of other state laws to determine if and how other states regulate the distribution of voting power among the voting members of MPOs.

The Committee would be required to report its findings, including any proposed legislation, to the 2018 Regular Session of the 2017 General Assembly and would terminate upon the filing of its report or the convening of the 2018 Regular Session, whichever occurs first.

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

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



# **HOUSE BILL 533: Modernize Symbol of Access.**

2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

April 17, 2017

favorable, re-refer to Regulatory Reform

Introduced by: Reps. Hardister, Torbett, Dobson, Adcock

Prepared by: Brad Krehely

**Analysis of:** PCS to First Edition

Committee Co-Counsel

H533-CSRN-11

OVERVIEW: House Bill 533 would modernize the symbol of access for persons with disabilities. <u>The Proposed Committee Substitute (PCS) adds the words "on or after that date" on page 2, line 51.</u>
Those words were inadvertently left out of the First Edition of the bill.

#### **BILL ANALYSIS:**

**Section 1** requires the Department of Administration to design a new symbol of access for signs and other materials indicating access for, or use by, persons with disabilities. The symbol must depict a logo with a dynamic character leaning forward with a sense of movement, be readily identifiable, and be simply designed with no secondary meaning. The symbol must signify equivalent facilitation and accessibility as the International Symbol of Access. (Effective when the act becomes law).

Section 2 requires the Department of Administration to ensure that all signs in State buildings indicating access for persons with disabilities reflect the symbol of access designed under Section 1, rather than the International Symbol of Access. This requirement applies to signs installed or replaced on or after January 1, 2018. (Effective when the act becomes law).

Section 3 amends and creates definitions in the Article addressing afflicted, disabled, or handicapped persons in the motor vehicles statutes. It creates a definition for "symbol of access" which is "[t]he symbol designed by the Department of Administration depicting a logo with a dynamic character leaning forward with a sense of movement." It also amends the definition of "distinguishing license plate" to clarify that those license plates display the symbol of access instead of the International Symbol of Access. (Effective January 1, 2018, and applies to license plates and windshield placards issued on or after that date).

**Section 4** amends G.S. 20-7 to require that the driver's license examination test ensures recognition of both the international symbol of access and the symbol of access. (Effective January 1, 2018, and applies to tests administered on or after that date).

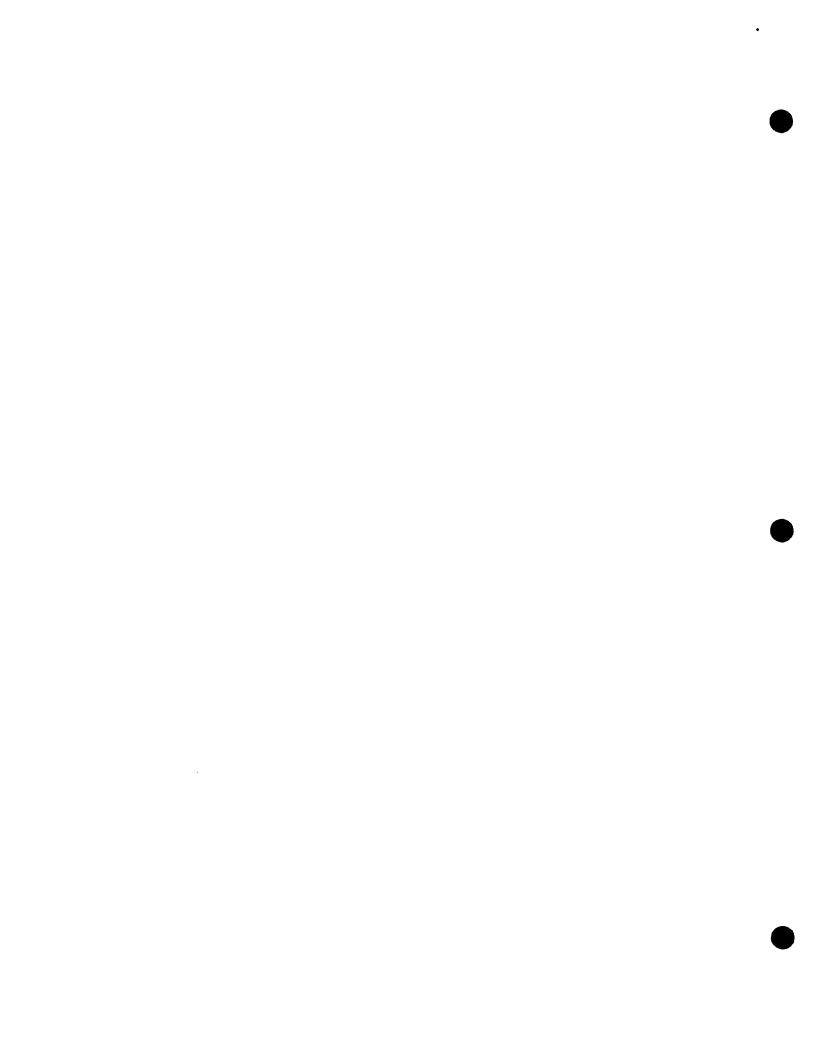
Section 5 amends G.S. 136-30(c) to provide that the owner of private property that contains a public vehicular area may place on the property a sign for handicapped persons that includes the symbol of access. (Effective January 1, 2018, and applies to signs installed or replaced on or after that date).

**EFFECTIVE DATE:** The act is effective as provided herein.





Legislative Analysis Division 919-733-2578



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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# HOUSE BILL 533 PROPOSED COMMITTEE SUBSTITUTE H533-CSRN-11 [v.1] 04/17/2017 05:39:12 PM

Short Title: Modernize Symbol of Access.

(Public)

Sponsors:

Referred to:

#### March 30, 2017

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#### A BILL TO BE ENTITLED

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AN ACT TO MODERNIZE THE SYMBOL OF ACCESS FOR PERSONS WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Design Symbol. – The Department of Administration, in consultation with any other State agency or department it deems necessary to consult with, shall design a new symbol of access for signs and other materials indicating access for, or use by, persons with disabilities. The symbol required under this section shall depict a logo with a dynamic character leaning forward with a sense of movement, be readily identifiable, and be simply designed with no secondary meaning. The symbol required under this section shall signify equivalent facilitation and accessibility as the International Symbol of Access.

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SECTION 2. Signs in State Buildings. – The Department of Administration shall ensure that all signs in State buildings indicating access for persons with disabilities reflect the symbol of access designed under Section 1 of this act instead of the International Symbol of Access. The requirement of this section only applies to signs installed or replaced on or after January 1, 2018.

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# **SECTION 3.** G.S. 20-37.5 reads as rewritten:

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# "§ 20-37.5. Definitions.

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Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

"Distinguishing license plate" means a Distinguishing license plate. – A license plate that displays the International Symbol of Access symbol of access using the same color, size of plate, and size of letters or numbers as a regular plate.

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(2) "Handicapped" shall mean a Handicapped. — A person with a mobility impairment who, as determined by a licensed physician: physician, meets any of the following requirements:

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a. Cannot walk 200 feet without stopping to rest; rest.

29 30 b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; device.

c. Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest; rest.

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d. Uses portable oxygen; oxygen.



Heart

- General Assembly Of North Carolina Has a cardiac condition to the extent that the person's functional 1 e. 2 limitations are classified in severity as Class III or Class IV the 3 according to standards set by American Association: Association. 4 5 f. Is severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition; or condition. 6 Is totally blind or whose vision with glasses is so defective as to 7 g. prevent the performance of ordinary activity for which eyesight is 8 essential, as certified by a licensed ophthalmologist, optometrist, or 9 the Division of Services for the Blind. 10 "International Symbol of Access" means the International Symbol of Access. 11 (3) - The symbol adopted by Rehabilitation International in 1969 at its Eleventh 12 World Congress on Rehabilitation of the Disabled. 13 "Removable windshield placard" means a Removable windshield placard. -14 (4) A two-sided, hooked placard which includes all of the following on each 15 16 side: The International Symbol of Access, symbol of access, which is at 17 a. least three inches in height, centered on the placard, and is white on a 18 blue shield; shield.
  - An identification number: number. b.
  - An expiration date that is visible from at least 20 feet and the month C. and year of expiration; and expiration.
  - The seal or other identification of the issuing authority. d.
  - Symbol of access. The symbol designed by the Department of (5)Administration depicting a logo with a dynamic character leaning forward with a sense of movement."

#### SECTION 4. G.S. 20-7(c) reads as rewritten:

Tests. - To demonstrate physical and mental ability, a person must pass an examination. The examination may include road tests, vision tests, oral tests, and, in the case of literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped-international symbol of access, access and symbol of access, as both terms are defined in G.S. 20-37.5. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies:

#### **SECTION 5.** G.S. 136-30(c) reads as rewritten:

Public Vehicular Areas. - Except as provided in this subsection, all traffic signs and other traffic control devices placed on a public vehicular area, as defined in G.S. 20-4.01, must conform to the Uniform Manual. The owner of private property that contains a public vehicular area may place on the property a traffic control device, other than a sign designating a parking space for handicapped persons, as defined in G.S. 20-37.5, that differs in material from the uniform device but does not differ in shape, size, color, or any other way from the uniform device. The owner of private property that contains a public vehicular area may place on the property a sign designating a parking space for handicapped persons that includes the symbol of access, as defined in G.S. 20-37.5, and differs in material and color from the uniform signsign, but does not differ in shape, size, or any other way from the uniform device."

SECTION 6. Section 3 of this act becomes effective January 1, 2018, and applies to license plates and windshield placards issued on or after that date. Section 4 of this act becomes effective January 1, 2018, and applies to tests administered on or after that date. Section 5 of this act becomes effective January 1, 2018, and applies to signs installed or replaced on or after that date. The remainder of this act is effective when it becomes law.

H533-CSRN-11 [v.1]

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#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

HOUSE BILL 533

Short Title: Modernize Symbol of Access. (Public)

Sponsors: Representatives Hardister, Torbett, Dobson, and Adcock (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Regulatory Reform

March 30, 2017

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE SYMBOL OF ACCESS FOR PERSONS WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Design Symbol. – The Department of Administration, in consultation with any other State agency or department it deems necessary to consult with, shall design a new symbol of access for signs and other materials indicating access for, or use by, persons with disabilities. The symbol required under this section shall depict a logo with a dynamic character leaning forward with a sense of movement, be readily identifiable, and be simply designed with no secondary meaning. The symbol required under this section shall signify equivalent facilitation and accessibility as the International Symbol of Access.

SECTION 2. Signs in State Buildings. – The Department of Administration shall ensure that all signs in State buildings indicating access for persons with disabilities reflect the symbol of access designed under Section 1 of this act instead of the International Symbol of Access. The requirement of this section only applies to signs installed or replaced on or after January 1, 2018.

**SECTION 3.** G.S. 20-37.5 reads as rewritten:

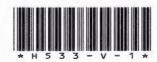
"§ 20-37.5. Definitions.

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Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

- (1) "Distinguishing license plate" means a Distinguishing license plate. A license plate that displays the International Symbol of Access symbol of access using the same color, size of plate, and size of letters or numbers as a regular plate.
- (2) "Handicapped" shall mean a Handicapped. A person with a mobility impairment who, as determined by a licensed physician; physician, meets any of the following requirements:
  - a. Cannot walk 200 feet without stopping to rest; rest.
  - b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; device.
  - c. Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest; rest.



- d. Uses portable oxygen; oxygen. 1 2 Has a cardiac condition to the extent that the person's functional e. 3 limitations are classified in severity as Class III or Class IV 4 according to standards set by the American 5 Association: Association. Is severely limited in their ability to walk due to an arthritic, 6 f. 7 neurological, or orthopedic condition: or condition. 8 Is totally blind or whose vision with glasses is so defective as to g. 9 prevent the performance of ordinary activity for which eyesight is essential, as certified by a licensed ophthalmologist, optometrist, or 10 the Division of Services for the Blind. 11 "International Symbol of Access" means the International Symbol of Access. 12 (3) - The symbol adopted by Rehabilitation International in 1969 at its Eleventh 13 World Congress on Rehabilitation of the Disabled. 14 "Removable windshield placard" means a Removable windshield placard. -15 (4) A two-sided, hooked placard which includes all of the following on each 16 side: 17 The International Symbol of Access, symbol of access, which is at 18 a. least three inches in height, centered on the placard, and is white on a 19 20 blue shield; shield. An identification number: number. 21 b. An expiration date that is visible from at least 20 feet and the month 22 C. and year of expiration; and expiration. 23 24 d. The seal or other identification of the issuing authority. 25 (5)Symbol of access. - The symbol designed by the Department of Administration depicting a logo with a dynamic character leaning forward 26 with a sense of movement." 27 **SECTION 4.** G.S. 20-7(c) reads as rewritten: 28 29 Tests. - To demonstrate physical and mental ability, a person must pass an examination. The examination may include road tests, vision tests, oral tests, and, in the case of 30
  - literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped international symbol of access, access and symbol of access, as both terms are defined in G.S. 20-37.5. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies: 11

**SECTION 5.** G.S. 136-30(c) reads as rewritten:

Public Vehicular Areas. – Except as provided in this subsection, all traffic signs and other traffic control devices placed on a public vehicular area, as defined in G.S. 20-4.01, must conform to the Uniform Manual. The owner of private property that contains a public vehicular area may place on the property a traffic control device, other than a sign designating a parking space for handicapped persons, as defined in G.S. 20-37.5, that differs in material from the uniform device but does not differ in shape, size, color, or any other way from the uniform device. The owner of private property that contains a public vehicular area may place on the property a sign designating a parking space for handicapped persons that includes the symbol of access, as defined in G.S. 20-37.5, and differs in material and color from the uniform signsign, but does not differ in shape, size, or any other way from the uniform device."

**SECTION 6.** Section 3 of this act becomes effective January 1, 2018, and applies to license plates and windshield placards issued on or after that date. Section 4 of this act becomes effective January 1, 2018, and applies to tests administered on or after that date.

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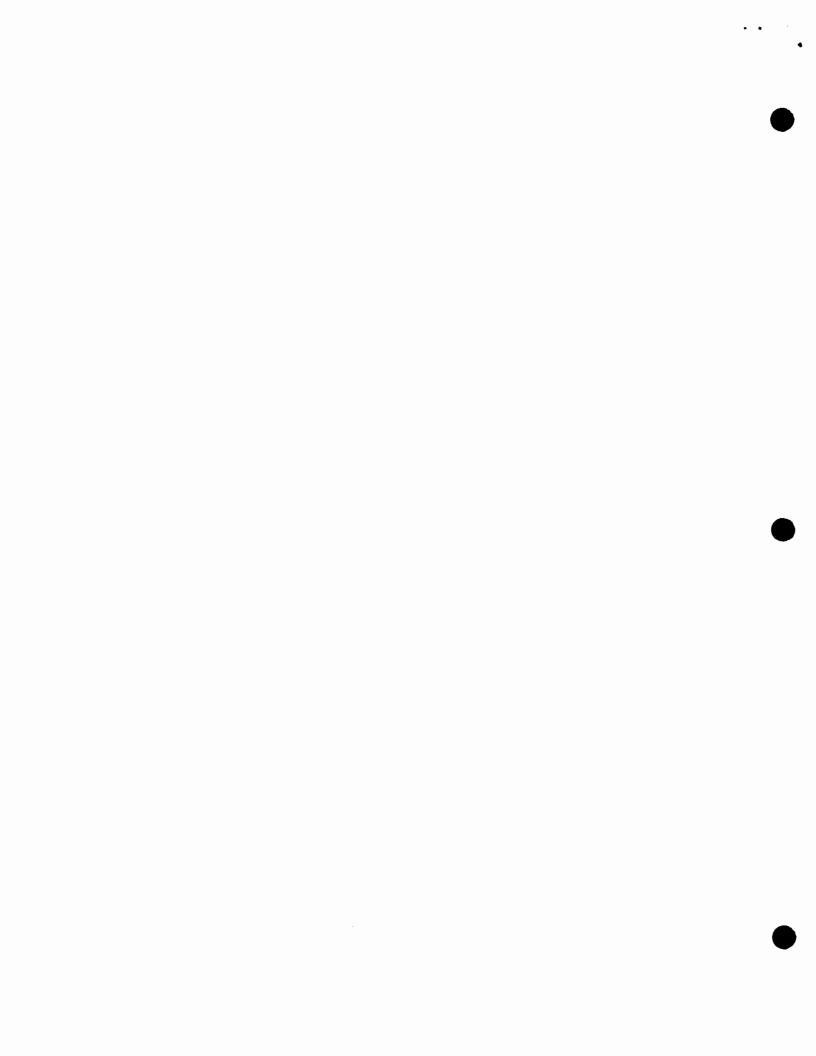
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#### **General Assembly Of North Carolina**

Session 2017

Section 5 of this act becomes effective January 1, 2018, and applies to signs installed or replaced. The remainder of this act is effective when it becomes law.



#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

371 HB

Agency Powers and Duties/Technical Changes.-AB

Draft Number:

H371-PCS40487-BA-8

Serial Referral:

None

Recommended Referral: None Long Title Amended:

Yes

Floor Manager:

McGrady

HB **376** 

Subdivision Improvement Guarantee Changes.

Draft Number:

H376-PCS40491-RB-6

Serial Referral:

None

Recommended Referral: None Long Title Amended:

No

Floor Manager:

McGrady

#### FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

110 (CS#1)

DOT/DMV Changes.

Draft Number:

H110-PCS30352-RB-5

Serial Referral:

None

Recommended Referral: None Long Title Amended:

Yes

Floor Manager:

Torbett

TOTAL REPORTED: 3



#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

349 Currituck-Developer Funds for Road Constr. HB

Draft Number:

None

Serial Referral:

None None

Recommended Referral: Long Title Amended:

Floor Manager:

No Steinburg

County Comm. Role in School Bldg Acquisition. HB 482

Draft Number:

None

Serial Referral:

None None

Recommended Referral: Long Title Amended:

No

Floor Manager:

Blackwell

Counties/Condemnation of Unsafe Bldgs/Liens. HB 530

Draft Number:

None

Serial Referral:

None

Recommended Referral: None Long Title Amended:

No

Floor Manager:

Lewis

HB 591 Study/LEO Interaction With Disabled Drivers.

Draft Number:

None

Serial Referral:

None

Recommended Referral:

None

Long Title Amended:

No

Floor Manager:

G. Graham

596 Study/MPO Voting Power Distribution. HB

Draft Number:

None

Serial Referral:

None

Recommended Referral:

None

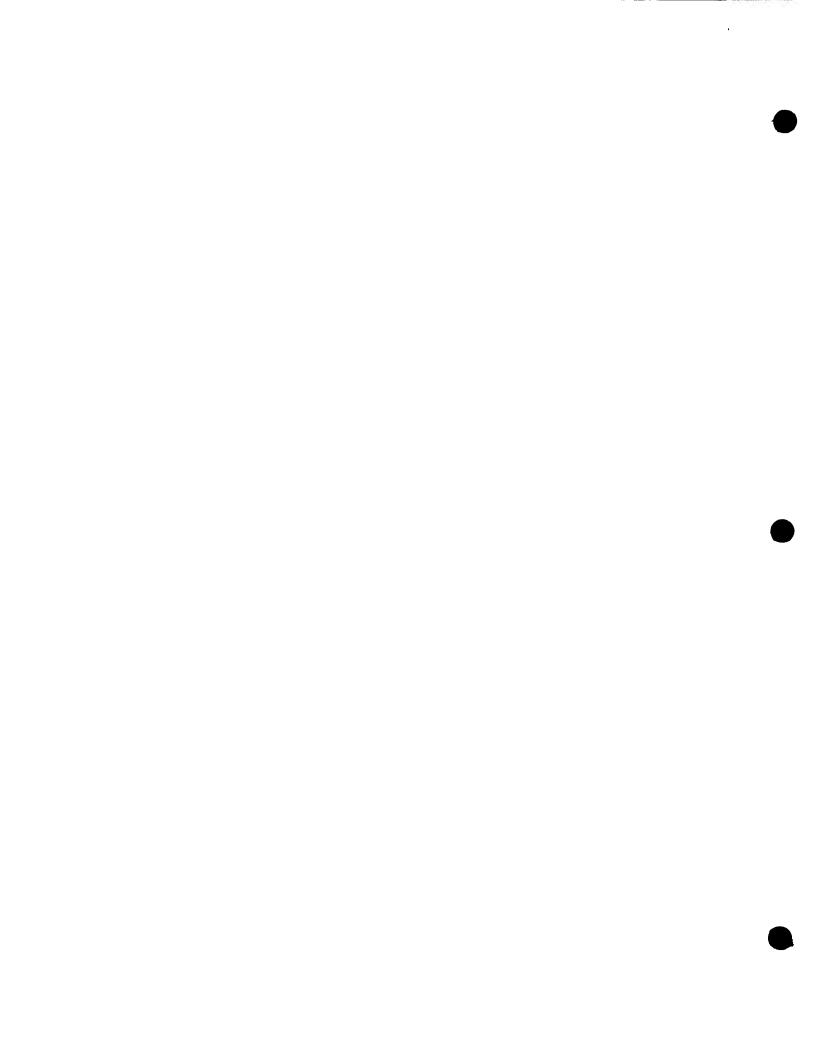
Long Title Amended:

No

Floor Manager:

Bradford





#### FAVORABLE AND RE-REFERRED

HB 491

Henderson County Fire Tax Districts.

Draft Number:

Serial Referral:

Recommended Referral:

Long Title Amended:

Floor Manager:

None

No

McGrady

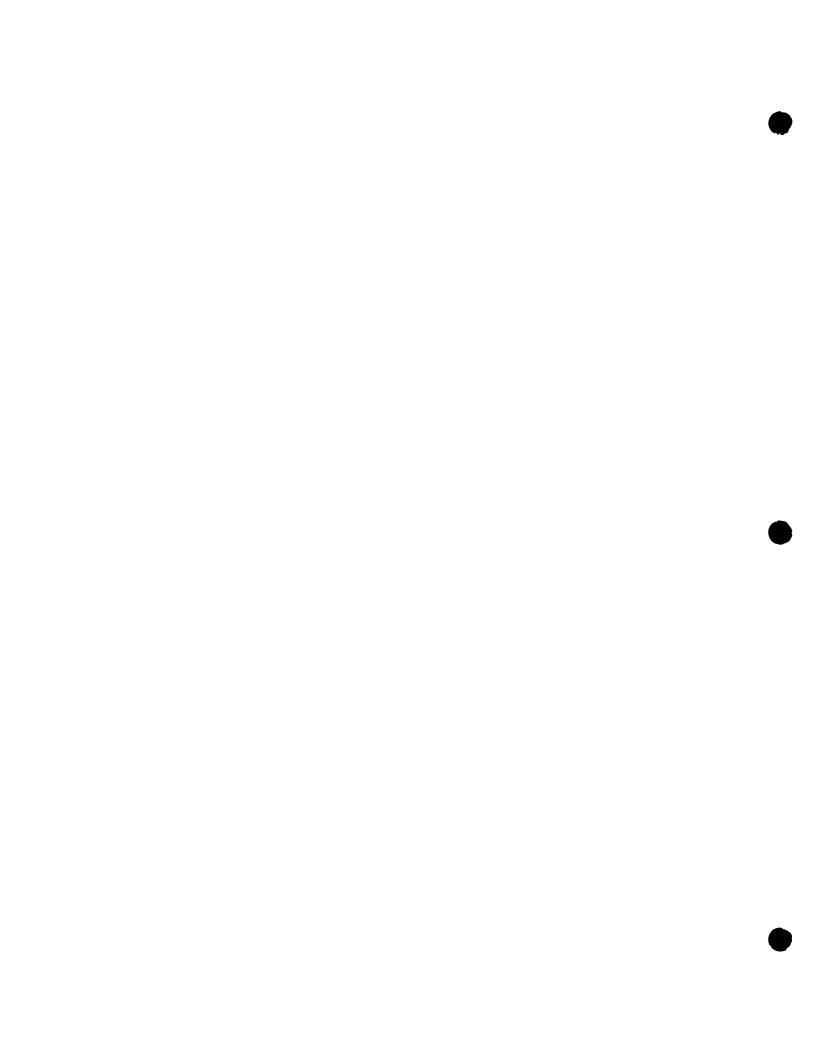
TOTAL REPORTED: 6



Name of Committee

Date 04-19-2017

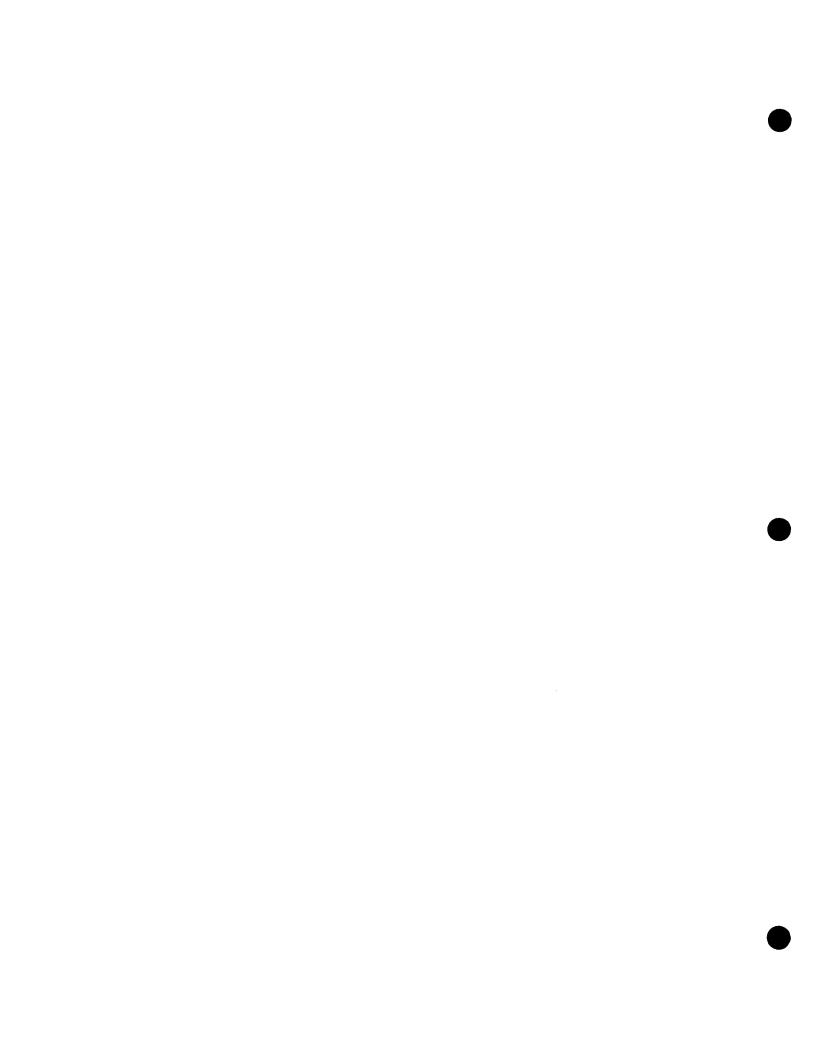
NAME	FIRM OR AGENCY AND ADDRESS
Jeff Mobley	NC Services for the Deaf & the Hard of Hearing 1100 Navaho Dr. Ralcish, NC 27609
LT McCrimmon	DHHS
Deb Clarer	NCSP
Ryan Lee	CpAd
Mevin CACY	NC007
Richard Bostie	NC SBA
MgMacleanie	SERC
Brooks R. Parson	SELE
Janul Lenn	Dmu
Danie Foutor	Cityot Charlote
Charlotte Bayd-Malette	



Name of Committee

Date 04-19-2017

NAME	FIRM OR AGENCY AND ADDRESS
Tin Minled	NCHBA
Mike Corpedo	NCHBA
Donler	NESTR
Starnes	OST
D. Collins	SEANC
Joh Polinto	NCAMA
Sever Wans	Nethor
Sett Polmer	NCAR
BRIAM TAYA	DOI/OSFM
TIBurber	NP
Jalon Ferris	STOF



Hate of Committee

Date 04-19-2017

NAME	FIRM OR AGENCY AND ADDRESS
Jarry Schill	MC Fighend's Asso.
Torya Horton	T55
JhM	C (>4
Sach rolling	NCLN
Sillian Tolman	Mucle
Varnic Cassiter	NC Conf. of Clerks
Michelle Ball	Johnston County Clerk of Court
Larry Brown	Goston County Clerk of Court
Paray Briffin	20G
Jennifu Mahan	ASNC
Cavol Tingley	State Parks

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#### SPEAKER REGISTRATION SHEET

04-19-2017 Date

Name of Committee

NAME	FIRM OR AGENCY AND ADDRESS
Edmond CAldwell,	Te Shoeits Assi.
Matthew Herr	Disability Rights NC
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JAMO	- g LOCAL G	01. 11
N	ame of Committee	

Date 04-19-2017

NAME	FIRM OR AGENCY AND ADDRESS
MiteMurphy	NC State Parks
Lex Janes	DNCR
Eddie Caldwell	NC Sheriffs' AssNi

		•

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U	2/11/0	& LOCAL	(901).	1/
0	Na	me of Committ	ee	

Date 04-19-2017

NAME	FIRM OR AGENCY AND ADDRESS
Panela Arlycel	NCDMV
Dorath w Payer	nc Dm/
JOHN C MIDGETTE	NC PBA
	·

# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

MEMBERS	4.20.17	4.80 200								
REP. BRADFORD CHAIR	<b>√</b>	V								
REP. ADAMS	<b>V</b>	1								
REP. AUTRY	V	V								
REP. BALL	1	/								
REP. BOLES	V	V								
REP. BOSWELL	<b>V</b>	V								
REP. C. GRAHAM		1	1/12	NO	)					
REP. G. GRAHAM	/	~	2							
REP. JOHN	V	1								
REP. MOREY		~								
REP. ROSS	1	V								
REP. SAULS	V	V								
REP. SETZER	V	1								
REP. STEINBURG	V	/								
REP. WATFORD	V	/								
REP. WILLIAMS	/	V								
Anita Spence, Committee Assistant	Y	-								
Cindy Avrette, Staff	V	V								
Nick Giddings, Staff	V	V								
Brad Krehely, Staff	~	-								

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#### Corrected #4:

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Thursday, April 20, 2017

TIME: 12:00 PM LOCATION: 1425 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 580</u>	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
<u>HB 579</u>	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
<u>HB 306</u>	E-Verify Required - All Government	Representative Millis
	Contracts.	Representative Cleveland
		Representative Conrad
		Representative Collins

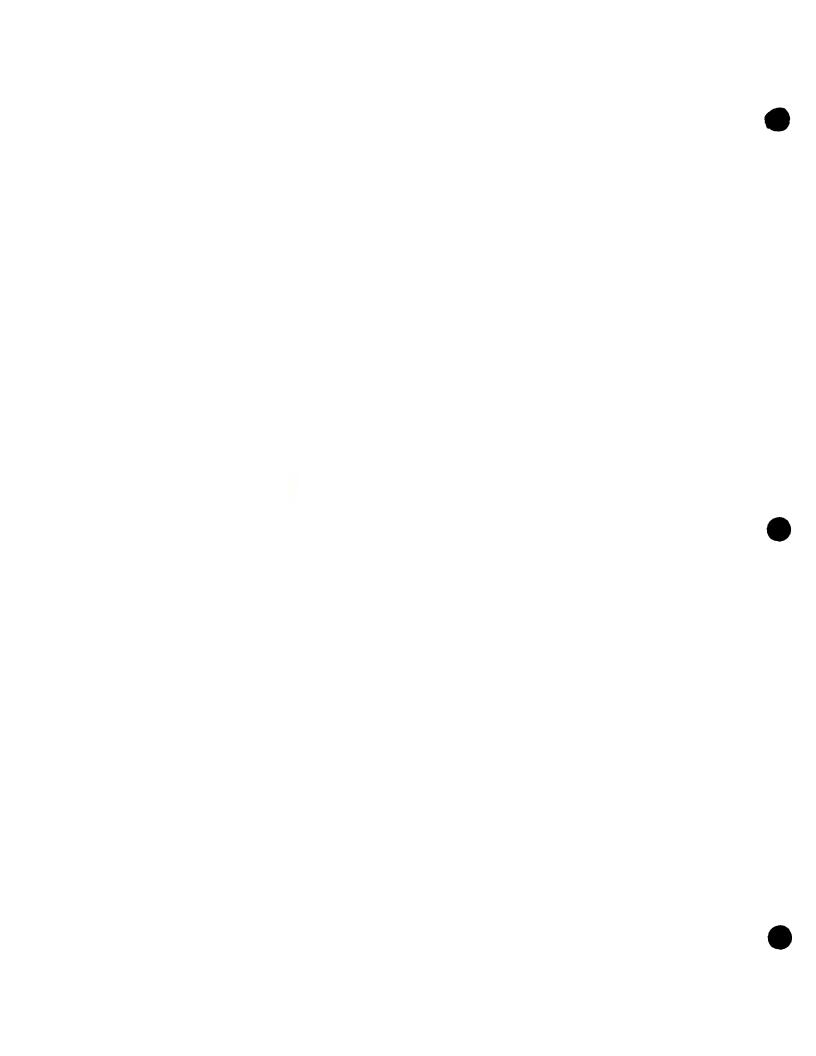
Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this not	ice was filed by the commit	ttee assistant at the follo	owing offices at 11:01	AM on
Thursday, April 20, 201	7.		· ·	
<b>5</b> .	1.01.1			
Princi	pal Clerk			

Anita Spence (Committee Assistant)

\_\_\_ Reading Clerk – House Chamber



Corrected #2: ADD HB 666 & HB 306

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Thursday, April 20, 2017

TIME: 10:00 AM LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 101</u>	Local Firefighter Relief Fund	Representative Clampitt
	Eligibility.	Representative Saine
HB 623	Transfer Certain Excess	Representative Clampitt
	Lands/Haywood BoEd.	
HB 395	Add Member to NC Training Standards	Representative Jordan
	Commiss.	Representative R. Turner
		Representative White
		Representative W. Richardson
<u>HB 528</u>	Traffic Impact Analysis Time Frame.	Representative Millis
		Representative Torbett
HB 531	Dare County Local Tax Clarification.	Representative Boswell
<u>HB 569</u>	Pretax Supplemental Benefits.	Representative Dollar
		Representative Malone
		Representative Destin Hall
		Representative Corbin
<u>HB 579</u>	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
HB 580	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
<u>HB 602</u>	Cities/Require Performance	Representative Dobson
	Guarantees.	
HB 613	Transfer DACS Property to Granville	Representative Yarborough
	Co.	

<u>HB 740</u>	SAR Rename/Disputed County Boundaries/Mapping.	Representative McNeill Representative R. Turner			
<u>HB 744</u>	State Emps./Amend Salary	Representative McNeill			
<u>HB 755</u>	Continuation.  Bankruptcy and Receivership  Amendments.	Representative R. Turner Representative Blust			
<u>HB 666</u>	Revise Volunteer Fire Department	Representative Brenden Jones			
	Req'ts.	Representative Saine			
<u>HB 306</u>	E-Verify Required - All Government	Representative Millis			
	Contracts.	Representative Cleveland			
		Representative Conrad			
		Representative Collins			
Respectfully,					
Representative John R. Bradford, III, Chair					
I hereby certify this notice was filed by the committee assistant at the following offices at 5:33 PM on Wednesday, April 19, 2017.					
	Principal Clerk Reading Clerk – House Chamber				

Anita Spence (Committee Assistant)

Corrected #1: Add HB 794

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

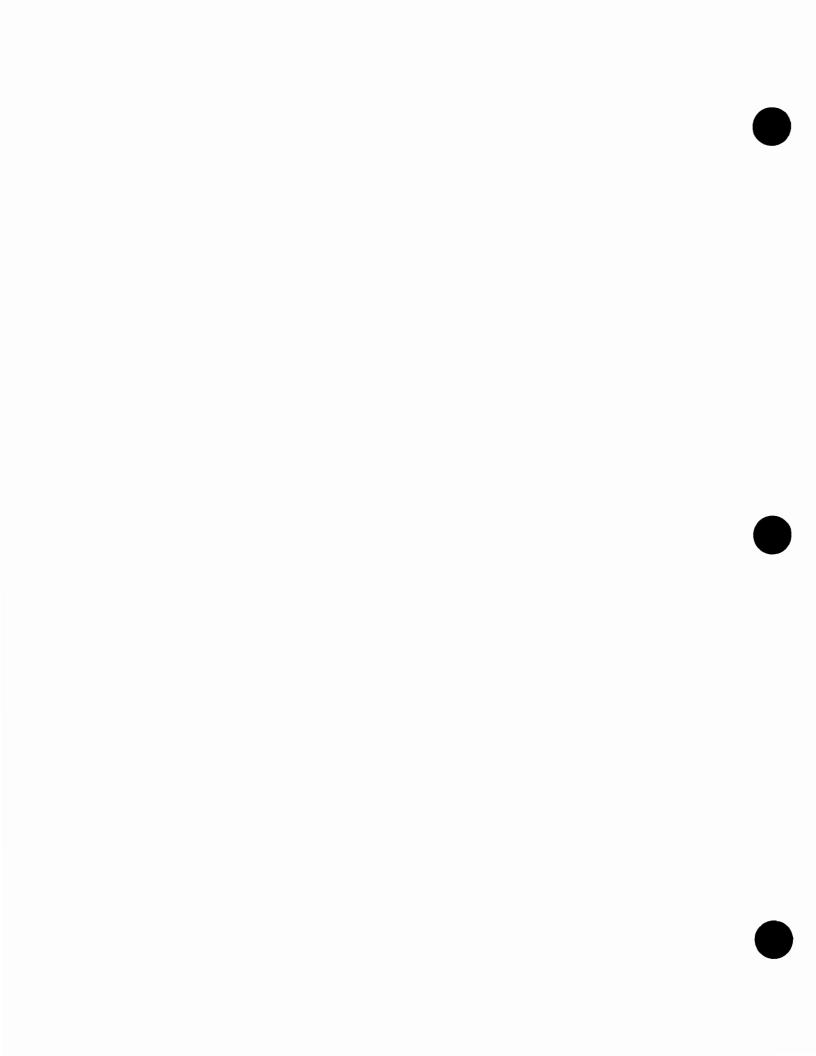
You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, April 19, 2017

TIME: 10:00 AM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 110	DOT/DMV Changes.	Representative Torbett
		Representative Iler
		Representative Shepard
<u>HB 482</u>	County Comm. Role in School Bldg	Representative Blackwell
	Acquisition.	
<u>HB 371</u>	Agency Powers and Duties/Technical	Representative McGrady
	ChangesAB	Representative McNeill
		Representative Hurley
HB 376	Subdivision Improvement Guarantee	Representative McGrady
	Changes.	Representative Henson
<u>HB 491</u>	Henderson County Fire Tax Districts.	Representative McGrady
		Representative Henson
HB 530	Counties/Condemnation of Unsafe	Representative Lewis
	Bldgs/Liens.	Representative Sauls
		Representative Willingham
<u>HB 533</u>	Modernize Symbol of Access.	Representative Hardister
		Representative Torbett
		Representative Dobson
		Representative Adcock
<u>HB 591</u>	Study/LEO Interaction With Disabled Drivers.	Representative C. Graham
HB 349		Danma antation Stainburg
<u>11D 349</u>	Currituck-Developer Funds for Road Constr.	Representative Steinburg
<u>HB 596</u>	Study/MPO Voting Power Distribution.	Representative Bradford
	<u> </u>	Representative Millis
<u>HB 794</u>	NC Permitting Efficiency Act of 2017.	Representative Stone
	-	Representative Saine

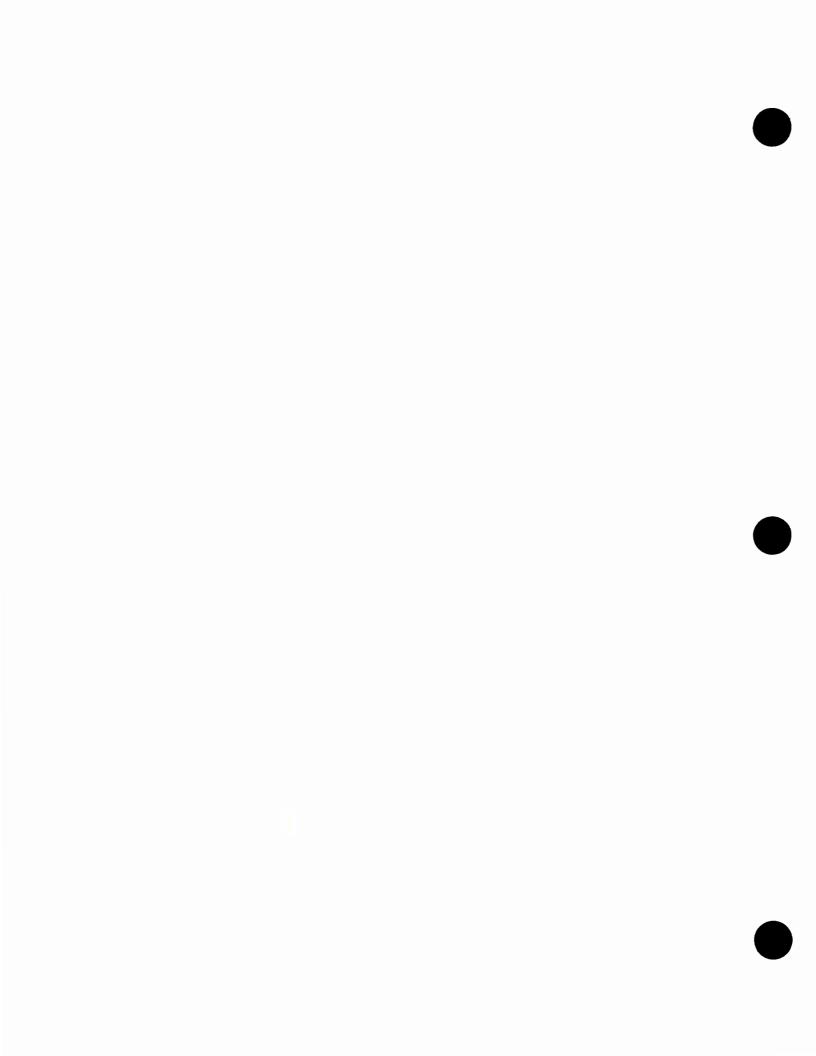


#### Representative Bradford Representative Torbett

Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:34 AM on Tuesday, April 18, 2017.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)



# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

DAY & DATE: Thursday, April 20, 2017

TIME: 10:00 AM LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 101</u>	Local Firefighter Relief Fund	Representative Clampitt
	Eligibility.	Representative Saine
<u>HB 623</u>	Transfer Certain Excess	Representative Clampitt
	Lands/Haywood BoEd.	
<u>HB 395</u>	Add Member to NC Training Standards	Representative Jordan
	Commiss.	Representative R. Turner
		Representative White
		Representative W. Richardson
<u>HB 528</u>	Traffic Impact Analysis Time Frame.	Representative Millis
		Representative Torbett
<u>HB 531</u>	Dare County Local Tax Clarification.	Representative Boswell
HB 569	Pretax Supplemental Benefits.	Representative Dollar
		Representative Malone
		Representative Destin Hall
		Representative Corbin
<u>HB 579</u>	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
<u>HB 580</u>	Revisions to Outdoor Advertising	Representative Lewis
	Laws.	Representative Saine
		Representative Goodman
		Representative Hanes
<u>HB 602</u>	Cities/Require Performance	Representative Dobson
	Guarantees.	
<u>HB 613</u>	Transfer DACS Property to Granville	Representative Yarborough
	Co.	
<u>HB 740</u>	SAR Rename/Disputed County	Representative McNeill
	Boundaries/Mapping.	Representative R. Turner

<u>HB 744</u>	State Emps./Amend Salary Continuation.	Representative McNeill Representative R. Turner
HB 755	Bankruptcy and Receivership Amendments.	Representative Blust
		Respectfully,
		Representative John R. Bradford, III, Chair
•	fy this notice was filed by the cor April 19, 2017.	mmittee assistant at the following offices at 1:00 PM on
	Principal Clerk Reading Clerk – House Char	mber
Anita Spence	(Committee Assistant)	

#### House Committee on State and Local Government II Thursday, April 20, 2017 at 10:00 AM Room 1228/1327 of the Legislative Building

#### MINUTES

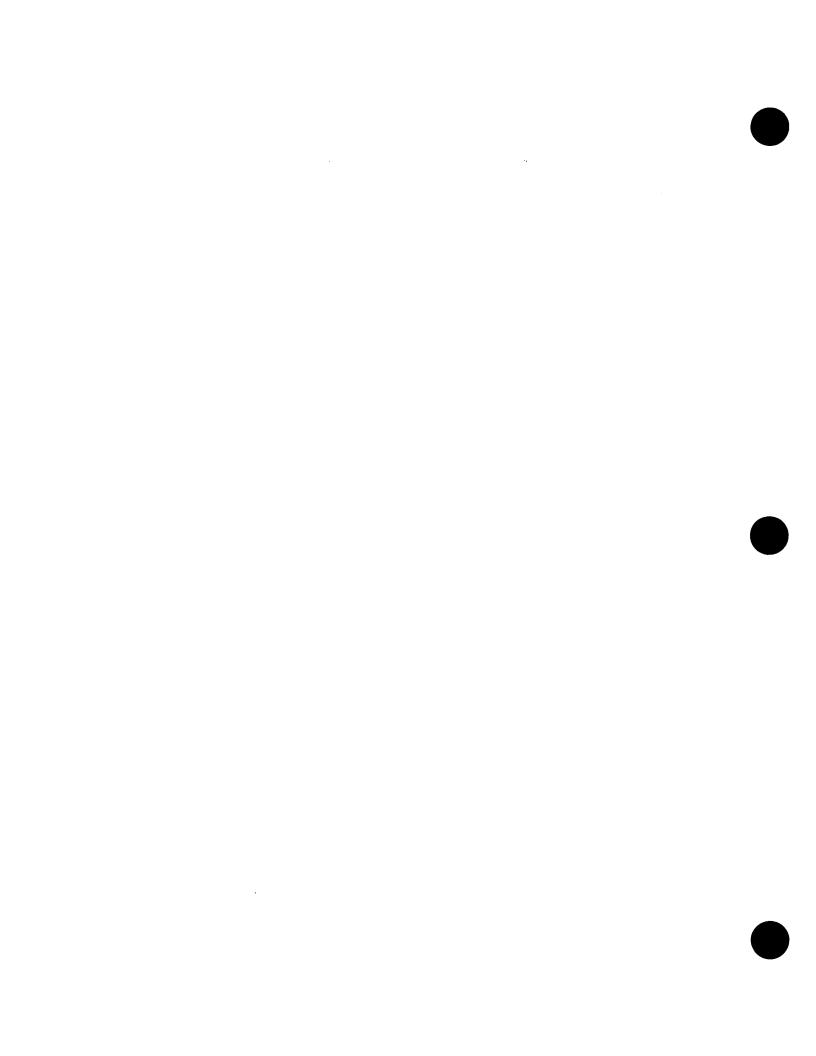
The House Committee on State and Local Government II met at 10:00 AM on April 20, 2017 in Room 1228/1327 of the Legislative Building. Representatives Bradford, Adams, Autry, Ball, Boles, Boswell, G. Graham, John, Morey, Ross, Sauls, Setzer, Steinburg, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:02 am. He introduced the Sargent at Arms staff.

Chairman Bradford motioned for the PCS for HB 101 Jackson County/Trout Capital of NC. (Representatives Clampitt and Saine) AN ACT ADOPTING JACKSON COUNTY AS THE TROUT CAPITAL OF THE STATE OF NORTH CAROLINA to be before the committee. Chairman Bradford recognized Representative Williams who motioned for the PCS for HB 101 to be before the committee. Chairman Bradford recognized Representative Clampitt who explained the bill. There was discussion on the bill. Representative Steinburg was recognized for a question. Representative Presentative John asked the about the retroactivity of the bill. Chairman Bradford recognized Representative Setzer who motioned for an unfavorable to the original bill, favorable to the PCS with a serial referral to Appropriations. Chairman Bradford called for a vote. All members are in favor of HB 101. HB 101 passes.

Chairman Bradford motioned for HB 602 Cities/Require Performance Guarantees (Representative Dobson) AN ACT AUTHORIZING CITIES TO REQUIRE PERFORMANCE GUARANTEES WHEN INDUSTRIAL PROPERTY IS BEING DEMOLISHED to be before the committee. Chairman Bradford recognized Representative Dobson who explained the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Watford who motioned for a favorable report for HB 602. Chairman Bradford called for a vote. HB 602 passes.

Chairman Bradford motioned for HB 740 SAR Rename/Disputed County Boundaries/Mapping. (Representatives McNeill and R. Turner)



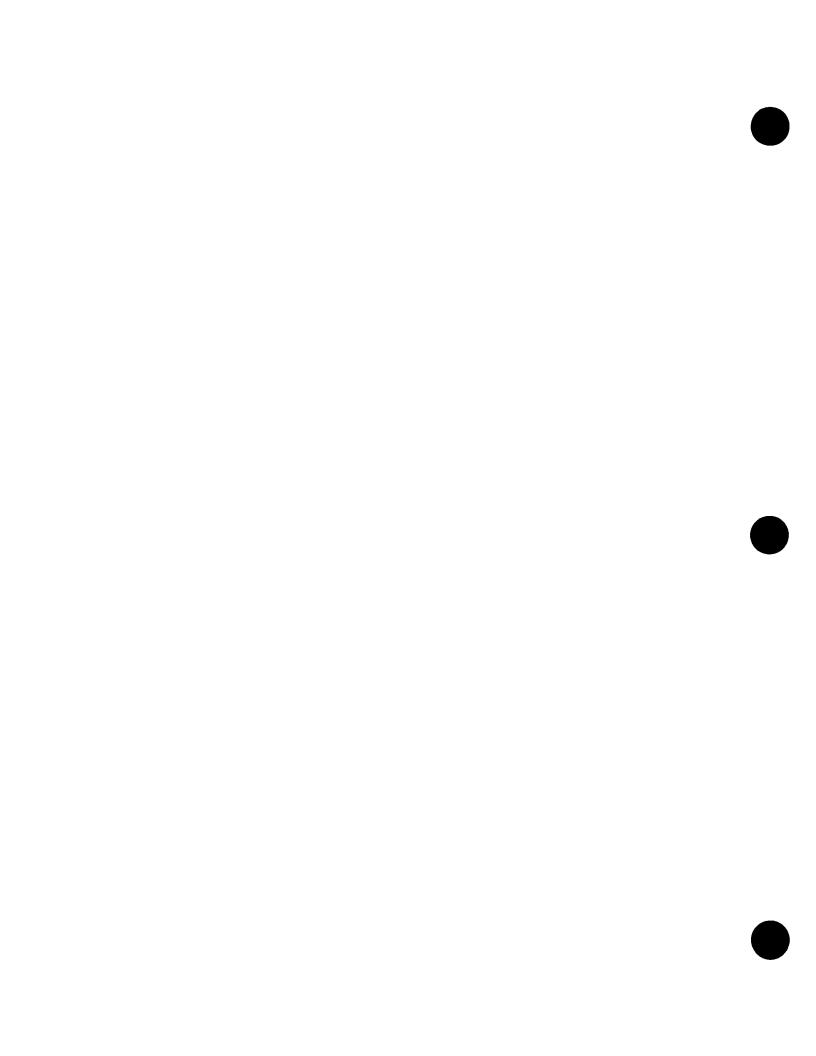
AN ACT TO MODIFY THE NAME OF SEARCH AND RESCUE SERVICES, TO ALLOW THE NORTH CAROLINA GEODETIC SURVEY TO RATIFY RESULTS OF COUNTY BOUNDARY RESURVEYS, AND TO CLARIFY THAT PROTECTIVE RIDGELINE MAPS ARE HOUSED WITH THE NORTH CAROLINA GEODETIC SURVEY RATHER THAN THE DEPARTMENT OF ENVIRONMENTAL QUALITY to be before the committee. Chairman Bradford recognized Representative McNeill to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report for HB 740. Chairman Bradford called for a vote. All members are in favor. HB 740 passes.

Chairman Bradford motioned for HB 744 State EMS./Amend Salary Continuation (Representatives McNeill and R. Turner) AN ACT AMENDING THE SALARY CONTINUATION BENEFITS OF STATE EMPLOYEES to be before the committee. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report for HB 744 with a serial referral to State Personnel. Chairman Bradford called for a vote. All members are in favor. HB 744 passes.

Chairman Bradford motioned for HB 666 Revise Volunteer Fire Department Req'ts (Representatives Brenden Jones and Saine) AN ACT TO PROVIDE FOR A WAIVER OF MINIMUM PERSONNEL REQUIREMENTS to be before the committee. Chairman Bradford recognized Representative B. Jones to explain the bill. There was no discussion on the bill. Chairman Bradford called for a vote. All members are in favor. HB 666 passes.

Chairman Bradford motioned for HB 623 Transfer Certain Excess Lands/Haywood BoEd (Representative Clampitt) AN ACT TO TRANSFER CERTAIN EXCESS LANDS IN HAYWOOD COUNTY TO THE HAYWOOD COUNTY BOARD OF EDUCATION FOR SO LONG AS THOSE LANDS ARE USED FOR EDUCATION-RELATED PURPOSES to be before the committee. Chairman Bradford recognized Representative Clampitt to explain the bill. There was no discussion on the bill. Chairman Bradford called for a vote. All members are in favor. HB 623 passes.

Chairman Bradford motioned for HB 395 Add Member to NC Training Standards Commissions (Representatives Jordan, R. Turner, White, W. Richardson) AN ACT TO PROVIDE THAT THE POLICE BENEVOLENT ASSOCIATION CAN APPOINT ONE FULL-TIME SWORN LAW ENFORCEMENT OFFICER TO SERVE ON THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION to be before the committee. Chairman Bradford

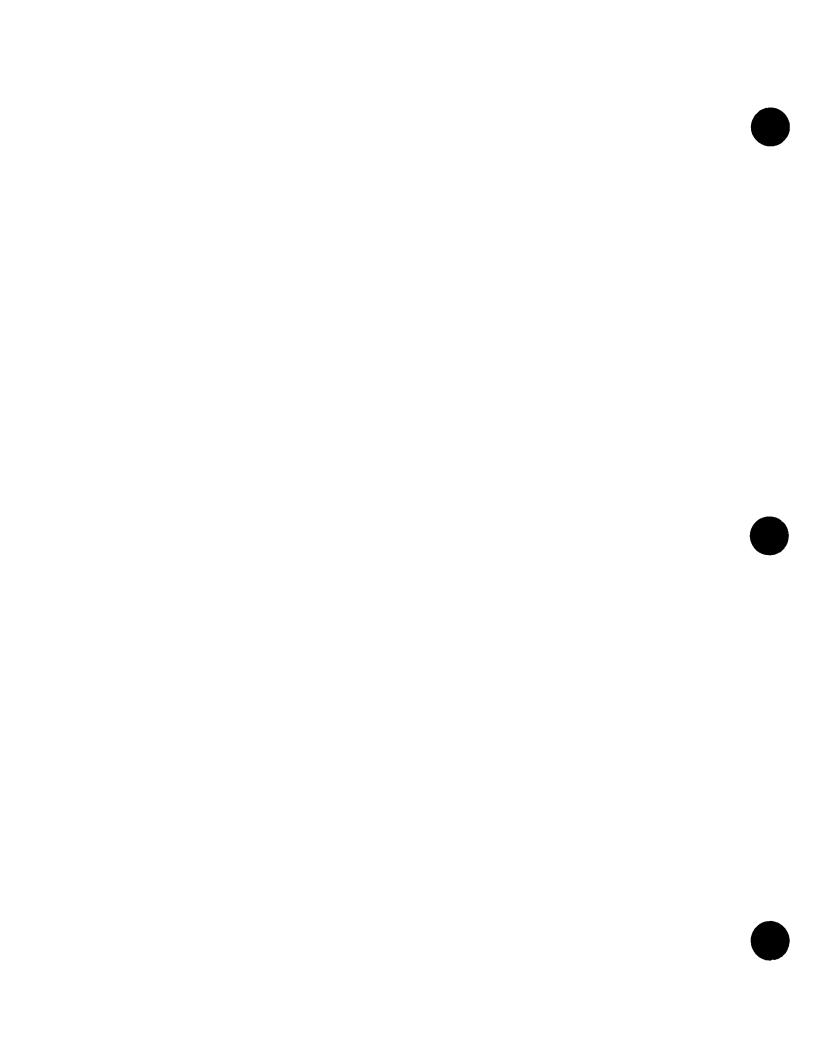


recognized Representative Jordan to explain the bill. There was discussion on the bill. Chairman Bradford recognized Representative Williams who had an amendment for the bill. Chairman Bradford recognized Representative Setzer who motioned for the adoption of the amendment. The amendment is adopted. Chairman Bradford opened the floor to questions. Tim Hayworth and Graham Atkinson we recognized to speak. They spoke in opposition to the bill. Randy Byrd spoke in favor of HB 395. John Midgette of the NCPBA was recognized to speak in favor of HB 395. After additional discussion by committee members Representative Ball moved to roll the amendment into a PCS, with a favorable report as to the PCS, unfavorable to the original bill. Chairman Bradford called for a vote. HB 395 passed.

Chairman Bradford motioned for HB 528 (Representatives Millis and Torbett)
Traffic Impact Analysis Time Frame AN ACT TO PROVIDE A TIME FRAME IN
WHICH THE DEPARTMENT OF TRANSPORTATION MUST MAKE A DECISION
ON A DRIVEWAY PERMIT APPLICATION REQUIRING A TRAFFIC IMPACT
ANALYSIS to be before the committee. Chairman Bradford recognized
Representative Millis to explain the bill. There was no discussion on the bill.
Chairman Bradford recognized Representative Setzer who motioned an unfavorable to the original bill, favorable to the PCS. Chairman Bradford called for a vote. All members are in favor. HB 528 passes.

Chairman Bradford motioned for HB 531 Dare County Local Tax Clarification (Representative Boswell) AN ACT TO CLARIFY THE PERMITTED USES OF CERTAIN DARE COUNTY LOCAL TAXES to be before the committee. Chairman Bradford recognized Representative Boswell to explain the bill. There was discussion on the bill. Chairman Bradford recognized Representative Williams who asked several questions about the bill. Chairman Bradford opened the floor to questions. Jillian Trotman, a lobbyist representing Dare County shared that six OBX towns are opposed to this bill. Chairman Bradford recognized Brian Lewis, a lobbyist from NC Travel Association who shared that he is opposed this bill in its current form. Chairman Bradford recognized Representative Autry who asked Representative Boswell several questions about her bill. Representative Watford says he will not support this bill. Chairman Bradford called for a vote. All members but one vote in opposition. The motion fails. HB 531 does not pass.

Chairman Bradford motioned for HB 569 Pretax Supplemental Benefit (Representatives Dollar, Malone, Destin Hall, and Corbin) AN ACT TO ALLOW PRODUCTS SELECTED BY THE EMPLOYEE INSURANCE COMMITTEES TO BE OFFERED ON A PRETAX BASIS to be before the committee. Chairman Bradford



recognized Representative Dollar to explain the bill. There is an amendment for HB 569. Cindy Avrette explained the amendment. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for the adoption of the amendment. All members are in favor. Chairman Bradford recognized Representative Setzer who motioned for an unfavorable to the original bill, favorable to the PCS. The aye's have it. HB 569 passes.

Chairman Bradford motioned for HB 613 Transfer DACS Property to Granville Co. (Representative Yarborough) AN ACT TO CONVEY CERTAIN REAL PROPERTY TO GRANVILLE COUNTY TO BE USED AS A CEMETERY to be before the committee. Chairman Bradford recognized Representative Yarborough to explain the bill. There was no discussion on the bill. There is an amendment for HB 613. Chairman Bradford recognized Representative Ball who motioned favorable report, an unfavorable to the original bill and favorable as amended. Chairman Bradford called for a vote. HB 613 passed.

The meeting adjourned at 10:50 AM.

Representative Bradford, Presiding Chair

Anta Spence, Committee Clerk

#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

Cities/Require Performance Guarantees. HB 602

Draft Number:

None

Serial Referral:

None

Recommended Referral:

None

Long Title Amended:

No

Floor Manager:

Dobson

HB 623 Transfer Certain Excess Lands/Haywood BoEd.

Draft Number:

None

Serial Referral:

None

Recommended Referral:

None

Long Title Amended:

No

Floor Manager:

Clampitt

HB 666 Revise Volunteer Fire Department Req'ts.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

Brenden Jones

HB 740 SAR Rename/Disputed County Boundaries/Mapping.

Draft Number:

None

Serial Referral:

None

Recommended Referral:

None

Long Title Amended:

No

Floor Manager:

McNeill

#### **FAVORABLE AND RE-REFERRED**

HB 744

State Emps./Amend Salary Continuation.

Draft Number:

None

Serial Referral:

STATE PERSONNEL

Recommended Referral:

None No

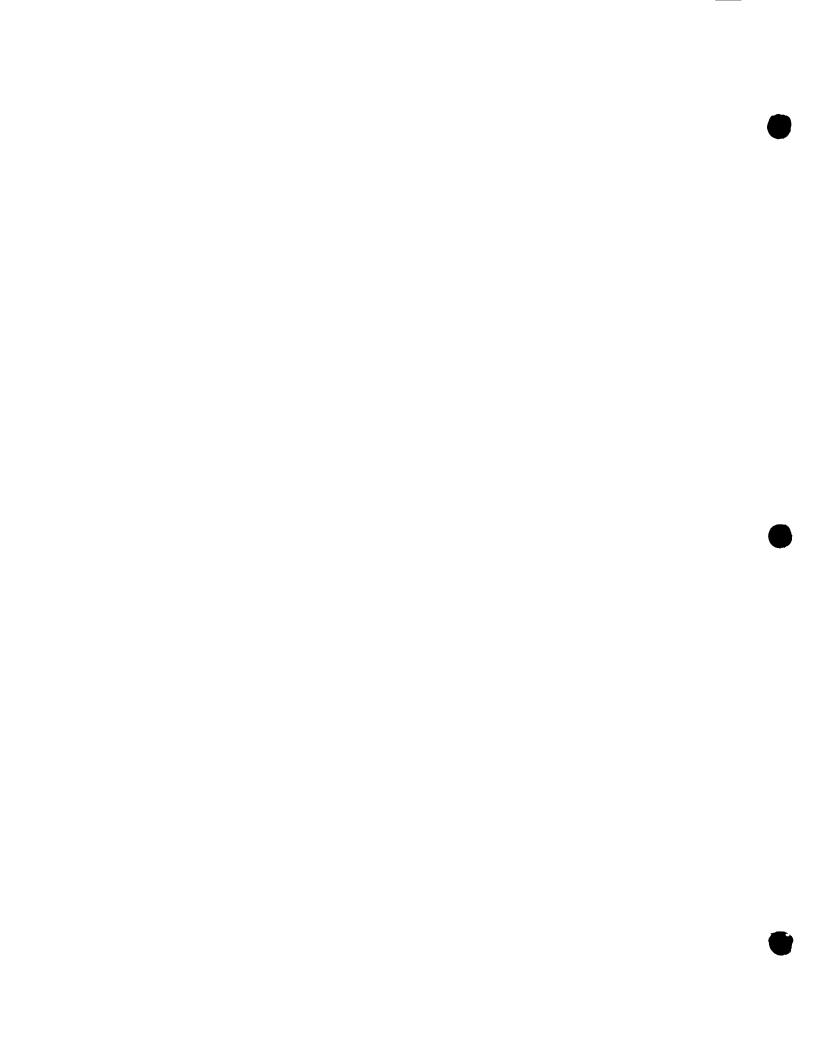
Long Title Amended:

Floor Manager:

McNeill

**TOTAL REPORTED: 5** 





#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 395 Add Member to NC Training Standards Commiss.

Draft Number:

H395-PCS10303-BA-10

Serial Referral: Recommended Referral:

None None

Long Title Amended:

No Jordan

Floor Manager:

Pretax Supplemental Benefits. Draft Number:

H569-PCS10302-RB-8

Serial Referral:

None None

Recommended Referral: Long Title Amended:

No Dollar

Transfer DACS Property to Granville Co. HB 613

Draft Number:

Floor Manager:

H613-PCS10304-BA-11

Serial Referral: Recommended Referral: None

None

Long Title Amended:

No

Floor Manager:

Yarborough

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 101 Local Firefighter Relief Fund Eligibility.

Draft Number:

H101-PCS30364-LG-2

Serial Referral:

PENSIONS AND RETIREMENT

Recommended Referral: None Long Title Amended:

Yes

Floor Manager:

Clampitt

#### FAVORABLE COM SUB NO. 2, UNFAVORABLE COM SUB NO. 1

HB 528 (CS#1)

HB 569

Traffic Impact Analysis Time Frame.

Draft Number:

H528-PCS10300-ML-7

Serial Referral:

None None

Recommended Referral: Long Title Amended:

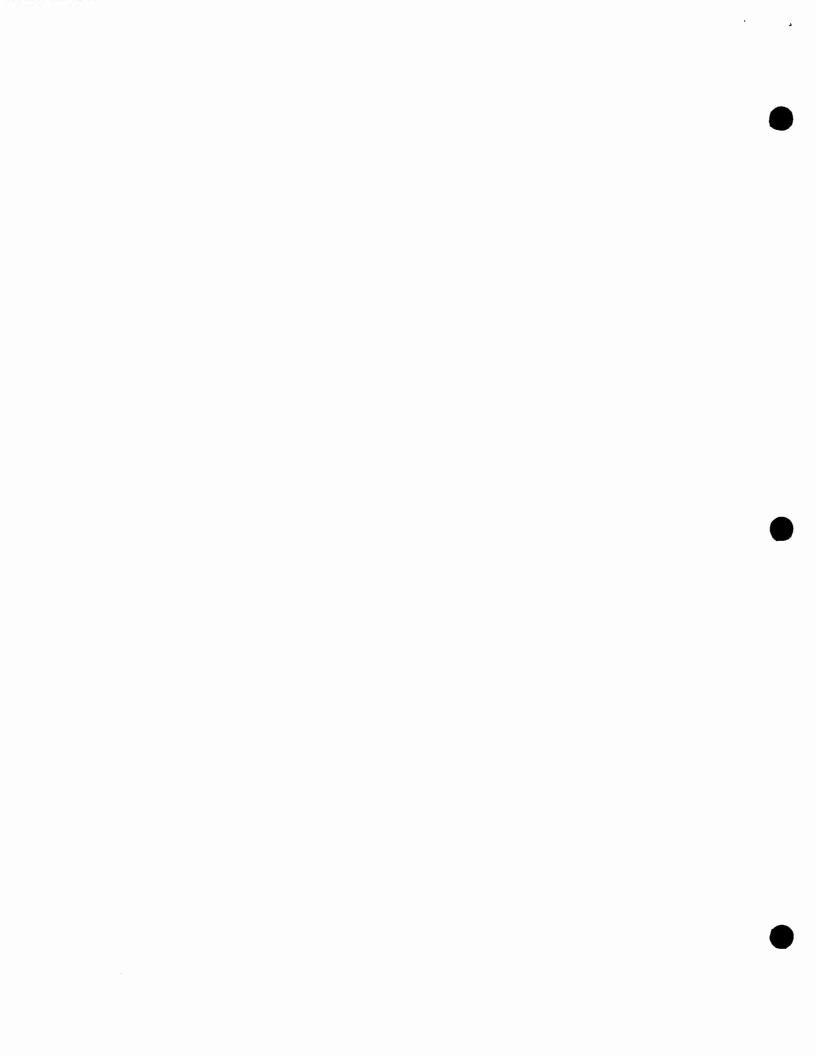
No

Floor Manager:

Millis

**TOTAL REPORTED: 5** 







### **HOUSE BILL 613:** Transfer DACS Property to Granville Co.

2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Rep. Yarborough
Analysis of: First Edition

Date: April 20, 2017
Prepared by: Nicholas Giddings
Committee Counsel

OVERVIEW: House Bill 613 would require the State of North Carolina to transfer a specific 12 acre tract of land to the Granville County Board of Commissioners to be utilized as a cemetery.

**CURRENT LAW:** Article 7 of Chapter 146 governs disposition of State property and requires that sales of land owned by the State must be made by the State and approved by the Governor and Council of State. Article 16 of Chapter 146 establishes the form of conveyances for State property, and G.S. 146-74 requires proposed conveyances to be submitted to the Governor and Council of State for approval.

**BILL ANALYSIS:** House Bill 613 would require the State of North Carolina to transfer a specific 12 acre tract of land to the Granville County Board of Commissioners for \$1.00. The conveyance would be subject to a reversionary interest reserved by the State and would be conveyed to Granville County so long as the land is utilized as a cemetery.

The property would be conveyed as is and without warranty as to the title, boundaries, uses, zoning, local ordinances, or physical, environmental, health and safety conditions of the property.

The conveyance would be exempt from the requirements of Article 7 of Chapter 146 and G.S. 146-74.

**EFFECTIVE DATE:** This act would become effective July 1, 2017.





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#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H HOUSE BILL 613

Short Title:	Transfer DACS Property to Granville Co. (Public
Sponsors:	Representative Yarborough.
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.
Referred to:	State and Local Government II

#### April 10, 2017

A BILL TO BE ENTITLED

AN ACT TO CONVEY CERTAIN REAL PROPERTY TO GRANVILLE COUNTY TO BE USED AS A CEMETERY.

The General Assembly of North Carolina enacts:

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 SECTION 1. The State of North Carolina shall convey to the Granville County Board of Commissioners, for consideration of one dollar (\$1.00), all its rights, titles, and interests in 12 acres of the approximately 4,034.4 acre parcel identified with Land Asset ID 6029 in the inventory of State-owned land maintained by the Department of Administration pursuant to G.S. 143-341. This is the same property identified as Parcel Number 26323, and Map Number 086700985470, Granville County Tax Maps, as seen in the Office of the Tax Administrator in Granville County. The Department of Administration, in consultation with the Granville County Board of Commissioners, shall determine which of the approximately 12 acres shall be transferred pursuant to this section and shall ensure that the property transferred is suitable for carrying out the uses described in Section 2 of this act.

**SECTION 2.** The conveyance pursuant to Section 1 of this act is subject to a reversionary interest reserved by the State. The property shall be conveyed to the Granville County Board of Commissioners for so long as it is utilized as a cemetery.

**SECTION 3.** The State of North Carolina shall convey the real property described in Section 1 of this act "as is" and "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Granville County.

SECTION 4. The conveyance of the State's rights, titles, and interests in the real property described in Section 1 of this act shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes, provided that the provisions of G.S. 146-74 shall not apply.

**SECTION 5.** This act becomes effective July 1, 2017.



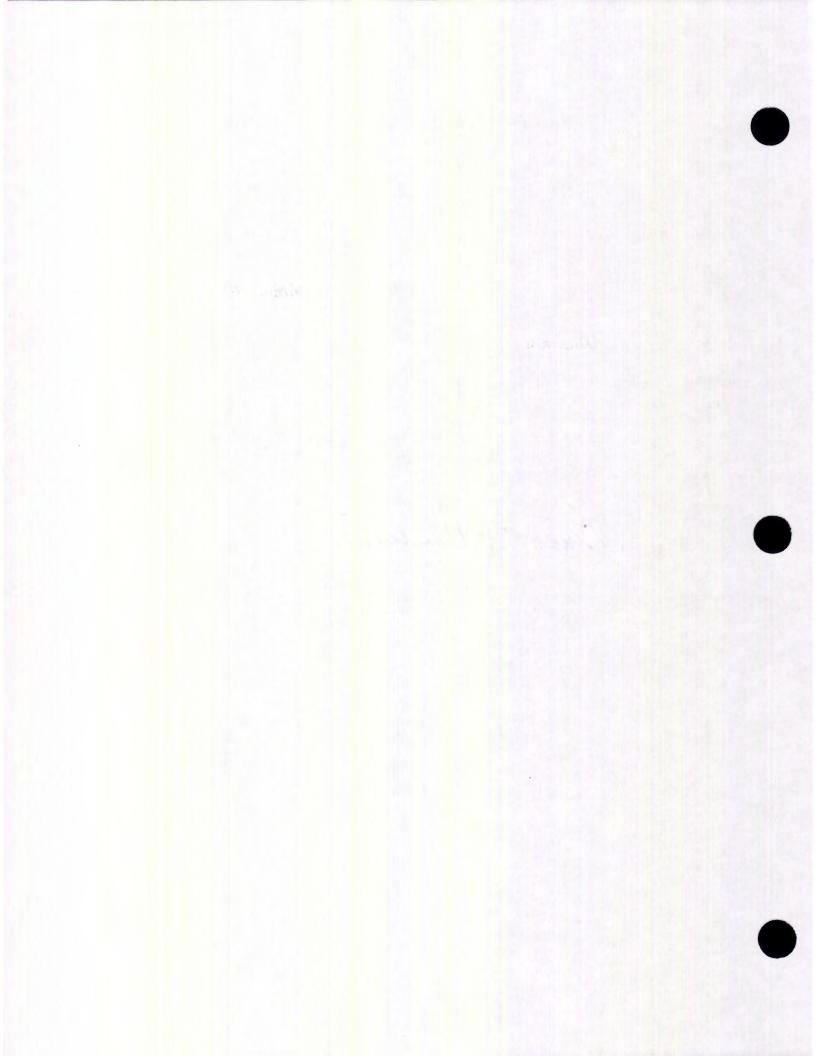
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#### NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 613

H613-ABA-12 [v.2]	(to	ENDMI be filled incipal		
				Page 1 of 1
Amends Title [NO] First Edition	Date	PEIL S	20	,2017
Representative WILLIAMS				
moves to amend the bill on page 1, line 13, by rev	writing the line to	o read:		
"acres shall be transferred pursuant to this section to the property identified as Parcel Number 1375. County Tax Maps, as seen in the Office of the shall ensure that the property transferred".	8, and Map Num	nber 087	78002116	69, Granville
SIGNED Amendment Sponso	lane			
SIGNED Committee Chair if Senate Commit	tee Amendment			
ADOPTED FAILED		TAB	LED	







## **HOUSE BILL 531: Dare County Local Tax Clarification.**

2017-2018 General Assembly

Committee: House State and Local Government II. If Date: April 20, 2017

favorable, re-refer to Finance

Introduced by: Rep. Boswell Prepared by: Trina Griffin

Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 531 would clarify the permitted uses of the Dare County prepared food and beverage tax and 1% of its room occupancy tax. The permitted uses would include services increasing traffic control, police, lifeguard, and sanitation personnel and would specifically exclude expenditures for events or improvements designed to increase tourism in the county or used by tourists.

**CURRENT LAW:** Dare County levies a 6% occupancy tax and a 1% prepared food and beverage tax, the net proceeds of which are distributed and used as follows:

Type of Tax	Rate	Administering Entity	Purpose
		2% - Cities <sup>1</sup>	Tourist-related purposes to include:
Occupancy	3%	1% - County	<ul> <li>Construction and maintenance of public facilities and buildings</li> <li>Garbage, refuse, and solid waste collection and disposal</li> <li>Police protection</li> <li>Emergency services</li> </ul>
Occupancy	2%	County	Beach Nourishment
Occupancy	1%	Dare County Tourism Board	75% - To promote tourism and administrative costs; promotion may include advertising to promote less-than-peak-season events, marketing research, a mail and telephone inquiry response program, and hospitality functions
Prepared Food & Beverage	1%		25% - Services and programs needed due to impact of tourism

**BACKGROUND:** In 2016, the State Auditor conducted an <u>audit</u> of the Dare County Tourism Board. The objective of the audit was to determine whether the Board spends its "restricted funds" in accordance with the enabling legislation. The term "restricted funds" refers to the 25% of the 2% that is remitted to the tourism board to be used for "services and programs needed due to the impact of tourism on the county." The legislation does not provide a definition or examples of the appropriate types of

<sup>&</sup>lt;sup>1</sup> 68% of the first 3% is distributed among the towns in the county in proportion to the amount of property taxes levied for the preceding fiscal year.





Legislative Analysis Division 919-733-2578

#### **House Bill 531**

Page 2

services or programs that would fall into this category. The audit disclosed that the Board places the net proceeds of the 25% in a Restricted Special Revenue Fund and uses it for things like firework displays, payments to lifeguards, a dredging project, the design of a multi-use center, the Duck boardwalk, multi-use paths and wellness trails, and restorations of historic attractions.

The legislation further provides that the tourism board may not purchase real property or use the proceeds in the restricted fund without prior approval of the Dare County Board of Commissioners.

The audit concluded that the Board should seek clarification from the legislature as to the intent of the restriction. The Board, however, does not agree that the enabling legislation lacks clarity.

BILL ANALYSIS: House Bill 531 would clarify the permitted uses of Dare County's 1% prepared food and beverage tax and 1% of its total 6% room occupancy tax, the proceeds of which are remitted to and administered by the Dare County Tourism Board. The permitted uses would include services or programs to respond to the burdens associated with the impact of tourism. Specifically, the funds could be used for increasing the following types of personnel:

- traffic control
- police
- lifeguard
- sanitation crew

The bill would specifically exclude expenditures for events or improvements designed to increase tourism in the county or used by tourists.

**EFFECTIVE DATE:** The bill would become effective when it becomes law and apply to expenditures of funds made on or after that date.

#### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

**HOUSE BILL 531** 

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Dare County Local Tax Clarification.	(Local)	
Representative Boswell.		
For a complete list of sponsors, refer to the North Carolina General Assemb	bly web site.	
Referred to: State and Local Government II, if favorable, Finance		
_	Representative Boswell.  For a complete list of sponsors, refer to the North Carolina General Assemb	

March 30, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PERMITTED USES OF CERTAIN DARE COUNTY LOCAL TAXES.

Whereas, the General Assembly authorized the creation of the Dare County Tourism Board as a public authority; and

Whereas, the General Assembly authorized Dare County to levy an additional 1% occupancy tax and a 1% prepared food and beverage tax to fund the operation of the Tourism Board: and

Whereas, that authorization provided that 75% of the tax proceeds "shall be used for the cost of administration and to promote tourism" and 25% "shall be restricted and used for services or programs needed due to the impact of tourism on the county"; and

Whereas, historical records available within the Tourism Board and historical statements from various town boards and officials and from the general public have all indicated confusion and disagreement over the expenditures of the board with respect to the 25% restricted fund; and

Whereas, such expenditures from the 25% restricted fund have been erroneously made for buying real estate, building walking paths, and funding grant programs designed to promote and augment the growth of tourism, and such purposes were provided for by the remaining 75% fund; and

Whereas, the 25% restricted fund has failed to be reserved for services needed due to the impacts of tourism on the county, such as added costs of traffic control, police, lifeguard. and sanitation services due to the impact of a growing tourist economy; and

Whereas, in 2016, the Office of the State Auditor conducted a review of the relevant financial records and concluded that the Tourism Board should seek clarification as to the intent regarding permissible uses of the 25% restricted fund; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Chapter 449 of the 1985 Session Laws, as enacted by Chapter 177 of the 1991 Session Laws, reads as rewritten:

"Sec. 7. Use of Proceeds of Additional Occupancy Tax and Prepared Food and Beverage Tax. Dare County shall remit the net proceeds of the taxes levied under Sections 3 and 4 of this act on a monthly basis to the Dare County Tourism Board. The tourism board may deduct the cost of its annual audit from the proceeds remitted to it. The tourism board shall use the remainder of the proceeds as follows:

> Seventy-five percent (75%) shall be used for the cost of administration and to promote tourism. The tourism board's expenditures may include (i)



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- advertising to promote less-than-peak-season events and programs, (ii) marketing research, (iii) a mail and telephone inquiry response program, and (iv) welcoming and hospitality functions.
- (2) Twenty-five percent (25%) shall be used for services or programs needed due to the impact to respond to burdens associated with the impact of tourism in peak season on the county. Permissible services or programs include increasing traffic control, police, lifeguard, and sanitation crew personnel necessitated by greater numbers of people during peak season but do not include expenditures for costs of events or improvements designed to increase tourism in the county or used by tourists visiting the area.

The tourism board may expend funds only for public purposes. The tourism board shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require. The tourism board may not use the proceeds distributed to it to purchase real property or for the purposes set out in subdivision (2) above without prior approval by the Dare County Board of Commissioners."

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



## **HOUSE BILL 602:** Cities/Require Performance Guarantees.

#### 2017-2018 General Assembly

Committee: House State and Local Government II Date: April 19, 2017
Introduced by: Rep. Dobson Prepared by: Brad Krehely

Analysis of: First Edition Committee Co-Counsel

OVERVIEW: House Bill 602 would authorize cities to require performance guarantees when industrial property is being demolished. The act would become effective July 1, 2017.

BILL ANALYSIS: House Bill 602 would authorize a city to require performance guarantees when the owner of property classified as industrial under the city's zoning ordinance or property historically used for industrial purposes submits an application for a permit to assure successful completion of demolition and removal of all material from the site. The owner may decide on the type of performance guarantee. The owner, in conjunction with the city, must determine the estimated cost and the time period in which demolition and removal must be completed.

"Performance Guarantee" means any of the following:

- A surety bond issued by any company authorized to do business in this State.
- A letter of credit issued by any financial institution licensed to do business in this State.
- Any other form of guarantee that provides equivalent security to a surety bond or letter of credit.

The performance guarantee must be returned or released when the city acknowledges that the demolition and removal of all material has been completed. If demolition and removal of all material has not been completed and the current performance guarantee is expiring, the performance guarantee must be extended, or a new performance guarantee issued, for an additional period until demolition and removal of all material is completed. The owner must demonstrate good faith progress toward completion of the demolition and removal.

The amount of the performance guarantee must not exceed 125% of the reasonably estimated cost of completion of demolition and removal at the time the performance guarantee is issued. Any extension of the performance guarantee must not exceed 125% of the reasonably estimated cost of completion of the remaining demolition and removal of all material.

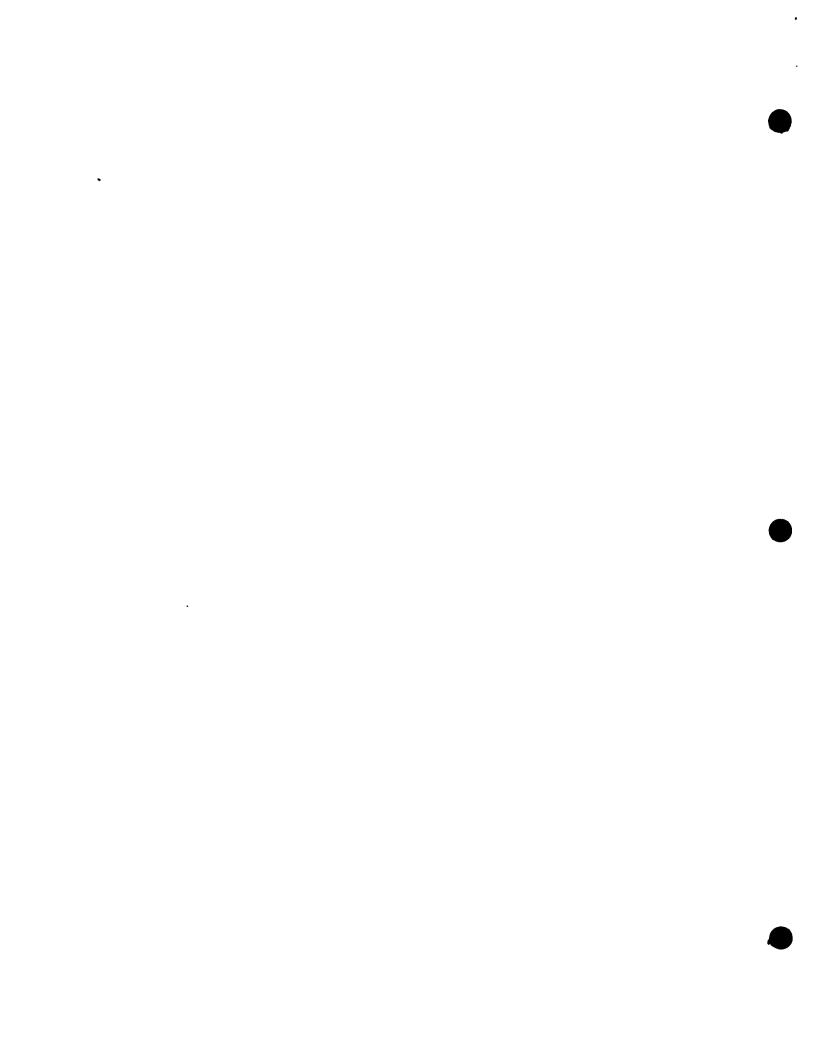
The performance guarantee must only be used for completion of the demolition and removal of all material from the site and for no other purpose. Nothing in the act allows a city to require performance guarantees for demolition of residential property.

**EFFECTIVE DATE:** July 1, 2017.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



#### **HOUSE BILL 602**

Short Title:	e: Cities/Require Performance Guarantees.		
Sponsors:	Representative Dobson.		
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.		
Referred to:	State and Local Government II		

#### April 6, 2017

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO REQUIRE PERFORMANCE GUARANTEES WHEN INDUSTRIAL PROPERTY IS BEING DEMOLISHED.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 5 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ 160A-440. Demolition of industrial buildings; performance guarantees required.

- (a) A city may require performance guarantees when the owner of property classified as industrial under the city's zoning ordinance or property historically used for industrial purposes submits an application for a permit to assure successful completion of demolition and removal of all material from the site in a reasonable time period. The type of performance guarantee shall be at the election of the owner, but the owner shall, in conjunction with the city, determine the estimated cost of demolition and removal of all material from the site and the time period in which demolition and removal shall be completed. For purposes of this section, the term "performance guarantee" means any of the following: (i) a surety bond issued by any company authorized to do business in this State, (ii) a letter of credit issued by any financial institution licensed to do business in this State, or (iii) any other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (b) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the city that the demolition and removal of all material has been completed. If demolition and removal of all material has not been completed and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until demolition and removal of all material is completed. The owner shall demonstrate reasonable, good-faith progress toward completion of the demolition and removal of all material that is the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the owner.
- (c) The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of demolition and removal of all material at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete demolition and removal of all material shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining demolition and removal of all material still outstanding at the time the extension is obtained.



General Assembly Of North Carolina				Session 20
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(d) The performance guarantee shall only be used for completion of the demolition and removal of all material from the site and for no other purpose.

(e) Nothing in this section shall be construed as authorizing a city to require

performance guarantees for demolition of residential property."

**SECTION 2.** This act becomes effective July 1, 2017.

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#### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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#### **HOUSE BILL 740**

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Short Title:	SAR Rename/Disputed County Boundaries/Mapping.	(Public)
Sponsors:	Representatives McNeill and R. Turner (Primary Sponsors).	
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.	
Referred to:	State and Local Government II	

		April 13, 2017		
1		A BILL TO BE ENTITLED		
2	AN ACT TO MODIFY THE NAME OF SEARCH AND RESCUE SERVICES, TO ALLOW			
3	THE NORTH CAROLINA GEODETIC SURVEY TO RATIFY RESULTS OF COUNTY			
4	BOUNDARY RESURVEYS, AND TO CLARIFY THAT PROTECTIVE RIDGELINE			
5	MAPS ARE	HOUSED WITH THE NORTH CAROLINA GEODETIC SURVEY		
6	RATHER THAN THE DEPARTMENT OF ENVIRONMENTAL QUALITY.			
7	The General Assembly of North Carolina enacts:			
8	SECT	ION 1. Article 6 of Chapter 166A of the General Statutes reads as rewritten:		
9		"Article 6.		
10		"Urban North Carolina Search and Rescue.		
11	"§ 166A-65. Defi			
12	The following	definitions apply in this Article:		
13	(1)	Contract response team An urban A search and rescue team, specialty		
14		rescue team, or incident support team.		
15	(2)	Incident support team A team of trained emergency response personnel,		
16		organized to provide coordination between governmental agencies and		
17		nongovernmental organizations as well as technical and logistical support to		
18	(2.)	urban-search and rescue teams and specialty rescue teams.		
19	(2a)	Search and rescue team A specialized team or group of teams, organized		
20		with capabilities equivalent to search and rescue teams established under the		
21		Federal Emergency Management Agency in order to assist in the removal of		
22		trapped victims during emergencies, including, but not limited to, collapsed		
23		structures, trench excavations, elevated locations, and other technical rescue		
24	(2)	situations.		
25	(3)	Secretary. – The Secretary of the Department of Public Safety.		
26	(4)	Specialty rescue team. – A specialized response team, organized to provide		
27		technical rescue assistance to first responders. The term includes, but is not		
28		limited to, a canine search and rescue or disaster response team, a cave		
29 30		search and rescue team, a collapse search and rescue team, a mine and tunnel search and rescue team, and a swift water or flood search and rescue team. A		
31		specialty rescue team shall be aligned with one or more of the search and		
32		rescue categories within the Federal Emergency Management Agency's		
33		national resource typing system.		
34	(5)	Urban search and rescue team. A specialized team or group of teams,		
34	(5)	orban scarcii and rescue team. The specialized team of group of teams,		

(5) Urban search and rescue team. A specialized team or group of teams, organized with capabilities equivalent to urban search and rescue teams



established under the Federal Emergency Management Agency in order to assist in the removal of trapped victims during emergencies, including, but not limited to, collapsed structures, trench excavations, elevated locations, and in other technical rescue situations.

#### "§ 166A-66. Urban North Carolina Search and Rescue Program.

- (a) The Secretary shall adopt rules establishing a program for urban-search and rescue that relies on eontracts contracts, memorandums of understanding, and memorandums of agreement with contract response teams. The program shall be administered by the Division of Emergency Management. To the extent possible, the program shall be coordinated with other emergency planning activities of the State. The program shall include contract response teams located strategically across the State that are available to provide 24-hour dispatch from the Division of Emergency Management Operations Center. The rules for the program shall include:
  - (1) Standards, including training, equipment, and personnel standards required to operate a contract response team.
  - (2) Guidelines for the dispatch of a contract response team to an urban a search and rescue team or specialty rescue team mission.
  - (3) Guidelines for the on-site operations of a contract response team.
  - (4) Standards for administration of a contract response team, including procedures for reimbursement of response costs.
  - (5) Refresher and specialist training for members of contract response teams.
  - (6) Procedures for recovering the costs of an urban <u>a</u> search and rescue team or specialty rescue team mission.
  - (7) Procedures for bidding and contracting for <del>urban</del>-search and rescue team and specialty rescue team missions.
  - (8) Criteria for evaluating bids for <del>urban</del>-search and rescue team and specialty rescue team missions.
  - (9) Delineation of the roles of the contract response team, local public safety personnel, the Division of Emergency Management's area coordinator, and other State agency personnel participating in an urban a search and rescue team or specialty rescue team mission.
  - (10) Procedures for the Division of Emergency Management to audit the contract response teams to ensure compliance with State and federal guidelines.
- (b) Within available appropriations, the Division of Emergency Management shall spend the necessary funds for training, equipment, and other items necessary to support the operations of contract response teams. The Division of Emergency Management may also administer any grants of other funds made available for contract response teams, in accordance with applicable rules and regulations approved by the Director of the State Budget.
- (c) In developing the <u>Urban North Carolina Search</u> and Rescue Program and adopting the rules required by this section, the Secretary shall consult with the <u>Urban North Carolina Search</u> and Rescue Team Advisory Committee established pursuant to G.S. 166A-69.

#### "§ 166A-67. Contracts; equipment loans.

- (a) The Secretary may contract with any unit or units of local government for the provision of a contract response team to implement the Urban-North Carolina Search and Rescue Program. Contracts are to be let consistent with the bidding and contract standards and procedures adopted pursuant to G.S. 166A-66(a)(7) and G.S. 166A-66(a)(8). In entering into contracts with units of local government, the Secretary may agree to provide any of the following:
  - (1) A loan of equipment.

- (2) Each state USAR-regional contract response team's Chief or Deputy Chief.
- (3) The North Carolina Office of State Fire Marshal.
- (4) The North Carolina Highway Patrol.
- (5) The North Carolina National Guard.
- (6) The North Carolina Association of Rescue and E.M.S., Inc.
- (7) The North Carolina Association of Fire Chiefs.
- (8) The North Carolina State Firefighters' Association.
- (9) The North Carolina Emergency Management Association.
- (b) The Advisory Committee shall meet on the call of the chair, or at the request of the Secretary, provided that the Committee shall meet no less than once every year. The Department of Public Safety shall provide space for the Advisory Committee to meet. The Department shall also provide the Advisory Committee with necessary support staff and supplies to enable the Committee to carry out its duties in an effective manner.
- (c) Members of the Advisory Committee shall serve without pay, but shall receive travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.
- (d) The Contract Response Team Advisory Committee shall advise the Secretary on the establishment of the Urban North Carolina Search and Rescue Program. The Committee shall

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also evaluate and advise the Secretary of the need for additional contract response teams to serve the State."

SECTION 2. G.S. 153A-18 reads as rewritten:

#### "§ 153A-18. Uncertain or disputed boundary.

- If two or more counties are uncertain as to the exact location of the boundary between them, the North Carolina Geodetic Survey (NCGS) on a cooperative basis shall assist counties in defining and monumenting the location of the uncertain or disputed boundary as established in accordance with law. Upon receiving written request from all counties adjacent to the uncertain or disputed boundary, they may cause the boundary to be surveyed, marked, and mapped. The counties may appoint special commissioners to supervise the surveying. marking, and mapping. A commissioner so appointed or a person surveying or marking the boundary may enter upon private property to view and survey the boundary or to erect boundary markers. Upon ratification of the survey by the board of commissioners of each county, a map showing the surveyed boundary shall be recorded in the office of the register of deeds of each county in the manner provided by law for the recordation of maps or plats and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary. Upon reestablishing all, or some portion, of a county boundary, and if after the NCGS submits the results of the survey to the requesting counties, and the requesting counties have not ratified the reestablished boundary within one year of receiving the (map) survey plat denoting the location of the reestablished boundary, the survey plat will become conclusive as to the location of the boundary and will be recorded in the Register of Deeds in each affected county and in the Secretary of State's office. The Chief of the NCGS (State Surveyor) will notify each affected party in writing of the action taken. As used in this subsection, an "affected party" means the governing body of a county that the reestablished boundary denotes the extent of its jurisdiction.
- (c) Two or more counties may establish the boundary between them pursuant to subsection (a), above, (a) of this section, those boundaries defined by natural monuments such as rivers, streams, and ridgelines. by the The use of base maps prepared from orthophotography. orthophotography may be used if said natural monuments are visible, which base maps show the monuments of the United States Geological Survey National Geodetic Survey and North Carolina State Plane Coordinate System established pursuant to Chapter 102 of the General Statutes. The orthophotography shall be prepared in compliance with the State's adopted orthophotography standard. Upon ratification of the location of the boundary determined from orthophotography by the board of commissioners of each county, the map showing the boundary and the monuments of the United States Geological Survey National Geodetic Survey and North Carolina State Plane-Coordinate System shall be recorded in the Office of the Register of Deeds of each county and in the Secretary of State's office. The map shall contain a reference to the date of each resolution of ratification and to the page in the minutes of each board of commissioners where the resolution may be found. Upon recordation, the map is conclusive as to the location of the boundary."

### SECTION 3. G.S. 113A-212 reads as rewritten: "§ 113A-212. Assistance to counties and cities under ridge law.

(b) The Secretary of Environmental Quality shall identify the protected mountain ridge crests in each county by showing them on a map or drawing, describing them in a document, or any combination thereof. Such maps, drawings, or documents shall identify the protected mountain ridges as defined in G.S. 113A-206 and such other mountain ridges as any county may request, and shall specify those protected mountain ridges that serve as all or part of the

boundary line between two counties. By November 1, 1983, the map, drawing, or document tentatively identifying the protected mountain ridge crests of each county shall be filed with the board of county commissioners and with the city governing body of each city that requests it. By January 1, 1984, the map, drawing, or document identifying the protected mountain ridge crests shall be permanently filed by the Secretary with the register of deeds in the county where the land lies, and made available for inspection at the Secretary's office of the North Carolina Geodetic Survey (NC Emergency Management/Risk Management) in Raleigh. Copies of the maps, drawings, or documents certified by the register of deeds, shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

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**SECTION 4.** Section 1 of this act becomes effective July 1, 2017. The remainder of this act is effective when it becomes law.



# HOUSE BILL 740: SAR Rename/Disputed County Boundaries/Mapping.

2017-2018 General Assembly

Committee: House State and Local Government II Date: April 19, 2017
Introduced by: Reps. McNeill, R. Turner Prepared by: Cindy Avrette
Analysis of: Staff Attorney

OVERVIEW: House Bill 740 would modernize and update statutes related to the urban search and rescue teams and the NC Geodetic Survey.

#### **CURRENT LAW AND BILL ANALYSIS:**

Section 1 would change the name of the urban search and rescue team to the North Carolina search and rescue team. The Department of Public Safety has a program for search and rescue efforts that relies on contracts, memorandums of understanding, and memorandums of agreement with a specialized group of individuals with capabilities equivalent to search and rescue teams established under the Federal Emergency Management Agency. Generally, the team consists of specialized subunits of local fire departments and other emergency personnel. The teams are strategically located in major urban centers so they can be quickly deployed across the State. The name is being changed to more accurately reflect the diverse terrain and missions the team serves in the State.

Section 2 would provide that the North Carolina Geodetic Survey may assist counties in defining and monumenting the location of uncertain or disputed county boundary lines. It must receive a written request from all counties adjacent to the uncertain or disputed boundary. NCGS must submit the survey reestablishing the boundary lines to the counties. If the counties fail to ratify the reestablished boundary line within one year of receiving the survey plat denoting the location of the reestablished boundary line, the survey plat will become conclusive as to the location of the boundary line and will be recorded in the Register of Deeds in each affected county and in the Secretary of State's office.

**Section 3** would clarify that protective ridge maps are housed with the office of the North Carolina Geodetic Survey, NC Emergency Management, in Raleigh.

**EFFECTIVE DATE:** Section 1 becomes effective July 1, 2017. The remainder of the act would become effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis Division 919-733-2578



# HOUSE BILL 744: State Emps./Amend Salary Continuation.

#### 2017-2018 General Assembly

Committee:

House State and Local Government II. If Date:

April 19, 2017

favorable, re-refer to State Personnel

Introduced by:

Reps. McNeill, R. Turner

Prepared by: Cindy Avrette

Staff Attorney

Analysis of: First Edition

OVERVIEW: House Bill 744 would facilitate the return to work of law enforcement officers hurt on the job by providing that a duty is properly assigned if it complies with the authorized treating physician's restrictions. The bill would cease or reduce salary continuation payments upon the assignment of the employee to duties properly assigned or when the employee returns to work for the same or a different employer.

CURRENT LAW: The Salary Continuation Plan under Article 12B of Chapter 143 provides that an eligible law enforcement officer may continue to receive the employee's salary notwithstanding that the employee is unable to perform the duties required for that position. To be eligible for the salary continuation, the employee must have become incapacitated as the result of an injury arising from the employee's official duties. The employee may continue to receive the salary continuation benefit for two years. If the employee remains incapacitated for more than two years, the employee is subject to the provisions of the workers compensation laws.

The salary continuation ceases once the employee resumes regularly scheduled duties, retirement, resignation, or death, whichever occurs first.

**BILL ANALYSIS:** House Bill 744 would stop or reduce salary continuation benefits for eligible officers upon the assignment of the employee to duties that comply with the treating physician's restrictions or upon the employee's return to work for the same or a different employer. The bill also provides that a duty is properly assigned if the duty complies with the authorized treating physician's restrictions.

The changes in the bill would facilitate incapacitated law enforcement officers returning to work in some capacity, and it would reduce the State's liability to make salary continuation payments otherwise payable. The bill would not affect workers compensation payments, which only come into use for an incapacity lasting more than two years.

**EFFECTIVE DATE:** The bill would become effective when it becomes law, and apply to State employees incapacitated on or after that date.





Legislative Analysis Division 919-733-2578

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#### **HOUSE BILL 744**

Short Title: State Emps./Amend Salary Continuation. (Public)

Sponsors: Representatives McNeill and R. Turner (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, State Personnel

April 13, 2017

A BILL TO BE ENTITLED

AN ACT AMENDING THE SALARY CONTINUATION BENEFITS OF STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.14 reads as rewritten:

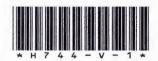
"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.

The salary of any eligible person shall be paid as long as the person's employment in that position continues, notwithstanding the person's total or partial incapacity to perform any duties to which the person may be lawfully assigned, if that incapacity is the result of an injury or injuries resulting from or arising out of an episode of violence, resistance, or due to other special hazards that occur while the eligible person is performing official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General Statutes pertaining to workers' compensation. The time period for which an eligible person receives benefits pursuant to this section shall be deducted from the eligible person's total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. For purposes of this section, the term "salary" shall be defined as the total base pay of the person reflected on the person's salary statement and shall not include overtime pay, shift differential pay, holiday pay, or other additional earnings to which the person may have been entitled prior to such incapacity. Salary paid to an eligible person pursuant to this Article shall cease upon the resumption of the person's regularly assigned duties, duties; assignment of duties which comply with the treating physician's restrictions; or retirement, resignation, or death, whichever first occurs, occurs; provided that salary payments will be ceased or may be equitably reduced when the employee has returned to work for the same or a different employer. except that-A temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury."

SECTION 2. G.S. 143-166.19 reads as rewritten:

"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.

Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than the claimant's normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North



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Carolina Industrial Commission. The finding of the secretary or other department head shall be final unless the claimant, within 30 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial Commission using a form required by the Commission. Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its regularly established procedure for hearing claims filed under the Worker's Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which the person may be properly assigned as a result of the finding of the secretary, other head of the department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues. A duty is properly assigned if the duty complies with the authorized treating physician's restrictions. Any eligible person whose salary continuation benefits are terminated by the secretary or other head of the department shall be immediately entitled to benefits under G.S. 97-29 or G.S. 97-30. Such benefits under G.S. 97-29 or G.S. 97-30 shall only be suspended or terminated by the employer pursuant to G.S. 97-18.1."

**SECTION 3.** This act is effective when it becomes law and applies to State employees incapacitated on or after that date.



# **HOUSE BILL 666:** Revise Volunteer Fire Department Req'ts.

2017-2018 General Assembly

House State and Local Government II Committee:

Reps. Brenden Jones, Saine Introduced by:

First Edition Analysis of:

April 19, 2017 Date:

Prepared by: Brad Krehely

Committee Co-Counsel

OVERVIEW: House Bill 666 revises primary personnel requirements for volunteer firefighters. The act is effective when it becomes law.

CURRENT LAW: 11 NCAC 05A.0504 provides: "Upon initial or re-inspection for certification as a Class '9S' fire department, the fire department shall have 20 primary personnel. No eligible firefighter may be counted as a primary firefighter of two, on call, volunteer departments. At the time of reinspection, a fire department shall maintain 20 primary personnel on their certified state roster. At least one engine with four personnel must respond to each reported structure fire, which includes fire alarm activations where fire or damage has occurred. For the purpose of this Section 'primary personnel' means an eligible firefighter that is associated with the fire department for the purpose of satisfying certification inspection requirements."

BILL ANALYSIS: House Bill 666 requires the Department of Insurance to implement 11 NCAC 05A.0504 as follows. The Department must provide that to satisfy certification inspection requirements, a fire department may apply to the Department for a waiver from the requirement that the fire department maintain 20 primary personnel. The Department's Office of State Fire Marshall may find that a waiver is justified based on the volume of calls received by the fire department and if the waiver would not cause a significant deterioration in the response capability of the fire department. A waiver must not reduce the primary personnel requirement below 15. The act directs the Rules Review Commission to amend the Primary Personnel Rule consistent with these provisions.

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





Legislative Analysis Division 919-733-2578

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#### **HOUSE BILL 666**

(Public) Short Title: Revise Volunteer Fire Department Req'ts. Representatives Brenden Jones and Saine (Primary Sponsors). Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: State and Local Government II

## April 11, 2017

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#### A BILL TO BE ENTITLED

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AN ACT TO PROVIDE FOR A WAIVER OF MINIMUM PERSONNEL REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. - "Primary Personnel Rule" means 11 NCAC 05A .0504 (Primary Personnel) for purposes of this act and its implementation.

SECTION 1.(b) Primary Personnel Rule. – Until the effective date of the revised permanent rule that the Department of Insurance is required to adopt pursuant to subsection (d) of this section, the Department shall implement the Primary Personnel Rule, as provided in subsection (c) of this section.

SECTION 1.(c) Implementation. - The Department shall provide that for the purpose of satisfying certification inspection requirements, a fire department may apply to the Department for a waiver from the requirement that the department maintain 20 primary personnel in order to satisfy certification inspection requirements upon a showing satisfactory to the Department's Office of State Fire Marshall that the waiver is justified by the volume of calls received by the fire department and would not cause a significant deterioration in the response capability of the fire department. A waiver granted by the Department under this subsection shall not reduce the primary personnel requirement below 15.

SECTION 1.(d) Additional Rule-Making Authority. - The Commission shall adopt a rule to amend the Primary Personnel Rule consistent with subsection (c) of this section and may adopt temporary rules. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes.

SECTION 1.(e) Sunset. - This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

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



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### HOUSE BILL 101 PROPOSED COMMITTEE SUBSTITUTE H101-CSLG-2 [v.4] 04/19/2017 12:26:09 PM

Short Title:	Jackson County/Trout Capital of NC.	(Public
Sponsors:		
Referred to:		

#### February 15, 2017

#### A BILL TO BE ENTITLED

2 3

# AN ACT ADOPTING JACKSON COUNTY AS THE TROUT CAPITAL OF THE STATE OF NORTH CAROLINA.

 Whereas, Jackson County is home to the nation's First Fly Fishing Trail with 15 designated public spaces for fly fishing mapping prime spots to catch brown, rainbow, and brook trout in the crystal clear streams of Jackson County; and

Whereas, Jackson County has the longest contiguous stretch of waters that have been designated by the North Carolina Wildlife Resources Commission as North Carolina Mountain Heritage Trout Waters, comprising of three cities of the 13 in the State with the distinction making up 25% of the State's designated waters, with numerous unnamed waters also comprising the richest, most diverse, productive trout fisheries in North Carolina; and

Whereas, the waters of Jackson County are excellent resources for trout fishing and other enjoyable aquatic past times with over 4,600 miles of beautiful water; and is annually stocked with 92,800 fish each year, the most of any county in North Carolina; and

Whereas, Jackson County is the location for one of the three largest rainbow trout ever caught and recorded in North Carolina; and

Whereas, people from around the country travel to fish the Tuckaseigee River in Jackson County which is the largest body of water in the county, flowing some 40 miles from southeast to northwest; and

Whereas, the Tuckaseigee River's splendid all-season Tailwater fishery has the conditions which provide a superior habitat for invertebrate and other trout prey and is regularly stocked with brown, rainbow and brook trout; and

 Whereas, the all-season fishing available in the Tuckaseigee River and on the Qualla Boundary provides a varied alternative from other fisheries in North Carolina, with winter fishing providing the opportunity for bigger catches during colder months; and

 Whereas, the miles of streams in Jackson County support the area's only native species, the Eastern Brook trout, which has been preserved, protected, and restored on public lands by the Department of Natural Resources, the United States Forest Service, and by conservation-minded groups like Trout Unlimited and Eastern Brook Trout Joint Venture; and

Whereas, a significant portion of the Eastern Band of the Cherokee Nation resides in Jackson County, which is the home of the famous trophy trout waters of the Raven Fork River featured on the WNC Fly Fishing Trail; and

Whereas, Jackson County is home to several trout ponds and farms, and many local restaurants proudly feature trout on their menus, in a gracious and friendly community environment; and



	General Assembly Of North Carolina Session 2017
1	Whereas, Jackson County is blessed with significant aquatic waters for fishing,
2	boating, and outdoor adventure, which encourages second home destinations, retirees and
3	outdoor enthusiasts to the lovely State of North Carolina; Now, therefore,
4	The General Assembly of North Carolina enacts:
5	SECTION 1. Chapter 145 of the General Statutes is amended by adding a new
6	section to read:
7	"§ 145-49. Official Trout Capital of the State of North Carolina.
8	Jackson County is adopted as the official trout capital of the State of North Carolina."
9	<b>SECTION 2.</b> This act is effective when it becomes law.

Page 2 House Bill 101 H101-CSLG-2 [v.4]

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H HOUSE BILL 101\*

Short Title:	Local Firefighter Relief Fund Eligibility. (Public
Sponsors:	Representatives Clampitt and Saine (Primary Sponsors).  For a complete list of sponsors, refer to the North Carolina General Assembly web site.
Referred to:	State and Local Government II, if favorable, Appropriations

February 15, 2017 A BILL TO BE ENTITLED 1 2 AN ACT TO PROVIDE THAT ANY DESTITUTE FIREFIGHTER SERVING HONORABLY WITH A CERTIFIED FIRE DEPARTMENT MAY RECEIVE FINANCIAL ASSISTANCE 3 4 FROM A LOCAL FIREFIGHTERS' RELIEF FUND. The General Assembly of North Carolina enacts: 5 **SECTION 1.** G.S. 58-84-35(a) reads as rewritten: 6 "§ 58-84-35. Disbursement of funds by trustees. 7 The board of trustees shall have entire control of the funds derived from the provisions 8 9 of this Article, and shall disburse the funds only for the following purposes: 10 Ι1 (2a) To provide assistance, upon approval by the Executive Director of the North Carolina State Firefighters' Association, to a destitute member firefighter who 12 has served or is serving honorably for at least five years.with a certified fire 13 department. The determination of destitute shall be based on the inability of the 14 15 firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited 16 to, assistance with housing, vehicle or commuting expenses, food, clothing, 17 utilities, medical care, and funeral expenses. 18 19 20 **SECTION 2.** This act becomes effective July 1, 2017, and applies to distributions to

**SECTION 2.** This act becomes effective July 1, 2017, and applies to distributions to local firefighters' relief funds on or after that date.

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#### **HOUSE BILL 623**

Short Title: Transfer Certain Excess Lands/Haywood BoEd. (Public)

Sponsors: Representative Clampitt.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II

## April 10, 2017

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## A BILL TO BE ENTITLED

AN ACT TO TRANSFER CERTAIN EXCESS LANDS IN HAYWOOD COUNTY TO THE HAYWOOD COUNTY BOARD OF EDUCATION FOR SO LONG AS THOSE LANDS ARE USED FOR EDUCATION-RELATED PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State of North Carolina shall convey to the Haywood County Board of Education, for consideration of one dollar (\$1.00), all its rights, titles, and interests in those lands bounded as follows, except for a 30-foot right-of-way adjacent to all roads:

(1) On the west by U.S. Route 1-23 Business.

(2) On the east by properties owned by the Haywood County Consolidated School System, Deed Book 432, Page 1116, of the Haywood County Register of Deeds Office.

(3) On the south by State Road 1802, also known as Francis Farm Road.

(4) On the north by Sims Circle Road.

SECTION 1.(b) The conveyance in this section is subject to a reversionary interest reserved by the State. The property shall be conveyed to the Haywood County Board of Education for so long as it is utilized for education-related purposes, including parking and sports facilities.

SECTION 2. The State of North Carolina shall convey the real property described in Section 1 of this act "as is" and "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Haywood County.

SECTION 3. The conveyance of the State's rights, titles, and interests in the real property described in Section 1 of this act shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes, provided that the provisions of G.S. 146-74 shall not apply.

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



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# **HOUSE BILL 623:** Transfer Certain Excess Lands/Haywood BoEd.

#### 2017-2018 General Assembly

House State and Local Government II Committee:

Date:

April 19, 2017

Introduced by: Rep. Clampitt Analysis of:

First Edition

Prepared by: Erika Churchill

Staff Attorney

OVERVIEW: House Bill 623 would direct the State of North Carolina to convey certain described property to the Haywood County Board of Education, effective when it becomes law.

CURRENT LAW: Article 7 of Chapter 146 of the General Statutes governs disposition of State property. It requires that sales of lands owned by the State must be made by the Department of Administration, and approved by the Governor and Council of State. Article 16 of Chapter 146 establishes the form of conveyances of State property, and in G.S. 146-74 requires proposed conveyances to be submitted to the Governor and Council of State for approval.

BILL ANALYSIS: House Bill 623 would require the State to convey to the Haywood County Board of Education, for \$1.00, certain described property in Haywood County that is adjacent to properties owned by the Haywood School System, for so long as the Haywood County Board of Education uses it for education-related purposes, including parking and sporting facilities. The property would be conveyed 'as-is' by the State.

**EFFECTIVE DATE:** Effective when it becomes law.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



# **HOUSE BILL 395:** Add Member to NC Training Standards Commiss.

2017-2018 General Assembly

Committee:

House State and Local Government II

Date:

April 20, 2017

**Introduced by:** Reps.

Jordan, R. Turner, White,

W. Prepared by: Nicholas Giddings

Richardson

Committee Counsel

Analysis of: First Edition

OVERVIEW: House Bill 395 would allow the North Carolina Police Benevolent Association to appoint one full-time sworn law-enforcement officer to serve on the North Carolina Criminal Justice Education and Training Standards Commission.

[As introduced, this bill was identical to S505, as introduced by Sens. Ballard, Sanderson, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: The North Carolina Criminal Justice Education and Training Standards Commission establishes minimum employment, training, and retention standards for the State's criminal justice officers. The Commission plans for the effective implementation of innovations in the State's system of criminal justice employment, training and education. It is composed of 34 members that come from the following general categories: police chiefs, police officers, departments, at-large groups, citizens and correctional officers.

BILL ANALYSIS: House Bill 395 would increase the membership of the North Carolina Criminal Justice Education and Training Standards Commission from 34 members to 35 members. The new member would be a full-time sworn law-enforcement officer chosen by the North Carolina Police Benevolent Association and would serve an initial term of three years. The member chosen by the North Carolina Police Benevolent Association would have full voting privileges, except in cases being heard before the probable cause committee involving their own members.

**EFFECTIVE DATE:** This act would be effective when it becomes law.

Karen Cochrane-Brown



Legislative Analysis Division 919-733-2578

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#### **HOUSE BILL 395**

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Short Title: (Public) Add Member to NC Training Standards Commiss. Representatives Jordan, R. Turner, White, and W. Richardson (Primary Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. State and Local Government II Referred to:

#### March 20, 2017

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE POLICE BENEVOLENT ASSOCIATION CAN APPOINT ONE FULL-TIME SWORN LAW ENFORCEMENT OFFICER TO SERVE ON THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 17C-3(a) reads as rewritten:

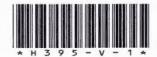
North Carolina Criminal Justice Education and Training Standards "§ 17C-3. Commission established; members; terms; vacancies.

There is established the North Carolina Criminal Justice Education and Training (a) Standards Commission, hereinafter called "the Commission." The Commission shall be composed of 34 members as follows:

> At-large Groups. - One individual representing and appointed by each of the (4)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: and one full-time sworn law-enforcement officer selected by the North Carolina Police Benevolent Association. The North Carolina Police Benevolent Association member shall have full voting privileges with the exception of cases being heard before the probable cause committee involving their own members.

SECTION 2. As enacted by Section 1 of this act, the initial term of office for the member selected by the North Carolina Police Benevolent Association shall begin on July 1, 2017, and shall expire on June 30, 2020. Consistent with G.S. 17C-3(b), subsequent appointees to these slots shall be appointed for a term of three years, but notwithstanding the appointment for a term of years, the member shall serve at the will of the appointing authority.

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





The following organizations/small businesses have passed resolutions in opposition to HB 531:

- · Dare County Commissioners
- Hotel Motel Association
- Hatteras Village Civic Associations
- Town of Manteo
- · Town of Nags Head
- · Town of Kill Devil Hills
- Town of Duck
- Dare County Tourism Board
- Outer Banks Association of REALTORS]
- · Outer Banks Heating & Cooling
- Outer Banks Restaurant Association
- · Outer Banks Chamber of Commerce

This bill would fundamentally change, and greatly restrict, the way in which the Dare County Tourism Boards's Restricted Fund is utilized. Instead of being able to fund programs and services needed due to the positive and negative impacts of tourism, the bill would only allow mitigation of negative impacts and only during summer.

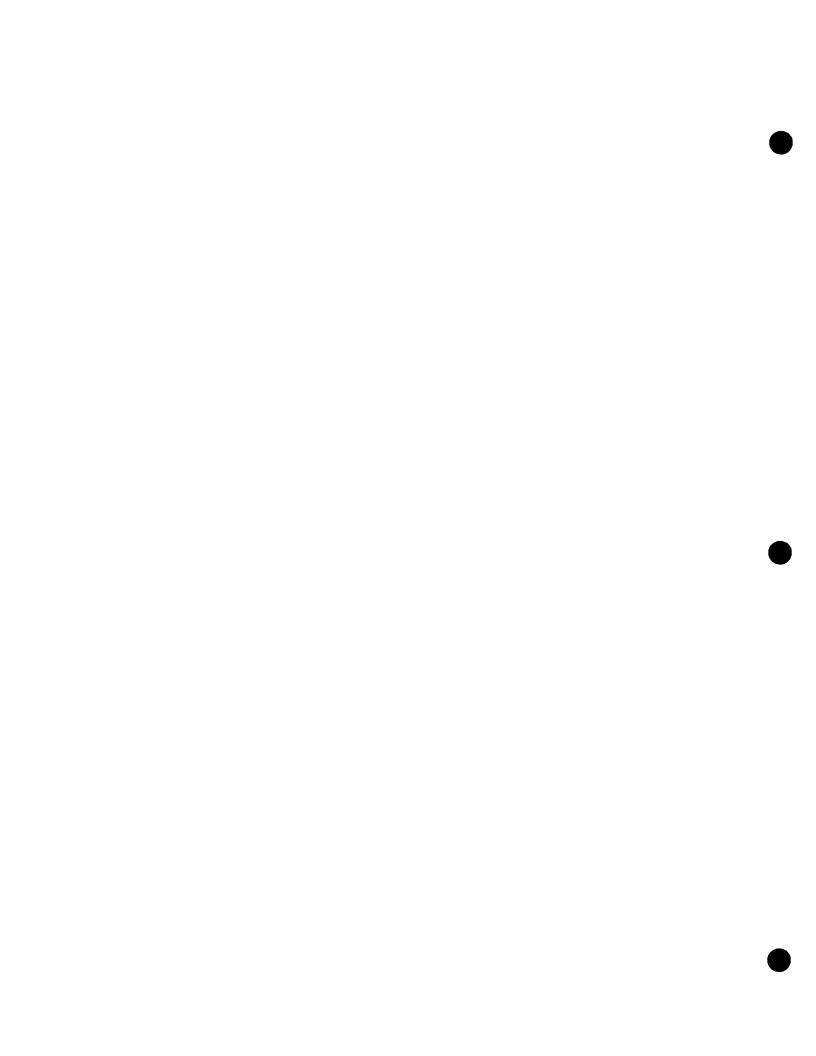
The County and Towns already receive 50% of the occupancy tax (more than \$13 million last fiscal year) specifically to address these negative impacts. That's 3x the amount the Dare County Tourism Board receives from occupancy for destination promotion AND for tourism-related impacts.

Unlike our legislation, the portion of the law regarding the County and Town dollars stipulates that those funds are to be spent *only* on negative impacts, such as, police, fire and emergency.

Because the governmental entities are receiving funds directly and because they are forced to spend the dollars on negative offsets, the Dare County Tourism Board Restricted Fund is able to more positively affect their budgets (and the community) with grants addressing positive impacts, such as, walkways, beach accesses and parks.

If passed, this bill would

- Eliminate the grant funding previously utilized by local non-profits, municipalities and Dare County in
  community-enhancing projects, such as, beach accesses in Nags Head, multi-use paths in several towns,
  walkways in the Tri-Villages and Avon, the Duck Boardwalk and Amphitheater, the Rodanthe Beach
  access and gazebo, the Graveyard of the Atlantic Museum, Pea Island Cook House Restoration, and the
  Lost Colony Soundstage Theater. These are just a few of the many projects which have reinvested more
  than \$9 million in the community.
- Prevent future Oregon and Hatteras Inlet dredge funding from the Tourism Board (the DCTB provided \$300,000 in emergency funding for Oregon Inlet dredging in Jan 2015 and later allocated \$1 million for dredging).
- Eliminate funding for the four area July 4th fireworks displays.
- Eliminate funding for the development of The Soundside event site.
- Eliminate Green Space/Open Space grant funding.



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OFFICES ALSO IN: MANTEO, NO

April 13, 2016

To: Susie Walters, Chairperson
Dare County Tourism Board

Opinion of Counsel addressed to the Dare County Tourism Board regarding the 25% proceeds directed in Section 7 of Chapter 177 of the 1991 Session Laws of the North Carolina Legislature

Room Occupancy Tax of three percent (3%)

Chapter 177 of the 1991 Session laws of the North Carolina Legislature allowed the Dare County Board of Commissioners to levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any campsite, room, lodging, or similar accommodation subject to sales tax under G.S. 105-164.4(a)(3) and a Food and Beverage Tax of one percent (1%).

Two-thirds of the net proceeds is to be paid to towns in Dare County who may use their portion of the net proceeds "only for tourist-related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services." The one-third of the net proceeds that is retained by Dare County is subject to the same use restrictions.

Additional Occupancy Tax of 1% and Food and Beverage Tax of one percent (1%)

The county is authorized to levy a room occupancy and tourism development tax of one percent (1%) and a food and beverage tax of 1%, both of which are remitted to the Dare County Tourism Board.

The DCTB shall first deduct the cost of its annual audit and then use the remainder as follows:

- (1) 75% shall be used for the costs of administration and to promote tourism. The Board's expenditures may include:
  - (i) advertising to promote less-than- peak-season events and programs;
  - (ii) marketing research;
  - (iii) a mail and telephone inquiry response program; and
  - (iv) welcoming and hospitality functions.

(2) 25% shall be used for services or programs needed due to the impact of tourism on the county. The Dare County Board of Commissioners' prior approval is required for expenditures of the 25% and any purchase of real property by the Tourism Board. In each instance counsel has been assured that the Board of Commissioners has issued its prior approval.

In the opinion of counsel no statutory definition of "impact" is available and no case law has been cited with a definition. For twenty-five years the Tourism Board has administered this fund according to its interpretation of the plain language in the Act without the need for court decree or legislative elaboration.

Simple reference to the Unabridged Edition of the Random House Dictionary of the English Language finds "impact" defined as "influence; effect". A simple reading of the sentence at issue in Section 7 of the Act would be "Twenty-five percent shall be used for services or programs needed due to the influence of tourism on the county" or "Twenty-five percent shall be used for services or programs needed due to the effect of tourism on the county". Had the Legislature intended otherwise it would have restricted expenditures as in other provisions of this Act.

Income from tourism is the mainstay of the Dare economy. Occurrences that affect tourism in positive and negative ways should legitimately be the subject of action by government and those entities challenged with the responsibility of "promoting tourism".

It is the opinion of counsel that the expenditures heretofore authorized from the Section 7 "25% proceeds" provision and approved by the Dare County Board of Commissioners appear to be lawful and properly authorized.

Respectfully submitted,

Dwight H. Wheless, NCSB #4673

## NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No.		4-20,17
H. B. No. <u>395</u>	DATE	
S. B. No		Amendment No (to be filled in by
COMMITTEE SUBSTITUTE		Principal Clerk)
Rep. Williams		
Sen.)		
moves to amend the bill on page	1	, line
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# **HOUSE BILL 528:** Traffic Impact Analysis Time Frame.

#### 2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Reps. Millis, Torbett

Analysis of: PCS to Second Edition

H528-CSML-7

Date:

April 19, 2017

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 528 provides a time frame in which the Department of Transportation must make a decision on a Traffic Impact Analysis. The Proposed Committee Substitute makes minor conforming changes on page 2, lines 14-18 and on page 2, lines 22-24.

**CURRENT LAW:** Rules and regulations of DOT and local ordinances require the completion and submission of a Traffic Impact Analysis (TIA) to provide information on the projected traffic that is expected from a proposed development. Currently, there is no uniformity in when the establishment of a scope for a TIA or the review of a TIA must be completed.

**BILL ANALYSIS:** House Bill 528 does the following:

- Requires DOT to communicate the scope of a TIA to an applicant within 10 business days from the day DOT receives the proposed scope.
- Requires DOT to review and make a decision as to the completeness of a TIA within 20 business
  days from the day DOT receives the TIA. Failure to meet this time frame results in the TIA
  being deemed complete.
- Provides that the period of time in which a local government or local transportation planning committee reviews and provides feedback is to be included in computing the required time frames.
- Provides that DOT shall not reject a TIA on the basis that the TIA fails to include information outside of the established scope.
- Provides that DOT must provide written notice to an applicant specifying the basis for rejecting a TIA.
- Provides that the time frames reset upon the rejection of a TIA.
- Authorizes an applicant to appeal a TIA rejection to the Chief Engineer. The appeal must be in writing and submitted to the Chief Engineer within 5 business days from the day the applicant receives the notice of rejection. The Chief Engineer must make his or her decision on the appeal no later than 5 business days from the day he or she receives the notice of appeal.
- Requires DOT to develop and use criteria for determining the scope and completeness of a TIA.
- Requires DOT to annually report on October 1 the number of times DOT failed to meet the time
  frame for communicating the scope of a TIA in the year preceding the report, including
  reasoning for each failure.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

# **House PCS 528**

Page 2

**EFFECTIVE DATE:** Section 1 of the act becomes effective October 1, 2017, and applies to proposed scopes and traffic impact analyses submitted on or after that date. The remainder of the act is effective when it becomes law.

Luke Gillenwater, staff attorney in the Bill Drafting Division, substantially contributed to this summary.

H

**HOUSE BILL 528** 

# Committee Substitute Favorable 4/11/17

D

(Public)

# PROPOSED COMMITTEE SUBSTITUTE H528-CSML-7 [v.2]

04/19/2017 04:30:44 PM

Short Title: Traffic Impact Analysis Time Frame.

Sponsors:

Referred	to:
	March 30, 2017
	A BILL TO BE ENTITLED
	T TO PROVIDE A TIME FRAME IN WHICH THE DEPARTMENT
	NSPORTATION MUST MAKE A DECISION ON A TRAFFIC IMPA LYSIS.
	eral Assembly of North Carolina enacts:
	SECTION 1. Article 7 of Chapter 136 of the General Statutes is amended
adding a	new section to read:
_	93.1A. Time frame for reviewing and making a decision on traffic important
	analyses.
(a)	Required Time Frames The following time frames apply to the Department
process f	for reviewing and making a decision on a traffic impact analysis:
	(1) The Department shall communicate the scope of the traffic impact analy
	to the applicant no later than 10 business days from the day the Department
	receives the scope proposed by the applicant.
	(2) The Department shall review and make a decision as to the completeness
	the traffic impact analysis no later than 20 business days from the day
	Department receives the traffic impact analysis. Failure of the Department
	meet the time frame set forth in this subdivision shall result in the traff
	impact analysis being deemed complete.
	(3) The Department shall review and make a decision as to the approval
	rejection of a traffic impact analysis no later than 20 business days from
	day the traffic impact analysis is determined or deemed to be complete
	accordance with subdivision (2) of this subsection or subsection (e) of t
	section. Failure of the Department to meet the time frame set forth in t
	subdivision shall result in the traffic impact analysis being deem approved.
(b)	<u>Calculation. – The following rules apply when calculating the time frames set fo</u>
	etion (a) of this section:
III saose	(1) The period of time in which a local government or local transportation
	planning organization reviews and provides feedback shall be included.
	(2) The period of time in which the Department awaits a response from
	applicant shall not be included.
(c)	Basis for Rejection. – The Department shall not reject a traffic impact analysis
-	that the applicant has failed to include information in a traffic impact analysis that



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traffic impact analysis. When the Department rejects a traffic impact analysis, the Department shall provide the applicant written notice specifically setting forth the reason for rejection.

- (d) Effect of Rejection. The time frames set forth in subsection (a) of this section shall reset upon rejection of a traffic impact analysis. The Department may authorize an applicant to reuse the scope approved for a rejected traffic impact analysis if the applicant is submitting a revised traffic impact analysis. The Department shall notify the applicant as to whether the original scope may be used no later than five business days from the day the Department receives notice from the applicant that the applicant plans to submit a revised traffic impact analysis.
- (e) Appeal. An applicant may appeal a rejection of a traffic impact analysis by providing written notice of appeal to the Chief Engineer no later than five business days from the day the applicant receives the written notice required under subsection (c) of this section. No later than five business days from the day the Chief Engineer receives the written notice of appeal, the Chief Engineer shall either affirm or overturn the rejection being appealed. If the rejection being appealed is overturned, the traffic impact analysis that was the subject of the appeal shall be deemed (i) complete if the basis of the rejection being appealed was lack of completeness or (ii) approved if the basis of the rejection being appealed was for any reason other than lack of completeness. The Chief Engineer shall provide the appealing party with written notice of the Chief Engineer's decision, specifically setting forth the reason if the rejection being appealed is affirmed. A decision by the Chief Engineer shall be final and not subject to further appeal.
- (f) Criteria. The Department shall develop and use criteria for determining (i) the scope of a traffic impact analysis, (ii) the completeness of a traffic impact analysis, and (iii) whether to approve or reject a traffic impact analysis. The Department shall post the criteria on its Web site. Prior to amending the criteria, the Department shall consult with a working group that consists of engineers, local government representatives, local transportation planning organization representatives, and other interested stakeholders identified by the Department. The Department shall provide at least 90 days' notice prior to the effective date of any amendments to the criteria. The notice required under this subsection may be satisfied by publishing the proposed amendments on the Department's Web site.
- (g) Report. Beginning October 1, and annually thereafter, the Department shall provide to the chairs of the Joint Legislative Transportation Oversight Committee a report on the number of times the Department failed during the year preceding the report to meet the time frame set in subdivision (1) of subsection (a) of this section, including reasoning for each failure."
- **SECTION 2.** The Department of Transportation shall commence development of the appeals process required under G.S. 136-93.1A(e), as enacted by Section 1 of this act.
- **SECTION 3.** Section 1 of this act becomes effective October 1, 2017, and applies to proposed scopes and traffic impact analyses submitted on or after that date. The remainder of this act is effective when it becomes law.

Page 2 House Bill 528 H528-CSML-7 [v.2]

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## HOUSE BILL 528 Committee Substitute Favorable 4/11/17

Short Ti	tle: I	raffic Impact Analysis Time Frame. (Public
Sponsors	s:	
Referred	l to:	
		March 30, 2017
		A BILL TO BE ENTITLED
AN AC	TO TO	PROVIDE A TIME FRAME IN WHICH THE DEPARTMENT OF
TRA	NSPOR	TATION MUST MAKE A DECISION ON A TRAFFIC IMPACT
	LYSIS.	
The Gen		sembly of North Carolina enacts:
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<u>(a)</u>		ired Time Frames The following time frames apply to the Department's
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		to the applicant no later than 10 business days from the day the Department
	(2)	receives the scope proposed by the applicant.  The Department shall ravious and make a decision as to the completeness of
	<u>(2)</u>	The Department shall review and make a decision as to the completeness of the traffic impact analysis no later than 20 business days from the day the
		Department receives the traffic impact analysis. Failure of the Department to
		meet the time frame set forth in this subdivision shall result in the traffic
		impact analysis being deemed complete.
	(3)	The Department shall review and make a decision as to the approval or
	1-1	rejection of a traffic impact analysis no later than 20 business days from the
		day the traffic impact analysis is determined or deemed to be complete in
		accordance with subdivision (2) of this subsection or subsection (e) of this
		section. Failure of the Department to meet the time frame set forth in this
		subdivision shall result in the traffic impact analysis being deemed
		approved.
<u>(b)</u>		ulation The following rules apply when calculating the time frames set forth
in subsec		of this section:
	<u>(1)</u>	The period of time in which a local government or local transportation
	(0)	planning organization reviews and provides feedback shall be included.
	<u>(2)</u>	The period of time in which the Department awaits a response from an
(-)	D .	applicant shall not be included.
(c)		for Rejection. – The Department shall not reject a traffic impact analysis on
		e applicant has failed to include information in a traffic impact analysis that is



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 traffic impact analysis. When the Department rejects a traffic impact analysis, the Department shall provide the applicant written notice specifically setting forth the reason for rejection.

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- (e) Appeal. An applicant may appeal a rejection of a traffic impact analysis by providing written notice of appeal to the Chief Engineer no later than five business days from the day the applicant receives the written notice required under subsection (c) of this section. No later than five business days from the day the Chief Engineer receives the written notice of appeal, the Chief Engineer shall either affirm or overturn the rejection being appealed. If the rejection being appealed is overturned, the traffic impact analysis that was the subject of the appeal shall be deemed complete. The Chief Engineer shall provide the appealing party with written notice of the Chief Engineer's decision, specifically setting forth the reason if the rejection being appealed is affirmed. A decision by the Chief Engineer shall be final and not subject to further appeal.
- (f) Criteria. The Department shall develop and use criteria for determining the scope of a traffic impact analysis and the completeness of a traffic impact analysis. The Department shall post the criteria on its Web site. Prior to amending the criteria, the Department shall consult with a working group that consists of engineers, local government representatives, local transportation planning organization representatives, and other interested stakeholders identified by the Department. The Department shall provide at least 90 days' notice prior to the effective date of any amendments to the criteria. The notice required under this subsection may be satisfied by publishing the proposed amendments on the Department's Web site.
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- **SECTION 2.** The Department of Transportation shall commence development of the appeals process required under G.S. 136-93.1A(e), as enacted by Section 1 of this act.
- **SECTION 3.** Section 1 of this act becomes effective October 1, 2017, and applies to proposed scopes and traffic impact analyses submitted on or after that date. The remainder of this act is effective when it becomes law.

#### STATE OF NORTH CAROLINA

# Office of the State Auditor



2 S. Salisbury Street 20601 Mail Service Center Raleigh, NC 27699-0600 Telephone: (919) 807-7500 Fax: (919) 807-7647 Internet http://www.ncauditor.net

March 16, 2016

The Honorable Pat McCrory, Governor The Honorable Senator Bill Cook Mr. Lee Nettles, Executive Director, Dare County Tourism Board

This letter presents the results of our financial related audit of the Dare County Tourism Board (Board).

Executive Director Lee Nettles reviewed a draft copy of this report. His written comments are included starting on page five.

The objective of this audit was to determine whether the Board spends its restricted funds in accordance with its enabling legislation. The audit scope was limited to fiscal years 2014 and 2015.

To accomplish our audit objective, auditors performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and operations.

As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

We conducted this audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We wish to express our appreciation to the staff of the Dare County Tourism Board for the courtesy, cooperation, and assistance provided us during the audit.

If you have any questions, please do not hesitate to contact my office.

Beth A. Wood, CPA

Beel A. Wood

State Auditor

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#### **AUDITOR RESPONSE**

Government Auditing Standards require that we add explanatory comments to the report whenever an audit finding response is inconsistent or conflicts with the finding or recommendation. In accordance with this requirement and to ensure that the nature and seriousness of the findings are not minimized or misrepresented, we have provided comments to the Board's responses when appropriate.

The Board's response indicates that it does not agree with the report's assertion that the enabling law lacks clarity.

As noted in the report, there is no clear legislative intent and no case law regarding the Board's spending of restricted funds.

To address local concerns about the intent of the restriction, the Board should seek clarification from the legislature as recommended.

The Governor, Legislators, and the citizens of North Carolina should consider the clarification provided above when evaluating the Board's response to the audit finding.

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# **HOUSE BILL 569:** Pretax Supplemental Benefits.

2017-2018 General Assembly

Committee: House State and Local Government II Date: April 19, 2017
Introduced by: Reps. Dollar, Malone, Destin Hall, Corbin First Edition Prepared by: Staff Attorney

OVERVIEW: House Bill 569 would provide that supplemental insurance plans offered to State employees through the employee insurance committees could be offered on a pre-tax basis.

CURRENT LAW<sup>1</sup>: North Carolina offers standard benefits to eligible State employees including health coverage through the State Health Plan and participation in the Teachers' and State Employees' Retirement System. Employees also have the option of participating in voluntary insurance programs that are not provided through the standard benefits, such as dental, critical illness, and life insurance. Employees voluntarily elect to participate in these supplemental offerings and pay the cost of the insurance through payroll deduction. The supplemental insurance products are offered to State employees through two different systems:

- NCFlex program, which is administered statewide by the Office of Human Resources. The same set
  of benefits is offered to all eligible State employees.
- Employee Insurance Committees, which is administered by the individual agencies. The benefits
  offered vary by each agency because each agency, through its Employee Insurance Committee,
  selects its own products and services through whatever providers it may choose.

The NCFlex program is offered under Section 125 of the Internal Revenue Code. Under Section 125, employees can pay for benefits on a pre-tax basis, allowing employees to reduce their tax liability because they do not pay federal or State income taxes, or FICA taxes, on the premium amounts deducted from their pay. The authority for this tax benefit is found in G.S. 126-95, which gives the Budget Director the authority to establish benefits under Section 125 of the Internal Revenue Code.

Premiums for benefits offered under Employee Insurance Committees are paid with post-tax dollars because the Employee Insurance Committees do not have the authority to establish benefits under Section 125. For benefits to be provided under Section 125, the plan must meet specific requirements of, and regulations promulgated under, Section 125 of the Code.

**BILL ANALYSIS:** House Bill 569 adds a sentence to G.S. 58-31-60(c) saying that the products selected by the Employee Insurance Committees may be offered on a pretax basis. Since the benefits offered by Employee Insurance Committees are administered at the agency level, it appears the responsibility for ensuring compliance with Section 125 requirements would be the responsibility of the individual agency.

**EFFECTIVE DATE:** The act becomes effective when it becomes law and applies to products or services funded by payroll deductions beginning on or after January 1, 2018.

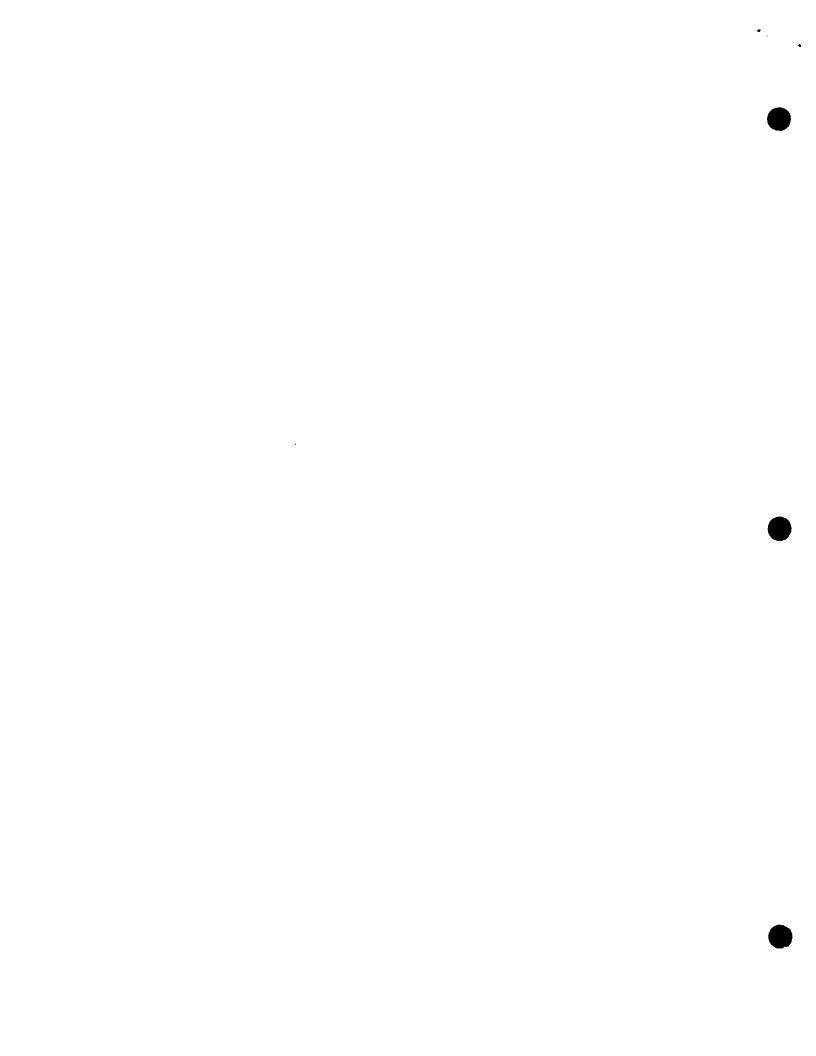
**TECHNICAL CONSIDERATION:** The authority to offer a plan under Section 125 of the Code should be specifically stated.

<sup>1</sup> PED report on State employee supplemental insurance benefits, August 2015.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 569**

Short Title: Pretax Supplemental Benefits. (Public)

Sponsors: Representatives Dollar, Malone, Destin Hall, and Corbin (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II

#### April 6, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO ALLOW PRODUCTS SELECTED BY THE EMPLOYEE INSURANCE COMMITTEES TO BE OFFERED ON A PRETAX BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-31-60(c) reads as rewritten:

"(c) Payroll Deduction Slots. — Each payroll unit shall be entitled to not less than four payroll deduction slots to be used for payment of insurance premiums for products selected by the Employee Insurance Committee and offered to the employees of the payroll unit. The Employee Insurance Committee shall select only one company per payroll deduction slot. The products selected by the Employee Insurance Committee may be offered on a pretax basis. The Company selected by the Employee Insurance Committee shall be permitted to sell through payroll deduction only the products specifically approved by the Employee Insurance Committee. The assignment by the Employee Insurance Committee of a payroll deduction slot shall be for a period of not less than two years unless the insurance company shall be in violation of the terms of the written agreement specified in this subsection. The insurance company awarded a payroll deduction slot shall, pursuant to a written agreement setting out the rights and duties of the insurance company, be afforded an adequate opportunity to solicit employees of the payroll unit by making such employees aware that a representative of the company will be available at a specified time and at a location convenient to the employees.

Notwithstanding any other provision of the General Statutes, once an employee has selected an insurance product for payroll deduction, that product may not be removed from payroll deduction for that employee without his or her specific written consent.

When an employee retires from State employment and payroll deduction under this section is no longer available, the insurance company may not terminate life insurance products purchased under the payroll deduction plan without the retiree's specific written consent solely because the premium is no longer deducted from payroll."

**SECTION 2.** This act is effective when it becomes law and applies to products or services as regulated herein that will be funded by payroll deductions beginning on or after January 1, 2018.



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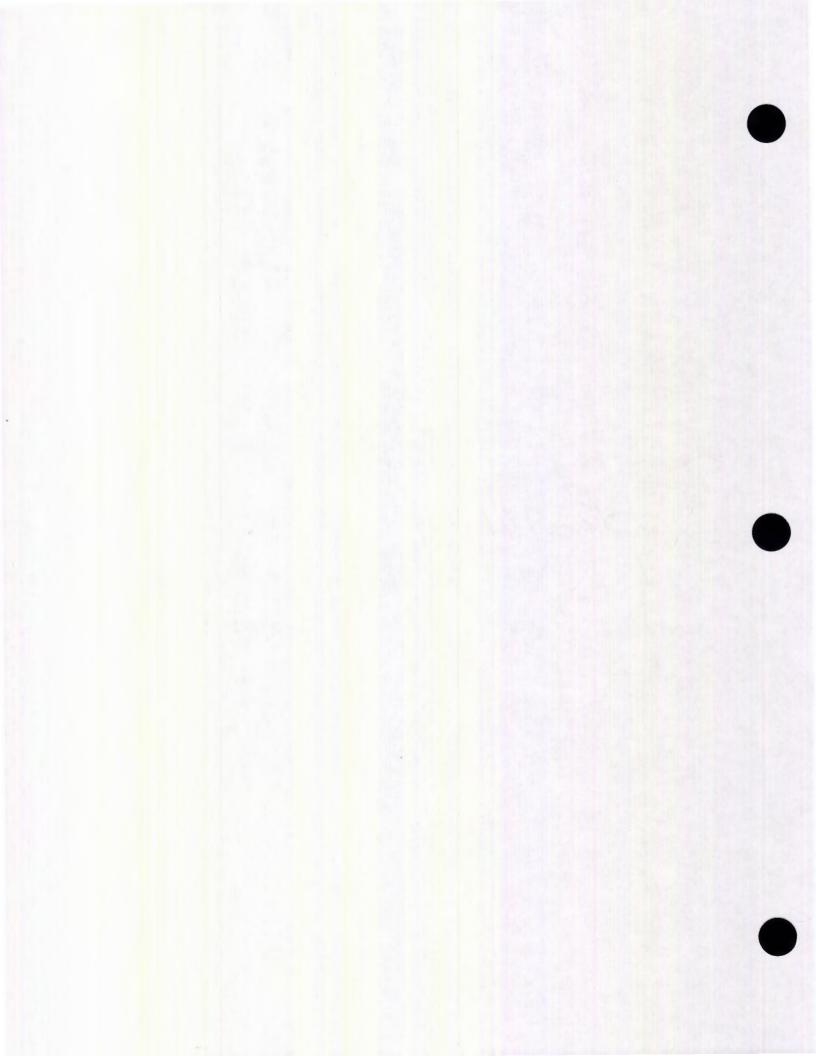


#### NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 569

AMENDMENT NO.\_

H569-ARB-11 [v.2]	(to be filled in by Principal Clerk)	
	Page 1	of 1
Amends Title [NO] First Edition	Date APORIL 20 ,2	2017
Representative		
moves to amend the bill on page 1, line10, by	rewriting the lines to read:	
	ce Committee may be offered on a pretax bas ler section 125 of the Code. For purposes of aning as defined in G.S. 105-228.90. The".	
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SIGNED Committee Chair if Senate Con	nmittee Amendment	
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# Committee Sergeants at Arms

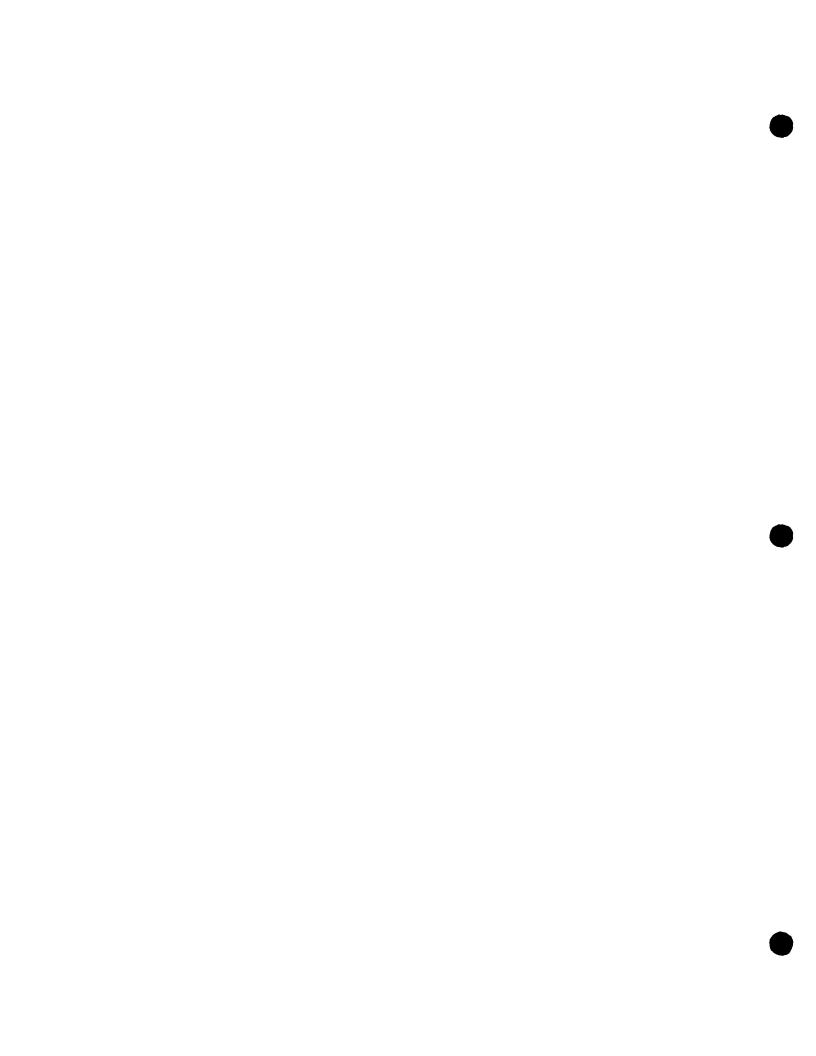
NAME OF COMMITTEE HC	on State and Local Government II.
DATE: <u>4/20/2017</u>	Room: 1228/1327
	House Sgt-At Arms:
1. Name: David Leighton	
2. Name: Joe Crook	
Name: Russell Salisbury	
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	Senate Sgt-At Arms:
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Name of Committee

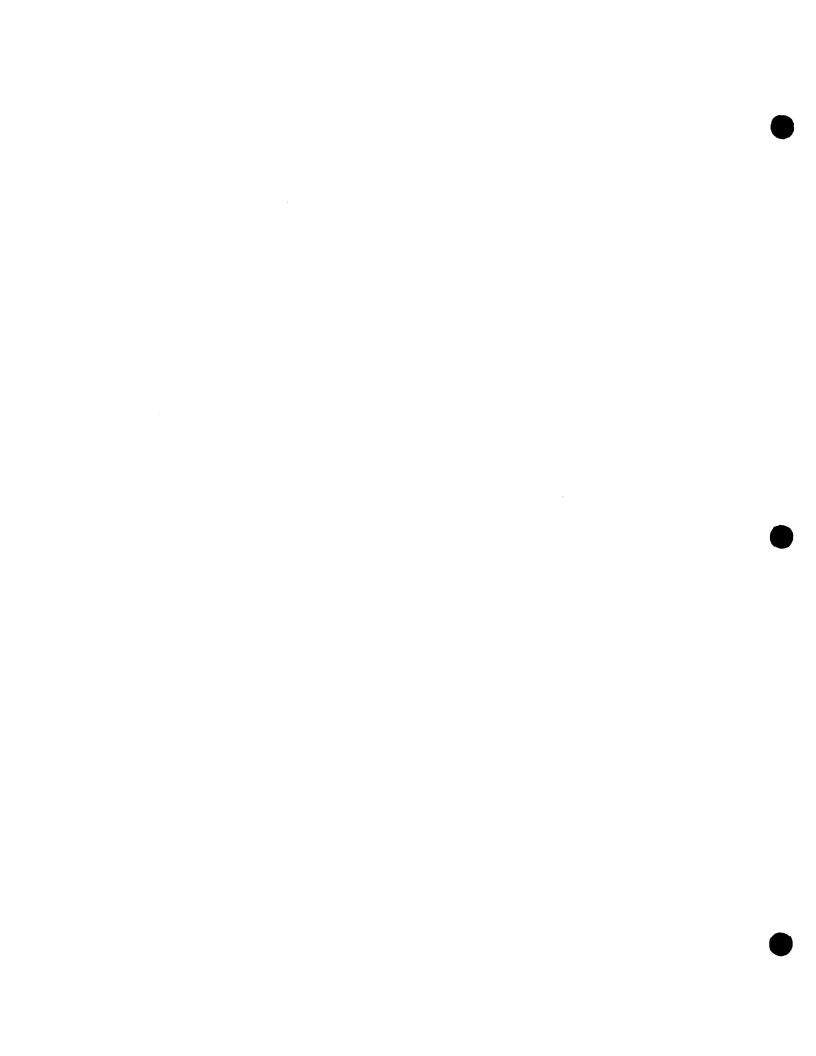
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NAME	FIRM OR AGENCY AND ADDRESS
BRIAN LEWIS	New FRAME
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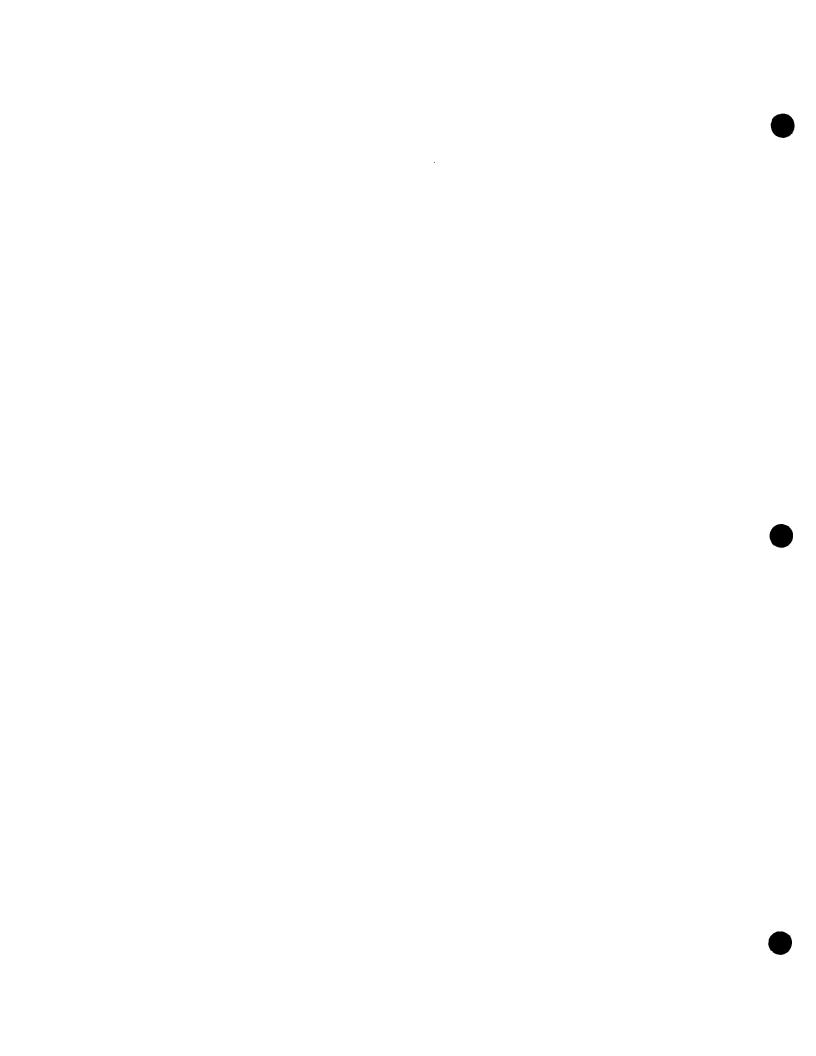
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## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

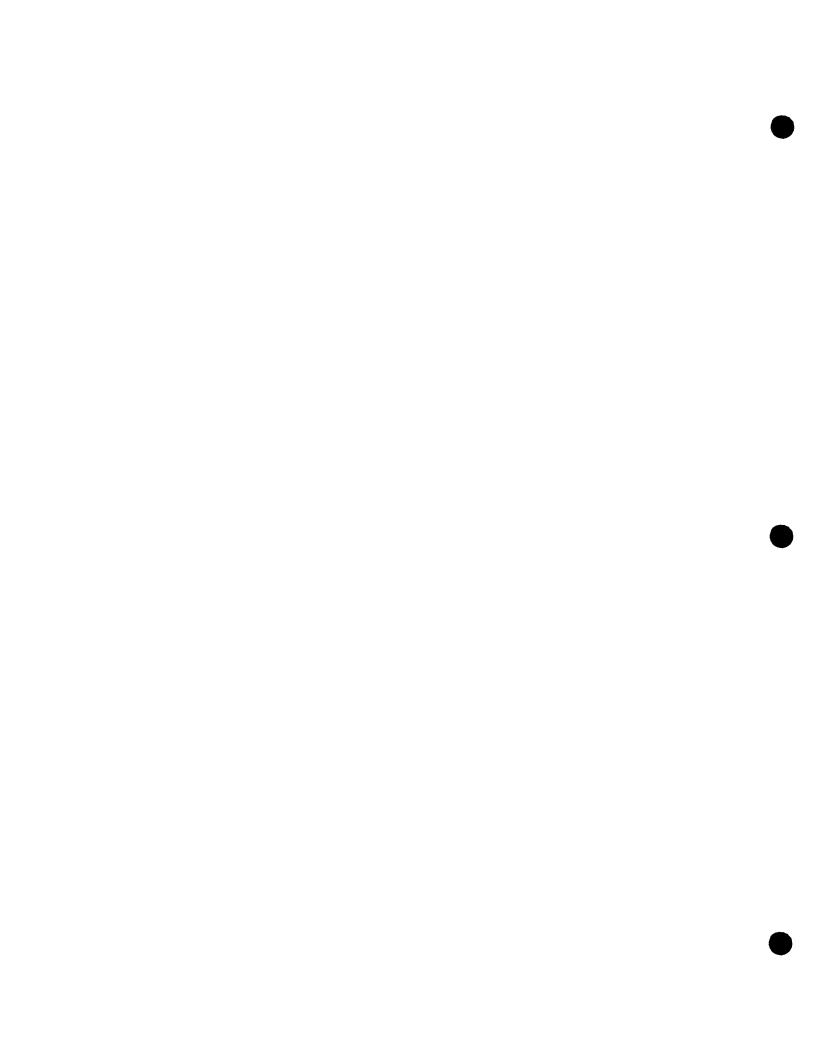
NAME FIRM OR AGENCY AND ADDRESS

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Sillian Totman	mwccc
JOHN MIDGETTE	NCPBA
RANDY BYRD	NCPBA
Molly Diggini	Si arra Chil
Dale McKeel	· Scene NC
Ryhe Longest	Scenic America
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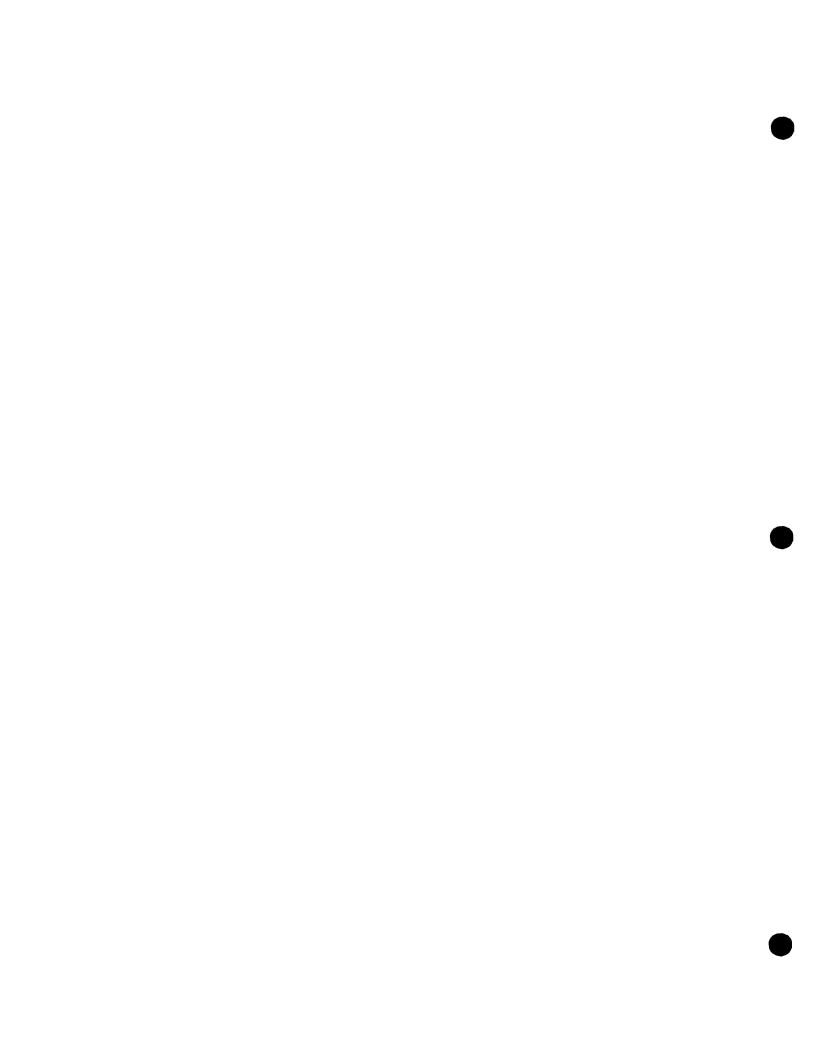
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Lindsey Dowling	FSP
Alex Scharfetter	FSP
Maghan Lews	Ne Chambe
Rym Gre	CapAd
Chric Braylon	nwo
andy Drawler	NC DPS
Theusa Styrhom	NC DPS
David Crawford	
Bradford Sneeder	NCDOJ



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Angel Sams	Delivos Sams
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Duna Pa Darb	line
GIOT CAPPS	NCDOT
Joy Hilles	. NCDOT
GERRY ANTEN	NM
Just Care	
Michelle Frazier	SML
Johanna Reese	NCACC.
Raht & Mary	NLLM
Rosewillin	N(CM

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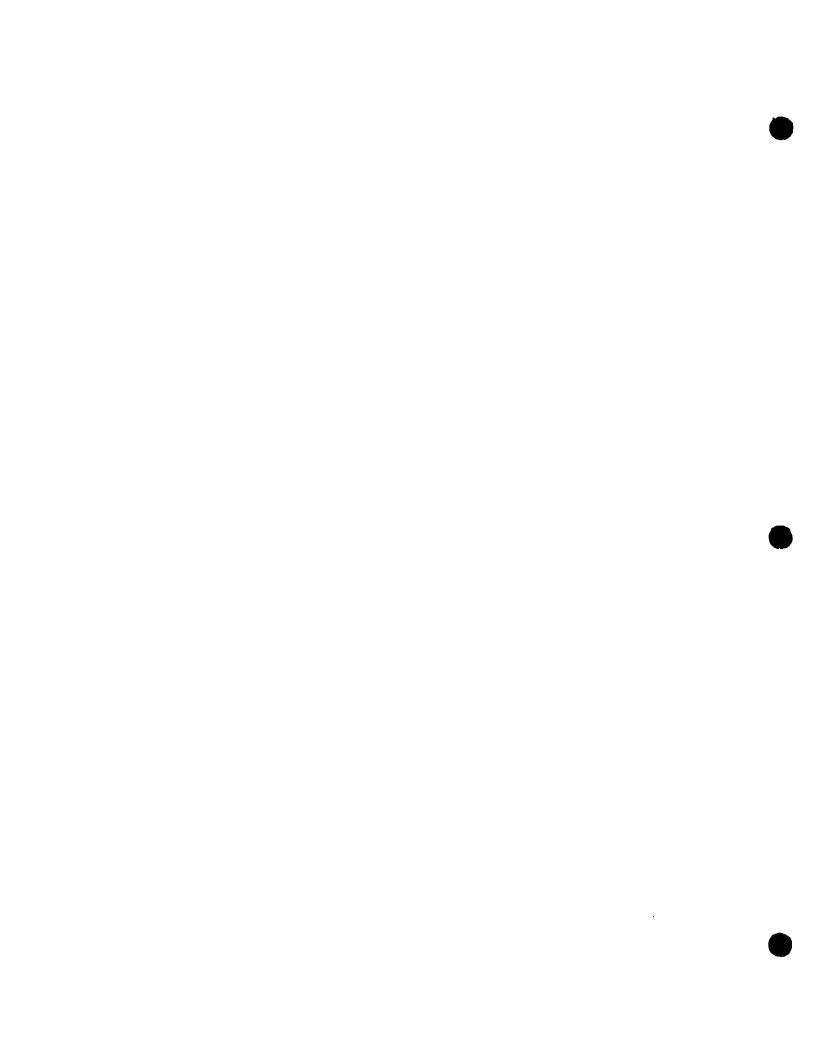
# HC on State & Local Government II

4/20/2017

Name of Committee

Date

NAME	FIRM OR AGENCY AND ADDRESS
Erin Wynia	NCLM
Sarah Collins	NCLM
GREG PERFETTI	NZTOOT
JUN Mc GOWAN	NCDOT
Saroin Hardin	. NCEL
LAURA PURYEAR	MYC
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## House Committee on State and Local Government II Thursday, April 20, 2017 at 12:00 PM Room 1228/1327 of the Legislative Building

#### **MINUTES**

The House Committee on State and Local Government II met at 12:00 PM on April 20, 2017 in Room 1228/1327 of the Legislative Building. Representatives Bradford, Adams, Autry, Ball, Boles, Boswell, C. Graham, G. Graham, John, Morey, Ross, Sauls, Setzer, Steinburg, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 12:05 pm. He introduced the Sargent at Arms staff.

Chairman Bradford motioned for the PCS HB 580 Revisions to Outdoor Advertising Laws. (Representatives Lewis, Saine, Goodman, Hanes) AN ACT TO ALLOW FOR THE RELOCATION AND RECONSTRUCTION OF OFF-PREMISES OUTDOOR ADVERTISING to be before the committee. Chairman Bradford recognized Representative Williams who motioned for the PCS for HB 580 to be before the committee. Chairman Bradford recognized Representative Lewis who explained the bill. There was discussion on the bill. Chairman Bradford recognized Representative Adams for some questions that surrounded section 3 of the bill. After sharing his thoughts Representative Adams said he will not vote for this bill. Chairman Bradford opened the floor to questions from those attending. Ryhe Longest a member of Scenic America shared his opposition to the bill. Bob Matheny the Mayor of Zebulon and President of NCLM spoke against the bill. Craig Justice the General Council for Outdoor Advertising spoke in favor of the bill. Chairman Bradford recognized Representative Autry who had some questions for the bill sponser. Erica Churchill from Legislative Analysis was recognized to speak on the bill. Representative Autry was recognized for an additional question. Chairman Bradford recognized Representative Steinburg who spoke in favor of the bill. Representative Adams was recognized for a question. Rresentative John asked if the about the retroactivity of the bill. Representative Ball had a couple of questions about the cost implications of HB 580. Chairman Bradford recognized Representative Lewis who answered questions about the bill. Chairman Bradford recognized Representative Boles who motioned for a favorable report on the PCS for HB 580, unfavorable to the original bill. Representative Bradford called for a vote. There were 8 members in favor and 6 who voted against the bill. The ayes have it. HB 580 passes.

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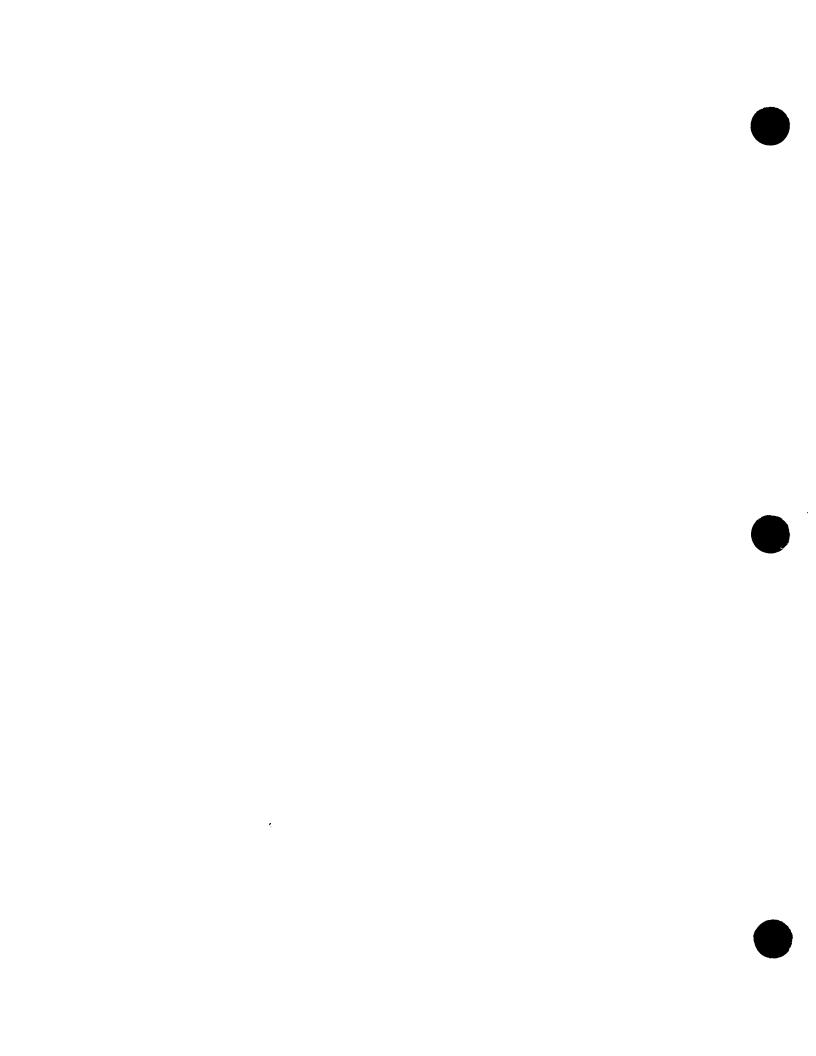
Chairman Bradford motioned for HB 579 Revisions to Outdoor Advertising Laws (Representatives Lewis, Saine, Goodman, Hanes) AN ACT TO CLARIFY THE DETERMINING STANDARDS FOR JUST COMPENSATION REMOVAL OF OFF-PREMISES OUTDOOR ADVERTISING to be before the committee. Chairman Bradford recognized Representative Lewis who explained the bill. There was discussion on the bill. Chairman Bradford recognized Representative Adams who had several questions about the bill. Erica Churchill from Legislative Analysis was recognized to answer Representative Adams Chairman Bradford recognized Representative Autry who asked questions. Representative Lewis a question. Chairman Bradford recognized Scott Capps from the NC DOT who spoke in opposition to the bill. Scott Capps from the NCDOT spoke against HB 579. Chairman Bradford recognized Representative Boles for a couple of questions. Chairman Bradford recognized Representative Boles who motioned for a favorable report. Chairman Bradford called for a vote. HB 579 passes.

Chairman Bradford motioned for HB 306 E-Verify Required - All Government Contracts (Representatives Millis, Cleveland, Conrad, Collins) AN ACT TO REQUIRE ALL CONTRACTORS AND SUBCONTRACTORS DOING BUSINESS WITH THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE TO USE E-VERIFY to be before the committee. Chairman Bradford recognized Representative Millis to explain the bill. There was discussion on the bill. Chairman Bradford recognized Betsy Bailey a lobbyist from Carolinas AGC who spoke in favor of the bill with some suggested some additions. Johanna Reese a lobbyist from the Association of County Commissioners was recognized to speak. Representative's Autry and Watford had questions about HB 306. Chairman Bradford recognized Representative Setzer who motioned for a favorable report with a serial referral to Regulatory Reform. HB 306 passes.

The meeting adjourned at 12:50 PM.

Representative Bradford, Presiding Chair

Anita Spence, Committee Clerk





# **HOUSE BILL 580: Revisions to Outdoor Advertising Laws.**

#### 2017-2018 General Assembly

Committee: Introduced by:

House State and Local Government II

Reps. Lewis, Saine, Goodman, Hanes

Analysis of: PCS to First Edition

H580-CSBA-9

Date:

April 20, 2017

Prepared by: Nicholas Giddings

Committee Counsel

#### OVERVIEW: House Bill 580 would amend the laws pertaining to outdoor advertising as follows:

- Adds and amends definitions in the Outdoor Advertising Control Act.
- Specifies criteria for an area to qualify as unzoned commercial or industrial.
- Specifies requirements that must be met to relocate or reconstruct certain off-premises outdoor advertising signs.
- Prohibits a county or city from enacting, amending, or enforcing an ordinance prohibiting the relocation and reconstruction of certain off-premises outdoor advertising signs.
- Directs DOT to adopt rules to implement the provisions of the bill.

The PCS would add a definition for "sign location or site" and provide an exception for certain offpremises outdoor advertising signs to be relocated on the same sign location or site when it would otherwise not be conforming to customary use.

CURRENT LAW: The Outdoor Advertising Control Act (Article 11 of Chapter 136 of the General Statues) governs the control of outdoor advertising including the placement, maintenance, and removal of billboards located adjacent to highways. The Act delegates to the Department of Transportation (DOT) the authority to adopt rules governing the erection and maintenance of billboards and the permitting and appeals procedures.

**BILL ANALYSIS:** House Bill 580 would amend the Outdoor Advertising Control Act and related local government statues as follows:

Section 1 would add and amend existing definitions in the Act. <u>The PCS</u> adds a definition for "sign location and site".

Section 2 would make a conforming change.

Section 3 would enact a new statute providing criteria for an area to qualify as unzoned commercial or industrial under the Outdoor Advertising Control Act as well as guidelines to be used when determining whether an activity meets the criteria. The statute would also list activities that do not qualify as unzoned commercial or industrial areas.

**Section 4** would enact a new statute specifying requirements that must be met for certain off-premises outdoor advertising signs to be relocated or reconstructed. The statute would also provide guidance for the removal of certain vegetation. *The PCS* would provide an exception for certain off-premises outdoor advertising signs to be relocated on the same sign location or site when it would otherwise not be conforming to customary use.

Section 5 would provide an exception to certain permit denials.





Legislative Analysis Division 919-733-2578

### **House PCS 580**

Page 2

Section 6 would prohibit counties from enacting, amending, or enforcing an ordinance that prohibits the relocation and reconstruction of certain off-premises outdoor advertising signs.

**Section** 7 would prohibit cities from enacting, amending, or enforcing an ordinance that prohibits the relocation and reconstruction of certain off-premises outdoor advertising signs.

**Section 8** would direct DOT to adopt rules using a delineated process outside the Administrative Procedure Act to implement this act within 6 months of the effective date.

Section 9 would provide that any rule adopted by DOT contrary to the provisions of this act would be null, void, and without effect.

Section 10 would provide a severability clause.

**EFFECTIVE DATE:** Sections 4 through 7 of this act would become effective when law and apply to off-premises outdoor advertising signs removed on or after January 1, 2014. The remainder of this ac would become effective when law.

#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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# **HOUSE BILL 580**

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PROPOSED COMMITTEE SUBSTITUTE H580-CSBA-9 [v.3]

04/19/2017 07:57:13 PM Short Title: Revisions to Outdoor Advertising Laws. (Public) Sponsors: Referred to: April 6, 2017 A BILL TO BE ENTITLED 2 AN ACT TO ALLOW FOR THE RELOCATION AND RECONSTRUCTION OF 3 OFF-PREMISES OUTDOOR ADVERTISING. 4 The General Assembly of North Carolina enacts: SECTION 1. G.S. 136-128 reads as rewritten: 6 "§ 136-128. Definitions. As used in this Article: Area zoned commercial or industrial. – An area which is zoned for business, (1) 9 industry, commerce, or trade pursuant to a State law or local zoning ordinance or regulation, regardless of how labeled. This term does not 10 include "zoning designed primarily for the purpose of permitting outdoor advertising signs," as that term is defined in G.S. 136-133.5(e). Customary use. - Compliance with the specific outdoor advertising (2) standards for size, lighting, and spacing in areas zoned commercial or 14 15 industrial under authority of State law or in unzoned commercial or industrial areas, as the standards and areas are described and defined in the 16 17 agreement dated January 7, 1972, as amended, and entered into between the State and the United States Department of Transportation under 18 19 G.S. 136-138 to implement the provisions of the federal Highway Beautification Act of 1965. 20 "Erect" means to Erect. - To construct, build, raise, assemble, place, affix, (3) 22 attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of any off-premises outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of 24 25 an off-premises outdoor advertising sign as authorized by State law. (1a)(4) "Illegal sign" means one Illegal sign. - One which was erected and/or 26 maintained in violation of State law. (1b)(5) "Information center" means an Information center. - An area or site 28 29 established and maintained at safety rest areas for the purpose of informing 30 the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable.



(2)(6) "Interstate system" means that Interstate system. - That portion of the

National System of Interstate and Defense Highways located within the

State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also

so designated by interstate numbers. As to highways under construction so

designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities.

- (7) Main-traveled way or main travel way. The through-traffic lanes of a highway, but not including frontage roads, auxiliary lanes, and ramps.
- (2a)(8) "Nonconforming sign" shall mean a Nonconforming sign. A sign which was lawfully erected but which does not comply with the provisions of State law or State Department of Transportation rules and regulations passed at a later date as authorized in this Article or which later fails to comply with State law or State Department of Transportation rules or regulations authorized in this Article due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.
- (3)(9) "Outdoor advertising" means any Outdoor advertising. Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.
- (10) Off-premises outdoor advertising. The use of land consisting of a sign erected and maintained for the purpose of (i) displaying, advertising, identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public.
- (4)(11) "Primary systems" means the Primary systems. The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.
- (5)(12) "Safety rest area" means an Safety rest area. An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.
- (13) Sign location or site. A location or site of an outdoor advertising sign measured to the closest 1/100th of a mile, in conformance with the Department of Transportation methods of measurement for all State roads.
- (6)(14) "State law" means a State law. A State constitutional provision or statute, or an ordinance, a rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to athe State Constitution or a statute.
- (7)(15) "Unzoned area" shall mean an Unzoned commercial or industrial area. An area where there is no zoning in effect.effect that is within 660 feet of the nearest edge of the right-of-way of the interstate or primary system, in which there is at least one commercial or industrial activity that meets the criteria set forth in G.S. 136-130.1.

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by a person of normal visual acuity while traveling at the posted speed on the main-traveled way of the controlled route adjacent to the activity. An activity is recognizable as commercial or industrial when its visibility from the main-traveled way of the controlled route is sufficient for the activity to

- Guidelines. When making a determination as to whether an activity meets the criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:
  - Each side of the controlled route shall be considered separately. (1)
  - All measurements shall begin from the outer edges of regularly used (2) buildings, parking lots, storage, or processing areas of the commercial or industrial activity, not from the property line of the activity, and shall be along the nearest edge of the main-traveled way of the controlled route.
- Non-Qualifying Activities. For purposes of qualifying an area as unzoned (c) commercial or industrial in accordance with subsection (a) of this section, none of the following activities shall be considered:
  - (1)Outdoor advertising structures.
  - On-premise or on-property outdoor advertising signs if the on-premise or (2)on-property sign is the only part of the commercial or industrial activity that is visible from the main-traveled way.
  - Agricultural, forestry, ranching, grazing, farming, and related activities. (3) including temporary wayside fresh produce stands.
  - Transient or temporary activities. (4)
  - Activities not visible and recognizable as commercial or industrial from the (5)traffic lanes of the main-traveled way.
  - Activities more than 660 feet from the nearest edge of the right-of-way. **(6)**
  - Activities conducted in a building principally used as a residence. (7)
  - Railroad tracks and minor sidings. (8)
    - Any outdoor advertising activity or any other business or commercial (9) activity carried on in connection with an outdoor advertising activity.
    - Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards. (10)as described in G.S. 136-147."

SECTION 4. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

#### "§ 136-131.3. Relocation of permitted off-premises outdoor advertising sign.

- Requirements. Any off-premises outdoor advertising sign adjacent to a highway on the National System of Interstate and Defense Highways or a highway on the federal-aid primary highway system for which there is in effect a valid permit issued by the Department of Transportation pursuant to this Article shall be permitted to be relocated and reconstructed subject to all of the requirements listed in subdivisions (1) through (3) of this subsection. The right provided under this subsection to relocate off-premises outdoor advertising may be assigned or conveyed by the permittee.
  - The new site for relocation shall be any area (i) within the same zoning (1) jurisdiction adjacent to a highway on the National System of Interstate and Defense Highways or the federal-aid primary highway system or (ii) within the same city or county limits if the off-premises outdoor advertising sign was located in an unzoned area.
  - (2) Except as provided in subsection (c) of this section, the off-premises outdoor advertising sign at the relocated site shall conform with customary use in (i) areas zoned commercial or industrial under authority of State law or (ii) if the relocated site is unzoned, unzoned commercial or industrial areas.

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(3) The construction work related to the relocation of the off-premises outdoor advertising sign at the new location shall commence within one year after the later of the date of removal or the effective date of this Article.

(b) Vegetation Removal. – A new site for relocation shall not be denied by the Department of Transportation due to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the viewing zone. Notwithstanding any law to the contrary, the owner or operator of the off-premises outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any vegetation (i) on private property upon receiving written consent of the landowner and (ii) on the right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation removal permit issued under this Article.

- (c) <u>Customary Use Exception. Any off-premises outdoor advertising sign that is legally existing but would not be conforming to customary use if relocated on the same sign location or site may still be relocated on the same sign location or site, subject to the following requirements:</u>
  - (1) The structural members of the sign at the relocated site are of like material.
  - (2) The size of the sign face or faces are not increased.
  - The height of the sign at the relocated site does not exceed 80 feet measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility, except that a sign may be 50 feet above the top of a sound wall or noise barrier constructed between the sign and the main-traveled way."

**SECTION 5.** G.S. 136-133.5 reads as rewritten:

# "§ 136-133.5. Denial of a permit for proposed outdoor advertising.

- (d) The Except for relocations authorized under G.S. 136-131.3, the Department shall not issue permits for new outdoor advertising signs at a sign location where existing trees, if they were to reach the average mature size for that species, would make the proposed sign faces, when erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the time of the permit application are four inches or greater in diameter as measured six inches from the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the main travel way of the controlled route on each side of the proposed sign structure which will have a sign face.
- outdoor advertising permit requested pursuant to (e) An G.S. 136-129(a)(4)G.S. 136-129(4) shall not be issued to a location if the zoning to commercial or industrial zones was adopted within one year prior to the filing of the permit application and is not part of comprehensive zoning or constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning designed primarily for the purpose of permitting outdoor advertising signs and in an area which would not normally permit outdoor advertising. Zoning shall not be considered "primarily for the purpose of permitting outdoor advertising signs" if the zoning would permit more than one principal commercial or industrial use, other than outdoor advertising, and the size of the land being zoned can practically support any one of the commercial or industrial uses.

SECTION 6. G.S. 153A-143 is amended by adding a new subsection to read:

"(d1) Notwithstanding any provision of this section to the contrary, no county may enact, amend, or enforce an ordinance to prohibit the relocation and reconstruction of any off-premises outdoor advertising sign (i) pursuant to G.S. 136-131.3 or (ii) that meets the requirements set forth in subdivisions (1) through (3) of this subsection and the relocation was caused by a project authorized by law and undertaken by the State, a local government, or any other entity possessing the power of eminent domain. Building materials different from the materials used to initially construct an off-premises outdoor advertising sign may be used to

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reconstruct the off-premises outdoor advertising sign at the site of relocation. The right provided under this subsection to relocate off-premises outdoor advertising may be assigned or conveyed by the permittee.

- (1) The new site for relocation shall be within the same county in an area zoned commercial or industrial or, if unzoned, in an unzoned commercial or industrial area.
- The cumulative advertising surface area for the off-premises outdoor advertising sign at the relocated site shall not be increased and no sign face shall exceed 672 square feet; provided, however, the size of a sign face or faces of another off-premises outdoor advertising sign that is permanently taken down in the same jurisdiction within 120 days of a sign being reconstructed may be combined to increase the cumulative advertising surface area of the reconstructed sign, not to exceed 672 square feet for any sign face.
- (3) The height of the reconstructed off-premises outdoor advertising sign shall not exceed 50 feet, as measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility of the sign."

SECTION 7. G.S. 160A-199 is amended by adding a new subsection to read:

- "(d1) Notwithstanding any provision of this section to the contrary, no city may enact, amend, or enforce an ordinance to prohibit the relocation of any off-premises outdoor advertising sign (i) pursuant to G.S. 136-131.3 or (ii) that meets the requirements set forth in subdivisions (1) through (3) of this subsection and the relocation was caused by a project authorized by law and undertaken by the State, a local government, or any other entity possessing the power of eminent domain. Building materials different from the materials used to initially construct an off-premises outdoor advertising sign may be used to reconstruct the off-premises outdoor advertising sign at the site of relocation. The right provided under this subsection to relocate off-premises outdoor advertising may be assigned or conveyed by the permittee.
  - (1) The new site for relocation shall be within the same county in an area zoned commercial or industrial or, if unzoned, in an unzoned commercial or industrial area.
  - The cumulative advertising surface area for the off-premises outdoor advertising sign at the relocated site shall not be increased and no sign face shall exceed 672 square feet; provided, however, the size of a sign face or faces of another off-premises outdoor advertising sign that is permanently taken down in the same jurisdiction within 120 days of a sign being reconstructed may be combined to increase the cumulative advertising surface area of the reconstructed sign, not to exceed 672 square feet for any sign face.
  - (3) The height of the reconstructed off-premises outdoor advertising sign shall not exceed 50 feet, as measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility of the sign."

**SECTION 8.** Notwithstanding any provision of Article 2A of Chapter 150B of the General Statutes, no later than six months after the effective date of this act, the Department of Transportation shall adopt rules to implement the provisions of this act. The Department of Transportation shall use the following procedure to adopt rules to implement the provisions of this act:

(1) At least 15 business days prior to adopting a rule, submit the rule and a notice of public hearing to the Codifier of Rules. The Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet within five business days.

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- At least 15 business days prior to adopting a rule, notify persons on the (2) mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of the Department of Transportation's intent to adopt a rule and of the public hearing.
- (3) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (4) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.
- A rule adopted in accordance with this section becomes effective on the first day of the month following the month the Department of Transportation adopts the rule and submits the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any rule adopted more than six months after the effective date of this act shall comply with the requirement of Article 2A of Chapter 150B of the General Statutes.
- **SECTION 9.** Any rule or policy adopted by the Department of Transportation that does not comply with the provisions of this act shall be null, void, and without effect.
- **SECTION 10.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end, the provisions of this act are severable.
- **SECTION 11.** Sections 4 through 7 of this act are effective when it becomes law and apply to off-premises outdoor advertising signs removed on or after January 1, 2014. The remainder of this act is effective when it becomes law.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE BILL 580**

(Public) Short Title: Revisions to Outdoor Advertising Laws. Representatives Lewis, Saine, Goodman, and Hanes (Primary Sponsors). Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: Rules, Calendar, and Operations of the House April 6, 2017 A BILL TO BE ENTITLED AN ACT TO ALLOW FOR THE RELOCATION AND RECONSTRUCTION OF OFF-PREMISES OUTDOOR ADVERTISING. The General Assembly of North Carolina enacts: SECTION 1. G.S. 136-128 reads as rewritten: "§ 136-128. Definitions. As used in this Article: Area zoned commercial or industrial. – An area which is zoned for business, (1) industry, commerce, or trade pursuant to a State law or local zoning ordinance or regulation, regardless of how labeled. This term does not include "zoning designed primarily for the purpose of permitting outdoor advertising signs," as that term is defined in G.S. 136-133.5(e). Customary use. - Compliance with the specific outdoor advertising (2) standards for size, lighting, and spacing in areas zoned commercial or industrial under authority of State law or in unzoned commercial or industrial areas, as the standards and areas are described and defined in the agreement dated January 7, 1972, as amended, and entered into between the State and the United States Department of Transportation under G.S. 136-138 to implement the provisions of the federal Highway Beautification Act of 1965. "Erect" means to Erect. - To construct, build, raise, assemble, place, affix, (3)attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of any off-premises outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of an off-premises outdoor advertising sign as authorized by State law. (1a)(4) "Illegal sign" means one Illegal sign. - One which was erected and/or maintained in violation of State law. (1b)(5) "Information center" means an Information center. - An area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable. (2)(6) "Interstate system" means that Interstate system. - That portion of the National System of Interstate and Defense Highways located within the State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also



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- so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities.
- (7) Main-traveled way or main travel way. The through-traffic lanes of a highway, but not including frontage roads, auxiliary lanes, and ramps.
- (2a)(8) "Nonconforming sign" shall mean a Nonconforming sign. A sign which was lawfully erected but which does not comply with the provisions of State law or StateDepartment of Transportation rules and regulations passed at a later date as authorized in this Article or which later fails to comply with State law or StateDepartment of Transportation rules or regulations authorized in this Article due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.
- (3)(9) "Outdoor advertising" means any Outdoor advertising. Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.
- (10) Off-premises outdoor advertising. The use of land consisting of a sign erected and maintained for the purpose of (i) displaying, advertising, identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public.
- (4)(11) "Primary systems" means the Primary systems. The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.
- (5)(12) "Safety rest area" means an Safety rest area. An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.
- (6)(13) "State law" means a State law. A State constitutional provision or statute, or an ordinance, a rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a the State Constitution or a statute.
- (7)(14) "Unzoned area" shall mean an Unzoned commercial or industrial area. An area where there is no zoning in effect.effect that is within 660 feet of the nearest edge of the right-of-way of the interstate or primary system, in which there is at least one commercial or industrial activity that meets the criteria set forth in G.S. 136-130.1.
- (8)(15) "Urban area" shall mean an Urban area. An area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census.

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50 51 (9) The activity shall be visible and recognizable as commercial or industrial from the main-traveled way of the controlled route. An activity is visible when that portion on which the permanent building designed, built, or modified for its current commercial use can be clearly seen 12 months a year by a person of normal visual acuity while traveling at the posted speed on the main-traveled way of the controlled route adjacent to the activity. An activity is recognizable as commercial or industrial when its visibility from

The construction work related to the relocation of the off-premises outdoor

advertising sign at the new location shall commence within one year after

the later of the date of removal or the effective date of this Article.

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Vegetation Removal. - A new site for relocation shall not be denied by the Department of Transportation due to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the viewing zone. Notwithstanding any law to the contrary, the owner or operator of the off-premises outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any vegetation (i) on private property upon receiving written consent of the landowner and (ii) on the right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation removal permit issued under this Article."

**SECTION 5.** G.S. 136-133.5 reads as rewritten:

# "§ 136-133.5. Denial of a permit for proposed outdoor advertising.

The Except for relocations authorized under G.S. 136-131.3, the Department shall not issue permits for new outdoor advertising signs at a sign location where existing trees, if they were to reach the average mature size for that species, would make the proposed sign faces, when erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the time of the permit application are four inches or greater in diameter as measured six inches from the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the main travel way of the controlled route on each side of the proposed sign structure which will have a sign face.

outdoor advertising permit requested G.S. 136-129(a)(4)G.S. 136-129(4) shall not be issued to a location if the zoning to commercial or industrial zones was adopted within one year prior to the filing of the permit application and is not part of comprehensive zoning or constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning designed primarily for the purpose of permitting outdoor advertising signs and in an area which would not normally permit outdoor advertising. Zoning shall not be considered "primarily for the purpose of permitting outdoor advertising signs" if the zoning would permit more than one principal commercial or industrial use, other than outdoor advertising, and the size of the land being zoned can practically support any one of the commercial or industrial uses.

**SECTION 6.** G.S. 153A-143 is amended by adding a new subsection to read:

"(d1) Notwithstanding any provision of this section to the contrary, no county may enact, amend, or enforce an ordinance to prohibit the relocation and reconstruction of any off-premises outdoor advertising sign (i) pursuant to G.S. 136-131.3 or (ii) that meets the requirements set forth in subdivisions (1) through (3) of this subsection and the relocation was caused by a project authorized by law and undertaken by the State, a local government, or any other entity possessing the power of eminent domain. Building materials different from the materials used to initially construct an off-premises outdoor advertising sign may be used to reconstruct the off-premises outdoor advertising sign at the site of relocation. The right provided under this subsection to relocate off-premises outdoor advertising may be assigned or conveyed by the permittee.

- The new site for relocation shall be within the same county in an area zoned (1) commercial or industrial or, if unzoned, in an unzoned commercial or industrial area.
- The cumulative advertising surface area for the off-premises outdoor (2)advertising sign at the relocated site shall not be increased and no sign face shall exceed 672 square feet; provided, however, the size of a sign face or faces of another off-premises outdoor advertising sign that is permanently taken down in the same jurisdiction within 120 days of a sign being reconstructed may be combined to increase the cumulative advertising

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1		surface area of the reconstructed sign, not to exceed 672 square feet for any
2	(3)	sign face.  The height of the reconstructed off-premises outdoor advertising sign shall
4	(3)	not exceed 50 feet, as measured from the adjoining road grade or base of the
5	CE C	sign, whichever allows for the greatest visibility of the sign."
6		<b>TION 7.</b> G.S. 160A-199 is amended by adding a new subsection to read:
7 8		rithstanding any provision of this section to the contrary, no city may enact, arce an ordinance to prohibit the relocation of any off-premises outdoor
9		(i) pursuant to G.S. 136-131.3 or (ii) that meets the requirements set forth in
10		through (3) of this subsection and the relocation was caused by a project
11		aw and undertaken by the State, a local government, or any other entity
12	possessing the p	ower of eminent domain. Building materials different from the materials used
13		truct an off-premises outdoor advertising sign may be used to reconstruct the
14	off-premises out	door advertising sign at the site of relocation. The right provided under this
15	subsection to re	locate off-premises outdoor advertising may be assigned or conveyed by the
16	permittee.	
17	(1)	The new site for relocation shall be within the same county in an area zoned
18		commercial or industrial or, if unzoned, in an unzoned commercial or
19		industrial area.
20	(2)	The cumulative advertising surface area for the off-premises outdoor
21		advertising sign at the relocated site shall not be increased and no sign face
22		shall exceed 672 square feet; provided, however, the size of a sign face or
23		faces of another off-premises outdoor advertising sign that is permanently
24		taken down in the same jurisdiction within 120 days of a sign being
25		reconstructed may be combined to increase the cumulative advertising
26		surface area of the reconstructed sign, not to exceed 672 square feet for any
27	(2)	sign face.
28	(3)	The height of the reconstructed off-premises outdoor advertising sign shall
29		not exceed 50 feet, as measured from the adjoining road grade or base of the
30	CEC.	sign, whichever allows for the greatest visibility of the sign."
31		TION 8. Notwithstanding any provision of Article 2A of Chapter 150B of the
32		, no later than six months after the effective date of this act, the Department of
33		shall adopt rules to implement the provisions of this act. The Department of hall use the following procedure to adopt rules to implement the provisions of
34 35	this act:	half use the following procedure to adopt rules to implement the provisions of
36	(1)	At least 15 business days prior to adopting a rule, submit the rule and a
37	(1)	notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
38		publish the proposed rule and the notice of public hearing on the Internet
39		within five business days.
40	(2)	At least 15 business days prior to adopting a rule, notify persons on the
41	(2)	mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
42		interested parties of the Department of Transportation's intent to adopt a rule
43		and of the public hearing.
44	(3)	Accept written comments on the proposed rule for at least 15 business days
45	(-)	prior to adoption of the rule.
46	(4)	Hold at least one public hearing on the proposed rule no less than five days
47		after the rule and notice have been published.

A rule adopted in accordance with this section becomes effective on the first day of

the month following the month the Department of Transportation adopts the rule and submits

the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any

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10 11 rule adopted more than six months after the effective date of this act shall comply with the requirement of Article 2A of Chapter 150B of the General Statutes.

**SECTION 9.** Any rule or policy adopted by the Department of Transportation that does not comply with the provisions of this act shall be null, void, and without effect.

SECTION 10. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end, the provisions of this act are severable.

**SECTION 11.** Sections 4 through 7 of this act are effective when it becomes law and apply to off-premises outdoor advertising signs removed on or after January 1, 2014. The remainder of this act is effective when it becomes law.

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# **HOUSE BILL 579: Revisions to Outdoor Advertising Laws.**

#### 2017-2018 General Assembly

Committee: **Introduced by:** Reps. Lewis, Saine, Goodman, Hanes

House State and Local Government II

April 20, 2017

Analysis of:

First Edition

Date:

Prepared by: Nicholas Giddings

Committee Counsel

## OVERVIEW: House Bill 579 would amend the laws pertaining to outdoor advertising as follows:

- Adds and amends definitions in the Outdoor Advertising Control Act.
- Establishes factors for DOT to follow in determining just compensation for off-premises outdoor advertising.
- Prohibits cities and counties from conditioning development approvals on the removal of outdoor advertising without the payment of monetary compensation.

CURRENT LAW: The Outdoor Advertising Control Act (Article 11 of Chapter 136 of the General Statues) governs the control of outdoor advertising including the placement, maintenance, and removal of billboards located adjacent to highways. The Act delegates to the Department of Transportation (DOT) the authority to adopt rules governing the erection and maintenance of billboards and the permitting and appeals procedures.

BILL ANALYSIS: House Bill 579 would amend the Outdoor Advertising Control Act and related local government statues as follows:

Section 1 would add and amend existing definitions in the Outdoor Advertising Control Act.

Section 2 would amend the process by which DOT is directed to provide just compensation for the acquisition, purchase, condemnation, or taking of an off-premises outdoor advertising sign to the owner. This section would clarify that the unit rule for valuing property does not apply to the just compensation determination. This section would establish factors to determine just compensation for off-premises outdoor advertising, direct DOT to minimize adverse impacts to the displaced off-premises outdoor advertiser and reduce the costs of acquiring the off-premises outdoor advertising and property rights. The owner of off-premises outdoor advertising would also be entitled to recover reasonable costs of relocating and reconstructing the off-premises outdoor advertising, including certain lost income, from the party causing the removal.

Sections 3 and 4 would amend the statutes governing cities' and counties' regulation of outdoor advertising to prohibit cities and counties from conditioning development approvals on the removal of off-premises outdoor advertising without the payment of monetary compensation and adjusts the way monetary compensation is determined. Development approval includes approval for rezoning, variances, building permits, and permits authorized for quasi-judicial proceedings. Cities and counties would also be prohibited from causing the removal of any nonconforming sign.

Section 5 would direct DOT to adopt rules using a delineated process outside the Administrative Procedure Act to implement this act within 6 months of the effective date.





Legislative Analysis Division 919-733-2578

# **House Bill 579**

Page 2

Section 6 would provide that any rule adopted by DOT contrary to the provisions of this act would be null, void, and without effect.

Section 7 would provide a severability clause.

**EFFECTIVE DATE:** Section 2 of this act, G.S. 153A-143(e), as amended by Section 3 of this act, and G.S. 160A-199(e), as amended by Section 4 of this act, are effective when this act becomes law and apply to determinations of just compensation on or after that date. The remainder of Sections 3 and 4 of this act are effective when this act becomes law and apply to outdoor advertising that has not been removed as of that date. The remainder of this act is effective when it becomes law.

# GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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Short Title:

#### **HOUSE BILL 579**

(Public) Revisions to Outdoor Advertising Laws. Representatives Lewis, Saine, Goodman, and Hanes (Primary Sponsors). Sponsors: For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: Rules, Calendar, and Operations of the House April 6, 2017 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE STANDARDS FOR DETERMINING JUST COMPENSATION FOR THE REMOVAL OF OFF-PREMISES OUTDOOR ADVERTISING. The General Assembly of North Carolina enacts: SECTION 1. G.S. 136-128 reads as rewritten: "§ 136-128. Definitions. As used in this Article: "Erect" means to Erect. - To construct, build, raise, assemble, place, affix, (1)attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of any off-premises outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of an off-premises outdoor advertising sign as authorized by State law. "Hlegal sign" means one Illegal sign. - One which was erected and/or (1a) maintained in violation of State law. "Information center" means an Information center. - An area or site (1b) established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable. (2) "Interstate system" means that Interstate system. - That portion of the National System of Interstate and Defense Highways located within the State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities. (2a)"Nonconforming sign" shall mean a Nonconforming sign. – A sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs. Off-premises outdoor advertising. - The use of land consisting of a sign (3) erected and maintained for the purpose of (i) displaying, advertising,



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identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public. "Outdoor advertising" means any Outdoor advertising. - Any outdoor sign, (3a)display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary 

system, whether the same be permanent or portable installation

"Primary systems" means the Primary systems. – The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.

(5) "Safety rest area" means an Safety rest area. — An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.

- (6) "State law" means a State law. A State constitutional provision or statute, or an ordinance, a rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a the State Constitution or a statute.
- (7) "Unzoned area" shall mean an Unzoned area. An area where there is no zoning in effect.
- (8) "Urban area" shall mean an Urban area. An area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census.
- (9) "Visible" means capable Visible. Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

**SECTION 2.** G.S. 136-131 reads as rewritten:

## "§ 136-131. Removal of existing nonconforming off-premises outdoor advertising.

(a) The Department of Transportation is authorized to acquire by purchase, gift, or condemnation all off-premises outdoor advertising and all property rights pertaining thereto which are prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2, thereto, provided such the off-premises outdoor advertising is in lawful existence on the effective date of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as determined by G.S. 136-140. Notwithstanding any law to the contrary, this section shall apply to all acquisitions, purchases, condemnations, or takings by the Department of Transportation that cause the removal of any lawfully erected off-premises outdoor advertising, regardless of the outdoor advertising sign's location and proximity to the interstates or primary systems. The unit rule for valuing property shall not be used in determining just compensation under this section. For purposes of this section, the term "unit rule" means paying the undivided interest in real property, rather than the value of each owner's partial interest.

In any acquisition, purchase or condemnation, purchase, condemnation, or taking, just compensation to the owner of the off-premises outdoor advertising, where the owner of the

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off-premises outdoor advertising does not own the fee, shall be limited to the fair market value at the time of the taking of the off-premises outdoor advertising owner's interest in the real property on which the off-premises outdoor advertising is located and such value shall include the value of the off-premises outdoor advertising.

In any acquisition, purchase or condemnation, purchase, condemnation, or taking, just compensation to the owner of the fee or other interest in the real property upon which the off-premises outdoor advertising is located where said owner does not own the off-premises outdoor advertising located thereon shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such off-premises outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

In any acquisition, purchase or condemnation, purchase, condemnation, or taking, just compensation to the owner of the fee in the real property upon which the off-premises outdoor advertising is located, where said owner also owns the off-premises outdoor advertising located thereon, shall be limited to the fair market value of the off-premises outdoor advertising plus the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Transportation of the right to maintain such off-premises outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

The following factors shall be used in determining just compensation for off-premises outdoor advertising and all property rights pertaining thereto:

- The sales price of similar off-premises outdoor advertising and all property rights pertaining thereto.
- The physical condition of the off-premises outdoor advertising sign, (2) including its useful life.
- The income generated by the rental of advertising space on the off-premises (3) outdoor advertising sign.
- The effects of zoning or other land-use restrictions. (4)
- The value of the outdoor advertising permit issued by an appropriate (5)governing body.
- The ability or inability to relocate and reconstruct the off-premises outdoor (6) advertising to a site reasonably comparable to or better than the condemned location within the same zoning jurisdiction, taking into account the similarity of advantages arising from lease terms, visibility, traffic flow, and other criteria that affect the value of outdoor advertising. The factor in this subdivision shall not be considered if the zoning jurisdiction allows for numerical increases in outdoor advertising signs.
- The advantages arising from leasehold or other property interests, including (7)length or term of property interest, renewal rights, options to purchase, or rights of first refusal.
- Reasonable expectations of lease renewal for a period in excess of that stated (8)in the lease for original and renewal terms.
- Any other factor that may affect the value of the property rights affected by (9)the condemnation.
- Prior to any acquisition by the Department of Transportation under this section, the Department of Transportation shall undertake the project necessitating the acquisition in accordance with G.S. 133-11 to minimize adverse impacts to the displaced off-premises outdoor advertiser and reduce the costs of acquiring the off-premises outdoor advertising and all property rights thereto, including allowing the off-premises outdoor advertising to remain

until actual construction or other physical site work is commenced on the project and within 100 feet of the off-premises outdoor advertising sign.

(c) In addition to receiving just compensation in accordance with this section, the owner of off-premises outdoor advertising shall be entitled to recover from the party causing the removal of the off-premises outdoor advertising the reasonable costs of relocating and reconstructing the displaced off-premises outdoor advertising, including an amount equivalent to the income received by the off-premises outdoor advertiser from the availability or rental of space on the off-premises outdoor advertising sign for a period of up to 30 days if the income is lost during the relocation of the sign."

**SECTION 3.** G.S. 153A-143 reads as rewritten:

# "§ 153A-143. Regulation of outdoor advertising.

- (d) No county may enact or amend an ordinance of general applicability to cause or require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:
  - (1) The county and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.
  - (2) The county and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.
  - (3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.
  - (4) The removal is required for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 153A-274, and the county allows the off-premises outdoor advertising to be relocated to a comparable location.
  - (5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances or regulations generally applicable to the demolition or removal of damaged structures.
- (d1) No county may condition the grant of any development approval on the removal of off-premises outdoor advertising without the payment of monetary compensation as prescribed by this section. For purposes of this section, the term "development approval" includes approval for rezoning, variances, building permits, and permits authorized by quasi-judicial proceedings.
- (e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal removal, including consideration of the value of (i) the off-premises outdoor advertising owner's interest in the real property on which the off-premises outdoor advertising is located, (ii) the off-premises outdoor advertising sign structure, and (iii) any rights, including permits, appurtenant to the off-premises outdoor advertising use, and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on:in accordance with G.S. 136-131.
  - (1) The factors listed in G.S. 105-317.1(a); and
  - (2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.
- (f) If the parties are unable to reach an agreement on monetary compensation to be paid by the county to the owner of the nonconforming off-premises outdoor advertising sign for its removal, and the county elects to proceed with the removal, the county may bring an action in superior court for a determination of the monetary compensation to be paid. In determining

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monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, the county shall own the sign.

- (m) This section does not apply to any ordinance in effect on the effective date of this section. A county may repeal or amend an ordinance in effect on the effective date of this section so long as an amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.
- (n) The Except as specifically provided otherwise in this section, the provisions of this section shall not be used to interpret, construe, alter, or otherwise modify (i) the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes. Statutes or (ii) the rights of off-premises outdoor advertising set forth in Article 11 of Chapter 136 of the General Statutes. The standards set forth in G.S. 136-131 shall apply to any county that causes the removal of off-premises outdoor advertising through exercise of its power of eminent domain.

SECTION 4. G.S. 160A-199 reads as rewritten:

# "§ 160A-199. Regulation of outdoor advertising.

- (d) No city may enact or amend an ordinance of general applicability to cause or require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:
  - (1) The city and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.
  - (2) The city and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to subsection (k) of this section.
  - (3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.
  - (4) The removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the city allows the off-premises outdoor advertising to be relocated to a comparable location.
  - (5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.
- (d1) No city may condition the grant of any development approval on the removal of off-premises outdoor advertising without the payment of monetary compensation as prescribed by this section. For purposes of this section, the term "development approval" includes approval for rezoning, variances, building permits, and permits authorized by quasi-judicial proceedings.
- (e) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal removal, including consideration of the value of (i) the off-premises outdoor advertising owner's interest in the real property on which the off-premises outdoor advertising is located, (ii) the off-premises outdoor advertising sign structure, and (iii) any rights, including permits, appurtenant to the off-premises outdoor advertising use, and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on: in accordance with G.S. 136-131.
  - (1) The factors listed in G.S. 105-317.1(a); and

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(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

The Except as specifically provided otherwise in this section, the provisions of this

(m) This section does not apply to any ordinance in effect on the effective date of this section. A city may amend an ordinance in effect on the effective date of this section to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the city. A city may repeal or amend an ordinance in effect on the effective date of this section so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.

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section shall not be used to interpret, construe, alter or otherwise modify (i) the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes. Statutes or (ii) the rights of off-premises outdoor advertising set forth in Article 11 of Chapter 136 of the General Statutes. The standards set forth in G.S. 136-131 shall apply to any city that causes the removal of off-premises outdoor advertising through exercise of its power of eminent domain.

**SECTION 5.** Notwithstanding any provision of Article 2A of Chapter 150B of the General Statutes, no later than six months after the effective date of this act, the Department of Transportation shall adopt rules to implement the provisions of this act. The Department of Transportation shall use the following procedure to adopt rules to implement the provisions of this act:

(1) At least 15 business days prior to adopting a rule, submit the rule and a notice of public hearing to the Codifier of Rules. The Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet within five business days.

(2) At least 15 business days prior to adopting a rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of the Department of Transportation's intent to adopt a rule and of the public hearing.

(3) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.

(4) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted in accordance with this section becomes effective on the first day of the month following the month the Department of Transportation adopts the rule and submits the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any rule adopted more than six months after the effective date of this act shall comply with the requirement of Article 2A of Chapter 150B of the General Statutes.

**SECTION 6.** Any rule or policy adopted by the Department of Transportation that does not comply with the provisions of this act shall be null, void, and without effect.

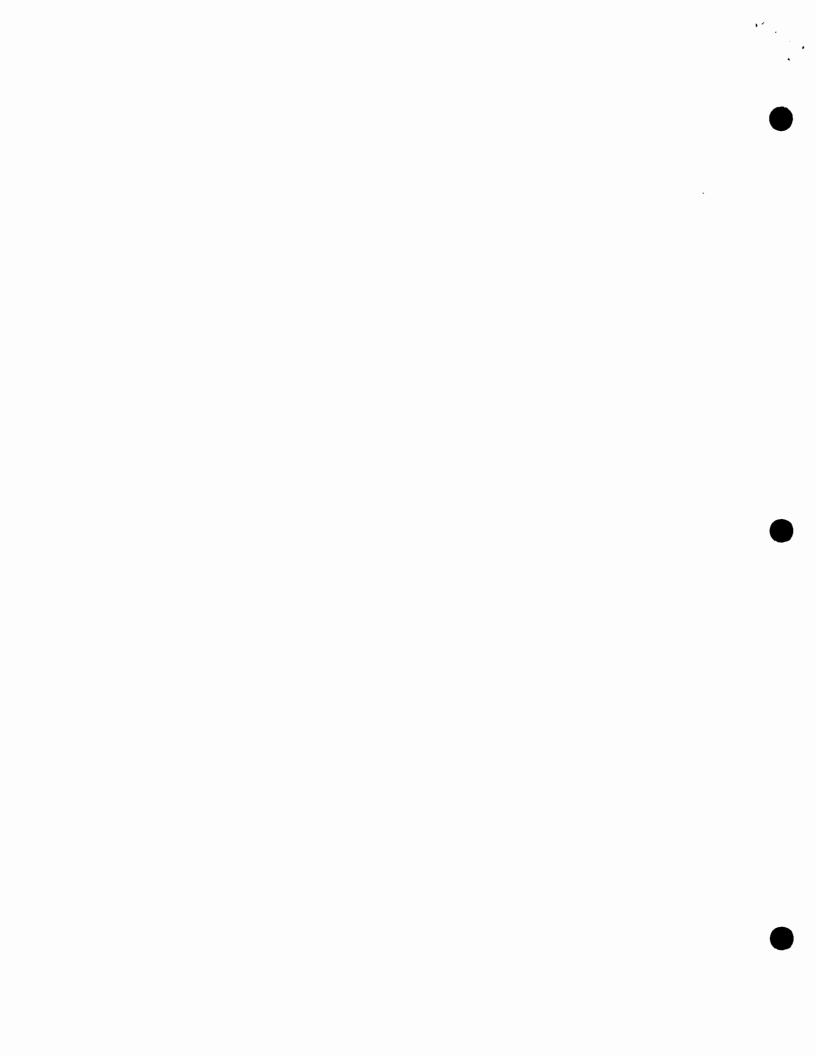
 **SECTION 7.** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end, the provisions of this act are severable.

**SECTION 8.** Section 2 of this act, G.S. 153A-143(e), as amended by Section 3 of this act, and G.S. 160A-199(e), as amended by Section 4 of this act, are effective when this act becomes law and apply to determinations of just compensation on or after that date. The remainder of Sections 3 and 4 of this act are effective when this act becomes law and apply to

## **General Assembly Of North Carolina**

Session 2017

outdoor advertising that has not been removed as of that date. The remainder of this act is effective when it becomes law.





# HOUSE BILL 602: Cities/Require Performance Guarantees.

2017-2018 General Assembly

Committee: House State and Local Government II

**Date:** April 19, 2017

Introduced by: Rep. Dobson Analysis of: First Edition

Prepared by: Brad Krehely

Committee Co-Counsel

OVERVIEW: House Bill 602 would authorize cities to require performance guarantees when industrial property is being demolished. The act would become effective July 1, 2017.

BILL ANALYSIS: House Bill 602 would authorize a city to require performance guarantees when the owner of property classified as industrial under the city's zoning ordinance or property historically used for industrial purposes submits an application for a permit to assure successful completion of demolition and removal of all material from the site. The owner may decide on the type of performance guarantee. The owner, in conjunction with the city, must determine the estimated cost and the time period in which demolition and removal must be completed.

"Performance Guarantee" means any of the following:

- A surety bond issued by any company authorized to do business in this State.
- A letter of credit issued by any financial institution licensed to do business in this State.
- Any other form of guarantee that provides equivalent security to a surety bond or letter of credit.

The performance guarantee must be returned or released when the city acknowledges that the demolition and removal of all material has been completed. If demolition and removal of all material has not been completed and the current performance guarantee is expiring, the performance guarantee must be extended, or a new performance guarantee issued, for an additional period until demolition and removal of all material is completed. The owner must demonstrate good faith progress toward completion of the demolition and removal.

The amount of the performance guarantee must not exceed 125% of the reasonably estimated cost of completion of demolition and removal at the time the performance guarantee is issued. Any extension of the performance guarantee must not exceed 125% of the reasonably estimated cost of completion of the remaining demolition and removal of all material.

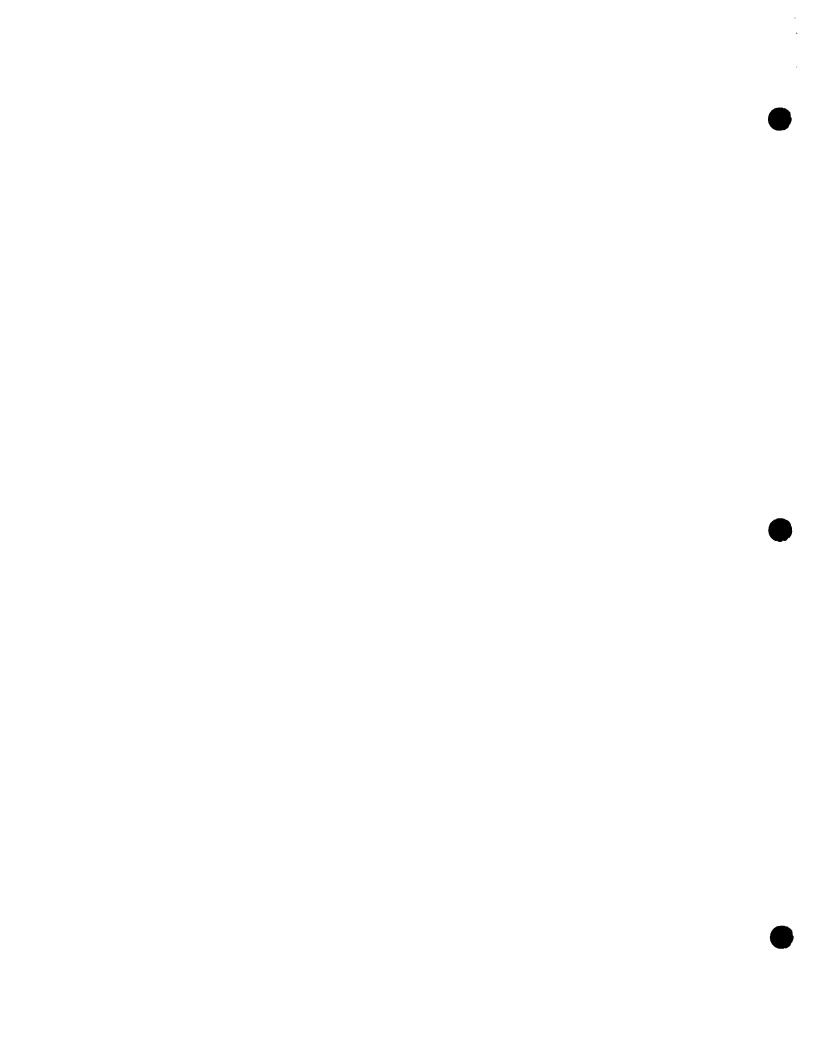
The performance guarantee must only be used for completion of the demolition and removal of all material from the site and for no other purpose. Nothing in the act allows a city to require performance guarantees for demolition of residential property.

**EFFECTIVE DATE:** July 1, 2017.

Karen Cochrane-Brown
Director



Legislative Analysis Division 919-733-2578



#### **HOUSE BILL 602**

Short Title:	Cities/Require Performance Guarantees. (Public)				
Sponsors:	Representative Dobson.				
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.				
Referred to:	State and Local Government II				

## April 6, 2017

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO REQUIRE PERFORMANCE GUARANTEES WHEN

INDUSTRIAL PROPERTY IS BEING DEMOLISHED.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 5 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"§ 160A-440. Demolition of industrial buildings; performance guarantees required.

- (a) A city may require performance guarantees when the owner of property classified as industrial under the city's zoning ordinance or property historically used for industrial purposes submits an application for a permit to assure successful completion of demolition and removal of all material from the site in a reasonable time period. The type of performance guarantee shall be at the election of the owner, but the owner shall, in conjunction with the city, determine the estimated cost of demolition and removal of all material from the site and the time period in which demolition and removal shall be completed. For purposes of this section, the term "performance guarantee" means any of the following: (i) a surety bond issued by any company authorized to do business in this State, (ii) a letter of credit issued by any financial institution licensed to do business in this State, or (iii) any other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (b) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the city that the demolition and removal of all material has been completed. If demolition and removal of all material has not been completed and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until demolition and removal of all material is completed. The owner shall demonstrate reasonable, good-faith progress toward completion of the demolition and removal of all material that is the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the owner.
- (c) The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of demolition and removal of all material at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete demolition and removal of all material shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining demolition and removal of all material still outstanding at the time the extension is obtained.



General	Assembly	Of North	Carolina
GCHCIAI	733CH1014	OI HUI UI	Caioma

Session 2017

- (d) The performance guarantee shall only be used for completion of the demolition and removal of all material from the site and for no other purpose.
- (e) Nothing in this section shall be construed as authorizing a city to require performance guarantees for demolition of residential property."

**SECTION 2.** This act becomes effective July 1, 2017.

# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

# FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL

HB 580

Revisions to Outdoor Advertising Laws.

Draft Number:

H580-PCS40515-BA-9

Serial Referral:

None

Recommended Referral: None Long Title Amended:

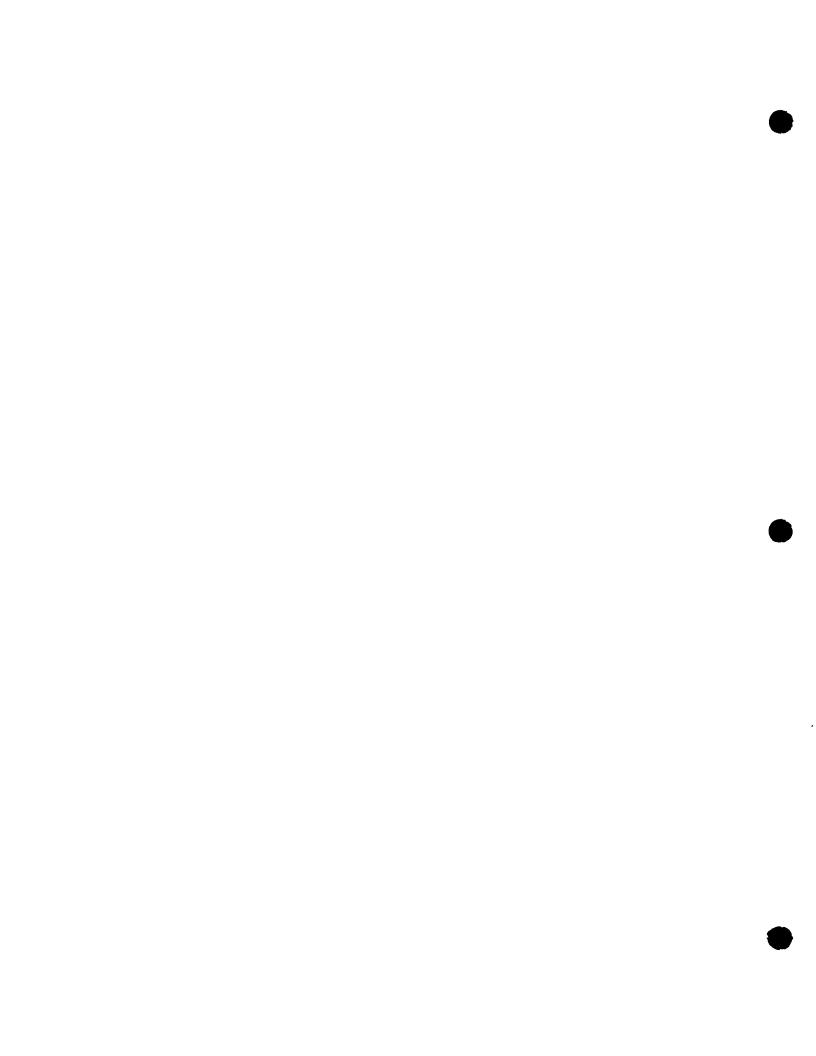
No

Floor Manager:

Lewis

TOTAL REPORTED: 1





#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 579

Revisions to Outdoor Advertising Laws.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None Long Title Amended:

No

Floor Manager:

Lewis

#### **FAVORABLE AND RE-REFERRED**

HB 306

E-Verify Required - All Government Contracts.

Draft Number:

None

Serial Referral:

**REGULATORY REFORM** 

Recommended Referral: Long Title Amended:

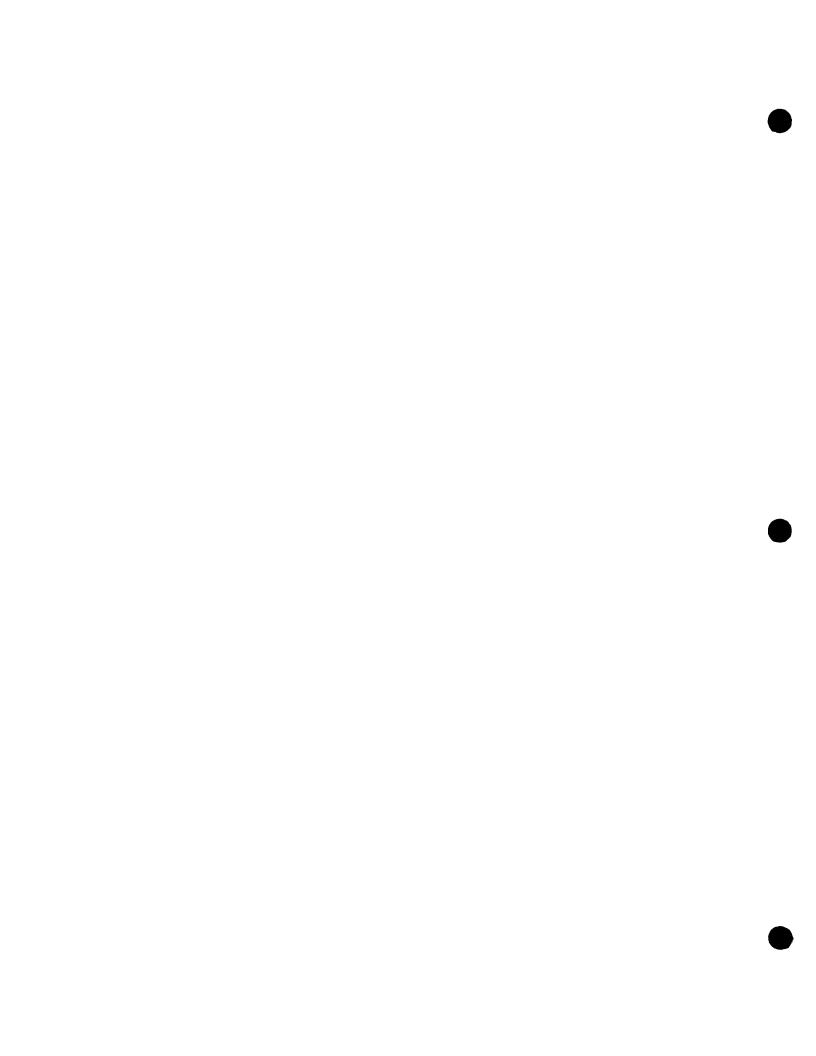
None No

Floor Manager:

Millis

**TOTAL REPORTED: 2** 





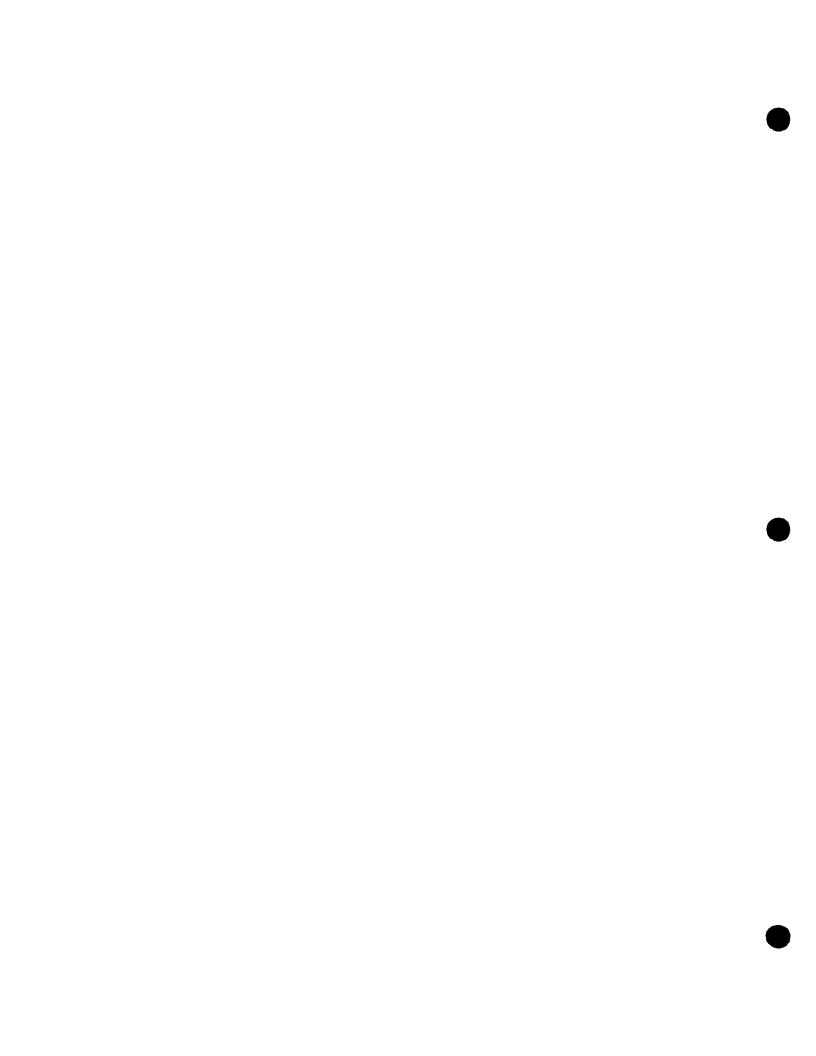
# VISITOR REGISTRATION SHEET

Name of Committee

Date

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ryhe Longest	Scenic America Member SB 579 + 580
Bob Matheny	President, NCLM
Scott Capps	NC Dept of Transportation H395
Statim HAYWORTH	NC ASNOJChiefs of Police
	W(H385) NC Sheriffs' ASSN.
Johanna Reese	NC Assn Courty Comm H306
I RANDY BYRD	NE POLICE BENEVILLENT ASSOT.
J Jan miggette	NC PBA.
Dillian Totman	
Brin Lowis	Dare County (+1531) NC Travel+ Toursin



# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

MEMBERS	4.24.17								
REP. BRADFORD CHAIR	~								
REP. ADAMS	V								L
REP. AUTRY									
REP. BALL	~								
REP. BOLES									
REP. BOSWELL									
REP. C. GRAHAM	/								
REP. G. GRAHAM	/								
REP. JOHN	/								
REP. MOREY	V								
REP. ROSS									
REP. SAULS	1								
REP. SETZER	~								
REP. STEINBURG							-		
REP. WATFORD									
REP. WILLIAMS	~								
Anita Spence, Committee Assistant	/								
Cindy Avrette, Staff	1								
Nick Giddings, Staff	5								
Brad Krehely, Staff	5		-	-					

• 1 

### **Corrected #4: REMOVE HB 37**

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE **AND BILL SPONSOR NOTIFICATION** 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Monday, April 24, 2017

2:00 PM LOCATION: **544 LOB** 

The following bills will be considered:

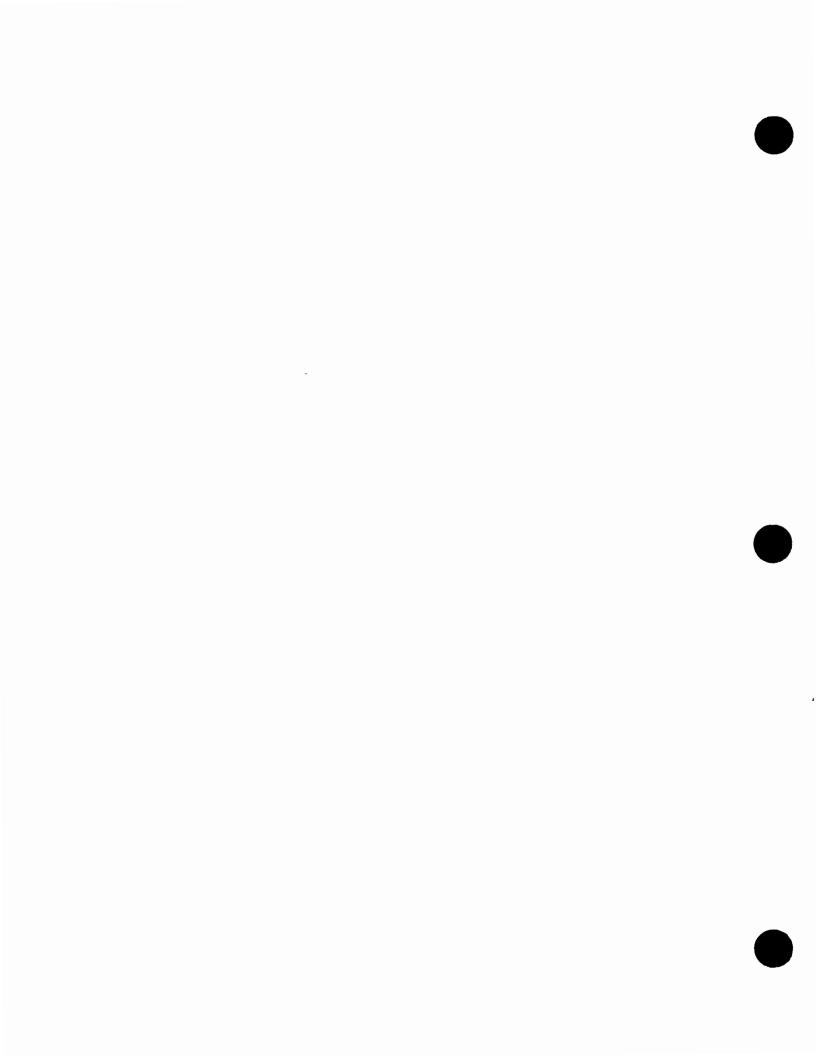
BILL NO.	SHORT TITLE	SPONSOR
HB 764	Expansion of MSD/Bd Appt.	Representative McGrady
<u>HB 143</u>	Sanford Occupancy Tax.	Representative Sauls
<u>HB 211</u>	Increase Sampson County Occupancy	Representative Brisson
	Tax Auth.	Representative L. Bell
HB 416	Robeson County/Local Business	Representative C. Graham
	Preference.	Representative Pierce
		Representative Goodman
		Representative Brenden Jones

## Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:24 F Monday, April 24, 2017.	'M on
Principal Clerk Reading Clerk – House Chamber	

Anita Spence (Committee Assistant)



#### **Corrected #3: REMOVE HB 650**

#### NORTH CAROLINA HOUSE OF REPRESENTATIVES **COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION** 2017-2018 SESSION

You are hereby notified that the House Committee on State and	Local	Gove	rnment	II v	will 1	mee	t as	š
follows:	_		1 -1.		-		-	

DAY & DATE: Monday, April 24, 2017

TIME:

2:00 PM

**544 LOB** LOCATION:

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 764</u>	Expansion of MSD/Bd Appt.	Representative McGrady
HB 37	Protect Law Enforcement Officers.	Representative Malone
		Representative Dollar
		Representative Conrad
		Representative Jackson
<u>HB 143</u>	Sanford Occupancy Tax.	Representative Sauls
<u>HB 211</u>	Increase Sampson County Occupancy	Representative Brisson
	Tax Auth.	Representative L. Bell
<u>HB 416</u>	Robeson County/Local Business	Representative C. Graham
	Preference.	Representative Pierce
		Representative Goodman
		Representative Brenden Jones

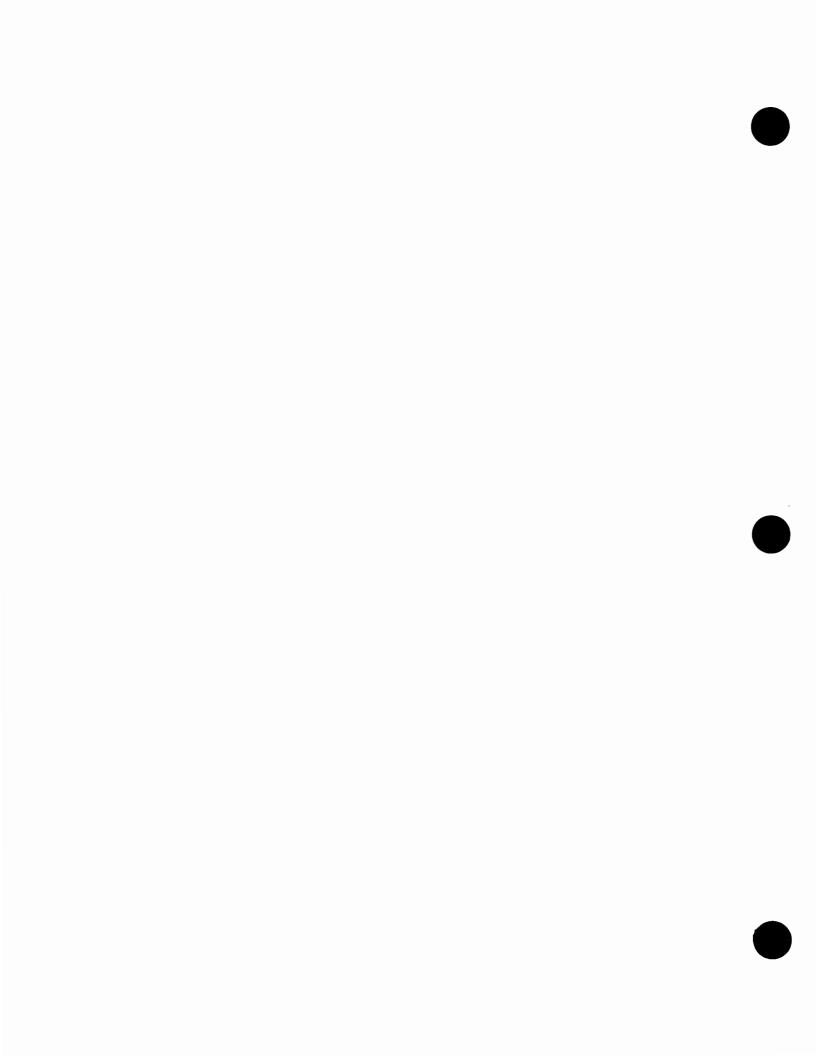
#### Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was	filed by the committee a	assistant at the following	ng offices at 1:	43 PM on
Friday, April 21, 2017.				

 Principal Clerk
Reading Clerk - House Chamber

Anita Spence (Committee Assistant)



#### **Corrected #2: REMOVE HB 352**

#### NORTH CAROLINA HOUSE OF REPRESENTATIVES **COMMITTEE MEETING NOTICE** AND **BILL SPONSOR NOTIFICATION** 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Monday, April 24, 2017

2:00 PM TIME: LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 650	State Board Construction Contract	Representative Arp
	Claim.	Representative Brody
		Representative Boswell
		Representative Millis
HB 764	Expansion of MSD/Bd Appt.	Representative McGrady
<u>HB 37</u>	Protect Law Enforcement Officers.	Representative Malone
		Representative Dollar
		Representative Conrad
		Representative Jackson
HB 143	Sanford Occupancy Tax.	Representative Sauls
HB 211	Increase Sampson County Occupancy	Representative Brisson
	Tax Auth.	Representative L. Bell
<u> HB 416</u>	Robeson County/Local Business	Representative C. Graham
	Preference.	Representative Pierce
		Representative Goodman
		Representative Brenden Jones
		-

#### Respectfully,

#### Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11:37 AM o Friday, April 21, 2017.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)

Corrected #1: ADD HB 143, HB 211 & HB 416

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Monday, April 24, 2017

TIME: 2:00 PM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 352</u>	Rate Making/Water/Wastewater Public	Representative Watford
	Utilities.	Representative Collins
<u>HB 650</u>	State Board Construction Contract	Representative Arp
	Claim.	Representative Brody
		Representative Boswell
		Representative Millis
<u>HB 764</u>	Expansion of MSD/Bd Appt.	Representative McGrady
HB 37	Protect Law Enforcement Officers.	Representative Malone
		Representative Dollar
		Representative Conrad
		Representative Jackson
HB 143	Sanford Occupancy Tax.	Representative Sauls
<u>HB 211</u>	Increase Sampson County Occupancy	Representative Brisson
	Tax Auth.	Representative L. Bell
<u>HB 416</u>	Robeson County/Local Business	Representative C. Graham
	Preference.	Representative Pierce
		Representative Goodman
		Representative Brenden Jones
		-

#### Respectfully,

#### Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 5:58 PM on Thursday, April 20, 2017.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Monday, April 24, 2017

TIME: 2:00 PM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 352</u>	Rate Making/Water/Wastewater Public	Representative Watford
	Utilities.	Representative Collins
<u>HB 650</u>	State Board Construction Contract	Representative Arp
	Claim.	Representative Brody
		Representative Boswell
		Representative Millis
<u>HB 764</u>	Expansion of MSD/Bd Appt.	Representative McGrady
<u>HB 37</u>	Protect Law Enforcement Officers.	Representative Malone
		Representative Dollar
		Representative Conrad
		Representative Jackson

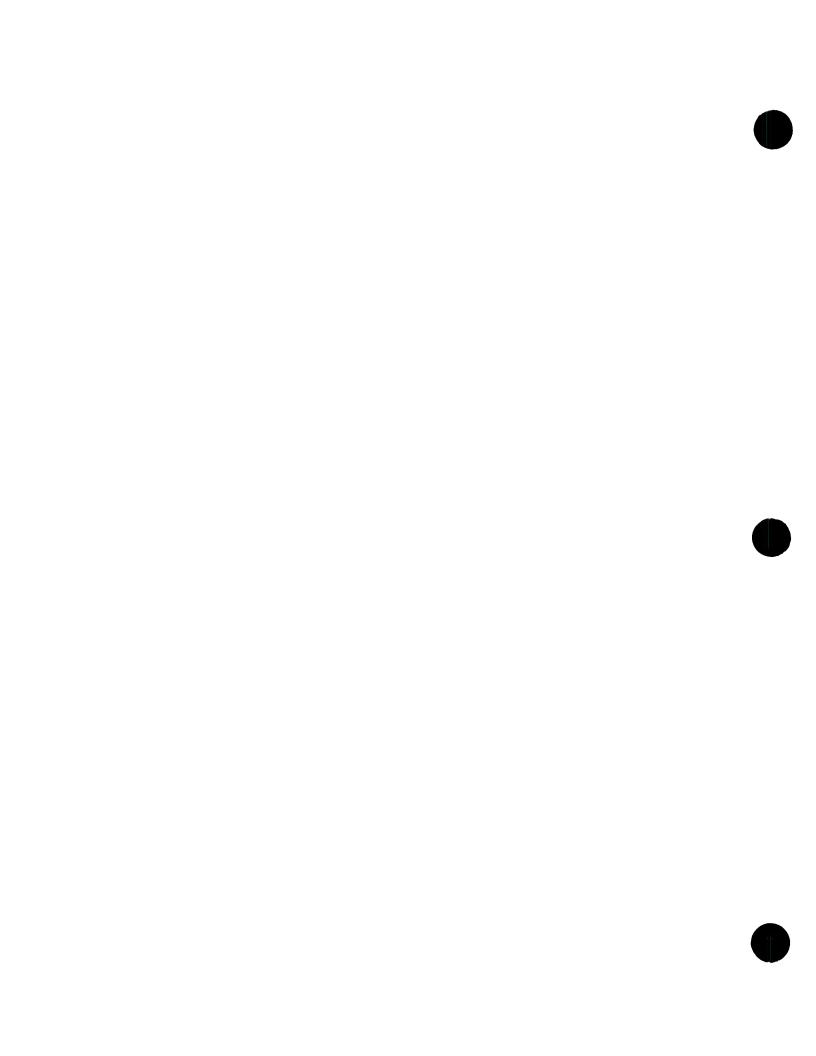
Respectfully,

Representative John R. Bradford, III, Chair

I hereb	y certify	this r	notice	was f	filed by	y the	comm	ittee a	assistant	at the	follo	wing	offices	at i	1:43	PM	on
Thursda	ay, April	1 20, 2	2017.														

 Principal Clerk		
 Reading Clerk -	House	Chamber

Anita Spence (Committee Assistant)



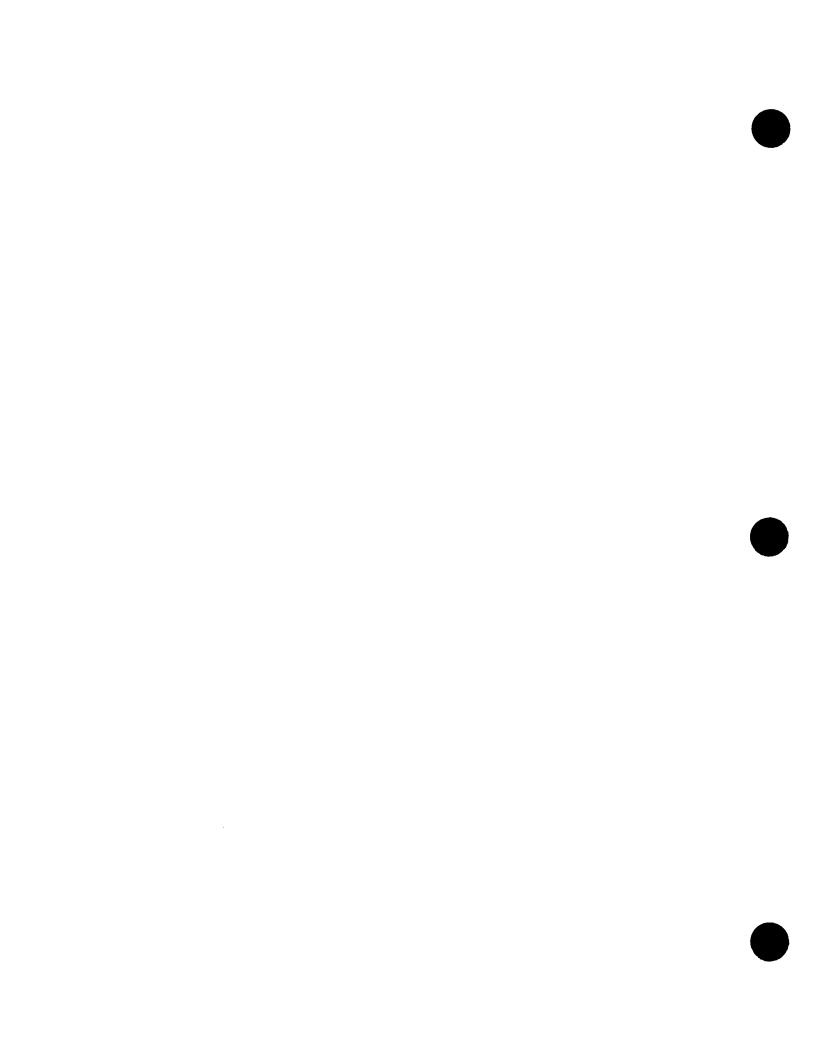
## House Committee on State and Local Government II Monday, April 24, 2017, 2:00 PM 544 Legislative Office Building

#### **AGENDA**

Welcome and Opening Remarks

Introduction of Pages & Sergeant at Arms

BILL NO. HB 764	SHORT TITLE Expansion of MSD/Bd Appt.	SPONSOR Representative McGrady
HB 143	Sanford Occupancy Tax.	Representative Sauls
HB 211	Increase Sampson County Occupancy Tax Auth.	Representative Brisson Representative L. Bell
HB 416	Robeson County/Local Business Preference.	Representative C. Graham Representative Pierce Representative Goodman Representative Brenden Jones



## House Committee on State and Local Government II Monday, April 24, 2017 at 2:00 PM Room 544 of the Legislative Office Building

#### MINUTES

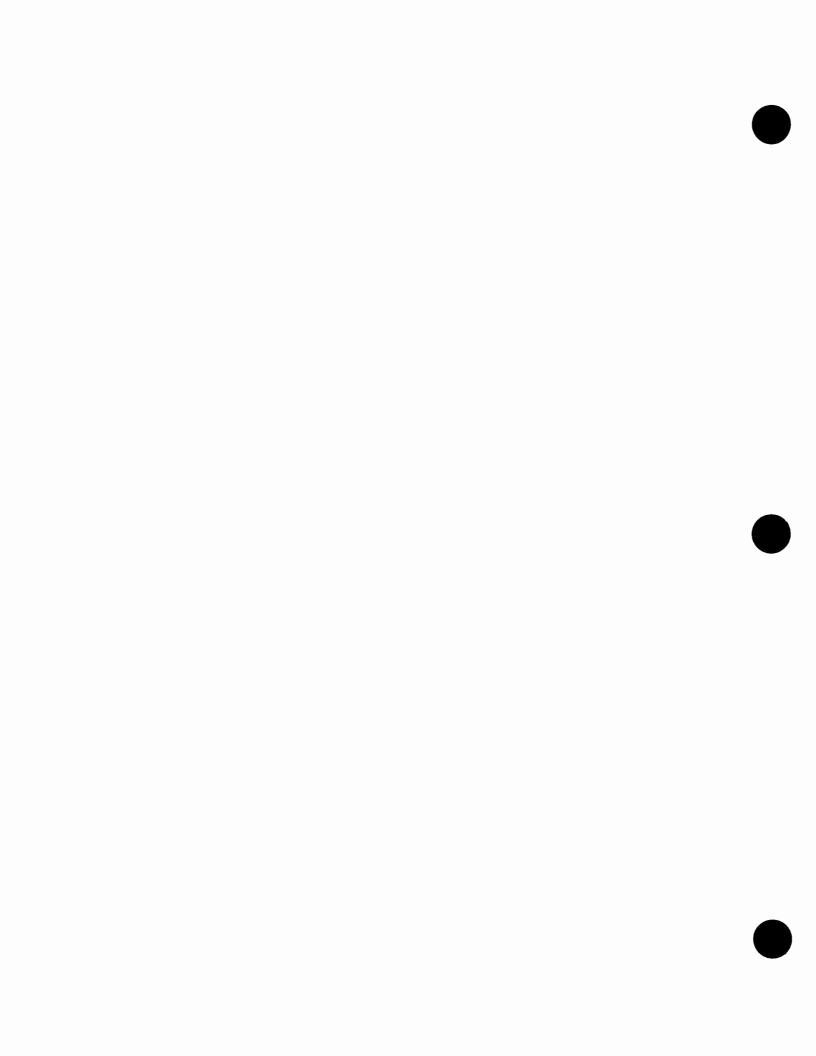
The House Committee on State and Local Government II met at 2:00 PM on April 24, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, C. Graham, G. Graham, John, Morey, Sauls, Setzer, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 2:01 pm. He introduced the Sargent at Arms.

Chairman Bradford motioned for HB 764 Expansion of MSD/Bd Appt. (Representative McGrady) AN ACT TO AMEND THE PROVISIONS REGARDING EXPANSION OF A METROPOLITAN SEWERAGE DISTRICT AND TO MAKE ADDITIONAL BOARD APPOINTMENTS PARALLEL TO THE PROCESS TO EXPAND A METROPOLITAN WATER AND SEWERAGE DISTRICT to be before the committee. Chairman Bradford recognized Representative McGrady to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative C. Graham who motioned for an amendment for HB 764. Erica Churchill was recognized to explain the amendment. Chairman Bradford recognized Representative Sauls who motioned for a favorable report and an adoption of amendment 764-AST-16. The amendment is adopted. Representative Sauls motioned for a favorable report unfavorable to the original bill. Chairman Bradford called for a vote. HB 764 passes.

Chairman Bradford motioned for the PCS HB 143 Sanford and Harnett Occupancy Tax. (Representative Sauls) AN ACT TO AUTHORIZE THE CITY OF SANFORD TO LEVY AN OCCUPANCY TAX AND TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF ALL AREAS IN HARNETT COUNTY EXCLUSIVE OF THE AVERASBORO TOWNSHIP AND TO AUTHORIZE THAT SPECIAL TAXING DISTRICT TO LEVY A SIX PERCENT ROOM OCCUPANCY TAX to be before the committee. Chairman Bradford recognized Representative Sauls to explain the bill. There was no discussion on the bill. Chairman Bradford recognized for Representative C. Graham who motioned for the adoption of the PCS, unfavorable to the original bill with a serial referral to Finance. Chairman Bradford called for a vote. The ayes have it. HB 143 passes.

Chairman Bradford motioned for HB 211 Increase Sampson County Occupancy Tax Auth. (Representatives Brisson, L. Bell) AN ACT TO AUTHORIZE AN ADDITIONAL SAMPSON COUNTY OCCUPANCY TAX to be before the committee. Chairman Bradford recognized Representative Brisson to explain the bill. There was no discussion on the bill. Chairman Bradford recognized C. Graham who motioned for a



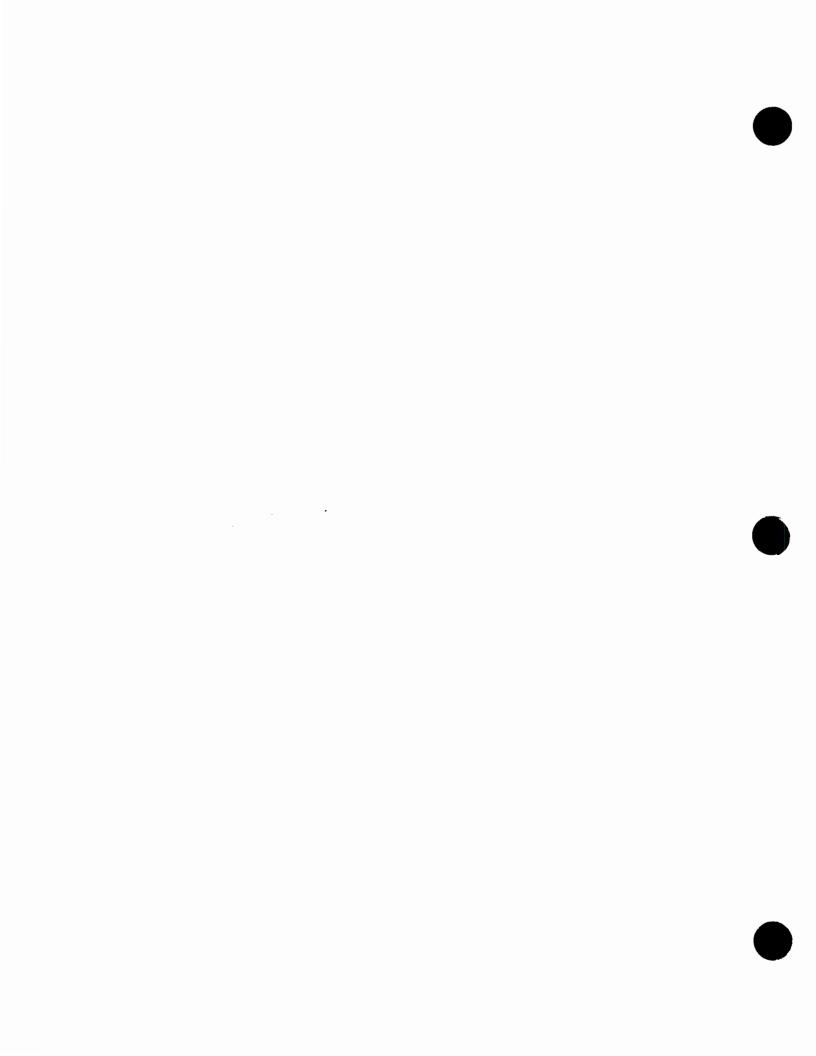
favorable report for HB 211 with a serial referral to Finance. Chairman Bradford called for a vote. All members are in favor. HB 211 passes.

Chairman Bradford motioned for HB 416 Robeson County/Local Business Preference. (Representatives C. Graham, Pierce, Goodman, Brenden Jones) AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL, WHEN CONTRACTING FOR CONSTRUCTION OR REPAIR WORK OR FOR THE PURCHASE OF APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, GIVE PREFERENCE TO LOCAL BIDDERS AND LOCAL RESIDENTS WHEN CERTAIN REQUIREMENTS ARE MET to be before the committee. Chairman Bradford recognized Representative C. Graham to explain the amendment for HB 416. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for the adoption of amendment H416-ABA-16 with a favorable report rolled into a PCS with a serial referral to Reg. Reform. Chairman Bradford called for a vote. The ayes have it. HB 416 passes.

The meeting adjourned at 2:16 pm.

Representative John Bradford, Presiding Chair

Inita Spence, Committee Clerk





#### **HOUSE BILL 764:** Expansion of MSD/Bd Appt.

#### 2017-2018 General Assembly

House State and Local Government II Committee:

Date:

April 24, 2017 **Prepared by:** Nicholas Giddings

**Introduced by:** Rep. McGrady **Analysis of:** 

First Edition

Committee Counsel

**OVERVIEW:** House Bill 764 would require any county that is expanding the territory of a Metropolitan Sewerage District to be represented by three additional members on the district board. The additional members would have to be qualified voters of the new territory and appointed by the county board of commissioners governing the new territory.

CURRENT LAW: Chapter 162A governs water and sewer systems, and in particular metropolitan sewerage districts (MSD). A MSD may be created upon request to the governing body of each political subdivision, and petition of at least 51% of the qualified voters residing in any unincorporated area, and approval of the Environmental Management Commission. Once approved, a district board is appointed.

Once established, a MSD may expand its territory upon receiving a resolution from a political subdivision or petition of at least 51% of the qualified voters residing in any unincorporated area requesting to be included. The district board then files a report with the Environmental Management Commission, who in turn shall determine if the request would preserve and promote the public health and welfare and may include the new area in the district. Alternatively, the qualified registered voters of the district may request an election to determine the question of expansion.

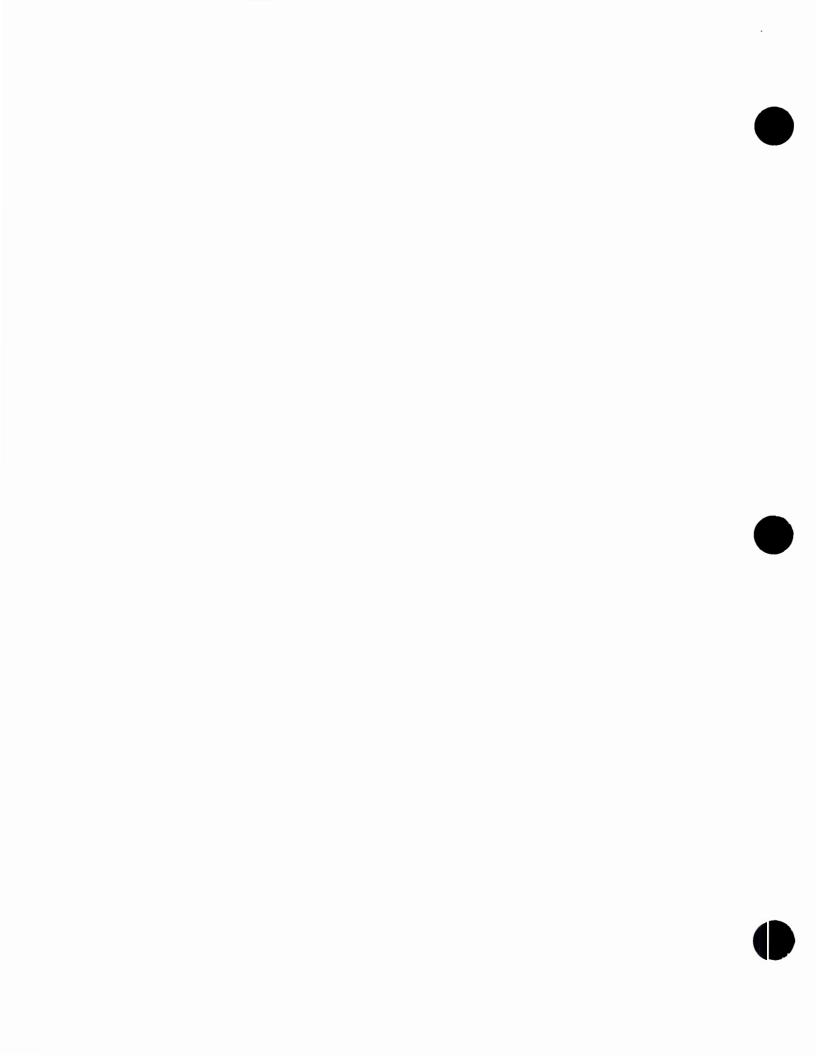
If the MSD is expanded, appointments to the district board are to be made by the additional political subdivisions, in accordance with G.S. 162A-68(i).

**BILL ANALYSIS:** House Bill 764 would add a new subdivision under G.S. 162A-68(i) requiring any county that is expanding the territory of a MSD to be represented by three additional members on the district board. The three additional members would have to be qualified voters residing within the new territory and be appointed by the county board of commissioners governing the new territory. The bill would also make conforming changes.

**EFFECTIVE DATE:** This act would be effective when it becomes law and apply to any expansion of a metropolitan sewerage district on or after that date.







#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 764**

1

Short Title: Expansion of MSD/Bd Appt. (Public)

Sponsors: Representative McGrady.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

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

#### April 13, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROVISIONS REGARDING EXPANSION OF A METROPOLITAN SEWERAGE DISTRICT AND TO MAKE ADDITIONAL BOARD APPOINTMENTS PARALLEL TO THE PROCESS TO EXPAND A METROPOLITAN WATER AND SEWERAGE DISTRICT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 162A-68 reads as rewritten:

"§ 162A-68. Procedure for inclusion of additional political subdivision or unincorporated area; notice and hearing; elections; actions to set aside proceedings.

(i) Immediately following the inclusion of any additional political subdivision within an existing district, members representing such additional political subdivision shall be appointed to the district board in the manner provided in this section:

- (1) Any additional unincorporated area that is included within an existing district shall be represented by the members representing the county in which the unincorporated area lies as follows:
  - If inclusion of the additional unincorporated area extends the district into more than one county, members representing the unincorporated area in the new county shall be appointed immediately following the inclusion of the additional area. Upon the inclusion of the additional the board members appointed in accordance with G.S. 162A-67(a)(1) or G.S. 162A-67(a)(1a) shall continue to serve on the district board. The board of commissioners of the county in which the largest portion of the district lies shall appoint qualified voters residing in the county and district as their successors such that the county in which the largest portion of the district lies shall always have three members on the district board. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve a term of three years and shall appoint qualified voters residing in the county and district as their successors such that the county in which the lesser portion of the district lies shall always have two members on the district board. For purposes of this subdivision, the county in which the largest portion and lesser portion of the district lies shall be determined with



- reference to the land area of the district lying within the county as a percentage of land area of the entire district at the time such appointment or reappointment is made.
- b. If the inclusion of the additional unincorporated area has the effect of changing the county in which the largest portion of the district lies, new members representing the county comprising the larger portion of the district shall be appointed in accordance with G.S. 162A-67(a)(2) immediately following the inclusion, and no reappointment shall be made by the county in which the lesser portion of the district lies upon expiration of the first term of a member representing that county following the inclusion.
- (1a) Notwithstanding subdivision (1) of this subsection, if any county that is expanding the territory of the district shall be represented by three additional members who are qualified voters residing within the new territory, appointed by the county board of commissioners governing the new territory.
- (2) Following Except as otherwise provided in this subsection, following the inclusion of any additional political subdivision within an existing district, the political subdivisions added shall appoint members to the district board in accordance with G.S. 162A-67(a)(4) only if the governing body of the political subdivision owns or operates a public system for the collection of wastewater at the time of such appointment.
- (j) The terms of office of the members first appointed <u>under subsection</u> (i) of this <u>section</u> to represent such additional <u>political</u> subdivision or area may be varied for a period not to exceed six months from the terms provided for in G.S. 162A-67, so that the appointment of successors to such members may more nearly coincide with the appointment of successors to members of the existing board; and all successor members shall be appointed for the terms provided for in G.S. 162A-67."
- **SECTION 2.** This act is effective when it becomes law and applies to any expansion of a metropolitan sewerage district on or after that date.



### NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 764

H764-AST-16 [v.1]

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

Page 1 of 2

Amends Title [NO]
First Edition

Date ARU 24

,2017

Representative Sauls

moves to amend the bill on page 1, lines 9-10, by inserting the following between those lines:

- "(a) If, at any time subsequent to the creation of a district, there shall be filed with the district board (i) a resolution of the governing body of a political subdivision, subdivision requesting inclusion in the district all or part of such political subdivision, or (ii) a petition, petition signed by not less than fifty-one per centum (51%) of the qualified voters resident within an unincorporated area, area requesting inclusion in the district of such political subdivision or unincorporated area, and if the district board shall favor the inclusion in the district of such political subdivision or unincorporated area, new territory, the district board shall notify the board or boards of commissioners of the county or counties within which the district lies and shall file with the board or boards of commissioners and with the Environmental Management Commission a report setting forth the plans of the district for extending sewerage service to the political subdivision or unincorporated area.new territory. The report shall include:
  - (1) A map or maps of the district and adjacent territory showing the present and proposed boundaries of the district; the existing major sewer interceptors and outfalls; and the proposed extension of such interceptors and outfalls.
  - (2) A statement setting forth the plans of the district for extending sewerage services to the territory proposed to be included, which plans shall:
    - a. Provide for extending sewerage service to the territory included on substantially the same basis and in the same manner as such services are provided within the rest of the district prior to inclusion of the new territory.
    - b. Set forth a proposed time schedule for extending sewerage service to the territory proposed to be included.
    - c. Set forth the estimated cost of extending sewerage service to the territory proposed to be included; the method by which the district proposes to finance the extension; the outstanding existing indebtedness of the district, if any; and the valuation of assessable property within the district and within the territory proposed to be included.



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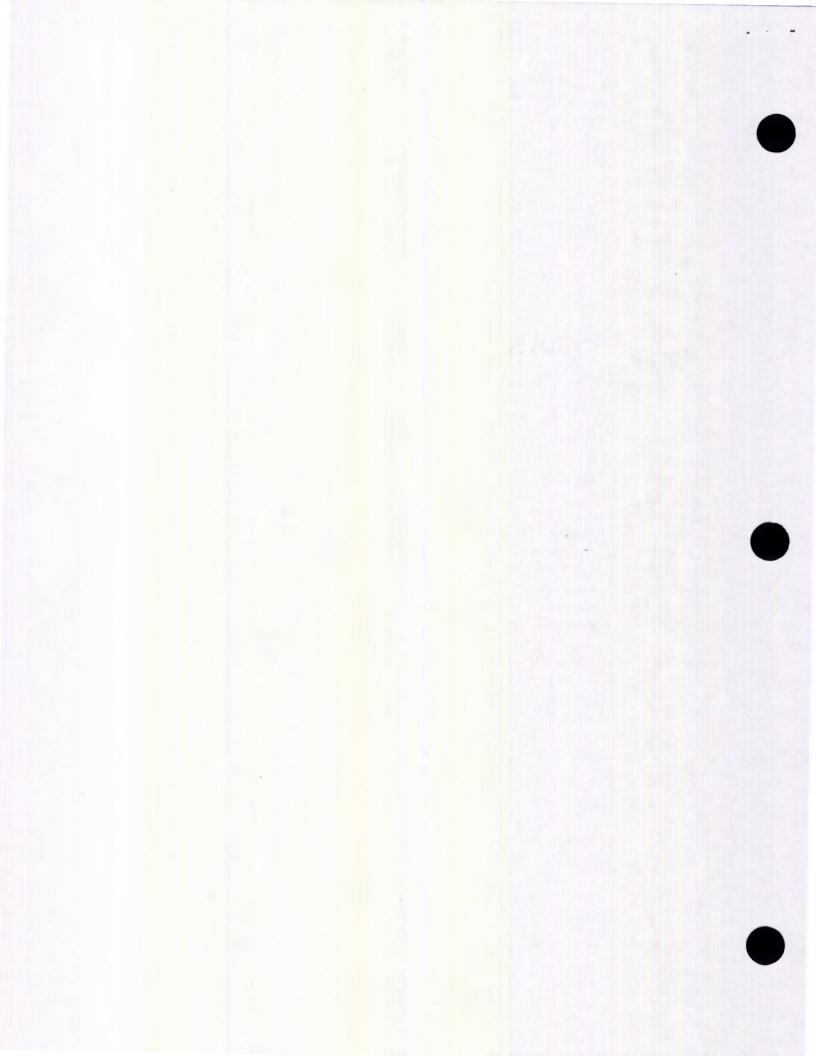
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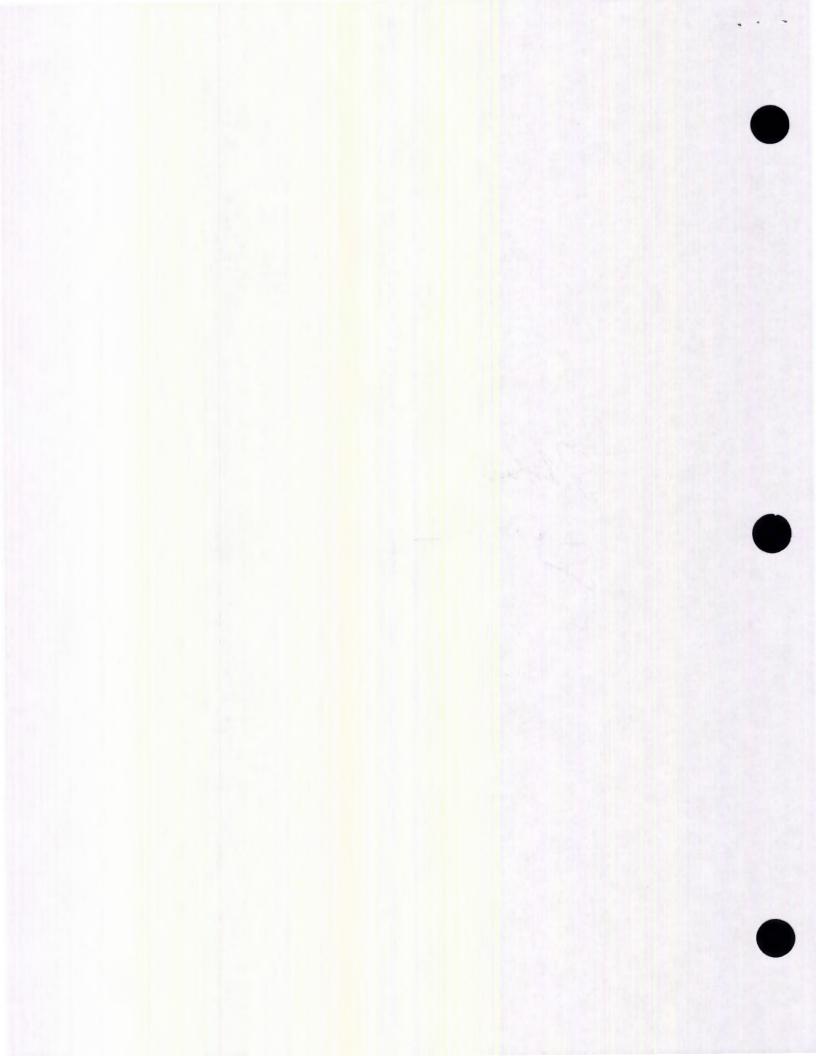
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## NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 764

			AMENDMENT NO(to be filled in by			
	H764-AST-16 [v.1]		Principal Clerk)			
	11/01/151-10 [0.1]		Page 2 of 2			
1 2 3 4 5 6	d.	the plans set forth in the re- territory proposed to be inc	tent of the district board to conform with bort in extending sewerage services to the luded; and a certification by the chairman effect that the matters and things set forth knowledge or belief.";			
7 8 9	and on page 2, lines 12-13, by deleting "if any county that is expanding" and substituting "when";					
0	and on page 2, line 13, by inserting the following before "shall":					
2	"is expanding into new territory, any county without representation on the district board".					
	SIGNED	Amendment Sponsor				
	SIGNED Committee Chair if Senate Committee Amendment					
	ADOPTED	FAILED	TABLED			





## **HOUSE BILL 143:** Sanford and Harnett Occupancy Tax.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

April 24, 2017

favorable, re-refer to Finance

Introduced by: Rep. Sauls

Analysis of:

Prepared by: Trina Griffin

PCS to First Edition Staff Attorney

H143-CSSVxr-12

#### OVERVIEW: The Proposed Committee Substitute for House Bill 143 does two things:

- It authorizes the City of Sanford to levy a room occupancy tax of 3%. The proceeds must be remitted to a city Tourism Development Authority and 100% of the net proceeds must be used for tourism promotion.
- It creates a special taxing district consisting of all of Harnett County, with the exclusion of the Averasboro Township, and authorizes that special taxing district to levy a 6% room occupancy tax. The proceeds must be remitted to a Tourism Development Authority and must be used as follows: at least two-thirds for tourism promotion and the remainder for tourism-related expenditures.

Both of these provisions conform to the Guidelines for Occupancy Tax adhered to by the House Finance Committee.

#### PART I: SANFORD OCCUPANCY TAX

**CURRENT LAW:** The City of Sanford is located in Lee County, which has the authority to levy a 3% room occupancy tax. The proceeds of the county tax are used for the construction and maintenance of a community resource center; the excess over the amount needed for maintenance may be used for any lawful purpose. Specifically, these funds are used for the <u>Dennis A. Wicker Civic Center</u>.

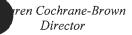
**BILL ANALYSIS:** Part I of the PCS would authorize Sanford to levy a 3% room occupancy tax. The City would be required to establish a Tourism Development Authority to administer the proceeds. All of the net proceeds of the tax must be used for tourism promotion.

#### PART II: HARNETT COUNTY OCCUPANCY TAX

CURRENT LAW: Harnett County, as the governing body of Averasboro Township, is authorized to levy a 6% room occupancy tax in the township. The proceeds must be remitted to the Averasboro Township Tourism Development Authority and must be used as follows: two-thirds for tourism promotion and the remainder for tourism-related expenditures. The tax only applies in within the township limits. Currently, there is no occupancy tax levied in Harnett County other than in Averasboro.

**BILL ANALYSIS:** Part II of the PCS would create a special taxing district consisting of all of Harnett County, exclusive of the Averasboro Township. The Harnett County Board of Commissioners would

<sup>&</sup>lt;sup>1</sup> S.L. 1987-538.





Legislative Analysis
Division
919-733-2578

#### **House PCS 143**

Page 2

serve as the governing body for the district and would be authorized to levy a 6% room occupancy tax in the district. The proceeds of the tax must be remitted to a district Tourism Development Authority. The Authority must use at least two-thirds of the funds for tourism promotion and the remainder for tourism-related expenditures.

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

**BACKGROUND:** In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax, which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties. In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

#### UNIFORM OCCUPANCY TAX PROVISIONS

Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.

Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.

**Definitions** The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.

Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.

Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.

<sup>&</sup>lt;sup>2</sup> G.S. 153A-155 and G.S. 160A-215.

#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H D

#### HOUSE BILL 143 PROPOSED COMMITTEE SUBSTITUTE H143-CSSVxr-12 [v.1]

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Short Title:	Sanford and Harnett Occupancy Tax.	(Local)
Sponsors:		
Referred to:		

#### February 22, 2017

A BILL TO BE ENTITLED

2 AN ACT TO A

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO LEVY AN OCCUPANCY TAX AND TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF ALL AREAS IN HARNETT COUNTY EXCLUSIVE OF THE AVERASBORO TOWNSHIP AND TO AUTHORIZE THAT SPECIAL TAXING DISTRICT TO LEVY A SIX PERCENT ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

#### PART I. SANFORD OCCUPANCY TAX

**SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – The City Council of the City of Sanford may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of an accommodation within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

**SECTION 1.(b)** Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

**SECTION 1.(c)** Distribution and Use of Tax Revenue. – The City of Sanford shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sanford Tourism Development Authority. The Authority shall use the funds remitted to it under this subsection to promote travel and tourism in the City of Sanford.

The following definitions apply in this section:

- (1) Net proceeds. Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.
- (2) Promote travel and tourism. To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

**SECTION 1.(d)** Tourism Development Authority. — Appointment and Membership. — When the City Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Sanford Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the



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48 49 50 members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the city. The City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the City of Sanford shall be the ex officio finance officer of the Authority.

**SECTION 1.(e)** Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purpose provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the city and sponsor tourist-related events and activities in the city.

SECTION 1.(f) Reports. - The Authority shall report quarterly and at the close of the fiscal year to the Sanford City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the City Council may require.

#### PART II. HARNETT COUNTY OCCUPANCY TAX

SECTION 2.1.(a) District H Created. – Harnett County District H is created as a taxing district. Its jurisdiction consists of all of Harnett County exclusive of the Averasboro Township, Harnett County District H is a body politic and corporate and has the power to carry out the provisions of this section. The Harnett County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the board of commissioners shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

**SECTION 2.1.(b)** Authorization and Scope. – The governing body of Harnett County District H may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax.

**SECTION 2.1.(c)** Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Harnett County District H were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

**SECTION 2.1.(d)** Distribution and Use of Tax Revenue. – Harnett County District H shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Harnett County District H Tourism Development Authority. The Harnett County District H Tourism Development Authority shall use at least two-thirds of the proceeds to promote travel and tourism and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Harnett County District H.

The following definitions apply in this subsection:

Net proceeds. – Gross proceeds less the cost to the county of administering (1)and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

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Promote travel and tourism. – To advertise or market an area or activity, (2) publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

Tourism-related expenditures. – Expenditures that, in the judgment of the (3) Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the district. The term includes tourism-related capital expenditures.

SECTION 2.2. Harnett County District H Tourism Development Authority. – (a) Appointment and Membership. - When the governing body of Harnett County District H adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Harnett County District H Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The governing body shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Harnett County shall be the ex officio finance officer of the Authority.

**SECTION 2.2.(b)** Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 2.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Harnett County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

#### PART III. ADMINISTRATIVE PROVISIONS

**SECTION 3.(a)** G.S. 160A-215(g) reads as rewritten:

Applicability. - Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Spirings, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

**SECTION 3.(b)** G.S. 153A-155(g) reads as rewritten:

Applicability. - Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only

General	Assembly	Of North	Carolina
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Session 2017

1	to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
2	Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
3	Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson,
4	Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover,
5	Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham,
6	Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance,
7	Washington, Wayne, and Wilson Counties, to Harnett County District H, to-New Hanover
8	County District U, to-Surry County District S, to-Watauga County District U, to-Wilkes County
9	District K, to-Yadkin County District Y, and to-the Township of Averasboro in Harnett County
10	and the Ocracoke Township Taxing District. "

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#### PART IV. EFFECTIVE DATE

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

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#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

#### **HOUSE BILL 143**

Short Title: Sanford Occupancy Tax. (Local)

Sponsors: Representative Sauls.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Finance

February 22, 2017

#### A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO LEVY AN OCCUPANCY TAX. The General Assembly of North Carolina enacts:

**SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – The City Council of the City of Sanford may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of an accommodation within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

**SECTION 1.(b)** Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

**SECTION 1.(c)** Distribution and Use of Tax Revenue. – The City of Sanford shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sanford Tourism Development Authority. The Authority shall use the funds remitted to it under this subsection to promote travel and tourism in the City of Sanford.

The following definitions apply in this section:

- (1) Net proceeds. Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross proceeds collected each year.
- (2) Promote travel and tourism. To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

SECTION 1.(d) Tourism Development Authority. – Appointment and Membership. – When the City Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Sanford Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in



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the city. The City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the City of Sanford shall be the ex officio finance officer of the Authority.

**SECTION 1.(e)** Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purpose provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the city and sponsor tourist-related events and activities in the city.

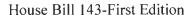
 **SECTION 1.(f)** Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Sanford City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the City Council may require.

**SECTION 2.** G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the

municipalities in Avery and Brunswick Counties."

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



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 211**

(Local)

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Sponsors:

Short Title:

Increase Sampson County Occupancy Tax Auth.

Representatives Brisson and L. Bell (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II, if favorable, Finance

#### March 1, 2017

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read:

#### A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ADDITIONAL SAMPSON COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2007-63 is amended by adding a new subsection to

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"SECTION 1.(a1) Authorization of Additional Tax. - In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of Sampson County may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Sampson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

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SECTION 2. Section 2(a) of S.L. 2007-63 reads as rewritten:

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"SECTION 2. Tourism Development Authority. - (a) Appointment and Membership. - When the Board of Commissioners adopts a resolution levying a room occupancy tax under Section 1(a) of this act, it shall also adopt a resolution creating the Sampson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Sampson County shall be the ex officio finance officer of the Authority."

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





#### **HOUSE BILL 211:**

#### Increase Sampson County Occupancy Tax Auth.

#### 2017-2018 General Assembly

Committee: House State and Local Government II. If Date: April 24, 2017

favorable, re-refer to Finance

Introduced by: Reps. Brisson, L. Bell

Analysis of: First Edition

Prepared by: Trina Griffin

Staff Attorney

OVERVIEW: House Bill 211 would increase from 3% to 6% Sampson County's authority to levy a room occupancy tax.

CURRENT LAW: In 2007, the General Assembly granted Sampson County the authority to levy a 3% room occupancy tax. The provisions of that act conform to the Occupancy Tax Guidelines adhered to by the House Finance Committee.

**BILL ANALYSIS:** House Bill 211 would increase from 3% to 6% the county's authority to levy an occupancy tax. No other changes are being made, so this local act would continue to conform to the Occupancy Tax Guidelines.

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

BACKGROUND: In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax, which provide uniformity among counties and cities with respect to the levy, administration, collection, repeal, and imposition of penalties. In 1993, the House Finance Committee established the Occupancy Tax Guidelines, which address the rate of tax, the use of the tax proceeds, the administration of the tax, and the body with authority to determine how the proceeds will be spent. A summary of these provisions is detailed in the chart below.

#### UNIFORM OCCUPANCY TAX PROVISIONS

Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.

Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.

**Definitions** The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.

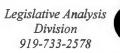
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least 1/2 of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.

Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.

<sup>1</sup> G.S. 153A-155 and G.S. 160A-215.

Karen Cochrane-Brown Director







#### **HOUSE BILL 416:** Robeson County/Local Business Preference.

2017-2018 General Assembly

House State and Local Government II. If Date: Committee:

April 24, 2017

favorable, re-refer to Regulatory Reform

Introduced by: Reps. C. Graham, Pierce, Goodman, Brenden Prepared by: Nicholas Giddings

Committee Counsel

Analysis of: First Edition

Jones

OVERVIEW: House Bill 416 would provide Robeson County and its municipalities the option to give preference to local bidders when letting certain contracts if (i) the bid of the lowest local bidder is no greater than 5% or \$10,000, whichever is less, of the lowest nonlocal bidder; and (ii) the lowest local bidder matches the bid of the lowest nonlocal bidder. The winning bidder would also be required to give preference to local businesses and residents when performing the contract.

[As introduced, this bill was identical to \$277, as introduced by Sen. Britt, which is currently in Senate Rules and Operations of the Senate.]

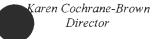
CURRENT LAW: Local governments are required to award formally and informally bid contracts to the lowest responsible, responsive bidder. Local governments only have the authority to negotiate with bidders on such contracts if the lowest responsible, responsivebid comes in higher than the funds available for the project or purchase.

BILL ANALYSIS: House Bill 416 would allow Robeson County and its municipalities to give preference to the lowest responsible, responsive local bidder when contracting for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment under certain circumstances. Local preference would only be allowed if the bid of the lowest responsible, responsive local bidder is no greater than 5% or \$10,000, whichever is less, of the bid of the lowest responsible, responsive nonlocal bidder and the lowest local bidder matches the bid of the lowest nonlocal bidder.

The bill would also require any local or nonlocal bidder awarded a contract with Robeson County or its municipalities to give preference to local businesses and local residents in contracting, subcontracting, purchasing and employment in certain circumstances. Lastly, contractors would be required to submit a Community Preference Plan within 30 days of being awarded a contract outlining the steps the contractor is taking, or has taken, to give preference to local businesses and residents.

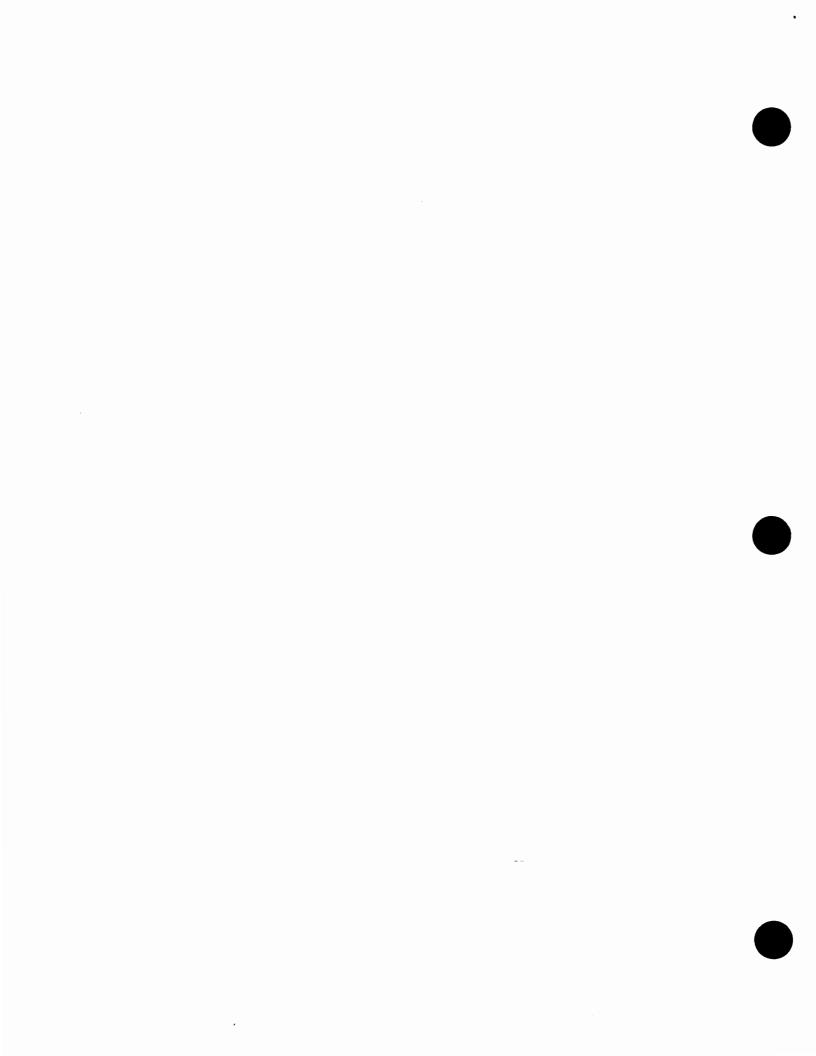
EFFECTIVE DATE: This act would be effective when it becomes law and would apply to bids received on or after that date.

BACKGROUND: In 2010, Governor Purdue signed Executive Order 50, Enhanced Purchasing Opportunities for North Carolina Businesses. The Executive Order applies only to State agencies and directed the Division of Purchase and Contract of the Department of Administration to develop a pricematching system that provides qualified North Carolina businesses whose bids are within a certain range - 5% or \$10,000 (whichever is less) - of the lowest qualified bid, an opportunity to price-match the lowest qualified bid and secure the contract award. Executive Order 50 does not apply to municipalities, counties, schools, water and sewer authorities, hospital authorities, or other local governments.





Legislative Analysis Division 919-733-2578



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE BILL 416**

Short Title: Robeson County/Local Business Preference. (Local)

Sponsors: Representatives C. Graham, Pierce, Goodman, and Brenden Jones (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Regulatory Reform

#### March 22, 2017

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL, WHEN CONTRACTING FOR CONSTRUCTION OR REPAIR WORK OR FOR THE PURCHASE OF APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, GIVE PREFERENCE TO LOCAL BIDDERS AND LOCAL RESIDENTS WHEN CERTAIN REQUIREMENTS ARE MET.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read as follows:

#### "§ 143-131.2. Local contract preference.

- (a) Bid-Match Preference. Notwithstanding any other provision of this Article, when contracting for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment involving the expenditure of public funds, counties and municipalities may give preference to the lowest responsible, responsive local bidder if the following conditions are met: (i) the bid of the lowest responsible, responsive local bidder is no greater than five percent (5%) or ten thousand dollars (\$10,000), whichever is less, of the bid of the lowest responsible, responsive nonlocal bidder and (ii) the lowest responsible, responsive local bidder matches the bid of the lowest responsible, responsive nonlocal bidder.
- (b) Contractor Responsibilities. A local or nonlocal bidder who is awarded a contract with a county or municipality under subsection (a) of this section shall give preference to local businesses and local residents. Nothing in this section shall be construed to require a contractor to award contracts or subcontracts to or to make purchases of apparatus, supplies, materials, or equipment from a local business that does not submit the lowest responsible, responsive bid or bids or to employ a local resident who does not meet the contractor's qualifications for employment. Within 30 days of being awarded a contract, the contractor shall submit to the governing body, or a person designated by the governing body, a Community Preference Plan which shall identify (i) the local businesses and local residents that the contractor will use on the project, (ii) the good-faith efforts the contractor has made to contact local businesses that reasonably could have been expected to submit a quote, (iii) the good-faith efforts the contractor has made to employ qualified local residents, and (iv) the estimated total dollar value of the contract that will be performed by local businesses.
  - (c) <u>Definitions. For purposes of this section, the following definitions apply:</u>



	General Assemb	Session 2017	
1	(1)	Local bidder. – A bidder that has paid unemployment taxes	or income taxes in
2		this State and whose principal place of business is located wi	thin the boundaries
3		of the county or municipality giving the preference.	
4	(2)	Local resident A person whose primary residence is withi	n the boundaries of
5		the county or municipality giving the preference.	2723
6	<u>(3)</u>	Nonlocal bidder A bidder that is not a local bidder, as def	ined in subdivision
7		(1) of this subsection.	
8	<u>(4)</u>	Principal place of business The principal place from	which the trade or
9		business of the bidder is directed or managed."	
10	SECT	ION 2. This act applies to Robeson County and the mu	unicipalities within
11	Robeson County.		
12	SECT	ION 3. This act is effective when it becomes law and appli	es to bids received
13	on or after that da	te.	

# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

## FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL

HB 764 Expansion of MSD/Bd Appt.

Draft Number: H764-PCS10315-BA-14

Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: McGrady

TOTAL REPORTED: 1



#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

## STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE AND RE-REFERRED**

HB 211 Increase Sampson County Occupancy Tax Auth.

Draft Number:

None

Serial Referral:

FINANCE

Recommended Referral: None Long Title Amended:

No

Floor Manager:

Brisson

## FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 143

Sanford Occupancy Tax.

Draft Number:

H143-PCS10310-SVxr-12

Serial Referral: Recommended Referral: None Long Title Amended:

FINANCE

Yes

Floor Manager:

Sauls

416 HB

Robeson County/Local Business Preference.

Draft Number:

H416-PCS10312-BA-13

Serial Referral:

**REGULATORY REFORM** 

Recommended Referral: None Long Title Amended:

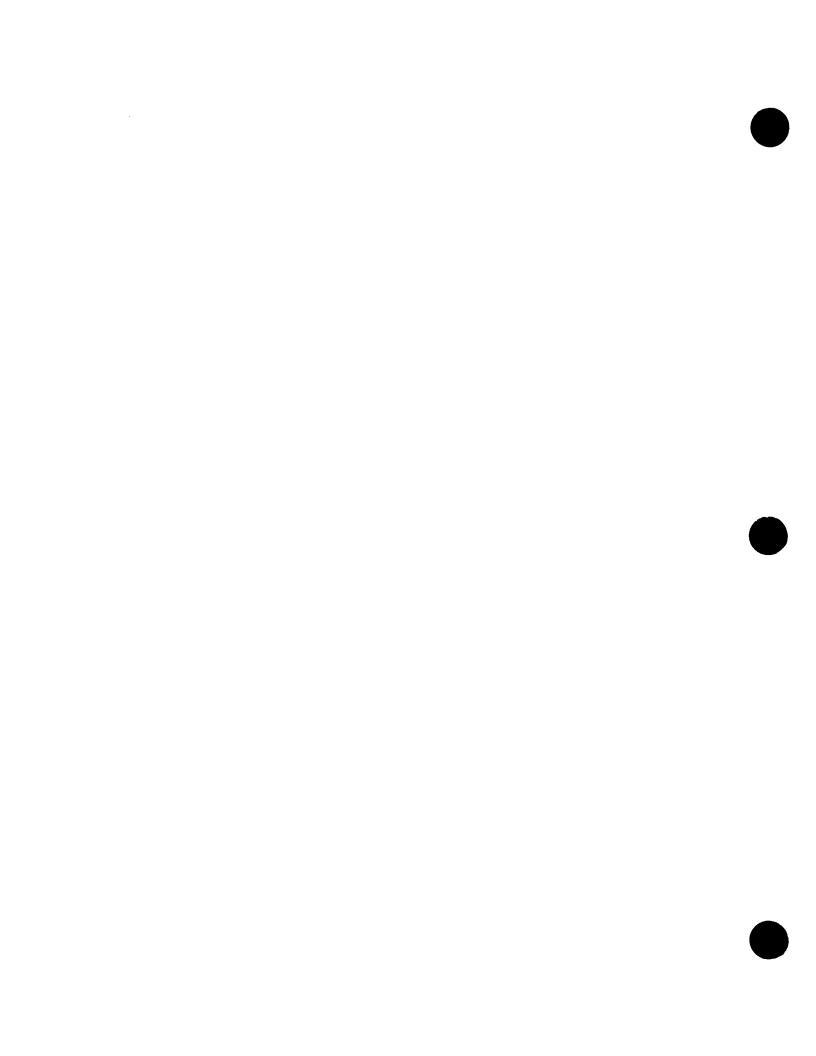
No

Floor Manager:

C. Graham

**TOTAL REPORTED: 3** 





Rm 544

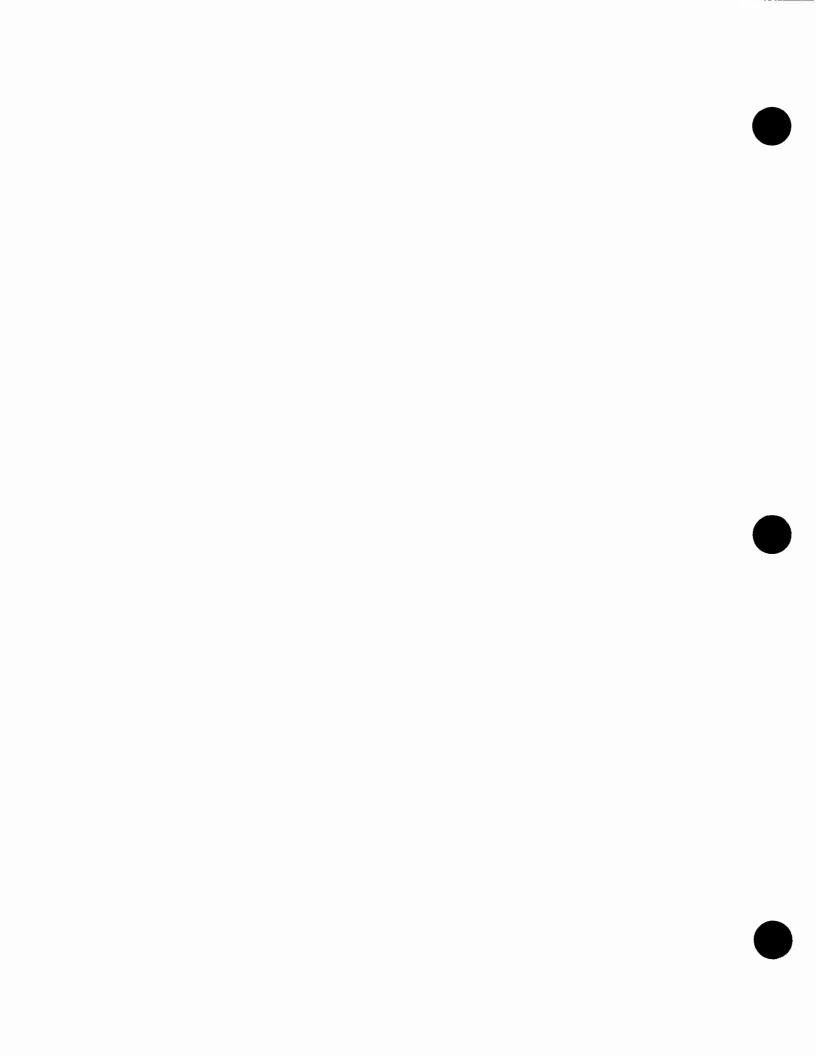
## VISITOR REGISTRATION SHEET

States of Local Covernment II

Date 84-24-2017

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS	
Milp Edy	my	
	WR. Wo assor	
Kim Sionus	NCKLA	



Rm 544

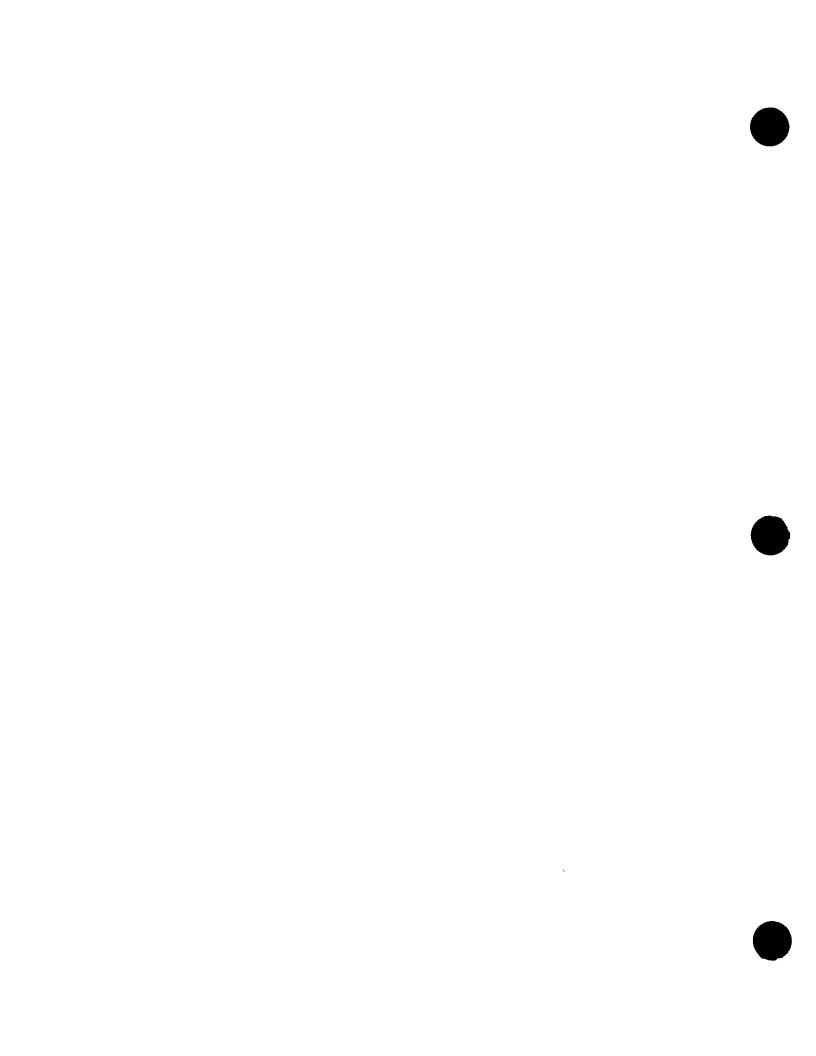
## VISITOR REGISTRATION SHEET

States of Local Government II.
Name of Committee

Date 04-24-2017

## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Crystalldman	SA
Derent lake	LUC
Cyph Hidman  Pose William	NLLM
Carson Christian	NCGA



# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

MEMBERS	6.14.17							
REP. BRADFORD CHAIR	/							
REP. ADAMS	~							
REP. AUTRY	/							
REP. BALL	/							
REP. BOLES								
REP. BOSWELL	E							
REP. C. GRAHAM	1							
REP. G. GRAHAM	1							
REP. JOHN	V							
REP. MOREY	/							
REP. ROSS	1							
REP. SAULS	1	:						
REP. SETZER	1							
REP. STEINBURG	V							
REP. WATFORD	1							
REP. WILLIAMS	V							
Anita Spence, Committee Assistant	V							
Cindy Avrette, Staff	1							
Nick Giddings, Staff	1							
Brad Krehely, Staff	1							

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#### **Corrected #1:**

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, June 14, 2017

TIME: 10:00 AM LOCATION: 1228/1327 LB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 63	Military Affairs Commission/Strategic	Senator D. Davis
	Plan.	Senator Brown
SB 217	Richmond/Right-of-Way Safety.	Senator McInnis
<u>SB 244</u>	Coastal Crescent Trail/State Parks System.	Senator B. Jackson
<u>SB 253</u>	Carteret Co. Bd. of Ed. Partisan Election.	Senator Sanderson
SB 312	Surplus Computers for Low-Income	Senator Tarte
	Students.	Senator Brock
		Senator Hise
SB 105	Fairmont Vol. Annex.; Troutman Land Use Reg.	Senator Britt
<u>HB 794</u>	NC Permitting Efficiency Act of 2017.	Representative Stone
		Representative Saine
		Representative Bradford
		Representative Torbett

# Respectfully,

# Representative John R. Bradford, III, Chair

hereby certify this notice was filed by the committee assistant at the following offices at 8:11 AM uesday, June 13, 2017.	on
Principal Clerk Reading Clerk – House Chamber	
nita Spence (Committee Assistant)	

# House Committee on State and Local Government II Wednesday, June 14, 2017, 10:00 AM 1228/1327 Legislative Building

## **AGENDA**

# Welcome and Opening Remarks

# Introduction of Sergeant-at-Arms and Pages

BILL NO	SHORT TITLE	SPONSOR
SB 217	Richmond/Right-of-Way Safety.	Senator McInnis
SB 63	Military Affairs	Senator D. Davis
	Commission/Strategic Plan.	Senator Brown
SB 244	Coastal Crescent Trail/State Parks System.	Senator B. Jackson
SB 253	Carteret Co. Bd. of Ed. Partisan Election.	Senator Sanderson
SB 105	Fairmont Vol. Annex.; Troutman Land Use Reg.	Senator Britt
HB 794	NC Permitting Efficiency Act of 2017.	Representative Stone Representative Saine Representative Bradford
SB 312	Surplus Computers for Low- Income Students.	Representative Torbett Senator Tarte Senator Brock Senator Hise

# Adjournment

## House Committee on State and Local Government II Wednesday, June 14, 2017 at 10:00 AM Room 1228/1327 of the Legislative Building

#### MINUTES

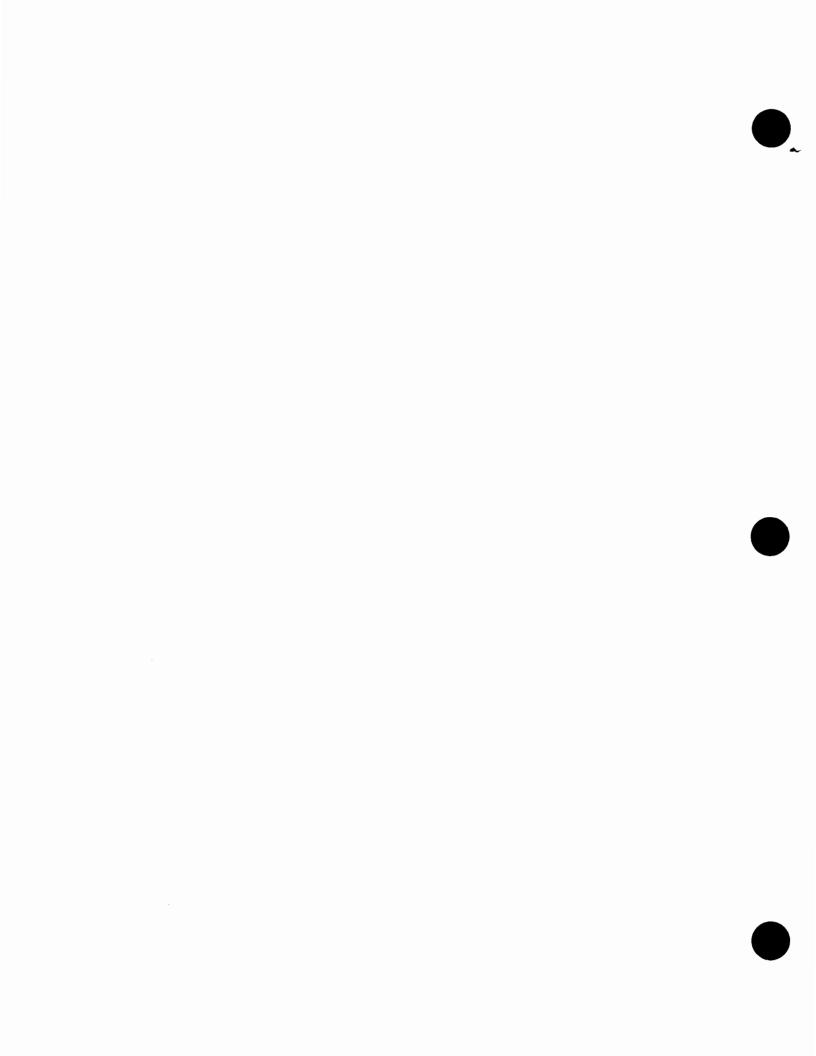
The House Committee on State and Local Government II met at 10:00 AM on June 14, 2017 in Room 1228/1327 of the Legislative Building. Representatives Bradford, Adams, Autry, Ball, C. Graham, G. Graham, John, Morey, Ross, Sauls, Setzer, Steinburg, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:00 am. He introduced the Sargent at Arms staff and pages.

Chairman Bradford motioned for SB 217 Richmond/Right-of-Way Safety (Senator McInnis) AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM OR BOW AND ARROW FROM THE RIGHT-OF-WAY IN RICHMOND COUNTY to be before the committee. Chairman Bradford recognized Senator McInnis to explain the bill. There was no discussion on the bill. Representative Setzer motioned for a favorable report with a serial referral to Wildlife Resources. Chairman Bradford called for a vote. All members are in favor. SB 217 passes.

Chairman Bradford motioned for SB 63 Military Affairs Commission/Strategic Plan (Senators D. Davis, Brown) AN ACT TO REQUIRE THE MILITARY AFFAIRS COMMISSION TO ADOPT A COMPREHENSIVE STRATEGIC PLAN TO ENHANCE NORTH CAROLINA MILITARY INSTALLATIONS AND THEIR MISSIONS to be before the committee. Chairman Bradford recognized Senator Davis to explain the bill. There was discussion on the bill. Chairman Bradford recognized Representative Steinberg who asked for a brief explanation of the bill. Senator Davis was recognized to explain his bill. Chairman Bradford recognized Representative Watford who had an additional question about the bill. Chairman Bradford recognized Representative John who motioned for a favorable report for SB 63. Chairman Bradford called for a vote. All members are in favor. SB 63 passes.

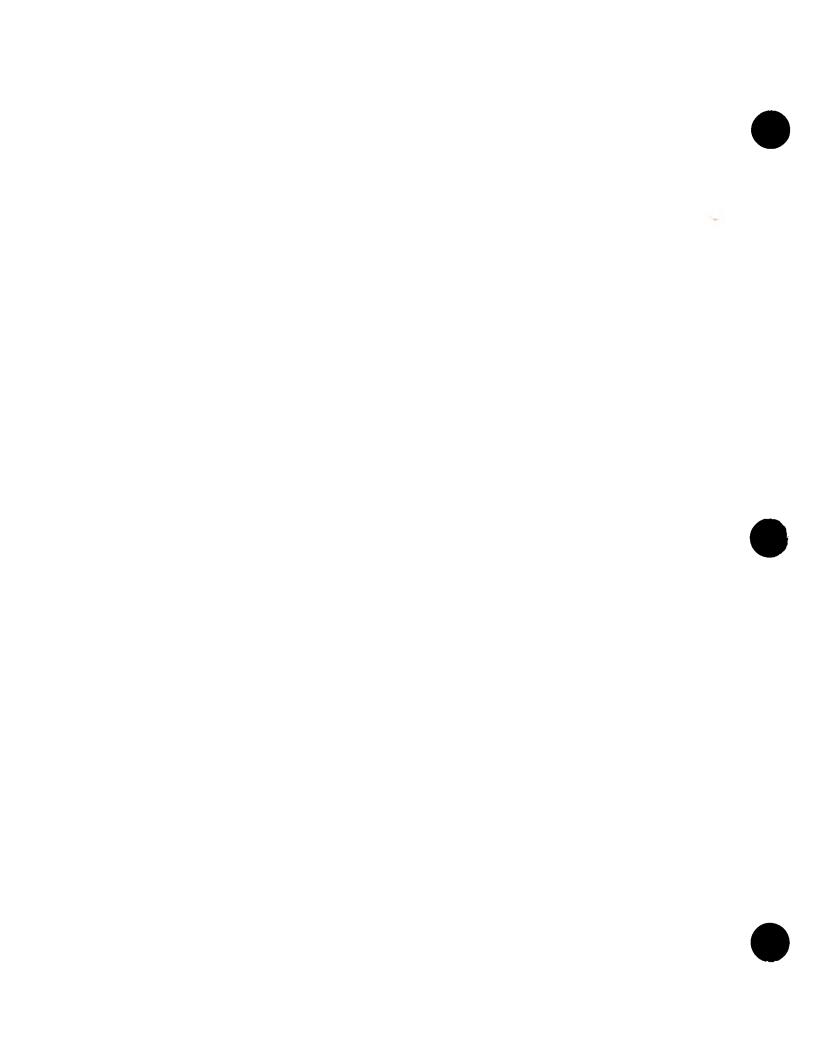
Chairman Bradford motioned for SB 244 Coastal Crescent Trail/State Parks System (Senator B. Jackson) AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE MOUNTAINS-TO-SEA STATE TRAIL to be before the committee. Chairman Bradford recognized Senator Jackson to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report for SB 244. Chairman Bradford called for a vote. All members are favor of SB 244. SB 244 passes.



Chairman Bradford motioned for SB 105 Fairmont/Voluntary Annexation Troutman Land Use Reg (Senator Britt) AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF FAIRMONT AND TO TEMPORARILY EXTEND THE TERRITORIAL JURISDICTION OF THE TOWN OF TROUTMAN to be before the committee. Chairman Bradford recognized Senator Britt to explain the bill. Chairman Bradford recognized Representative Turner who has a question about SB 105. Chairman Bradford recognized Representative Setzer who motioned or a favorable report for SB 105 with a serial referral to Finance. Chairman Bradford called for a vote. All members are in favor. SB 105 passes.

Chairman Bradford motioned for SB 312 Surplus Computers for Low-Income Students (Senators Tarte, Brock, Hise) AN ACT TO ALLOW THE STATE SURPLUS PROPERTY AGENCY TO DISTRIBUTE STATE SURPLUS COMPUTERS TO NONPROFIT ENTITIES THAT REFURBISH AND DONATE COMPUTERS FOR THE BENEFIT OF LOW-INCOME STUDENTS AND HOUSEHOLDS to be before the committee. Chairman Bradford recognized Senator Tarte to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for a favorable report for SB 312. Chairman Bradford called for a vote. All members are in favor. SB 312 passes.

Chairman Bradford motioned for HB 794 NC Permitting Efficiency Act of 2017 (Representatives Stone, Saine, Bradford, Torbett) AN ACT TO IMPROVE EFFICIENCY OF CONSTRUCTION PERMITTING BY REMOVING REDUNDANCIES IN REVIEWS AND APPROVALS BY STATE AND LOCAL AGENCIES, IMPROVE ACCOUNTABILITY AND TRANSPARENCY OF REVIEWING AGENCIES, AND MAKE NORTH CAROLINA A NATIONAL LEADER IN PERMITTING EFFICIENCY, WHICH WILL ENCOURAGE INVESTORS TO CHOOSE NORTH CAROLINA TO CREATE JOBS to be before the committee. Chairman Bradford recognized Representative Watford who motioned for the PCS for HB 794 to be before the committee. There was discussion on HB 794. Chairman Bradford recognized Representative Adams who has an amendment for HB 794. Chairman Bradford recognized Representative Autry who had a question about the amendment. Chairman Bradford recognized Representative John who proposed another amendment. Chairman Bradford recognized Representative Ball who had a question concerning the length of the PCS. She asked Representative Stone to explain why the PCS was longer than the original bill. Chairman Bradford then recognized Representative Williams who asked Representative Stone if he had talked with anyone other than the DOT and the League of Municipalities about HB 794. Chairman Bradford recognized Representative Stone to answer the questions about his bill. Chairman Bradford recognized Representative Setzer who motioned for an unfavorable report favorable to the PCS with a serial referral to Regulatory Reform. Chairman Bradford



called for a vote. Representatives Ball and Autry are opposed to the bill, all other members in favor. **HB 794** passes.

Chairman Bradford motioned for SB 253 Partisan Elections/Certain School Boards (Senator Sanderson) AN ACT TO CHANGE THE ELECTION METHOD OF THE FOLLOWING COUNTY BOARDS OF EDUCATION FROM NONPARTISAN TO PARTISAN: BEAUFORT, CARTERET, CLEVELAND, DARE, HAYWOOD, HYDE, MADISON, ONSLOW, PENDER AND YANCEY to be before the committee. Chairman Bradford recognized Representative Adams who motioned for the PCS for SB 253 to be before the committee. Chairman Bradford recognized Senator Sanderson to explain the bill. There was discussion on the bill. Cindy Avrette from Legislative Analysis was asked to explain the bill. Chairman Bradford recognized Representative Autry who expressed that he is not supportive of this bill. Chairman Bradford recognized Representative Setzer who motioned for a unfavorable report, favorable to the PCS. Chairman Bradford called for a vote. SB 253 passes.

The meeting adjourned at 10:37 am.

Representative Bradford, Presiding Chair

Anita Spence, Committee Clerk

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# SENATE BILL 63: Military Affairs Commission/Strategic Plan.

#### 2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Sens. D. Davis, Brown

Analysis of: First Edition

**Date:** June 13, 2017

Prepared by: Brad Krehely

Committee Co-Counsel

OVERVIEW: Senate Bill 63 would require the North Carolina Military Affairs Commission to adopt a comprehensive strategic plan to enhance North Carolina military installations and their missions, to report on the State's performance under the plan annually, and to update the plan every four years. The bill would be effective when it becomes law.

CURRENT LAW: The North Carolina Military Affairs Commission, established under Part 11 of Article 14 of Chapter 143B of the General Statutes, is a commission within the Department of Military and Veterans Affairs. The Commission provides advice, counsel, and recommendations to the General Assembly, the Secretary of Military and Veterans Affairs, and other State agencies on initiatives, programs, and legislation that will continue and increase the role that North Carolina's military installations, the National Guard, and Reserves play in America's defense strategy and the economic health and vitality of the State.

**BILL ANALYSIS:** Senate Bill 63 would add a new section G.S. 143B-1310.1 to Article 14 of Chapter 143B of the General Statutes requiring the North Carolina Military Affairs Commission to:

- Adopt a comprehensive strategic plan to enhance North Carolina military installations and their missions, including specific objectives related to supporting and enhancing existing military installations and missions, attracting new military assets, expanding military-related economic development, improving quality of life for military members and families, advocating military-related issues, and any other topic related to enhancing North Carolina military installations and their missions.
- Annually review the State's performance under the plan and report the results to the Joint Legislative Oversight Committee on General Government.
- Update the strategic plan every four years.

The bill would also provide that the Commission's February 2016 "Strategic Plan for Supporting and Enhancing North Carolina Military Missions and Installations" satisfies the requirements of the act regarding a strategic plan. The Commission would be required to complete its first annual review and report to the Joint Legislative Oversight Committee on General Government by November 1, 2017, and complete its first update of the plan by November 1, 2020.

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

Billy Godwin and Wendy Ray, Staff Attorneys for the Legislative Analysis Division, contributed to this summary.





Legislative Analysis Division 919-733-2578

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## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **SENATE BILL 63**

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Short Title: Military Affairs Commission/Strategic Plan. (Public)

Sponsors: Senators D. Davis, Brown (Primary Sponsors); Daniel and Sanderson.

Referred to: Rules and Operations of the Senate

		February 9, 2017
1		A BILL TO BE ENTITLED
2	AN ACT TO	REQUIRE THE MILITARY AFFAIRS COMMISSION TO ADOPT A
3	COMPREHE	NSIVE STRATEGIC PLAN TO ENHANCE NORTH CAROLINA MILITARY
4	INSTALLAT	TONS AND THEIR MISSIONS.
5	The General Asse	embly of North Carolina enacts:
6	SECT	TION 1. Article 14 of Chapter 143B of the General Statutes is amended by
7	adding a new sec	tion to read:
8	"§ 143B-1310.1.	Strategic plan.
9	(a) Strate	gic Plan The Military Affairs Commission shall adopt a comprehensive
10	strategic plan to	enhance North Carolina military installations and their missions. The strategic
11	plan shall include	e specific objectives related to the following topics:
12	(1)	Supporting and enhancing existing military installations and missions.
13	(2)	Attracting new military assets and missions to North Carolina.
14	(3)	Expanding military-related economic development in North Carolina.
15	<u>(4)</u>	Improving the quality of life for military members and their families, military
16		retirees, and veterans.
17	(5)	Advocating military-related issues to the General Assembly, the United States
18		Congress, and State and federal agencies.
19	(6)	Any other topic related to enhancing North Carolina military installations and
20		their missions.

(b) Update, Review, and Report. – The Commission shall update this plan every four years. The Commission shall annually review the State's performance based on this plan and shall annually report the results of its review to the Joint Legislative Oversight Committee on General Government."

**SECTION 2.** The Military Affairs Commission's February 2016 "Strategic Plan for Supporting and Enhancing North Carolina Military Missions and Installations" satisfies the requirements of G.S. 143B-1310.1(a). The Military Affairs Commission shall complete its first annual review and its first annual report to the Joint Legislative Oversight Committee on General Government by November 1, 2017. The Military Affairs Commission shall complete its first update of the strategic plan by November 1, 2020.

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



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# SENATE BILL 217: Richmond/Right-of-Way Safety.

#### 2017-2018 General Assembly

Committee:

Analysis of:

House State and Local Government II

Date:

June 13, 2017

Introduced by: Sen. McInnis

First Edition

Prepared by: Brad Krehely

Committee Co-Counsel

OVERVIEW: Senate Bill 217 would prohibit the discharge or attempted discharge of a firearm or bow and arrow from or across the roadway or right-of-way of any public road in Richmond County. The act would be effective when it becomes law and would apply to offenses committed on or after that date.

**BILL ANALYSIS:** Senate Bill 217 would do all of the following:

- ➤ Prohibit the discharge or attempted discharge of a firearm or bow and arrow from, on, across, or over the roadway or right-of-way of any public road in Richmond County. This does not include any unpaved roads within the Wildlife Resources Commission's Sandhills Game Land.
- > Provide that a violation of the act would be a Class 3 misdemeanor.
- ➤ 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 would become effective October 1, 2017, and would apply to offenses committed on or after that date.

**BACKGROUND:** Similar local laws have been enacted in the following counties:

- ➤ Beaufort County S.L. 2013-176
- > Craven County (only applies to a portion of State Road 1862) S.L. 2009-116
- ➤ Martin County S.L. 2008-50
- ➤ Jackson County S.L. 2008-18
- > Tyrrell County (only prohibits reckless use of firearm, bow and arrow, or crossbow) S.L. 2007-273
- ➤ Bertie County S.L. 2007-313
- ➤ Cherokee and Clay Counties S.L. 2004-63

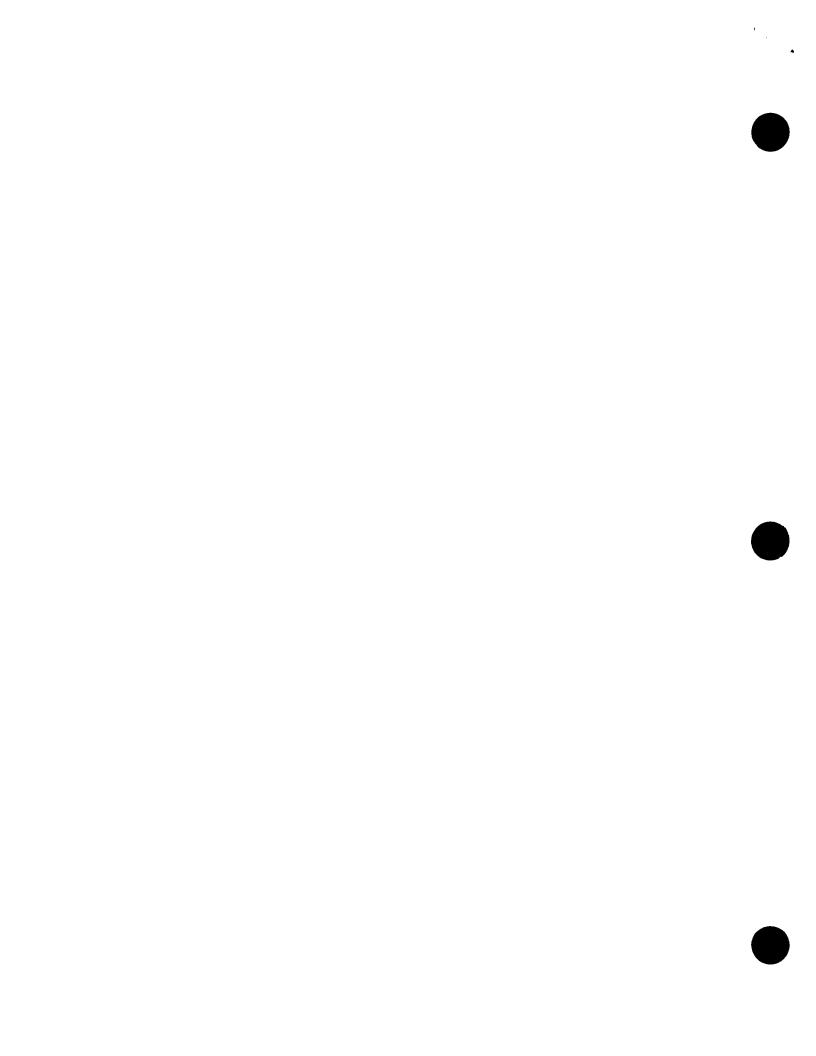
Jessica Sammons, Staff Attorney for the Legislative Analysis Division, and Mariah Matheson, Research Assistant for the Legislative Analysis Division, contributed to this summary.

<sup>&</sup>lt;sup>1</sup> The punishment for a Class 3 misdemeanor for someone with no more than 3 prior convictions is a fine. For someone with five or more prior convictions, the punishment would be 1-20 days of community, intermediate, or active punishment. Fines for Class 3 misdemeanors generally may not exceed \$200. G.S. 15A-1340.23(b).





Legislative Analysis Division 919-733-2578



## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

S SENATE BILL 217

Short Title:	Richmond/Right-of-Way Safety.	(Local)
Sponsors:	Senator McInnis (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

## March 9, 2017

A BILL TO BE ENTITLED
AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM OR BOW AND ARROW FROM
THE RIGHT-OF-WAY IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

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**SECTION 1.** It is unlawful to discharge a firearm or bow and arrow, or to attempt to discharge a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road. For purposes of this section, the term "public road" shall not include any unpaved roads within the Wildlife Resources Commission's Sandhills Game Land.

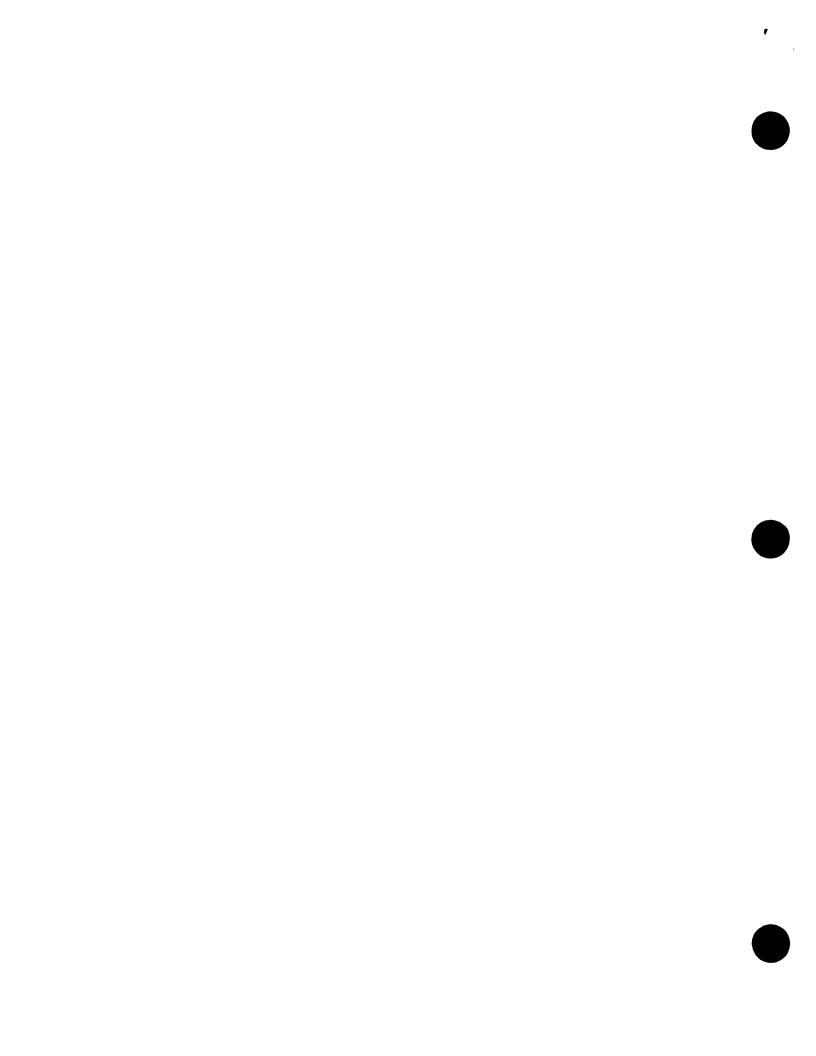
**SECTION 2.** Violation of the provisions of this act is punishable as a Class 3 misdemeanor.

**SECTION 3.** This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

**SECTION 4.** This act applies only to Richmond County.

**SECTION 5.** This act becomes effective October 1, 2017, and applies to offenses committed on or after that date.







# **SENATE BILL 244:** Coastal Crescent Trail/State Parks System.

#### 2017-2018 General Assembly

Committee: Introduced by: Sen. B. Jackson

House State and Local Government II

Date:

June 14, 2017 Prepared by: Nicholas Giddings

Analysis of:

First Edition

Staff Attorney

OVERVIEW: Senate Bill 244 requires the Department of Natural and Cultural Resources to add the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail unit of the State Parks System.

House Bill 361, which is identical to this bill, received a favorable report from House State and Local Government II on April 5, 2017. HB361 is currently in Senate Rules and Operations of the Senate.

CURRENT LAW: G.S. 143B-135.54(b) provides that the Department of Natural and Cultural Resources (Department) may add a State park, State natural area, State recreation area, State trail, State river, or State lake to the State Parks System upon authorization by an act of the General Assembly.

BILL ANALYSIS: The bill directs the Department to add the Coastal Crescent Trail (CCT) to the Mountains-to-Sea State Park Trail (MST) unit of the State Parks System. The Department is directed to amend the State Parks System Plan accordingly, no later than October 1, 2017. The bill also provides that the Coastal Crescent route of the Mountains-to-Sea Trail may include public and private lands, and requires that the Secretary and staff of the Department work cooperatively with the staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal Crescent route.

BACKGROUND: The CCT runs through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow counties, and was originally established as a temporary detour around portions of the MST that have not yet been constructed.

Adding the CCT to the State Parks System would make it eligible for the State share of funds from the Parks and Recreation Trust Fund and for the State Trail portion of the Connect NC Bond funds, and would make the Department's Division of Parks and Recreation responsible for overall planning and coordination for the trail. However, the Division would not be responsible for constructing and operating the entire trail.

More information on the CCT and State Trails generally, prepared by the Division of Parks and Recreation, is attached to this summary.

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

Jennifer McGinnis, Staff Attorney in the Legislative Analysis Division, substantially contributed to this summary.





Legislative Analysis Division 919-733-2578

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#### SB 244 Coastal Crescent Trail/ State Parks System

#### **BACKGROUND**

The 1987 State Parks Act (GS 143B-135.40) defines the types of units in the NC state parks system to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes. All of these types of units are subject to the requirements of the State Parks Act, including planning responsibilities and the requirement for new units to be authorized by the General Assembly.

A State Trail is a linear corridor on land or water, separated from vehicular traffic, providing public access for non-motorized recreation or transportation. Currently there are five authorized State Trails: the French Broad River State Trail and the Yadkin River State Trail were grandfathered in when the State Parks Act was passed; the Mountains-to-Sea State Trail, Deep River State Trail and Fonta Flora State Trail were authorized in legislation by the General Assembly. These trails share legal status as components of the state parks system. This distinguishes them from other regional and local trails and pathways.

Adding the Coastal Crescent Trail to the state parks system would make it eligible for the state share of PARTF funds and for the State Trail portion of the Connect NC Bond funds, and would make the Division of Parks and Recreation (DPR) responsible for overall planning and coordination for the trail. However, DPR would not be responsible for constructing and operating the entire trail.

A State Trail represents a partnership among multiple agencies, landowners and local governments, working together to implement a shared vision. While a State Park is operated and managed by DPR, a State Trail is comprised of multiple connected sections, and each section is sponsored by a state or federal agency, local government or private landowner. Section sponsors build, maintain and manage their section of the trail. This includes location, design, surface, permitted uses and amenities.

Section sponsors retain authority on lands under their jurisdiction. They are encouraged to showcase places of natural, scenic, historic or cultural significance; to feature the diversity of natural communities and landscapes in the state, to consider the needs of both short and long-distance hikers; and to employ recognized standards of sustainable trail design and construction. Often, the section sponsors are supported by active volunteers. In addition to overall planning to ensure connectivity, DPR will provide guidance, coordination and assistance for the multiple section sponsors whose individual and diverse sections link together to form the State Trail.

#### **QUESTIONS**

1. What is the process, generally, for adding trails to the State's trails system?

The state's trail system can include various regional and connecting trails, but only trails authorized by the General Assembly can be "State Trails", which are components of the state parks system. This bill would add the Coastal Crescent Trail to the state parks system as

provided in GS 143B-135.54(b). It is somewhat confusing that the Coastal Crescent Trail is being added to an existing trail, but the length and complexity of the addition is equivalent to the other previously authorized State Trails.

2. What is the current status of the Coastal Crescent Trail?

The Coastal Crescent Trail was originally established as a temporary detour around portions of the Mountains-to-Sea State Trail that have not yet been constructed. People who want to complete the trek across the state can use road shoulders to connect to completed off-road trail sections. Most of the current Coastal Crescent route is along road shoulders, and therefore is not really a trail. The counties and local communities have become interested in a genuine off-road trail and would like DPR to provide overall trail planning and coordination, and potentially grant or financial assistance, to develop an extensive, regional off-road trail in the southern coastal plain.

3. Does adding the trail to the state parks system create any obligation for DNCR to maintain or construct the trail?

Some portions of the trail may be on state park property, or on other properties managed by DNCR. DNCR would be responsible for constructing and managing sections of the State Trail on department lands, but sections of the trail that cross property controlled by others will continue to be built, maintained and managed by those other landowners.

4. Does adding the trail to the state parks system create any ongoing operating expense for the Division?

Adding the State Trail to the parks system creates a planning and coordination responsibility for the Division, adding to the division's workload for many years to come. It also makes sections of the trail eligible for the state share of PARTF and for the State Trail portion of the Connect NC Bond. The bill does not create automatic priority for the new trail, so potential trail projects would be prioritized along with other existing and potential new state park units. Most likely, DPR would seek master planning funds for the new trail in the near future, which could be approximately \$100,000 to \$150,000.

# STATE TRAILS IN NORTH CAROLINA

## What is a State Trail?

A State Trail is a linear corridor on land or water, separated from vehicular traffic, providing public access for non-motorized recreation or transportation. All State Trails must be authorized by the General Assembly.

## Where are the State Trails?

Currently, there are five State Trails in North Carolina:

- Deep River State Trail from Jamestown to Moncure
- Fonta Flora State Trail which circles Lake James in Burke and McDowell Counties and extends west to Asheville
- French Broad River State Trail in Transylvania, Henderson, Buncombe and Madison Counties
- Mountains to Sea State Trail stretching from Clingman's Dome to Jockey's Ridge State Park
- Yadkin River State Trail in Wilkes, Surry, Yadkin, Forsyth, Davidson, Rowan and Davie Counties

These trails share legal status as components of the State Parks System. This distinguishes them from other regional and local trails and pathways. These trails offer opportunities for regional connectivity and public access to some of North Carolina's most significant and scenic landscapes.

# Who manages State Trails?

State Trails epitomize partnerships. While a State Park is operated and managed by the Division of Parks and Recreation, a State Trail is comprised of multiple connected sections and each section of the trail is sponsored by a state or federal agency, local government or private landowner.

Section sponsors build, maintain and manage their section of the trail. This includes location, design, surface, permitted uses and amenities. Section sponsors retain authority on lands under their jurisdiction. They are encouraged to showcase places of natural, scenic, historic and cultural significance; to feature the diversity of the natural communities and landscapes in the state; to consider the needs of both long and short distance hikers; and to employ recognized standards of sustainable trail design and construction. Often, and ideally, section sponsors are supported by dedicated volunteers.

The overall trail corridor planning and coordination are the responsibility of the Division of Parks and Recreation. The Division will provide guidance, coordination and assistance for the multiple section sponsors whose individual and diverse sections link together to form the State Trail. Working together on connecting sections of a State Trail is a way for communities to leverage their investments in trails to maximize the value for their citizens.

# How is a State Trail Created?

Enlarging the state parks system is important, but potential new park units must be selected carefully to insure that they fulfill the purposes of the system and justify the considerable public investment in planning, coordination, acquisition and management.

Before the General Assembly authorizes the creation of a new State Trail, the Division may develop a feasibility plan or a conceptual plan. The conceptual plan basically identifies the planning area; identifies potential partners, stakeholders and section sponsors; determines whether the proposal meets the criteria for establishment of a new unit; and evaluates the feasibility of implementing the proposed trail.

The Division of Parks and Recreation has developed criteria to evaluate potential new State Trails. This provides a system for evaluation, as well as a mechanism to remove unsuitable trails from consideration.

Three minimum criteria are used for the initial evaluation of proposed State Trails.

- 1. Statewide significant natural, cultural, scenic and recreation value
- 2. Sufficient potential length and beauty to attract varied and significant use from regions outside the local area.
- 3. Minimal and surmountable incompatible features such as roads, intrusive development or large water bodies.

If a potential State Trail meets these basic requirements, then the feasibility of inclusion as a State Trail is based on:

- Local public support for the general concept of a public trail and the availability
  of trail volunteers
- 2. Presence of viable section sponsors committed to the design, construction, maintenance and management of the trail.
- 3. Environmental and economic sustainability of the trail route.

Constructed trail within the planned corridor is NOT part of the State Trail until it is designated by the Secretary of the Department of Natural and Cultural Resources. Section sponsors may apply for designation once the trail is completed. Criteria for designation include public access, developing an emergency management plan, outlining amenities provided to the public and inspection by a regional trails specialist.

Please contact the state trails program if you have any questions about state trails.

**Scott Crocker** 

State Trails Program Manager scott.crocker@ncparks.gov

**Smith Raynor** 

State Trails Planner smith.raynor@ncparks.gov



## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

1 S **SENATE BILL 244** 

Short Title:	Coastal Crescent Trail/State Parks System.	(Public)
Sponsors:	Senator B. Jackson (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

March 14, 2017

A BILL TO BE ENTITLED AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE MOUNTAINS-TO-SEA 2 3 STATE TRAIL.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Natural and Cultural Resources shall add the Coastal Crescent Trail through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow counties, as well as other counties designated by the Secretary of the Department of Natural and Cultural Resources, to the Mountains-to-Sea State Park Trail unit of the State Parks System as provided in G.S. 143B-135.54(b). The Coastal Crescent route of the Mountains-to-Sea Trail shall include public and private lands as authorized by G.S. 143B-135.98. The Secretary and staff of the Department of Natural and Cultural Resources shall work cooperatively with the staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal Crescent route.

SECTION 2. No later than October I, 2017, the Department of Natural and Cultural Resources shall amend the State Parks System Plan required by G.S. 143B-135.48 to reflect the addition of the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail.

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



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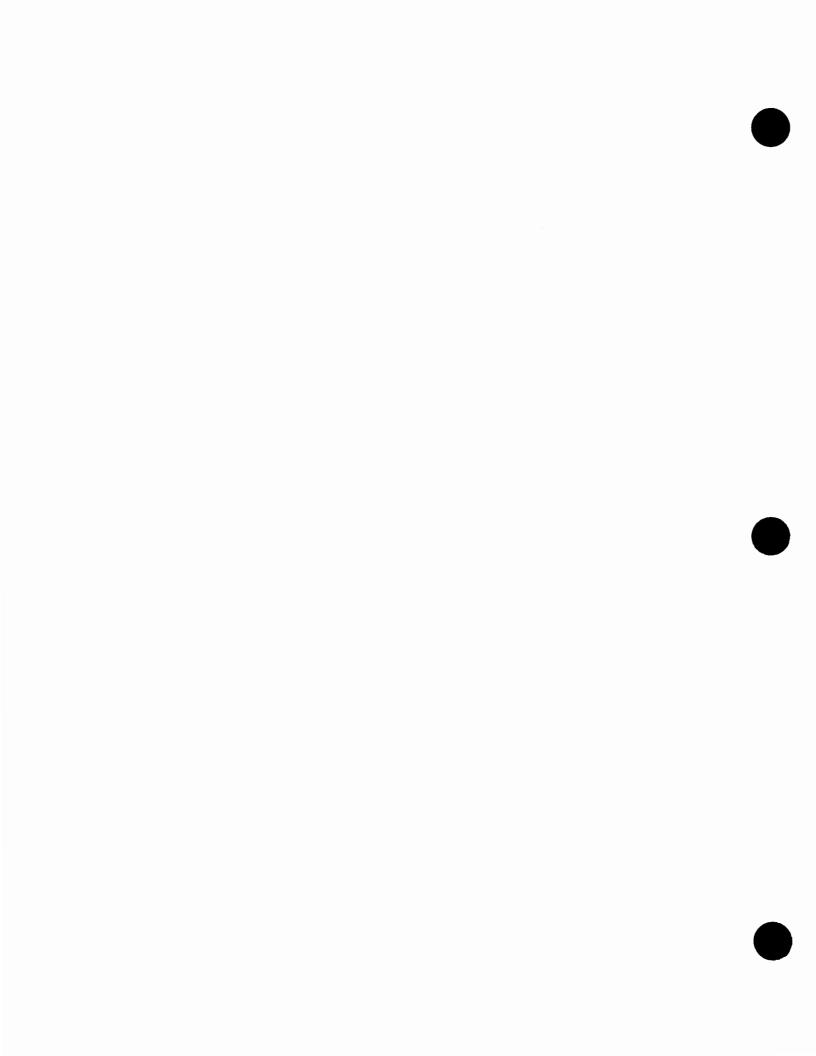
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# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

S D

# SENATE BILL 253 PROPOSED HOUSE COMMITTEE SUBSTITUTE S253-CSRB-23 [v.3]

Short Title:	Partisan Elections/Certain School Boards.	(Local)
Sponsors:		
Referred to:		

## March 15, 2017

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE ELECTION METHOD OF THE FOLLOWING COUNTY
BOARDS OF EDUCATION FROM NONPARTISAN TO PARTISAN: BEAUFORT,
CARTERET, CLEVELAND, DARE, HAYWOOD, HYDE, MADISON, ONSLOW,
PENDER, AND YANCEY.

The General Assembly of North Carolina enacts:

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# PART I. BEAUFORT COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

**SECTION 1.1.** Section 5(b) of Chapter 55 of the 1993 Session Laws, as amended by Chapter 713 of the 1993 Session Laws, reads as rewritten:

"(b) The Beginning in 2018, the members of the Permanent Beaufort County Board of Education shall be elected for a term of four years in nonpartisan plurality elections held at the time of the general election for county offices. The filing period for candidates shall be the same as specified in G.S. 163-294.2(c) for nonpartisan plurality elections, on a partisan basis at the time of the general election in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Duly elected members of the Permanent Board shall take office the first Monday of December immediately following their election and the terms of their predecessors shall expire at the same time. Members shall take the oath of office prescribed in Article VI, Section 7 of the Constitution. Members shall serve until a successor has been elected and qualified."

**SECTION 1.2.** Section 5(i) of Chapter 55 of the 1993 Session Laws, as amended by S.L. 2009-30, reads as rewritten:

"(i) Vacancies Beginning in 2018, vacancies on the Permanent Beaufort County Board of Education for seats elected on a partisan basis shall be filled by appointment by the remaining members of the Permanent Board. in accordance with G.S. 115C-37.1. Any person appointed must be at the time of the appointment and must remain a resident of the district for which he/she he or she is appointed. Appointments to fill vacancies on the Permanent Board for seats elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f)."

SECTION 1.3. This part does not affect the terms of office of any person elected in 2014 or 2016 to the Beaufort County Board of Education. The members of the Beaufort County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy for a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.



# PART II. CARTERET COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

**SECTION 2.1.** Section 1 of Chapter 774 of the 1991 Session Laws is repealed. **SECTION 2.2.** Section 5(d) of S.L. 1997-389 reads as rewritten:

"(d) Members of the Carteret County Board of Education shall reside in and represent the districts, butbut, beginning in 2018, all members are shall be elected by the voters of the county at large in nonpartisan plurality electionsa partisan election at the time of the primarygeneral election in each even-numbered year as terms expire. Except as provided by this act, elections shall be conducted in accordance with Chapters 115C and 163 of the General Statutes. Candidates for election to the Carteret County Board of Education shall be nominated at the same time and manner as other county officers. and Members shall take office on July 1-the first Monday in December of the year of election, all as previously provided by 1-the first Monday in December of their predecessors shall expire at that same time.

Vacancies on the Carteret County Board of Education for positions elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f). Vacancies on the Board of Education for positions elected on a partisan basis beginning in 2018 shall be filled in accordance with G.S. 115C-37.1."

**SECTION 2.3.** This part does not affect the terms of office of any person elected in 2014 or 2016 to the Carteret County Board of Education. The members of the Carteret County Board of Education elected in 2014 or 2016, or any member appointed by the remaining members of the Board to fill a vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

# PART III. CLEVELAND COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

**SECTION 3.1.** Notwithstanding the Plan for the Merger of the Cleveland County, Kings Mountain District, and Shelby City Schools and S.L. 2004-41, as amended by S.L. 2007-49, beginning with the 2017 elections, members of the Cleveland County Board of Education shall be elected in elections conducted on a partisan basis, as provided in G.S. 163-291. Vacancies for members elected in 2017 and thereafter shall be filled as provided in G.S. 115C-37.1.

**SECTION 3.2.** This part does not affect the terms of office of any person elected in 2013 or 2015 to the Cleveland County Board of Education. The members of the Cleveland County Board of Education elected in 2013 or 2015, or any member appointed by the remaining members of the Board to fill a vacancy of a member elected in 2013 or 2015, shall serve until a successor has been elected and qualified.";

# PART IV. DARE COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

**SECTION 4.1.** Section 3 of Chapter 654 of the 1993 Session Laws reads as rewritten:

"Sec. 3. All-Beginning in 2018, elections for the members of the Dare County Board of Education shall be nonpartisan, with the results determined by a plurality with no run-offs. held on a partisan basis at the time of the general election for four-year terms in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. All voters in the county shall be eligible to vote for all seven seats on the board."

**SECTION 4.2.** Section 11 of Chapter 654 of the 1993 Session Laws reads as rewritten:

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"Sec. 11. In 2002-2018 and every four years thereafter, four three members shall be elected to the board as follows: one member each from Districts 1, 2, and 3."

SECTION 4.3. Section 12 of Chapter 654 of the 1993 Session Laws reads as rewritten:

"Sec. 12. Elections for the Board of Education in 1996 shall be held in May at the same time as party primaries for other county offices, and board members shall take office in December following the election as provided in general State law. In 1998—2018 and subsequent years, elections shall also be held in May at the same time as party primaries for other county offices, but board members of the Dare County Board of Education elected on a partisan basis at that time of the general election shall take office at the first regular board meeting in July on the first Monday in December following the election. The terms of office of persons elected for terms to expire in 1998 and thereafter shall expire on the date of the first regular board meeting in July election and the terms of their predecessors shall expire at the same time. Members shall serve until a successor has been elected and qualified. Beginning in 2018, vacancies on the Dare County Board of Education for seats elected on a partisan basis shall be filled in accordance with G.S. 115C-37.1. Appointments to fill vacancies for seats elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f)."

**SECTION 4.4.** This part does not affect the terms of office of any person elected in 2014 or 2016 to the Dare County Board of Education. The members of the Dare County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy for a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

# PART V. HAYWOOD COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

SECTION 5.1. Section 4 of Chapter 126 of the 1963 Session Laws, as amended by Chapter 424 of the 1973 Session Laws, Chapter 22 of the 1977 Session Laws, Chapter 89 of the 1979 Sessions Laws, S.L. 2009-29, and S.L. 2012-24, is repealed.

SECTION 5.2. Beginning in 2018, the Haywood County Board of Education shall consist of nine members who shall be elected on a partisan basis for four-year terms at the time of the general election by the qualified voters of the entire county in each even-numbered year as terms expire. Pursuant to Section 3 of Chapter 126 of the 1963 Session Laws, eight members shall be elected from six designated election districts, including one member each from the Bethel, Clyde, Crabtree-Iron Duff, and Fine's Creek Election Districts, and two members each from the Beaverdam and Waynesville Election Districts. The chair of the Board shall be elected by the voters of Haywood County at large. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Members elected shall take office and qualify on the first Monday in December of the year of their election, and the terms of their predecessors shall expire at that same time. Members shall serve until a successor has been elected and qualified.

SECTION 5.3. In the case of a vacancy of a member elected in 2014 or 2016 to the Haywood County Board of Education, the vacancy shall be filled by the remaining members of the Board until the next general election. Beginning with members elected in 2018, vacancies shall be filled as provided in G.S. 115C-37.1. In the event of a vacancy in an election district, to be eligible for appointment to fill a vacancy, the person must reside in the election district where the vacancy exists.

SECTION 5.4. This part does not affect the terms of office of any person elected in 2014 or 2016 to the Haywood County Board of Education. The members of the Haywood County Board of Education elected in 2014 and 2016, or any member appointed to fill a

vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

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# PART VI. HYDE COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

SECTION 6.1. Section 2 of S.L. 2007-272 is repealed.

**SECTION 6.2.** Section 2 of Chapter 206 of the 1977 Session Laws reads as rewritten:

"Sec. 2. The Board of Education of Hyde County shall consist of five members who shall be elected on a nonpartisan basis at the time of the primary general election for county officers. in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Beginning with the election to be held in 1978, 2018, three members shall be elected for terms of four years and one of the members elected in 1978, 2018, and every four years thereafter, shall be a resident of Ocracoke. In 1980, 2020, as the terms of the present members expire, two members shall be elected for terms of four years. Thereafter, as the terms of each member expire, successors shall be elected for terms of four years.

Except as provided herein, Article 5 of Chapter 115 of the General Statutes shall be applicable to the Hyde County Board of Education.

Beginning in 2018, members elected shall take office and qualify on the first Monday in December of the year of their election, and the terms of their predecessors shall expire at that same time. Members shall serve until a successor has been elected and qualified.

In the case of a vacancy of a member elected in 2014 or 2016 to the Hyde County Board of Education, the vacancy shall be filled as provided in G.S. 115C-37(f). Beginning with members elected in 2018, vacancies shall be filled as provided in G.S. 115C-37.1."

**SECTION 6.3.** This part does not affect the terms of office of any person elected in 2014 or 2016 to the Hyde County Board of Education. The members of the Hyde County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

# PART VII. MADISON COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN ELECTIONS

**SECTION 7.1.** Section 3 of Chapter 249 of the 1991 Session Laws reads as rewritten:

"Sec. 3. The ehairman-chair of the Board of Education of Madison County shall be elected in 1994-2018 and quadrennially thereafter for a four-year term at large by all the qualified voters of Madison County. In the case of a vacancy of a member elected in 2014 or 2016 to the Madison County Board of Education, the vacancy shall be filled as provided in G.S. 115C-37(f). In the case of a vacancy in the office of chairman, chair elected in 2014, the remaining members of the Board shall appoint a person as chairman-chair who resides in the same district that the chairman-chair resided in at the time of his or her election. If the members do not make an appointment within 30 days of the occurrence of the vacancy, the responsibility of making the appointment shall be that of the Senior Resident Superior Court Judge for Madison County. Beginning with members elected in 2018, vacancies shall be filled as provided in G.S. 115C-37.1. In the event of a vacancy in an election district, to be eligible for appointment to fill a vacancy, the person must reside in the election district where the vacancy exists. In the case of a vacancy in the office of chair, to be eligible for appointment to fill a vacancy, the person must reside in the same district that the chair resided in at the time of his or her election."

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SECTION 7.2. Section 4 of Chapter 249 of the 1991 Session Laws reads as rewritten:

"Sec. 4. Notwithstanding the provisions of G.S. 115C 37, the Beginning in 2018, the Madison County Board of Education shall be elected on a nonpartisan partisan basis at the time of the primary election in 1994 and quadrennially thereafter. The names of the candidates shall be printed on the ballot without reference to any party affiliations. The nonpartisan election and runoff election method shall be used with the results determined as provided in G.S. 163-293, except that the runoff shall be held on the date provided by G.S. 163-111(e). general election for four-year terms in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Except as provided by this act, the election shall be conducted in accordance with the applicable provisions of Chapters 115C and 163 of the General Statutes."

SECTION 7.3. Section 5 of Chapter 249 of the 1991 Session Laws, as amended by Chapter 38 of the 1995 Session Laws, reads as rewritten:

"Sec. 5. The Beginning in 2018, the terms of office of the members and chairman of the Madison County Board of Education commence on the first Monday in July-December of the year of their election, except if that date is the Fourth of July, then the terms commence on the second Monday in July.election."

SECTION 7.4. This part does not affect the terms of office of any person elected in 2014 or 2016 to the Madison County Board of Education. The members of the Madison County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

# PART VIII. ONSLOW COUNTY BOARD OF EDUCATION CHANGE ELECTION METHOD TO PARTISAN

SECTION 8.1. Section 1(a) of Chapter 583 of the 1993 Session Laws reads as rewritten:

"Section 1.(a) Beginning in 1996-2018, the members of the Onslow County Board of Education shall be elected on a nonpartisan partisan basis at the time of the primary election for county officers. The general election in each even-numbered year as terms expire. Except as provided by this act, elections shall be conducted in accordance with Chapters 115C and 163 of the General Statutes. The results of the election shall be determined by the plurality method under G.S. 163-292. Candidates for election to the Onslow County Board of Education shall be nominated at the same time and manner as other county officers. Vacancies on the Board of Education for positions elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f). Vacancies on the Board of Education for positions elected on a partisan basis in 1992 or 1994 beginning in 2018 shall be filled in accordance with G.S. 115C-37.1. This section does not affect the terms of office of any person elected in 1992 or 1994 2014 or 2016 to the Onslow County Board of Education. Beginning in 2000, 2018, members elected shall take office and qualify on July 1 the first Monday in December of the year of their election, and the terms of their predecessors shall expire at that same time."

SECTION 8.2. The members of the Onslow County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy for the remainder of an unexpired term for a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

## PART IX. PENDER COUNTY BOARD OF EDUCATION CHANGE ELECTION METHOD TO PARTISAN

SECTION 9.1. Section 2 of Chapter 976 of the 1973 Session Laws reads as rewritten:

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"Sec. 2. Beginning in 1976, 2018, members of the Board of Education shall be elected on a non-partisan partisan basis at the time of the primary election. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any general election in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Any qualified voter residing in the County shall be entitled to vote."

SECTION 9.2. Section 5 of Chapter 976 of the 1973 Session Laws reads as rewritten:

"Sec. 5. Members of the Board of Education representing Districts 3 and 5 shall be elected at the time of the primary general elections in 1976-2020 for a term of four years. Members of the Board of Education representing Districts 1, 2 and 4 shall be elected at the primary general election in 1978-2018 for a term of four years. Thereafter, as their terms expire, all members shall be elected for terms of four years. Beginning in 2018, members elected shall take office and qualify the first Monday of December immediately following their election and the terms of their predecessors shall expire at the same time. Members shall serve until a successor has been elected and qualified."

SECTION 9.3. Section 6 of Chapter 976 of the 1973 Session Laws reads as rewritten:

"Sec. 6. Except as herein provided, the provisions of North Carolina General Statutes Section 115-19 shall govern the election of the Board of Education of Pender County. Vacancies on the Board of Education for positions elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f). Beginning in 2018, vacancies on the Board of Education for seats elected on a partisan basis shall be filled in accordance with G.S. 115C-37.1. Any person appointed must be at the time of the appointment and must remain a resident of the district for which he or she is appointed."

SECTION 9.4. This part does not affect the terms of office of any person elected in 2014 or 2016 to the Board of Education of Pender County. The members of the Board of Education elected in 2014 or 2016, or any member appointed to fill a vacancy for a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

SECTION 9.5. Chapter 546 of the 1949 Session Laws, as amended by Chapter 796 of the 1955 Session Laws and Chapter 328 of the 1965 Session Laws, is repealed.

# PART X. YANCEY COUNTY BOARD OF EDUCATION CHANGE TO PARTISAN **ELECTIONS**

SECTION 10.1. Section 1 of Chapter 203 of the 1973 Session Laws, as amended by Section 1 of Chapter 135 of the 1985 Session Laws, reads as rewritten:

"Section 1. The Beginning in 2018, the Yancey County Board of Education shall consist of five members who shall be elected by the voters of Yancey County, for staggered terms of four years, in a nonpartisan partisan election as herein provided at the time of the general election in each even-numbered year as terms expire. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein. Beginning in 2018, members elected shall take office and qualify on the first Monday in December of the year of their election, and the terms of their predecessors shall expire at that same time. Members shall serve until a successor has been elected and qualified.

Beginning with the primary election for county offices to be held in 1974, there shall be a nonpartisan election to elect successors to the present members of the school board whose terms expire in 1974, and every two years thereafter, as the terms of the members expire.

 The nonpartisan election and runoff election method shall be used with the results determined as provided in G.S. 163-293, except that the runoff shall be held on the date provided by G.S. 163-111(e).

In the case of a vacancy of a member elected in 2014 or 2016 to the Yancey County Board of Education, the vacancy shall be filled as provided in G.S. 115C-37(f). Beginning with members elected in 2018, vacancies shall be filled as provided in G.S. 115C-37.1."

SECTION 10.2. This part does not affect the terms of office of any person elected in 2014 or 2016 to the Yancey County Board of Education. The members of the Yancey County Board of Education elected in 2014 and 2016, or any member appointed to fill a vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

#### PART XII. CONFORMING STATUTORY CHANGES

SECTION 12.(a) Effective on the first Monday in December of 2017, G.S. 115C-37.1(d) reads as rewritten:

"(d) This section shall apply only in the following counties: Alleghany, Brunswick, Cherokee, Clay, <u>Cleveland</u>, Davie, Graham, Guilford, Harnett, Iredell, Lee, New Hanover, Rutherford, Stanly, Vance, and Washington."

SECTION 12.(b) Effective on the first Monday in December of 2018, G.S. 115C-37.1(d), as amended by Section 12(b) of this part, reads as rewritten:

"(d) This section shall apply only in the following counties: Alleghany, <u>Beaufort</u>, Brunswick, <u>Carteret</u>, Cherokee, Clay, Cleveland, <u>Dare</u>, Davie, Graham, Guilford, Harnett, <u>Haywood</u>, <u>Hyde</u>, Iredell, Lee, <u>Madison</u>, New Hanover, <u>Onslow</u>, <u>Pender</u>, Rutherford, Stanly, Vance, <u>and Washington</u>. <u>Washington</u>, and <u>Yancey</u>."

#### PART XIII. EFFECTIVE DATE

**SECTION 13.** Except as otherwise provided, this act is effective when it becomes law.



# **SENATE BILL 253:** Partisan Elections/Certain School Boards.

2017-2018 General Assembly

Committee:

House State and Local Government II

Date:

June 13, 2017

Introduced by:

Sen. Sanderson

Prepared by: Cindy Avrette

Analysis of:

PCS to First Edition

Staff Attorney

S253-CSRB-23

OVERVIEW: Senate Bill 253 would change the election method of the Board of Education from nonpartisan to partisan, require elections to be conducted at the general election, and require vacancies to be appointed in consultation with the county executive committee of the party of the vacating member in the Carteret County.

The House PCS for Senate Bill 253 would make a similar change for the following nine counties: Beaufort, Dare, Haywood, Hyde, Madison, and Yancey Counties (HB 265, in Senate Select Committee on Elections); Onslow and Pender Counties (HB 293, in Senate Rules Committee); Cleveland County.

CURRENT LAW: The Boards of Education in Beaufort, Carteret, Cleveland, Dare, Haywood, Hyde, Madison, Onslow, Pender, and Yancey Counties are currently all elected in nonpartisan races. The following chart sets out the current law governing the Board of Education for each county:

County	Number of Members; Term of Office	Districts vs. At-large Members	Method of Election	Date of Election	Date New Members Take Office
Beaufort	9 members; staggered 4-year terms	Each elected from single-member district by voters in that district	Nonpartisan plurality (G.S. 163-292)	General election in even-numbered years	First Monday in December
Carteret	7 members; staggered 4-year terms	One member from districts 1, 2, 4, 5, & 6; two members from district 3	Nonpartisan plurality (G.S. 163-292)	Primary election in even-numbered years	July
Cleveland	9 members; staggered 4-year terms	Elected at-large	Nonpartisan plurality (G.S. 163-292)	General election in odd- numbered years	Not specified in current session law
Dare	7 members; staggered 4-year terms	One member elected at-large; six members elected county-wide from districts	Nonpartisan plurality (G.S. 163-292)	Primary election in even-numbered years	July

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

# Senate PCS 253

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Haywood	- 8 voting members; staggered 4-year terms - Chair (who votes only in case of tie); 4-year term	- 8 voting members elected county-wide from districts - Chair elected at- large	Nonpartisan plurality (G.S. 163-292)	General election in even-numbered years	First Monday in December
Hyde	5 members; staggered 4-year terms	One member must be resident of Ocracoke, but is elected county- wide; rest elected at-large	Nonpartisan plurality (G.S. 163-292)	Primary election in even-numbered years	July
Madison	5 members (including a Chair); staggered 4-year terms	- 4 members elected from districts (one elected from each district every 2 years) - Chair elected at- large	Nonpartisan run-off (G.S. 163-293)	Primary election in even-numbered years	July
Onslow	7 members; staggered 4-year terms	Elected from the county at-large	Nonpartisan plurality (G.S. 163-292)	Primary election in even-numbered years	July
Pender	5 members; staggered 4-year terms	Each elected county-wide from single-member districts	Nonpartisan plurality (G.S. 163-292)	Primary election in even-numbered years	Not specified in current law
Yancey	5 members; staggered 4-year terms	Each elected at- large	Nonpartisan run-off (G.S. 163-293)	Primary election in even-numbered years	Not specified in current session law

There are a few additional requirements governing these Boards of Education:

- <u>Residency Requirement:</u> In those counties where the Board member is elected to represent a district, the member must remain a resident of the district from which the member was elected or is serving.
- Filling Vacant Seats: In Madison County, vacancies are filled by the remaining members of the Board, provided that the appointee resides in the same district as the departing member. Vacancies in the office of the chair are filled by the remaining members of the Board, provided that the appointee resides in the same district as the departing chair. If the members do not make an appointment within 30 days of the chair's vacancy, the Senior Resident Superior Court Judge for Madison County will make the appointment.

# Senate PCS 253

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- o In all other counties, vacant seats in the Board of Education are filled by the remaining members of the Board, with the appointee serving until the next election of Board members, at which time the remaining unexpired term will be filled by election.
- Term Limits: In Haywood County, no member may serve for more than two consecutive terms.

BILL ANALYSIS: In all counties, except for Cleveland, the House PCS for Senate Bill 253 would change the method of election for the Board members from nonpartisan to partisan, beginning in 2018. Members would be elected at the general election in even-numbered years, and would take office on the first Monday in December following the election. Elections would be conducted in accordance with the general laws governing primaries and elections for county officers.

Vacancies for positions elected on a partisan basis beginning in 2018 would be filled in accordance with G.S. 115C-37.1, which requires the remaining members of the Board to consult with the county executive committee of the relevant political party before filling a vacancy and to appoint that executive committee's nominee, if the recommendation is made within 30 days after the seat becomes vacant.

Terms of office or vacancy procedures for members elected in 2014 or 2016 would not be affected.

For Cleveland County, the House PCS for Senate Bill 253 would change the method of election for the Board members from nonpartisan to partisan, beginning in 2017. Elections would be conducted using the municipal partisan primary and election method. Vacancies for positions elected on a partisan basis beginning in 2017 would be filled in accordance with G.S. 115C-37.1, and terms of office or vacancy procedures for elected in 2013 or 2015 would not be affected.

In addition, the bill would make the following county-specific change:

• Haywood County: The chair would become a voting member, and therefore, the Board would consist of nine voting members. The prohibition on a member serving for more than two consecutive terms would also be repealed.

**EFFECTIVE DATE:** Senate Bill 253 would be effective when it becomes law.

Jessica Sammons and Giles Perry, counsel to House State and Local Government I Committee, substantially contributed to this summary.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

#### SENATE BILL 253

Short Title:	Carteret Co. Bd. of Ed. Partisan Election.	(Local)
Sponsors:	Senator Sanderson (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

#### March 15, 2017

# A BILL TO BE ENTITLED AN ACT TO CHANGE THE ELECTION METHOD OF THE CAR

AN ACT TO CHANGE THE ELECTION METHOD OF THE CARTERET COUNTY BOARD OF EDUCATION FROM NONPARTISAN TO PARTISAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 774 of the 1991 Session Laws is repealed.

SECTION 2. Section 5(d) of S.L. 1997-389 reads as rewritten:

"(d) Members of the Carteret County Board of Education shall reside in and represent the districts, butbut, beginning in 2018, all members are shall be elected by the voters of the county at large in nonpartisan plurality elections partisan election at the time of the primarygeneral election in each even-numbered year as terms expire. Except as provided by this act, elections shall be conducted in accordance with Chapters 115C and 163 of the General Statutes. Candidates for election to the Carteret County Board of Education shall be nominated at the same time and manner as other county officers. and Members shall take office on July 1 the first Monday in December of the year of election, all as previously provided by law-election and the terms of their predecessors shall expire at that same time.

Vacancies on the Carteret County Board of Education for positions elected on a nonpartisan basis in 2014 or 2016 shall be filled in accordance with G.S. 115C-37(f). Vacancies on the Board of Education for positions elected on a partisan basis beginning in 2018 shall be filled in accordance with G.S. 115C-37.1."

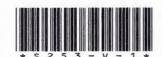
SECTION 3. This act does not affect the terms of office of any person elected in 2014 or 2016 to the Carteret County Board of Education. The members of the Carteret County Board of Education elected in 2014 or 2016, or any member appointed by the remaining members of the Board to fill a vacancy of a member elected in 2014 or 2016, shall serve until a successor has been elected and qualified.

**SECTION 4.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**SECTION 5.** Effective on the first Monday in December of 2018, G.S. 115C-37.1(d) reads as rewritten:

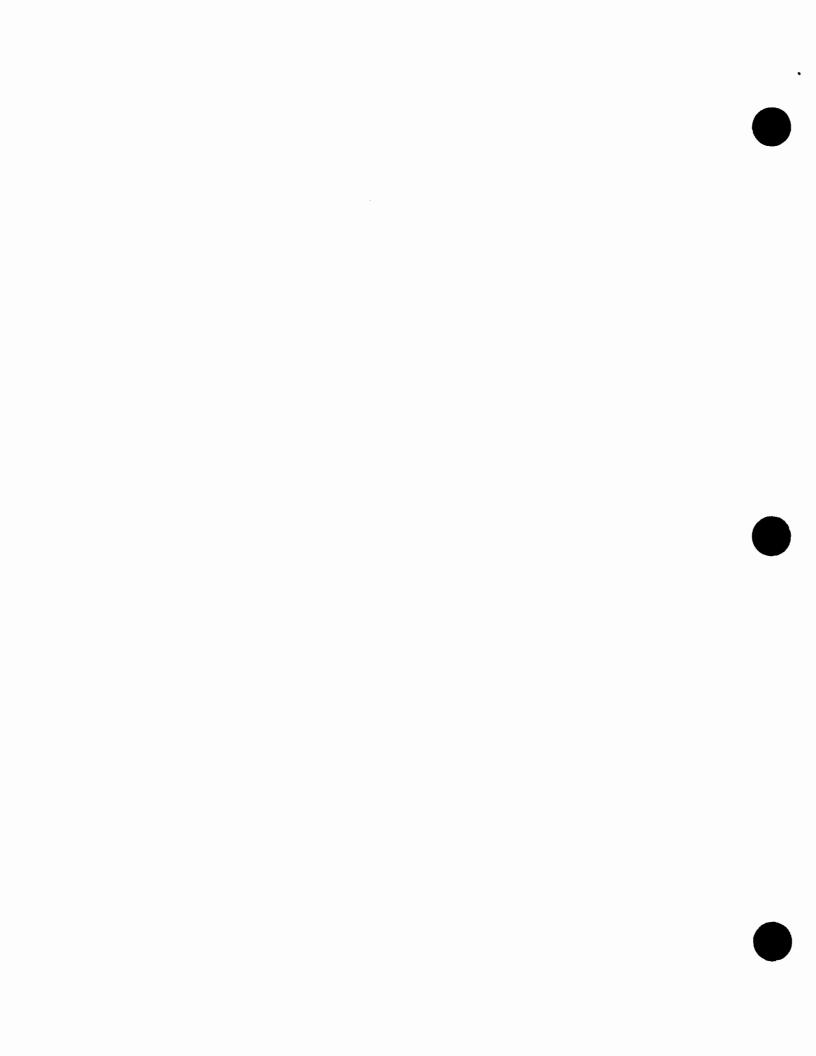
"(d) This section shall apply only in the following counties: Alleghany, Brunswick, Carteret, Cherokee, Clay, Davie, Graham, Guilford, Harnett, Iredell, Lee, New Hanover, Rutherford, Stanly, Vance, and Washington."

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



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# **SENATE BILL 105:**

# Fairmont Vol. Annex.; Troutman Land Use Reg.

#### 2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Sen. Britt

**Analysis of:** Third Edition

Sen Britt

Date: Prepared by:

June 14, 2017 Nicholas Giddings

Staff Attorney

OVERVIEW: Senate Bill 105 would annex two non-contiguous satellite tracts totaling 324 acres into the Town of Fairmont. The bill would also extend the territorial jurisdiction of the Town of Troutman in certain circumstances.

[As introduced, this bill was identical to H4, as introduced by Rep. Pierce, which is currently in House Finance.]

CURRENT LAW: Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." Pursuant to this Section, North Carolina law sets forth four basic ways in which a municipality may annex an area:

- Voluntary Annexation. The owners of all real property in an area contiguous to the municipality desiring to be annexed sign a petition requesting annexation.
- Voluntary Satellite Annexation. The owners of all real property in the area desiring to be annexed sign a petition requesting annexation, if it otherwise meets the statutory requirements.
- Municipal-Initiated Annexation subject to a referendum. The municipality initiates annexation proceeding, pursuant to statutory requirements.
- Legislative Act. The General Assembly has the authority to extend the boundaries of any municipality.

The statute granting municipalities extraterritorial regulatory authority, G.S. 160A-360, defines the area within which a city may apply extraterritorial land development regulations. The maximum size of a city's extraterritorial area, from its city limits, is determined by its population as follows:

- Populations of less than 10,000, up to one mile.
- Populations of 10,000-25,000, up to two miles.
- Populations of 25,000 or more, up to three miles.

**BILL ANALYSIS:** Senate Bill 105 would annex two non-contiguous satellite tracts to the Town of Fairmont totaling 324 acres: (1) The Fox Tract, 207.36 acres; and (2) The Barnes Tract, 116.64 acres.

Senate Bill 105 would also extend the jurisdiction of the Town of Troutman to be treated similarly to a city with a population of 25,000 or more, providing Troutman territorial jurisdiction over an area not to exceed three miles beyond its limits, if all of the following apply to the land over which jurisdiction will be exercised:

• The land meets the standards of a noncontiguous area that may be annexed pursuant to G.S. 160A-58.1(b).





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# Senate Bill 105

Page 2

- Within 12 months of exercising jurisdiction over the land, the municipality annexes the land.
- The board of county commissioners has passed a resolution identifying the land over which the municipality will exercise jurisdiction.

**EFFECTIVE DATE:** Section 1 (Fairmont) would become effective June 30, 2017. Property in the territory described by Section 1 as of January 1, 2017, would be subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2017. Section 2 (Troutman) would be effective when law. Except as otherwise provided, the remainder of this act would become effective when law.

**BACKGROUND:** The Town of Fairmont reports: (1) The annexation is approved by the landowners, and is voluntary; (2) The two tracts, taken together, constitute approximately 20% of the current area of the Town; (3) The tracts are located approximately 4 miles from the current municipal boundary; (4) The Town Board unanimously approved the request for the annexation; and (5) the Town held a public hearing on the proposal, and has not received any written or verbal opposition.

Billy Godwin and Giles Perry, Staff Attorneys in the Legislative Analysis Division substantially contributed to this bill summary.

# GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

#### **SENATE BILL 105\***

# State and Local Government Committee Substitute Adopted 4/4/17 Finance Committee Substitute Adopted 5/9/17

Short Title:	Fairmont Vol. Annex.; Troutman Land Use Reg.	(Local)
Sponsors:		
Referred to:		

February 20, 2017

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### A BILL TO BE ENTITLED

AN ACT (1) TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF FAIRMONT AND (2) TO TEMPORARILY EXTEND THE TERRITORIAL JURISDICTION OF THE TOWN OF TROUTMAN.

The General Assembly of North Carolina enacts:

**SECTION 1.** The following described property is added to the corporate limits of the Town of Fairmont:

Lying and being about 5 3/4 miles northwest of the center of Fairmont, NC, adjacent to and on the southeast side of Interstate 95 and on the northeast and southwest side of SR 1003, Chicken Road and adjoining the lands of Elliotine Williams Floyd (1994/394) and James P. Thompson (1742/482) on the northwest, James P. Thompson (1742/482 and 1205/839) on the north and east, Florella Thompson Heirs (6-U/447) and Julius T. Singletary (12-Z/174) on the east, Charles E. Jackson, Jr. (1876/259) on the southeast and the Run of Old Field Swamp on the southwest and being more particularly described as follows: BEGINNING at a railroad spike found in the center of SR 1003, Chicken Road, at its intersection with a ditch (if extended) and Joe's Branch, the same being the south corner of the Winston P. Fox, Trustee, 193.93 acre tract shown in Map Book 35, Page 140, of which this is a part, also a corner of the fifth tract of the Luther and Kenneth Barnes tracts, shown in Deed Book 914, Page 736, also said railroad spike being a corner with Charles E. Jackson, Jr. (1876/259) and runs from said railroad spike and with the various courses of the center of the Run of Joe's Branch, a calculated tie line being South 45 degrees 37 minutes 36 seconds West 1293.36 feet more or less to the intersection of the Run of Joe's Branch with the Run of Old Field Swamp; thence with the various courses of the center of the Run of Old Field Swamp, a calculated course and distance of North 41 degrees 26 minutes 30 seconds West 5166.64 feet more or less to a point where the center of the Run of Old Field Swamp intersects the southeast right-of-way line at Interstate 95; thence with the southeast right-of-way line of Interstate 95, the following (4) calls, North 63 degrees 37 minutes 10 seconds East 219.07 feet to an existing concrete right-of-way monument, North 74 degrees 39 minutes 47 seconds East 502.47 feet to an existing concrete right-of-way monument, North 78 degrees 19 minutes 36 seconds East 486.33 feet to an existing concrete right-of-way monument and South 53 degrees 16 minutes 26 seconds East 338.42 feet to an existing concrete right-of-way monument; thence North 40 degrees 34 minutes 30 seconds East 50.38 feet to a mag nail set in the center of the pavement of SR 1003, Chicken Road; thence North 39 degrees 46 degrees 58 minutes 49.81 feet to an existing concrete right-of-way monument; thence with the right-of-way of Interstate 95 and SR 1003, Chicken Road, North 46 degrees 44 minutes 06 seconds West 373.26 feet to an existing



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39 40 concrete right-of-way monument in the southeast right-of-way line of Interstate 95; thence with the southeast right-of-way line of Interstate 95, North 35 degrees 54 minutes 41 seconds East 468.61 feet to an existing concrete right-of-way monument, a corner with Elliotine Williams Floyd (1994/394); thence with said Floyd's line and a ditch South 47 degrees 57 minutes 03 seconds East 1226.55 feet to an iron pipe found; thence with said Floyd's line and to and with the James P. Thompson tract (1742/482), North 47 degrees 50 minutes 00 seconds East 1831.50 feet to an existing iron pipe, a corner with said Thompson; thence continuing with said Thompson's line South 37 degrees 55 minutes 00 seconds East 462.00 feet to an existing iron rod in a ditch; thence continuing with said Thompson tract and a ditch, South 13 degrees 55 minutes 20 seconds East 312.84 feet to an existing iron pipe in said ditch; thence continuing with said Thompson line South 69 degrees 17 minutes 54 seconds East 1014.06 feet to an existing nail, a corner of said James P. Thompson in (1742/482) and James P. Thompson in (1235/839); thence with said Thompson's line South 10 degrees 23 minutes 04 seconds East 1415.29 feet to an existing iron rod, a corner with said Thompson and Florella Thompson Heirs (6-U/447); thence with the Thompson Heirs line South 10 degrees 23 minutes 06 seconds East 202.26 feet to an existing iron rod, a corner with said Thompson and Julius T. Singletary (122/174); thence with Singletary's line South 10 degrees 23 minutes 08 seconds East 1461.75 feet to an existing iron pipe in a ditch, a corner with said Singletary and Charles E. Jackson, Jr. (1876/259); thence with said ditch South 87 degrees 00 minutes 00 seconds West 186.12 feet to an existing iron pipe in said ditch; thence continuing with said ditch South 82 degrees 14 minutes 23 seconds West 1107.38 feet to the beginning containing 324.0 acres more or less, with 207.36 being the Winston P. Fox, Trustee, Map Book 35, Page 140 and 116.64 acres being the Luther and Kenneth Barnes tracts, Deed Book 914, Page 736, Robeson County Registry. Bearings referenced to NC Grid, NAD 83 from Map Book 35, Page 140.

**SECTION 2.(a)** A municipality shall be treated as a city of 25,000 or more in population with respect to territorial jurisdiction granted pursuant to G.S. 160A-360 if all of the following apply to the land over which the jurisdiction will be exercised:

- (1) The land meets the standards of a noncontiguous area that may be annexed pursuant to G.S. 160A-58.1(b).
- (2) Within 12 months of exercising territorial jurisdiction over the land, the municipality annexes the land pursuant to G.S. 160A-58.1.
- (3) The board of county commissioners has passed a resolution identifying the land over which the municipality will exercise territorial jurisdiction by metes and bounds or courses and distances.

**SECTION 2.(b)** This section only applies to the Town of Troutman.

**SECTION 2.(c)** This section is effective when it becomes law.

**SECTION 3.** Section 1 of this act becomes effective June 30, 2017. Property in the territory described by Section 1 of this act as of January 1, 2017, is subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2017. Except as otherwise provided, the remainder of this act is effective when it becomes law.



# **HOUSE BILL 794:** NC Permitting Efficiency Act of 2017.

2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

June 13, 2017

favorable, re-refer to Regulatory Reform. If

favorable, re-refer to Finance

Introduced by: Reps. Stone, Saine, Bradford, Torbett

Prepared by: Brad Krehely

Analysis of:

PCS to First Edition

Committee Co-Counsel

H794-CSRN-19

OVERVIEW: The Proposed Committee Substitute (PCS) for House Bill 794 creates general requirements for issuing permits by counties and cities related to site construction and land use permits, delegates to certain municipalities the authority to issue construction permits and approvals associated with State maintained roads located within the municipality and the municipality's extraterritorial jurisdiction, and makes changes designed to foster efficiency in State and local permitting. The act becomes October 1, 2017.

The PCS does the following: (1) provides that the permitting requirements in Sections 1 and 2 apply to construction permits related to site construction and land use permits, (2) provides that standards for issuing of permits must be in a written policy, standard, procedure, or ordinance, (3) provides that schedules may allow for extenuating circumstances, (4) provides that the requirement for concurrent review does not apply if concurrent review is impractical or the permittee does not want concurrent review, (5) includes language to ensure technology security if an online system is used, (6) makes the entire act effective October 1, 2017, and (7) make other technical and conforming changes.

**BILL ANALYSIS:** The PCS for House Bill 794 makes changes to change permitting requirements for construction permits issued by a county or city related to site construction and land use permits.

Sections 1 and 2 create general requirements for issuing permits by counties and cities related to site construction and land use permits:

- All standards or requirements for the issuance of a construction permit must be included in a
  written policy, standard, procedure or ordinance adopted or authorized by the governing body,
  and the written policy, standard, procedure or ordinance must be available for public inspection.
  A county or city may deny a complete construction permit application only if the permittee fails
  to meet the standards or requirements established by the county as prescribed in the written
  policy, standard, procedure or ordinance.
- A county or city must not require a permittee to reserve land, dedicate rights of way, adhere to planning or land use conditions, or make accommodations for future construction activities, including the installation of future infrastructure, unless the requirement is included in a written policy, standard, procedure or ordinance authorized or adopted by the governing body.
- The governing body must adopt a written policy, standard, procedure or ordinance establishing
  or authorizing county or city departments to establish a schedule that must be used in reviewing
  permit applications. The schedule may allow for extenuating circumstances which make





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# **House PCS 794**

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adherence impractical, as determined by the city or county, but these schedule exceptions should be noted in required reporting. The schedule must be published on the county or city's Website if one is available.

- County and city departments must on a quarterly basis, submit to the governing body a report detailing the department's compliance with the schedule. The department's report must be made available for public inspection and must be published on the county or city's Web site, if one is available.
- A written policy, standard, procedure or ordinance must not require a permit be reviewed only after another agency or department has conducted its own review of the same or another permit application related to the same project. Permits issued by the county or city must require that that construction permits be reviewed concurrently with other permits related to the same project. The requirement for departments or agencies to review concurrently does not apply if the project is proposed to be constructed in phases which make a concurrent review impractical, or if the permittee requests non-concurrent reviews.
- If an online program is used, where feasible, every department or agency and State agencies, where applicable, must use the online program. Also, where feasible, the online program must be made accessible to outside local and State agencies. To ensure security, a web-based program or portal must be used or a secure login option must be provided if an outside agency will have access to the program.
- Where feasible, counties and cities must make their programs accessible to one another to facilitate concurrent review and approval of permit applications.
- A county or city may establish a fee to cover the cost of creating an online program, but the fee must not be more than the anticipated first two years' actual cost of establishing and implementing the online program. The total cost must be evenly distributed to all permit applicants based on an estimated number of expected applicants.
- A county or city must not require a permittee to construct off site infrastructure improvements unless the improvements are roughly proportionate to the impact of the permittee's development.
- A fee in lieu of payments related to off site improvements authorized by law must not exceed twenty percent (20%) of the roughly proportionate impact of the permittee's development, unless otherwise agreed to by the permitee.

**Section 2** creates a new Article 3C, in Chapter 136 of the General Statutes called the Local Government Permitting Act of 2017.

G.S. 136-166.51 addresses the purpose and scope of the Article.

It delegates to certain municipalities the authority to issue construction permits and approvals associated with State maintained roads located within the municipality and the municipality's extraterritorial jurisdiction (ETJ). This authority includes the authority to approve plats, issue driveway permits, and inspect and approve construction activities and encroachment within the Department's rights of way. All municipalities with a population of 50,000 or more are granted this new permitting authority unless the municipality specifically declines the delegation.

Nothing in this Article modifies the Department's responsibility to perform typical maintenance activities on State maintained roads and bridges, or modifies bonding requirements.

# **House PCS 794**

Page 3

A municipality may request the Department review permit applications, construction activities and encroachments, or inspections, for certain specific State-maintained roads, certain types of State-maintained roads, bridges, or provide technical services, which may be outside of the municipality's expertise.

A municipality may request a modification of a Department standard or policy by submitting the request to the Department Division Engineer. The modification request must include the basis of the request and a description how the modification will not adversely impact safety, road maintenance, or traffic flow.

A municipality may approve a minor site-specific deviation from a Department standard or policy if, in the opinion of the municipality, the modification will not adversely impact safety, road maintenance, or traffic flow and is necessitated by a minor site specific condition. The municipality is not required to get the Department's approval of the minor deviation.

The delegation of authority to municipalities to issue construction permits and approvals for State maintained roads within the municipality or its ETJ does not apply to any of the following:

- Interstate highways including ramps and interchanges.
- State-maintained roads which have high traffic volumes.
- Sections of State-maintained roads located within 2,000 feet of an interstate interchange as measured from the limits of the right-of-way of the interstate.
- Sections of state-maintained controlled access roads.

G.S. 136-166.52 provides that a municipality that does not otherwise qualify for the delegation of authority provided for under the Article may request that the Board grant the authority. The municipality must develop a review program for its jurisdiction and submit its program to the Board for review and approval. The Board must review each program submitted by a municipality and within 90 days of receipt of the application must notify the municipality whether it has been (i) approved, (ii) approved with modifications, or (iii) disapproved. The Board must only approve an application upon determining the municipality's review staff has adequate experience and technical expertise.

G.S. 136-166.53 provides that the Department must establish review guidelines that a local government must follow. The guidelines must be consistent with existing permitting standards must not establish different standards for different municipalities.

If the Department determines a municipality is failing to adequately administer or enforce a local program, it must notify the municipality in writing. If the municipality does not take corrective action within 60 days, the Department will assume administration and enforcement of the program until the municipality demonstrates to the satisfaction of the Department the ability to resume administration of the program.

G.S. 136-166.54 permits municipalities to do all of the following:

- Adopt written policies, standards, procedures or ordinances necessary to establish and enforce transportation review programs established in accordance with this Article. A written policy, standard, procedure or ordinance must at least meet, but may not exceed, the minimum requirements established by the Department for State maintained roads.
- Create or designate agencies or subdivisions to administer and enforce the programs.
- Collect from the Department the amounts necessary to administer and enforce this program, not to exceed the actual costs to the municipality.

# House PCS 794

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A municipality must approve a plan only after determining that it complies with all applicable federal, State, and local regulations. A municipality must disapprove a plan if implementation of the plan would result in a violation of federal and State laws.

For projects related to transportation or activities or encroachments within the Department's rights of way, a municipality must, within 30 days of receipt, notify the person submitting the application that the application has been (i) approved, (ii) approved with modifications, or (iii) disapproved.

G.S. 136-166.55 addresses fees. It provides that an ordinance adopted by a municipality may establish a fee for the review of a transportation related or right of way impacting construction plan and related activities, except as limited by statute. However, if the local government already performs reviews of the same construction plans under this Article, it may not establish an additional fee for review of a construction activity impacting a State maintained road or its right of way.

Section 3(a) creates a new Article 82 in Chapter 143 of the General Statutes addressing transparency and efficiency in State and local permitting.

G.S. 143-675 provides that State and local government agencies that have the authority to review and approve construction permits must maintain published records that present a summary of adherence to their published review schedules. Agencies must also publish summary data that present the number of reviews and submittals for each project. This data must be published on the agency's or municipal government's public Web site

G.S. 143-766 provides that State and local government agencies that had authority to review and approve construction permit must make accommodations so that all entities can utilize the system concurrently and collaboratively. If reviews are performed through an online system, where feasible, all agencies must review using the same online system or portal. To ensure security, the agency or municipal government which hosts the online review system must utilize a web-based program or portal, or provide a secure login option, if an outside agency will have access to the program.

G.S. 143-767 provides that State or local governments, which incur costs associated with the creation or adoption of an online permitting system, may establish a fee or increase an existing fee for the review, but the new or additional fee must not be more than the anticipated actual cost associated with implementation. The fees must be distributed equally among all permit applicants over the course of two years. The fee, or increased fee, must be in effect only for the first 24 months following the initiation of the online permitting process. The State or local government must estimate the anticipated number of permit applications for the program's first 24 months based on the number of applicants from the previous 12 months.

Section 3(b) provides that State agencies which review construction documents and have permit authority must develop and implement an online system for submittal, review, and approval, by 2020.

**EFFECTIVE DATE:** The act becomes effective October 1, 2017.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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# HOUSE BILL 794 PROPOSED COMMITTEE SUBSTITUTE H794-CSRN-19 [v.10] 06/13/2017 8:13:50 PM

Short Title: NC Permitting Efficiency Act of 2017. (Public)

Sponsors:	
Referred to:	

## April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO IMPROVE EFFICIENCY OF CONSTRUCTION PERMITTING BY REMOVING REDUNDANCIES IN REVIEWS AND APPROVALS BY STATE AND LOCAL AGENCIES, IMPROVE ACCOUNTABILITY AND TRANSPARENCY OF REVIEWING AGENCIES, AND MAKE NORTH CAROLINA A NATIONAL LEADER IN PERMITTING EFFICIENCY, WHICH WILL ENCOURAGE INVESTORS TO CHOOSE NORTH CAROLINA TO CREATE JOBS.

Whereas, the construction industry represents 10% of the overall North Carolina economy; and

Whereas, expediting the permitting process will expedite the commencement of construction projects, which in turn can increase the speed of job creation in the construction industry as well as in other industries such as commercial, retail, and manufacturing when employment facilities are completed; and

Whereas, eliminating redundant steps in the permit approval process will reduce costs and maximize efficiency; and

Whereas, many businesses that invest in North Carolina do so based on the value of doing business in the State and often after comparing North Carolina's competitiveness with other states in which they may do business; and

Whereas, it is the design professionals, duly licensed by North Carolina boards of licensure, who have responsible charge over the design and the overall responsibility for design of permit plan preparation, while the permit review agency has authority to review for compliance of standards set forth by its agency or others authorized to set standards; and

Whereas, maximizing efficiency assists in increasing the affordability of homes; and Whereas, the General Assembly continues to seek ways to reduce burdens on North Carolina businesses to make our State the most business friendly in the country while still maintaining adequate and reasonable review of applications for construction to ensure protection of the people's interests, health, and welfare and to ensure protection of the environment; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

#### "§ 153A-145.7. General requirements for issuing permits.

The following shall apply to construction permits issued by a county, related to site construction and land use permits:

(1) All standards or requirements for the issuance of a construction permit shall be included in a written policy, standard, procedure or ordinance adopted or



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authorized by the governing body, and the written policy, standard, procedure or ordinance shall be available for public inspection. A county may deny a complete construction permit application only if the permittee fails to meet the standards or requirements established by the county as prescribed in this subdivision. If the county denies a complete permit application, the county shall notify the permittee of the areas of non-compliance with specific notation regarding which written policy, standard, procedure or ordinance was deficient.

- A county shall not require a permittee to reserve land, dedicate rights-of-way, adhere to planning or land use conditions, or make accommodations for future construction activities, including the installation of future infrastructure, unless the requirement is included in a written policy, standard, procedure or ordinance authorized or adopted by the governing body. A written policy, standard, procedure or ordinance may include formal land use maps, capital improvement plans, or fiscally constrained road improvements established by the county or Department of Transportation.
- The governing body shall adopt a written policy, standard, procedure or ordinance establishing or authorizing county departments to establish a schedule that shall be used by county departments in reviewing permit applications, including the maximum number of days in which a county department shall have to approve or deny a complete permit application. The schedule may allow for extenuating circumstances which make adherence impractical, as determined by the county, but these schedule exceptions should be noted in the reporting as defined in subdivision (4) of this section. The schedule shall be made available for public inspection and shall be published on the county's Web site, if one is available. If the governing body authorizes county departments to establish a schedule as provided in this subdivision, the governing body shall approve the schedule before it is implemented for use by the public.
- Each county department responsible for reviewing construction permit applications shall, on a quarterly basis, submit to the governing body a report detailing the department's compliance with the schedule established under subdivision (3) of this section, including the number of permit application reviews that were completed within the time periods specified in the schedule, the number completed prior to the expiration of the time periods, and the number completed after the expiration of the time periods. The department's report shall be made available for public inspection and shall be published on the county's Web site, if one is available. The County may present the data in the format of its choosing provided it is in compliance with this section.
- A written policy, standard, procedure or ordinance shall not require a construction permit be reviewed only after another agency or department, including a State agency or department, has conducted its own review of the same or another permit application related to the same project. Written policies, standards, procedures or ordinances adopted by the county shall require that construction permits issued by the county shall be reviewed concurrently with other permits related to the same project. The requirement for departments or agencies to review concurrently does not apply if the project is proposed to be constructed in phases which make a concurrent review impractical, or if the permittee requests non-concurrent reviews.

- If the county uses an online construction permit application review and approval program, where feasible, every department or agency of the county and State agencies authorized to review and approve permit applications shall use the online program. The county shall, where feasible, make its online program accessible to outside local and State agencies, and those agencies shall use the online program to review and approve permit applications submitted to those agencies. To ensure technology security, the county shall utilize a web-based program or portal, or provide a secure login option, if an outside agency will have access to and utilize the county review and approval program.

  Where feasible a county shall make its online permit review and approval
- Where feasible, a county shall make its online permit review and approval program accessible by municipalities in the county to facilitate concurrent review and approval of permit applications.
- (8) A county may establish a fee to cover the cost of creating an online permit application review and approval program, but the fee shall not be more than the anticipated first two years' actual cost of establishing and implementing the online program, including maintenance, upgrades, security features, and software licensing fees, and the total cost of the program shall be evenly distributed to all permit applicants, based on an estimated number of expected annual applicants for that County.
- (9) A county shall not require a permittee to construct off-site infrastructure improvements, including improvements related to utilities or traffic, unless the improvements are roughly proportionate to the impact of the permittee's development.
- (10) A fee in lieu of payments related to off-site improvements authorized by law shall not exceed twenty percent (20%) of the roughly proportionate impact of the permittee's development, unless otherwise agreed to by the permitee.

  The estimated actual costs shall be calculated by a licensed professional engineer."

**SECTION 1.(b)** Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

## "§ 160A-205.3. General requirements for issuing permits.

The following shall apply to construction permits issued by a city, related to site construction and land use permits:

- All standards or requirements for the issuance of a construction permit shall be included in a written policy, standard, procedure or ordinance adopted or authorized by the governing body, and the written policy, standard, procedure or ordinance shall be available for public inspection. A city may deny a complete construction permit application only if the application fails to meet the standards or requirements established by the city as prescribed in this subdivision. If the city denies a complete permit application, the city shall notify the permittee of the areas of non-compliance with specific notation regarding which written policy, standard, procedure or ordinance was deficient.
- A city shall not require a permittee to reserve land, dedicate rights-of-way, adhere to planning or land use conditions, or make accommodations for future construction activities, including the installation of future infrastructure, unless the requirement is included in a written policy, standard, procedure or ordinance authorized or adopted by the governing body. A written policy, standard, procedure or ordinance may include formal

land use maps, capital improvement plans, or fiscally constrained road 1 2 improvements established by the Department of Transportation. 3 (3) The governing body shall adopt a written policy, standard, procedure or 4 ordinance establishing or authorizing city departments to establish a 5 schedule that shall be used by city departments in reviewing permit 6 applications, including the maximum number of days in which a city 7 department shall have to approve or deny a complete permit application. The 8 schedule may allow for extenuating circumstances which make adherence 9 impractical, as determined by the city, but these schedule exceptions should 10 be noted in the reporting as defined in subdivision (4) of this section. The 11 schedule shall be made available for public inspection and shall be published 12 on the city's Web site, if one is available. If the governing body authorizes 13 city departments to establish a schedule as provided in this subdivision, the 14 governing body shall approve the schedule before it is implemented for use 15 by the public. 16 (4) Each city department responsible for issuing construction permits shall, on a 17 quarterly basis, submit to the governing body a report detailing the 18 department's compliance with the schedule established under subdivision (3) 19 of this section, including the number of permit application reviews that were 20 completed within the time periods specified in the schedule, the number 21 completed prior to the expiration of the time periods, and the number 22 completed after the expiration of the time periods. The department's report 23 shall be published in the same manner as city written policies, standards, 24 procedures, or ordinances and shall be published on the city's Web site, if 25 one is available. The city may present the data in the format of its choosing 26 provided it is in compliance with this section. 27 (5) A written policy, standard, procedure, or ordinance shall not require a permit 28 be reviewed only after another agency or department, including a State 29 agency or department, has conducted its own review of the same or another 30 permit related to the same project. Written policies, standards, procedures, or 31 ordinances adopted by the city shall require that permits issued by the city 32 shall be reviewed concurrently with other permits related to the same 33 project. The requirement for departments or agencies to review concurrently 34 does not apply if the project is proposed to be completed in phases which 35 make a concurrent review impractical, or if the permittee requests non-36 concurrent reviews. 37 If the city uses an online permit review and approval program, where (6)38 feasible, every department or agency of the city authorized to review and 39 approve permit applications shall use the online program. The city shall, 40 where feasible, make its online program accessible to outside local and State agencies, and those agencies shall use the online program to review and 41 42 approve permits. To ensure technology security, the city shall utilize a web-43 based program or portal, or provide a secure login option, if an outside 44 agency will have access to and utilize the city review and approval program. 45 Where feasible, a city shall make its online permit review and approval (7)program accessible by the county in which the city is located to facilitate 46 47 concurrent review and approval of permit applications. A city may establish a fee to cover the cost of creating an online permit 48 (8) 49 review and approval program, but the fee shall not be more than the 50 anticipated first two years' actual cost of establishing and implementing the online program, including maintenance, upgrades, security features, and

software licensing fees and the total cost of the program shall be evenly distributed to all permit applicants, based on an estimated number of expected annual applicants for that city.

(9) A city shall not require a permittee to construct off-site infrastructure improvements, including improvements related to utilities or traffic, unless the improvements are roughly proportionate to the impact of the permittee's development.

(10) A fee in lieu of payments related to off-site improvements authorized by law shall not exceed twenty percent (20%) of the roughly proportionate impact of the permittee's development unless otherwise agreed to by the permittee.

The estimated actual costs shall be calculated by a licensed professional engineer."

**SECTION 2.** Chapter 136 of the General Statutes is amended by adding a new Article to read:

#### "Article 3C.

#### "Delegation of Permitting Authority.

#### "§ 136-166.50. Short title.

This Article shall be known as and may be cited as the "Local Government Permitting Act of 2017."

# "§ 136-166.51. Purpose; scope.

- (a) The purpose of this Article is to delegate to certain municipalities the authority to issue construction permits and approvals associated with State-maintained roads located within the municipality and the municipality's extraterritorial jurisdiction. The authority delegated under this subsection includes the authority to approve plats, issue driveway permits, and inspect and approve construction activities and encroachment within the Department's rights-of-way. All municipalities with a population of 50,000 or more are hereby granted the permitting authority provided for in this Article unless the municipality specifically declines the delegation. A municipality may, by making a request of the Department Division Engineer, decline delegated authority for certain roads or infrastructure and other elements as provided in this section, but that request does not decline delegated authority for all State-maintained roads.
- (b) The authority of a municipality to review and approve construction permit applications for State-maintained roads in its municipal boundary and the municipality's extra territorial jurisdiction exists only to the extent explicitly provided in this Article or otherwise granted by the Board.
- (c) Nothing in this Article modifies the Department's responsibility to perform typical maintenance activities on State-maintained roads and bridges, or modifies bonding requirements.
- (d) Nothing in this Article shall modify the process for review of erosion and sediment control plans or stormwater plans, including authorities of the Department of Environmental Quality or any delegated authority for the same under Chapter 113 of the General Statutes.
- (e) A municipality may request the Department review permit applications, construction activities and encroachments, or inspections, for certain specific State-maintained roads, certain types of State-maintained roads, bridges, or provide technical services, which may be outside of the municipality's expertise. The manner by which the services requested by the municipality are provided to the municipality by the Department shall be consistent with current practices or in a manner mutually agreeable to the municipality and the Department Division Engineer.
- (f) A municipality may request a modification of a Department standard or policy by submitting the request to the Department Division Engineer. The modification request must include the basis of the request and a detailed description how the modification will not

adversely impact safety, road maintenance, or traffic flow to the State-maintained road network.

g) A municipality may, as part of its delegated review function, approve a minor site-specific deviation from a Department standard or policy if, in the opinion of the municipality, the modification will not adversely impact safety, road maintenance, or traffic flow to the State-maintained road network, and is necessitated by a minor site specific condition. When a municipality approves a minor deviation from the Department standard or policy, the municipality shall notify the Department through a process established by the Department Division Engineer and the municipality. The municipality is not required to obtain the Department's approval of the minor deviation, but may seek the Department's approval or guidance related to the deviation from the Department's standard or policy.

(h) Delegation of authority to municipalities to issue construction permits and approvals associated with State-maintained roads located within the municipality and the municipality's extraterritorial jurisdiction shall not apply to any of the following:

(1) Interstate highways including ramps and interchanges.

- (2) State-maintained roads which have high traffic volumes. For the purpose of this Article a road with high traffic volumes are those sections of road with annual average daily traffic (AADT) of 50,000 as presented in the Department's most current annual average daily traffic AADT volume maps.
- (3) Sections of State-maintained roads located within 2,000 feet of an interstate interchange as measured from the limits of the right-of-way of the interstate.
- (4) Sections of state-maintained controlled access roads. For the purpose of this Article, controlled access roads which will be excluded from delegated authority will be those considered "full control of access" or "limited control of access" as defined by the Board.

"§ 136-166.52. Application for delegation.

(a) A municipality that does not otherwise qualify for the delegation of authority provided for under the Article may request that the Board grant the authority. The municipality shall develop a review program for its jurisdiction and submit its program to the Board for review and approval.

(i) approved with modifications, or (iii) disapproved. The Board shall only approve an application upon determining the municipality's review staff has adequate experience and technical expertise related to the review of transportation design and construction activities.

"§ 136-166.53. Department's authority.

- (a) The Department shall establish review guidelines that a local government shall follow in its review. These guidelines shall be consistent with existing permitting standards, including those followed by the Department, and of a technical nature. The Department shall not establish different technical standards for different municipalities. The standards must be similar to those established for other State-maintained roads.
- (b) If the Department determines a municipality is failing to adequately administer or enforce a local program, it shall notify the municipality in writing and shall specify the deficiencies of administration and enforcement. If the municipality does not take corrective action within 60 days of receipt of notification, the Department shall assume administration and enforcement of the program until the municipality demonstrates to the satisfaction of the Department the ability to resume administration and enforcement of the program.
- (c) The Department shall retain the authority to review and approve construction permits for construction activities within State-maintained road rights-of-way for activities conducted by local, State, or federal governments. The review is limited to technical elements only and the Department may not request modifications to reviewed plans based on conflicting

Page 6

policies established by a municipality that has been delegated authority to approve local programs.

## "§ 136-166.54. Local authority.

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- (a) Municipalities with delegated authority under this Article may do all of the following:
  - Adopt written policies, standards, procedures or ordinances and regulations necessary to establish and enforce transportation review programs established in accordance with this Article. A written policy, standard, procedure or ordinance shall at least meet, but may not exceed, the minimum requirements established by the Department for State-maintained roads.
  - (2) Create or designate agencies or subdivisions to administer and enforce the programs.
  - (3) Collect from the Department the amounts necessary to administer and enforce this program, not to exceed the actual costs to the municipality, taking into account fees collected by the municipality pursuant to G.S. 136-166.55.
- (b) A municipality shall approve a plan only after determining that it complies with all applicable federal, State, and local regulations and shall condition approval of a construction plan upon the applicant's compliance with federal and State laws, regulations, and rules. A municipality shall disapprove a plan if implementation of the plan would result in a violation of federal and State laws, regulations, rules, and standards.
- (c) The municipality shall take into consideration adherence to regional plans developed and approved by Metropolitan Planning Organizations (MPOs) or Rural Transportation Planning Organizations (RPOs) as well as local ordinances and standards. The transportation-related elements of a construction plan may be submitted in a manner prescribed by the local government. Separate sets of construction plans which are distinct to the transportation system are not required unless prescribed by the municipality.
- (d) For projects related to transportation or activities or encroachments within the Department's rights-of-way, a municipality shall review each construction permit application submitted and within 30 days of receipt thereof shall notify the person submitting the application that the application has been (i) approved, (ii) approved with modifications, or (iii) disapproved.

#### "§ 136-166.55. Fees.

An ordinance adopted by a municipality may establish a fee for the review of a transportation-related or right-of-way impacting construction plan and related activities, except as limited by provisions of G.S. 160A-296. However, if the local government already performs reviews of the same construction plans under this Article, it may not establish an additional fee for review of a construction activity impacting a State-maintained road or its right-of-way."

**SECTION 3.(a)** Chapter 143 of the General Statutes is amended by adding a new Article to read:

## "Article 82.

"Transparency and Efficiency in State and Local Permitting; Fees.

#### "§ 143-765. Transparency.

State and local government agencies that have the authority to review and approve construction permits shall maintain published records that present a summary of adherence to their published review schedules with data on frequency of reviews that were not performed within the established time lines, as well as those reviews performed ahead of schedule. Agencies shall also publish summary data that present the number of reviews and submittals for each project. This data shall be published on the agency's or municipal government's public Web site.

### "§ 143-766. Efficiency.

State and local government agencies that have the authority to review and approve construction permits shall make accommodations to incorporate and facilitate access by staff of other agencies, departments, or local governments so that all entities can utilize the system concurrently and collaboratively. For municipalities that have separate local governments with separate areas of responsibility, such as a county review of stormwater permits and a city with review authority of site plans, but both are reviewing the same construction project, the municipalities shall coordinate their review processes so that submittals and reviews are done through the same system and process. If reviews are performed through an online system, where feasible, all review agencies and departments shall review using the same online system or portal. To ensure technology security, the agency or municipal government which hosts the online review system shall utilize a web-based program or portal, or provide a secure login option, if an outside agency will have access to and utilize the online review and approval program.

"§ 143-767. Fees.

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State or local governments, which incur costs associated with the creation or adoption of an online permitting system, may establish a fee or increase an existing fee for the review, but the new or additional fee shall not be more than the anticipated actual cost associated with implementation including maintenance, upgrades, security features, and software licensing fees distributed equally among all permit applicants over the course of two years. The fee, or increased fee, shall be in effect only for the first 24 months following the initiation of the online permitting process. The State or local government shall estimate the anticipated number of permit applications for the program's first 24 months based on the number of applicants from the previous 12 months."

**SECTION 3.(b)** State agencies which review construction documents and have permit authority shall develop and implement an online system for submittal, review, and approval, by 2020.

**SECTION 4.** This act becomes effective October 1, 2017.

# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

#### **HOUSE BILL 794**

Short Title: NC Permitting Efficiency Act of 2017. (Public)

Sponsors: Representatives Stone, Saine, Bradford, and Torbett (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Regulatory Reform, if favorable, Finance

#### April 13, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO IMPROVE EFFICIENCY OF CONSTRUCTION PERMITTING BY REMOVING REDUNDANCIES IN REVIEWS AND APPROVALS BY STATE AND LOCAL AGENCIES, IMPROVE ACCOUNTABILITY AND TRANSPARENCY OF REVIEWING AGENCIES, AND MAKE NORTH CAROLINA A NATIONAL LEADER IN PERMITTING EFFICIENCY, WHICH WILL ENCOURAGE INVESTORS TO CHOOSE NORTH CAROLINA TO CREATE JOBS.

Whereas, the construction industry represents 10% of the overall North Carolina economy; and

Whereas, expediting the permitting process will expedite the commencement of construction projects, which in turn can increase the speed of job creation in the construction industry as well as in other industries such as commercial, retail, and manufacturing when employment facilities are completed; and

Whereas, eliminating redundant steps in the permit approval process will reduce costs and maximize efficiency; and

Whereas, many businesses that invest in North Carolina do so based on the value of doing business in the State and often after comparing North Carolina's competitiveness with other states in which they may do business; and

Whereas, it is the design professionals, duly licensed by North Carolina boards of licensure, who have responsible charge over the design and the overall responsibility for design of permit plan preparation, while the permit review agency has authority to review for compliance of standards set forth by its agency or others authorized to set standards; and

Whereas, maximizing efficiency assists in increasing the affordability of homes; and Whereas, the General Assembly continues to seek ways to reduce burdens on North Carolina businesses to make our State the most business friendly in the country while still maintaining adequate and reasonable review of applications for construction to ensure protection of the people's interests, health, and welfare and to ensure protection of the environment; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"§ 153A-145.7. General requirements for issuing permits.

The following shall apply to permits issued by a county, including building permits and land use permits:



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A fee in lieu of payments related to off-site improvements authorized by law shall not exceed twenty percent (20%) of the estimated actual costs associated with the direct impact of the permittee's development. The estimated actual costs shall be calculated by a licensed professional engineer."

**SECTION 1.(b)** Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

#### "\$ 160A-205.3. General requirements for issuing permits.

The following shall apply to permits issued by a city, including building permits and land use permits:

- (1) All requirements for the issuance of a permit shall be included in an ordinance adopted by the governing body, and the ordinance shall be available for public inspection in the same manner as other ordinances.
- A city shall not require a permittee to reserve land, dedicate rights-of-way, adhere to planning or land use conditions, or make accommodations for future construction activities, including the installation of future infrastructure, unless the requirement is included in an ordinance adopted by the governing body. An ordinance may include formal land use maps, capital improvement plans, or fiscally constrained road improvements established by the Department of Transportation.
- (3) The governing body shall adopt an ordinance establishing or authorizing city departments to establish a schedule that shall be used by city departments in reviewing permits a schedule that shall be used by city departments in reviewing permits, including the maximum number of days in which a city department shall have to approve or deny a permit. The schedule shall be published in the same manner as other city ordinances and shall be published on the city's Web site, if one is available. If the governing body authorizes city departments to establish a schedule as provided in this subdivision, the governing body shall approve the schedule before it implemented for use by the public.
- Each city department responsible for issuing permits shall, on a quarterly basis, submit to the governing body a report detailing the department's compliance with the schedule established under subdivision (3) of this section, including the number of permit reviews that were completed within the time periods specified in the schedule, the number completed prior to the expiration of the time periods, and the number completed after the expiration of the time periods. The department's report shall be published in the same manner as city ordinances and shall be published on the city's Web site, if one is available.
- An ordinance shall not require a permit be reviewed only after another agency or department, including a State agency or department, has conducted its own review of the same or another permit related to the same project. Ordinances adopted by the city shall require that permits issued by the city shall be reviewed concurrently with other permits related to the same project.
- (6) If the city uses an online permit review and approval program, every department or agency of the city authorized to review and approve permits shall use the online program. The city shall, where feasible, make its online program accessible to outside local and State agencies, and those agencies shall use the online program to review and approve permits.

- (a) The purpose of this Article is to delegate to certain municipalities the authority to issue construction permits and approve established standards for State-maintained roads located within the municipality and the municipality's extraterritorial jurisdiction. The authority delegated under this subsection includes the authority to issue driveway permits and approve construction activities or encroachment within the Department's rights-of-way. All municipalities with a population of 50,000 or more are hereby granted the permitting authority provided for in this Article unless the municipality specifically declines the delegation.
- (b) The authority of municipalities to review and approve permits or establish standards for State-maintained roads in its municipal boundary exists only to the extent explicitly provided in this Article or otherwise granted by the Board.
- (c) Nothing in this Article modifies the Department's responsibility to perform typical maintenance activities on State-maintained roads and bridges.
- (d) Nothing in this Article shall modify the process for review of erosion and sediment control plans or stormwater plans, including authorities of the Department of Environmental Quality or any delegated authority for the same under Chapter 113 of the General Statutes.

# "§ 136-166.52. Application for delegation.

- (a) A municipality that does not otherwise qualify for the delegation of authority provided for under the Article may request that the Board grant the authority. The municipality shall develop a review program for its jurisdiction and submit its program to the Board for review and approval.
- (b) The Board shall review each program submitted by a municipality and within 90 days of receipt of the application shall notify the municipality whether it has been (i) approved, (ii) approved with modifications, or (iii) disapproved. The Board shall only approve an application upon determining the municipality's review staff have adequate experience and technical expertise related to the review of transportation design and construction activities.

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"§ 136-166.53. Department's authority.

- (a) The Department may establish review guidelines that a local government shall follow in its review. These guidelines shall be consistent with existing permitting standards and of a technical nature. The Department shall not establish different technical standards for different municipalities. The standards must be similar to those established for other State-maintained roads.
- (b) If the Department determines a municipality is failing to administer or enforce a local program, it shall notify the municipality in writing and shall specify the deficiencies of administration and enforcement. If the municipality does not take corrective action within 60 days of receipt of notification, the Department shall assume administration and enforcement of the program until the municipality demonstrates to the satisfaction of the Department the ability to resume administration and enforcement of the program.
- (c) The Department shall retain the authority to review and approve construction permits for construction activities within State-maintained road rights-of-way for activities conducted by local, State, or federal governments. The review is limited to technical elements only and the Department may not request modifications to reviewed plans based on conflicting policies established by a municipality that has been delegated authority to approve local programs.

"§ 136-166.54. Local authority.

- (a) Municipalities with delegated authority under this Article may do all of the following:
  - (1) Adopt ordinances and regulations necessary to establish and enforce transportation review programs established in accordance with this Article. An ordinance shall at least meet, but may not exceed, the minimum requirements established by the Department for State-maintained roads, unless the requirements are consistent with those established for locally maintained roads of similar capacity and nature.
  - (2) Create or designate agencies or subdivisions to administer and enforce the programs.
  - (3) Establish standards and ordinances for roads to make road design consistent with local roads, including landscaping requirements, on-street parking, signage, and signalization.
- (b) A municipality shall approve a plan only after determining that it complies with all applicable federal, State, and local regulations and shall condition approval of a construction plan upon the applicant's compliance with federal and State laws, regulations, and rules. Except as otherwise allowed under subsection (e) of this section, a municipality shall disapprove a plan if implementation of the plan would result in a violation of federal and State laws, regulations, rules, and standards.
- (c) The municipality shall take into consideration adherence to regional plans developed and approved by Metropolitan Planning Organizations (MPOs) or Rural Transportation Planning Organizations (RPOs) as well as local ordinances and standards. The transportation-related elements of a construction plan may be submitted in a manner prescribed by the local government. Separate sets of construction plans which are distinct to the transportation system are not required unless prescribed by the municipality.
- (d) For projects related to transportation or activities or encroachments within the Department's rights-of-way, a municipality shall review each construction permit application submitted and within 30 days of receipt thereof shall notify the person submitting the application that the application has been (i) approved, (ii) approved with modifications, or (iii) disapproved.
- (e) If a municipality with delegated authority under this Article establishes a technical standard for a State-maintained road that is different than the State standard, the municipality

shall notify the Department in writing of the details of the modification or exception and the reason for the modification or exception. Unless there is a compelling reason for a change in a technical standard, such as implementation to local land use objectives, public safety goals, local development standards, or site-specific conditions, the municipality shall refer to State standards when reviewing construction plans which have activities within State-maintained rights-of-way.

## "§ 136-166.55. Fees.

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 An ordinance adopted by a municipality may establish a fee for the review of a transportation-related or right-of-way impacting construction plan and related activities. However, if the local government already performs reviews of the same construction plans under this Article, it may not establish an additional fee for review of a construction activity impacting a State-maintained road or its right-of-way."

**SECTION 2.(b)** This section becomes effective October 1, 2017.

**SECTION 3.(a)** Chapter 143 of the General Statutes is amended by adding a new Article to read:

#### "Article 82.

"Transparency and Efficiency in State and Local Permitting; Fees.

#### "§ 143-765. Transparency.

State and local government agencies that have the authority to review and approve permits shall maintain published records that present a summary of adherence to their published review schedules with data on frequency of reviews that were not performed within the established time lines, as well as those reviews performed ahead of schedule. Agencies shall also publish summary data that present the number of reviews and submittals for each project. This data shall be published on the agency's or municipal government's public Web site.

#### "§ 143-766. Efficiency.

State and local government agencies that have the authority to review and approve permits shall make accommodations to incorporate and facilitate access by staff of other agencies, departments, or local governments so that all entities can utilize the system concurrently and collaboratively. For municipalities that have separate local governments with separate areas of responsibility, such as a county review of building permits and a city with review authority of site plans, but both are reviewing the same construction project, the municipalities shall coordinate their review processes so that submittals and reviews are done online through the same online system or portal.

## "§ 143-767. Fees.

State or local governments, which incur costs associated with the creation or adoption of an online permitting system, may establish a fee or increase an existing fee for the review, but the new or additional fee shall not be more than the anticipated actual cost associated with implementation distributed equally among all permit applicants over the course of one year. The fee, or increased fee, shall be in effect only for the first 12 months following the initiation of the online permitting process. The State or local government shall estimate the anticipated number of permit applications for the program's first 12 months based on the number of applicants from the previous 12 months."

SECTION 3.(b) State agencies which review construction documents and have permit authority shall develop and implement an online system for submittal, review, and approval, by 2020.

SECTION 3.(c) This section is effective when it becomes law.

**SECTION 4.** Except as otherwise provided, this act is effective when it becomes

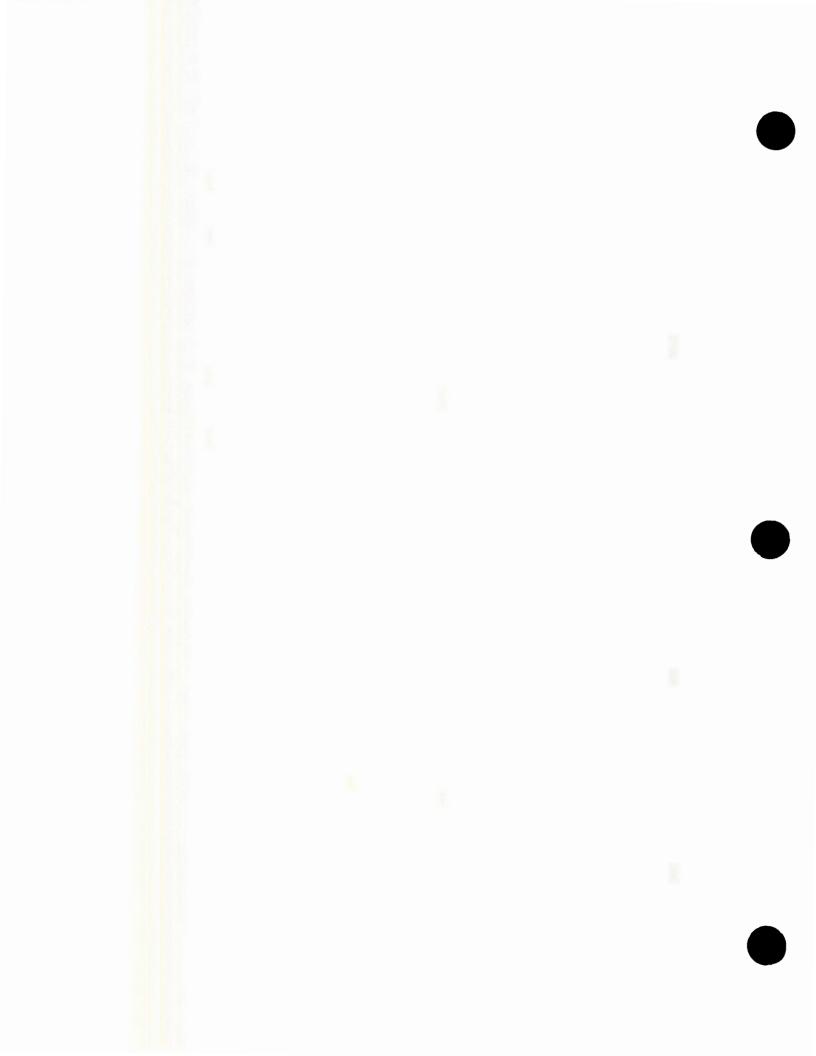
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# NORTH CAROLINA GENERAL ASSEMBLY **AMENDMENT** House Bill 794

	AMENDMEN	IT NO
	(to be filled in	•
H794-ARN-25 [v.2]	Principal Cle	
		Page 1 of 1
Amends Title [NO]	Date	,2017
H-794-CSRN-19		
Representative Adams		
Representative / 10.0000		
1 moves to amend the bill on page 3, line 34	4, by rewriting the line to read:	
2 "construction and land use permits, by	ut not to include permits or a	oprovals related to
4 subdivision of land or zoning of land:"; an		Spirovals related to
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on page 7, line 44, by deleting "and local of	government"; and	
8 on page 7, line 49 by deleting "or municip	oal government's": and	
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on page 8, line 15, by deleting "or local go	overnments," and substituting "age	encies" and
on page 8, line 21, by deleting "The agencies".	State or local government" and	substituting "State
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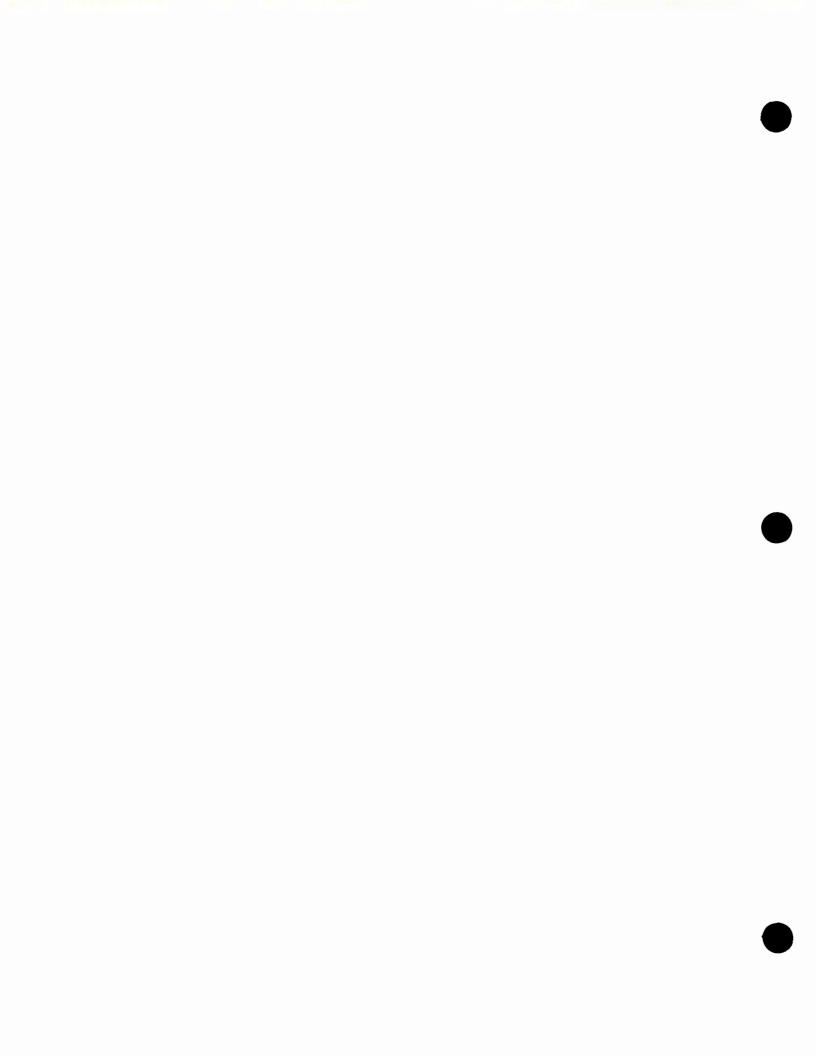




## NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

	EDITION No	-
	H. B. No. 794-CSRN-19 EV. 12 DATE	6-14-17
	S. B. No	Amendment No
	COMMITTEE SUBSTITUTE	(to be filled in by Principal Clerk)
	(Rep.) John	
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	1 moves to amend the bill on page	, line
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#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

SB 63

Military Affairs Commission/Strategic Plan.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None Long Title Amended:

No

Floor Manager:

J. Bell

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 794

NC Permitting Efficiency Act of 2017.

Draft Number:

H794-PCS10371-RNxfr-19

Serial Referral:

**REGULATORY REFORM** 

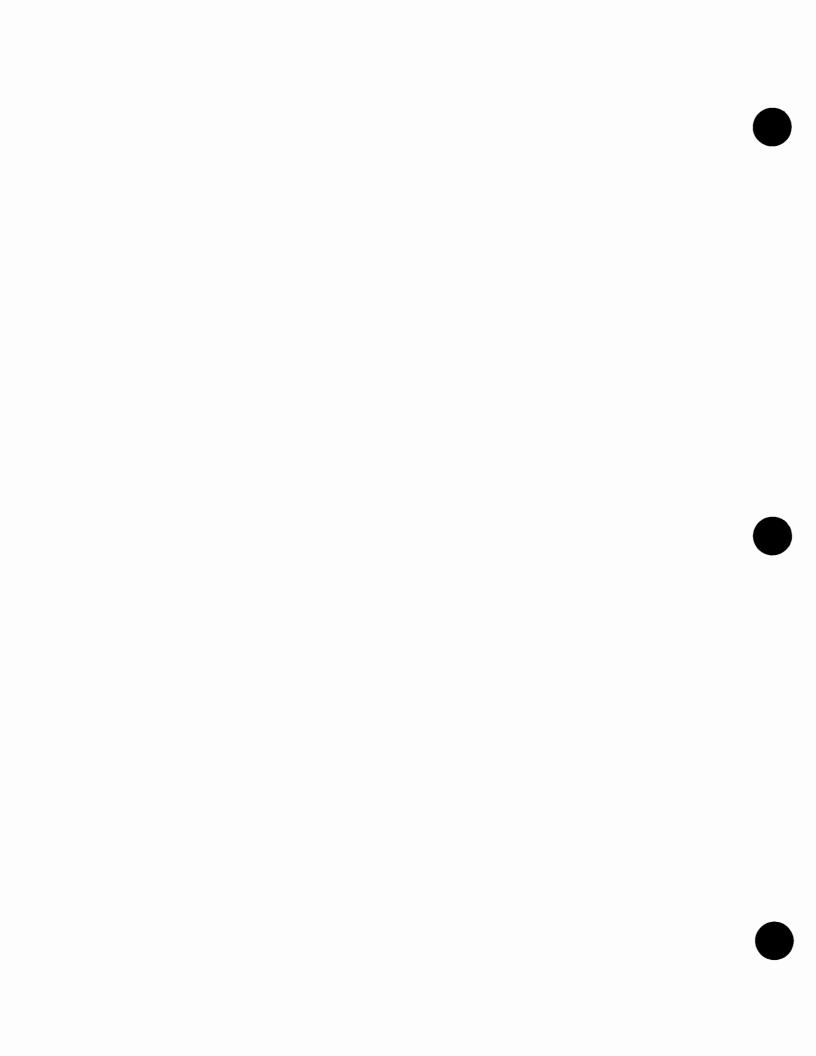
Recommended Referral: None Long Title Amended:

No

Floor Manager:

Stone





#### NORTH CAROLINA GENERAL ASSEMBLY **HOUSE OF REPRESENTATIVES**

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE AND RE-REFERRED**

SB 105 (CS#2) Fairmont Vol. Annex.; Troutman Land Use Reg.

Draft Number:

None

Serial Referral: FINANCE

Recommended Referral: None

No

Long Title Amended: Floor Manager:

Brenden Jones

#### FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL

SB 253 Carteret Co. Bd. of Ed. Partisan Election.

Draft Number:

S253-PCS15214-RB-23

Serial Referral:

None

Recommended Referral: None

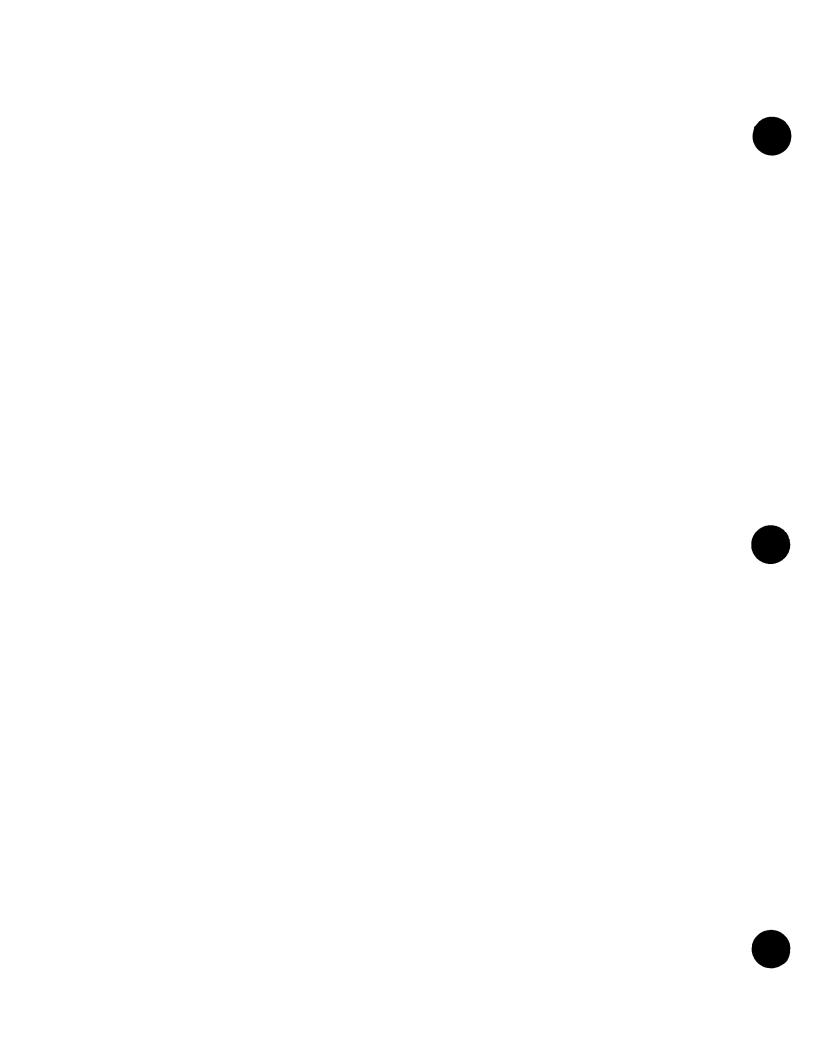
Long Title Amended:

Yes

Floor Manager:

Boswell





# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

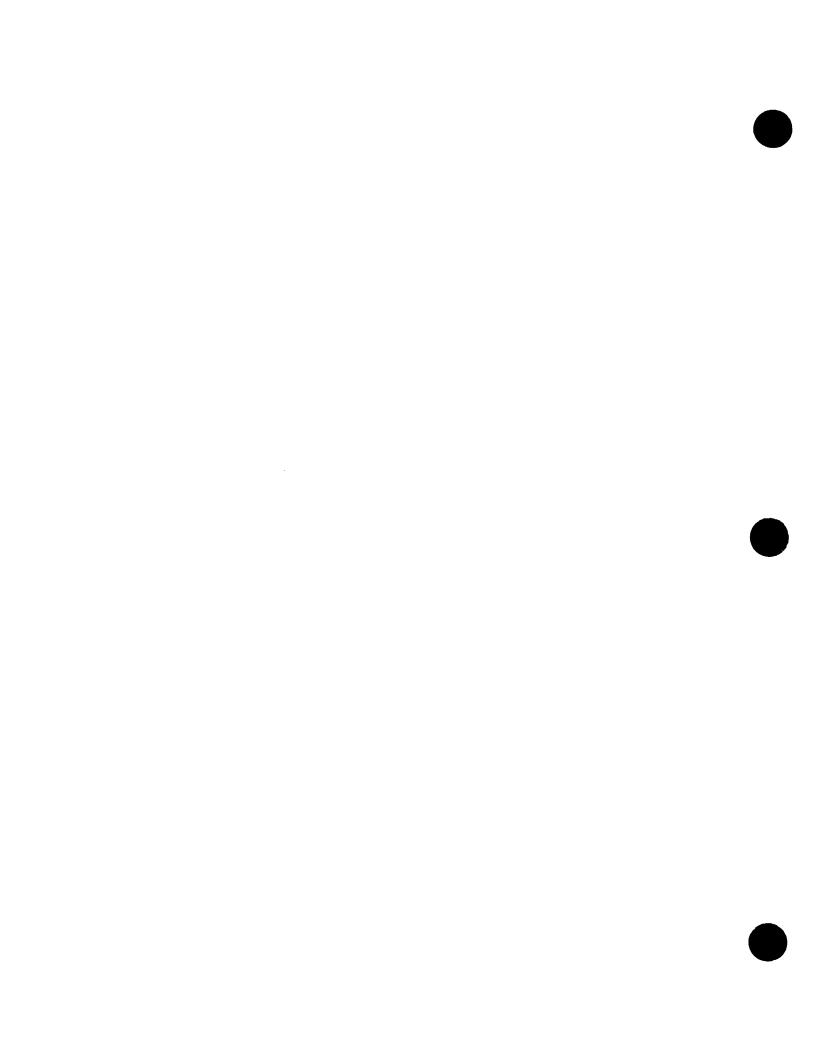
# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

SB 244 Coastal Crescent Trail/State Parks System.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Shepard





#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### FAVORABLE AND RE-REFERRED

SB 217

Richmond/Right-of-Way Safety.

Draft Number:

None

Serial Referral:

WILDLIFE RESOURCES

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

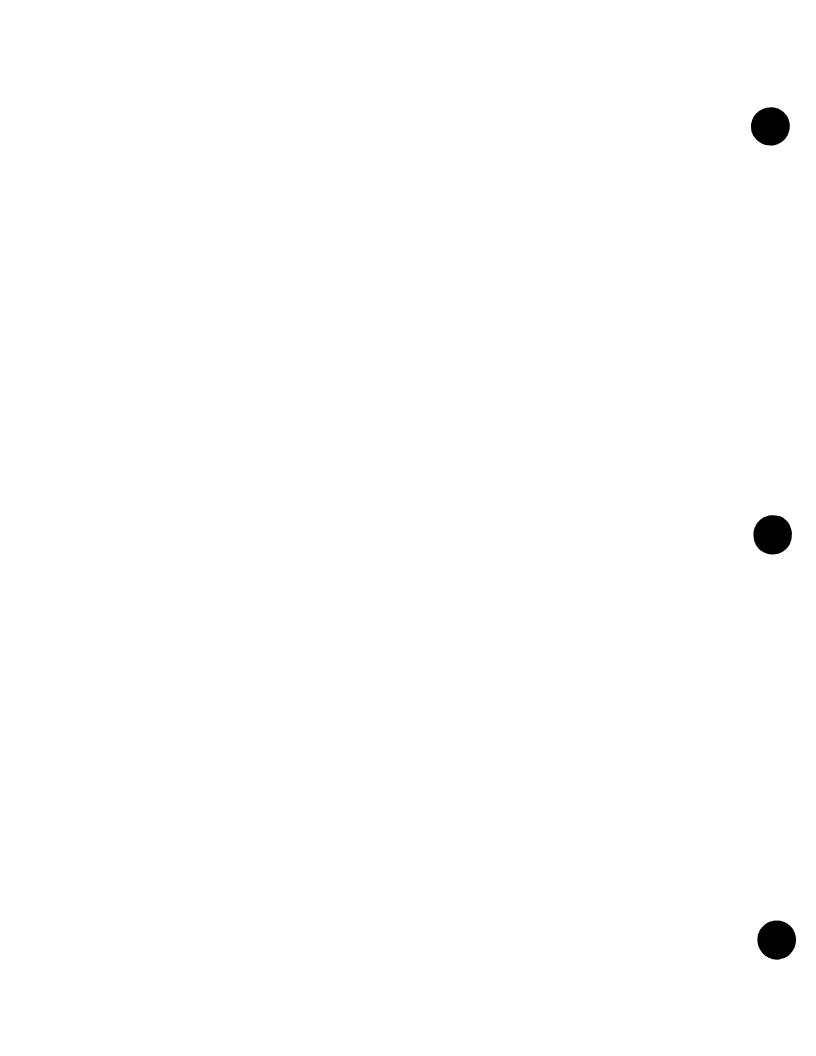
Bradford Zachary



House Committee on State and Local Government | 6/14/2017

Name of Committee Date

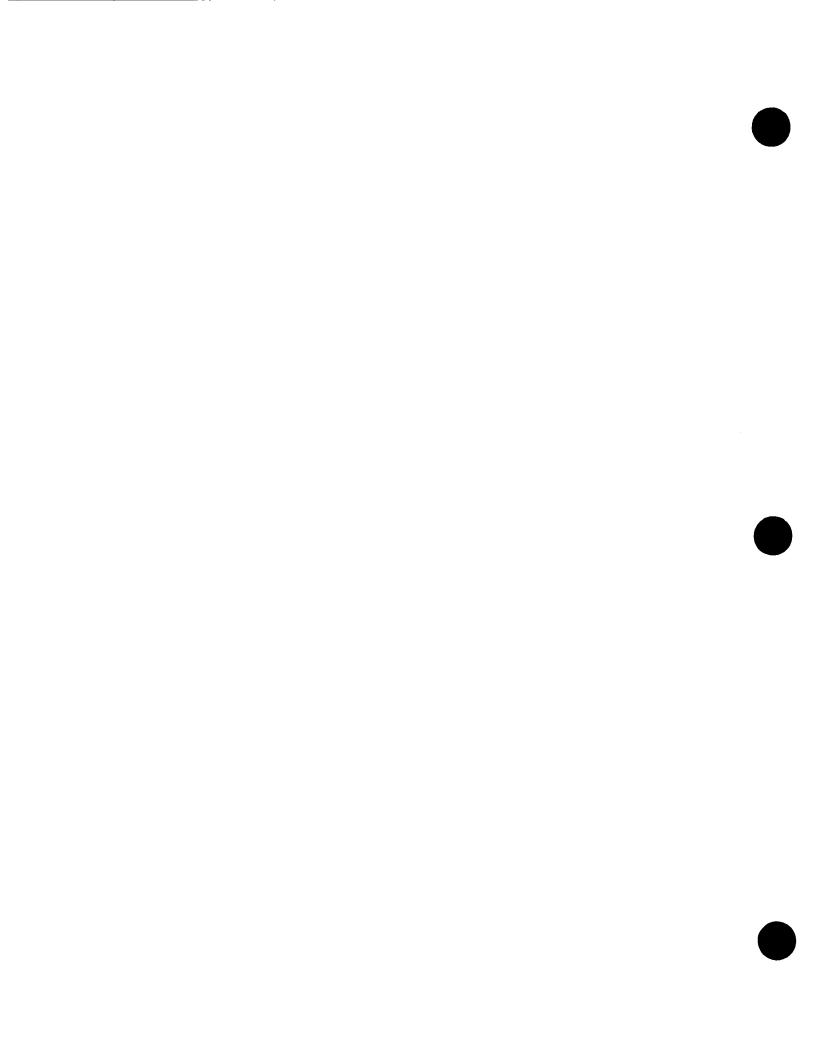
NAME	FIRM OR AGENCY AND ADDRESS
Ilio White	MME
Sum Bridges	Town of Garner
Johann Redse	NeAcc
Gary Hooker Jr.	NCHFA
Samuel A. Kyze	.Citizen
	-
	•



House Committee on State and Local Government II 6/14/2017

Name of Committee Date

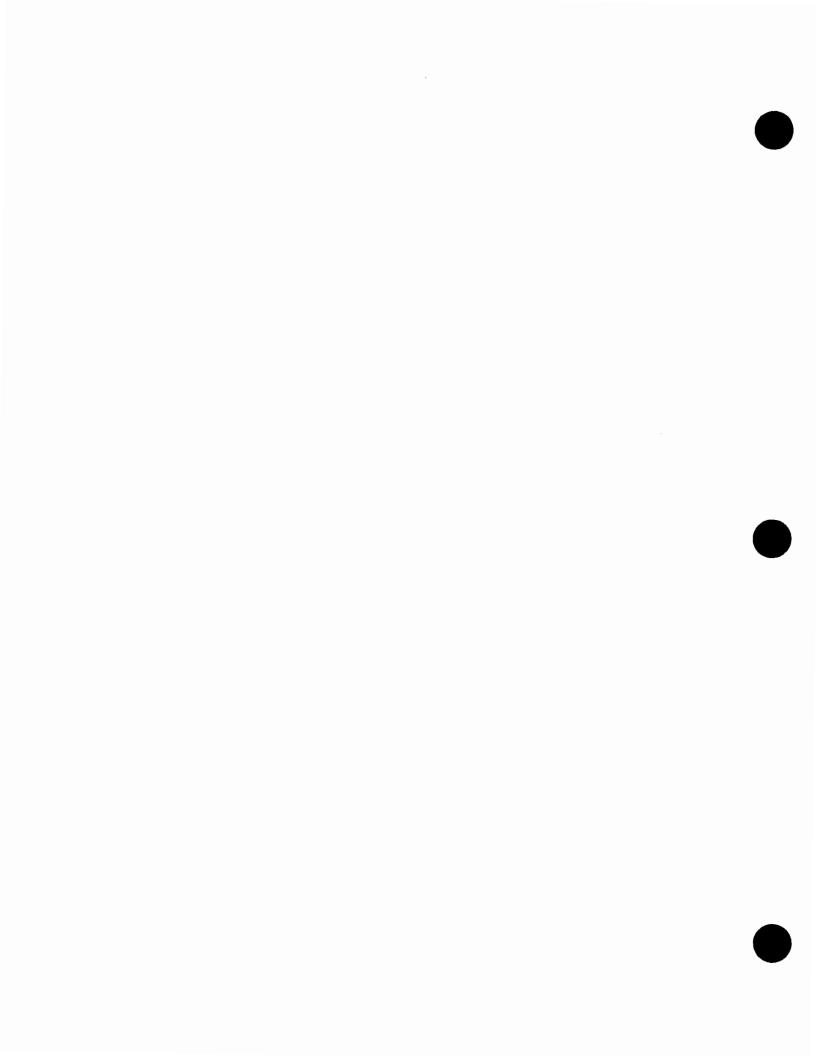
NAME	FIRM OR AGENCY AND ADDRESS
Gray Lademann	Rep. Hall
Ashtar Godh	WRC
Stre Met ulf	FMST
Kate Dixon	Fileras of 11 Los to Sea Trail
Bestter Her	. Nelce
Derek Kelly	C7Z
DAN CRAWFORD	Necell
Vincent Gauthier	NCLCV
Graham Jackson	NCLCV.
Mureterman	WEHE
Marye forman Patrick Burns	AT3T



House Committee on State and Local Government II 6/14/2017

Name of Committee Date

NAME	FIRM OR AGENCY AND ADDRESS
Enthon Robins	120,2 v. C4
Lu Day	MWC
Lex James	DNCR
Stephen house	KMA
MARSEN	JE CC
David Heiner	NC Napidls
Daniel Radford	NCFB
Kortney Smith	NCFB
92	hive.



House Committee on State and Local Government II 6

6/14/2017 Date

NAME	FIRM OR AGENCY AND ADDRESS			
Pung But	366			
Adam Pridence	NCASA			
Richary Bostic	NCSBA			
Josh Larie	- Cac			
Bots, Barly	· CAGC			
Magre Meyers	Sierra Club			
Rachel Willow	Rith Auderson			
Lama Lilis	Vieta France i			
Sarah Collins	NCLM.			
Peans Eatman	NOOT			
CHRIS DILLIM	WHE			

House Committee on State and Local Government II 6/14/2017

Name of Committee Date

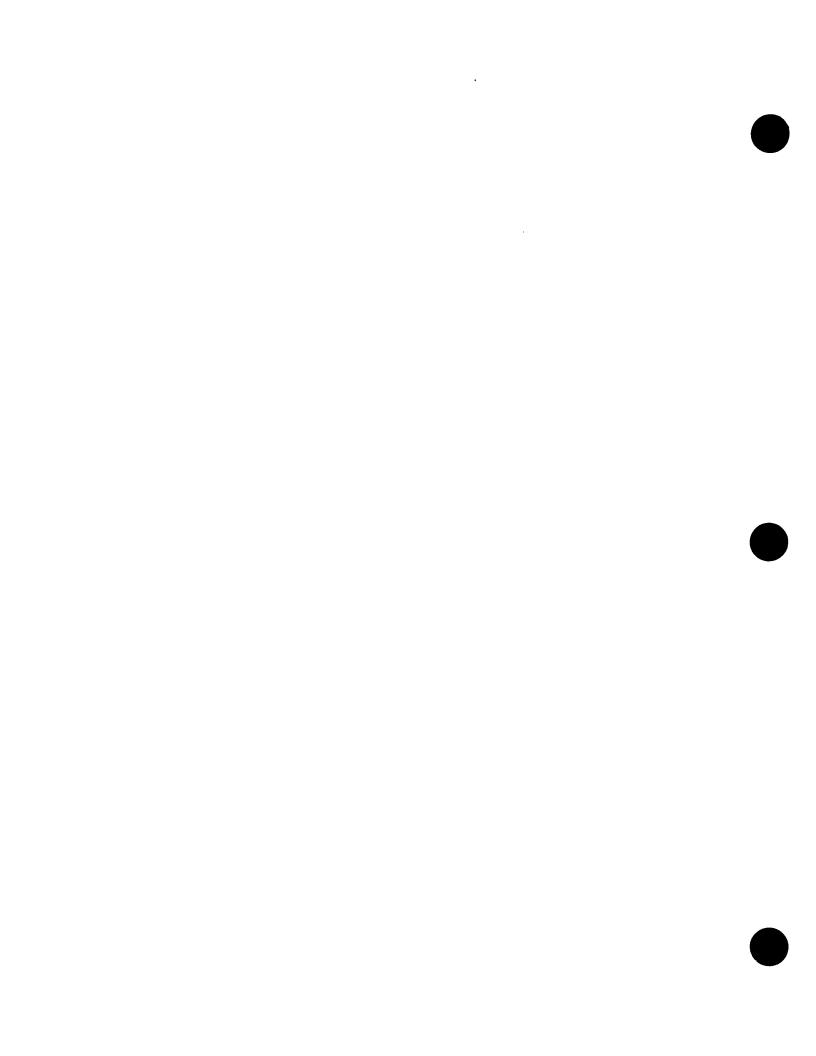
NAME	FIRM OR AGENCY AND ADDRESS			
Joy Wides	NEDOT			
MIKE HOLDER	NCDOT			
Nike Muryly	NC JPR			
Carol Tingley	NC DPR			
ANGELA GALLOWAY	Scotland County 44 extension			
Chancellor Byrd	Scotland County 4H NCCooperative Extension			
Hampton Billips	KTS			
Gusar Vice	Tule Elergy			
Henry W Lancaster	LCA			
Levi antry	NURMA			

# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

# 2017 LONG SESSION

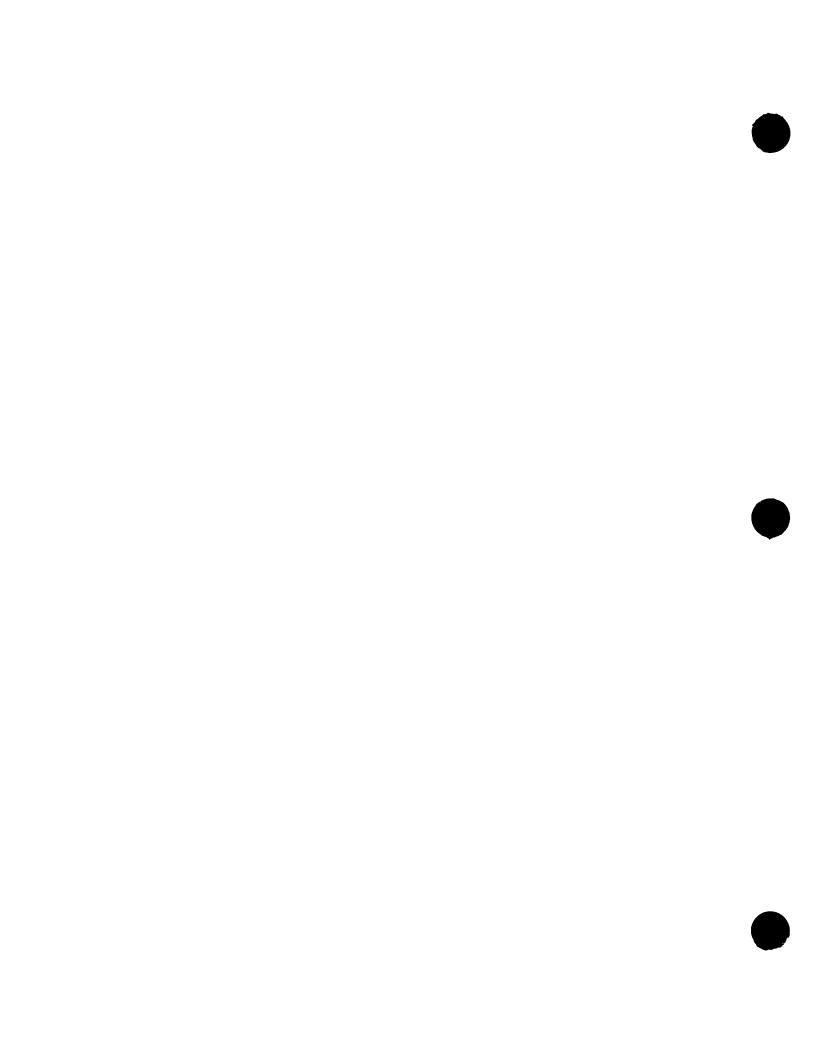
MEMBERS	6.21.17				77 47 47 47 47 47 47 47 47 47 47 47 47 4		
REP. BRADFORD CHAIR	1						
REP. ADAMS	V						
REP. AUTRY	V						
REP. BALL	1						
REP. BOLES							
REP. BOSWELL	E						
REP. C. GRAHAM							
REP. G. GRAHAM							
REP. JOHN	<b>V</b>						
REP. MOREY	1						
REP. ROSS							
REP. SAULS	E						
REP. SETZER							
REP. STEINBURG							
REP. WATFORD							
REP. WILLIAMS	V						
Anita Spence, Committee Assistant							
Cindy Avrette, Staff	V						
Nick Giddings, Staff	1						
Brad Krehely, Staff	<b>V</b>						



# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

	DAY & DATE: TIME: LOCATION: COMMENTS:	Wednesday, June 21, 2017 10:00 AM 544 LOB AGENDA TBD	
			Respectfully,
1			Representative John R. Bradford, III, Chair
,	I hereby certify th Friday, June 16, 2		mmittee assistant at the following offices at 12:36 PM on
		Principal Clerk Reading Clerk – House Chai	mber
	Anita Spence (Co	mmittee Assistant)	



# House Committee on State and Local Government II Wednesday, June 21, 2017, 10:00 AM 544 Legislative Office Building

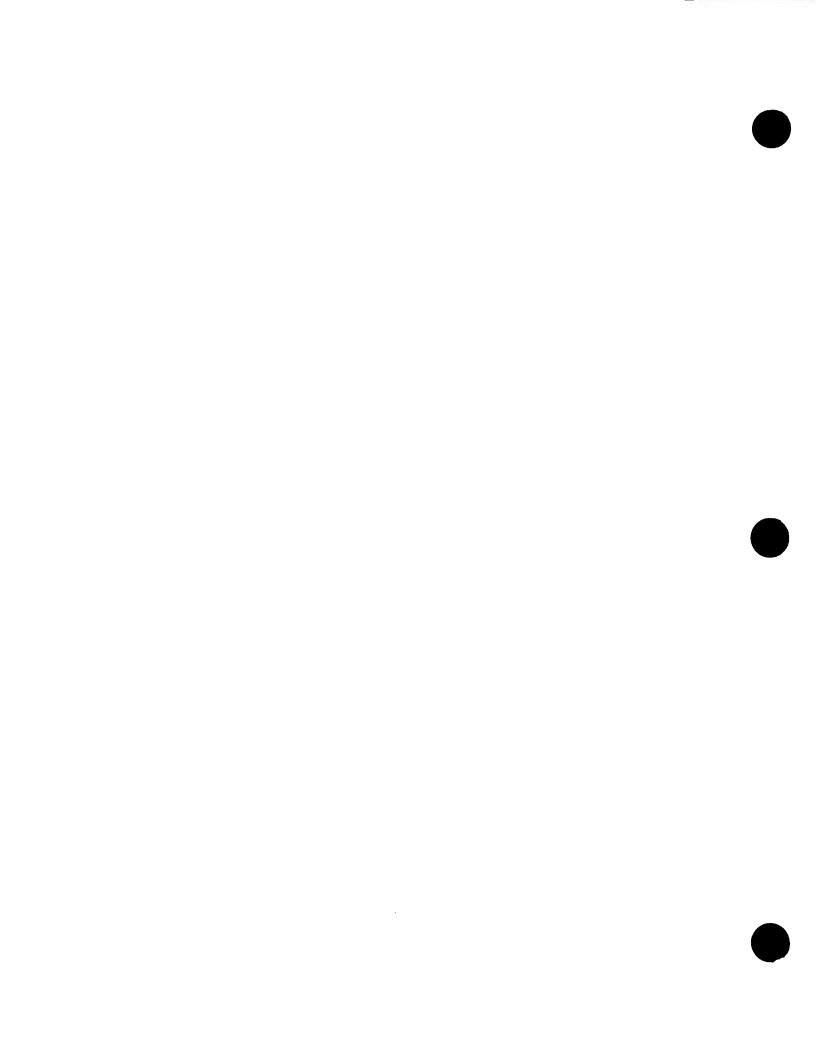
## **AGENDA**

# Welcome and Opening Remarks

# Introduction of Sergeant-at-Arms Pages

BILL NO	SHORT TITLE	SPONSOR		
SB 5	Mecklenburg/Police	Senator Tarte		
	Countywide Jurisdiction.	Senator Bishop		
		Senator J. Jackson		
SB 140	Revise State Nature and Historic Preserve.	Senator Hise		
SB 414	Use of Funding Pool Grant Funds/Macon County.	Senator J. Davis		
SB 545	State Nature and Historic Preserve Adds/Dels.  PCS	Senator Hise Senator Britt		

Adjournment



# House Committee on State and Local Government II Wednesday, June 21, 2017 at 10:00 AM Room 544 of the Legislative Office Building

#### MINUTES

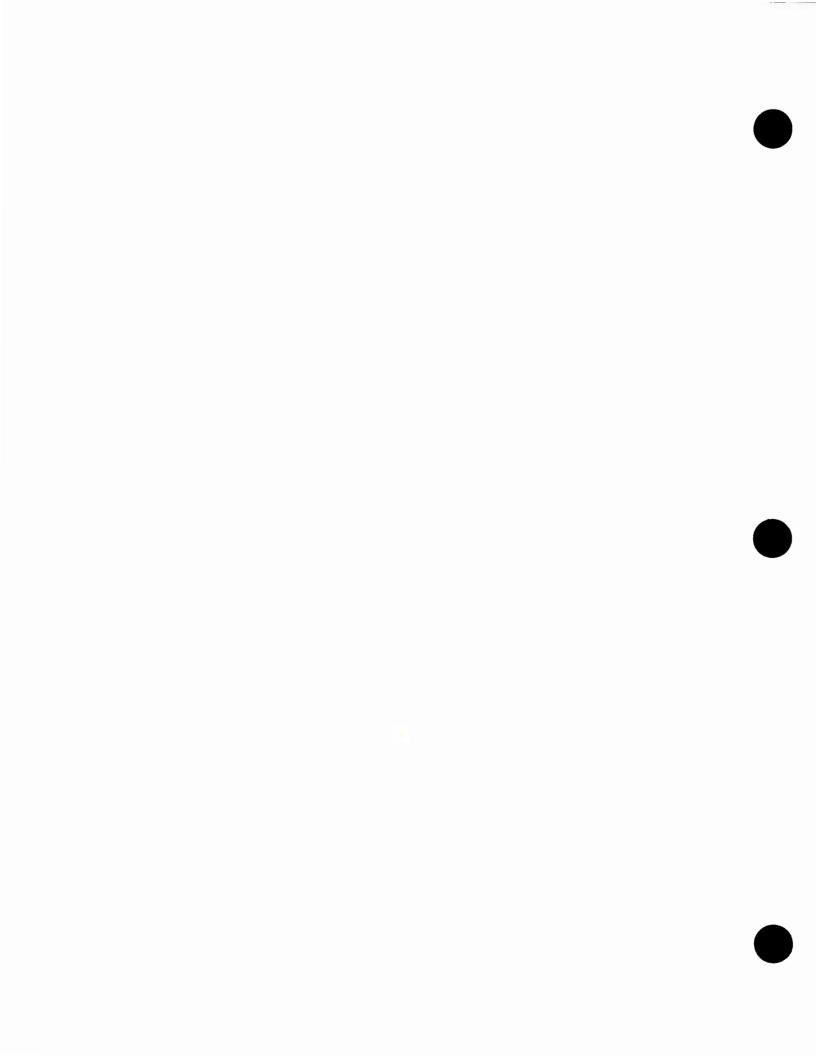
The House Committee on State and Local Government II met at 10:00 AM on June 21, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, John, Morey and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:01 am. He introduced the Sargent at Arms staff and Pages.

Chairman Bradford recognized Representative Adams who motioned for the PCS for SB 545 State Nature and Historic Preserve Adds/Dels (Senators Hise, Britt) AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE to be before the committee. Chairman Bradford recognized Senator Hise to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Autry who motioned for an unfavorable to the original bill favorable to the PCS. Chairman Bradford called for a vote. All members were in favor. SB 545 passes.

Chairman Bradford recognized Representative Adams who motioned for SB 5
Mecklenburg/Police Countywide Jurisdiction(Senators Tarte, Bishop, J. Jackson) AN
ACT GRANTING MECKLENBURG COUNTY, WHO WAS PREVIOUSLY GRANTED
AUTHORITY TO EXTEND COUNTYWIDE JURISDICTION TO THE POLICE
DEPARTMENT OF THE CITY OF CHARLOTTE, AUTHORITY TO EXTEND LAW
ENFORCEMENT AUTHORITY TO AN INDIVIDUAL TOWN WITHIN THE COUNTY
FOR THE AREA WITHIN THAT INDIVIDUAL TOWN'S EXTRATERRITORIAL
JURISDICTION to be before the committee. Chairman Bradford recognized Senator
Tarte to explain the bill. There was discussion on the bill. Chairman Bradford recognized
Representative Autry who asked a question about the bill. Senator Tarte responded to his
question. Chairman Bradford recognized Representative Autry who motioned for a
favorable report for SB 5. Chairman Bradford called for a vote. All members were in
favor. SB 5 passes.

Chairman Bradford recognized Representative Adams who motioned for SB 414 Use of Funding Pool Grant Funds/Macon County(Senator J. Davis) AN ACT GRANTING MECKLENBURG COUNTY, WHO WAS PREVIOUSLY GRANTED AUTHORITY TO EXTEND COUNTYWIDE JURISDICTION TO THE POLICE DEPARTMENT OF THE CITY OF CHARLOTTE, AUTHORITY TO EXTEND LAW ENFORCEMENT

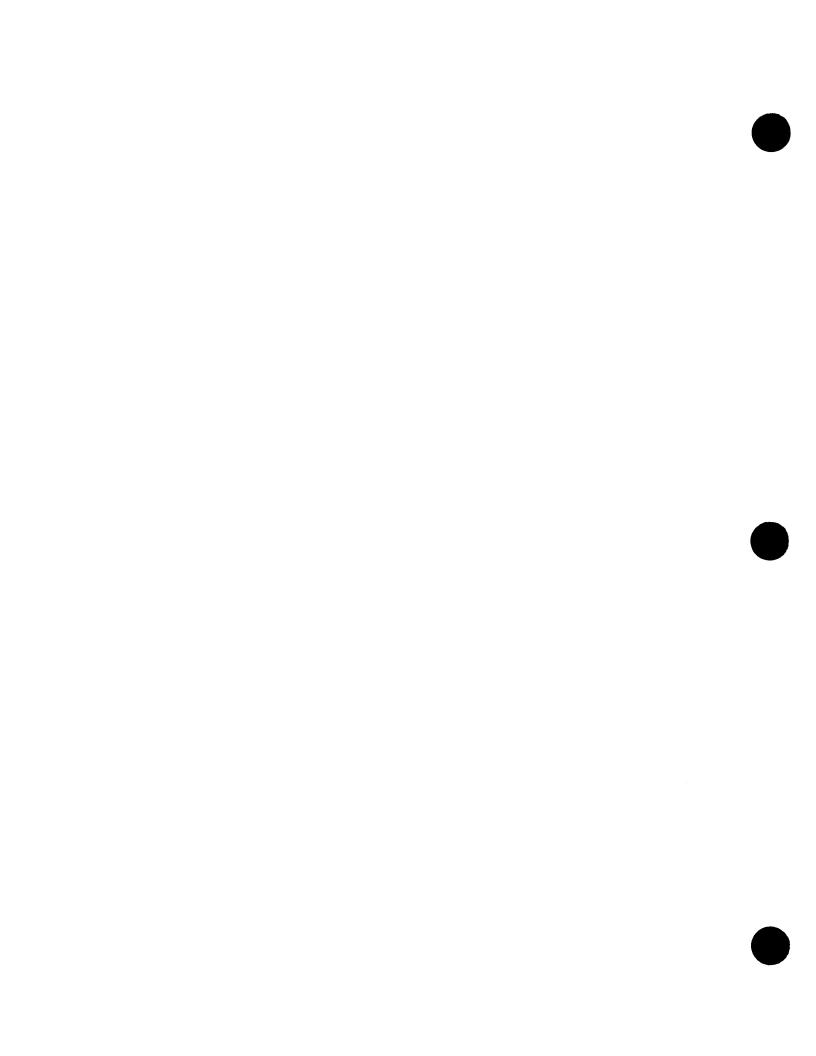


AUTHORITY TO AN INDIVIDUAL TOWN WITHIN THE COUNTY FOR THE AREA WITHIN THAT INDIVIDUAL TOWN'S EXTRATERRITORIAL JURISDICTION to be before the committee. Chairman Bradford recognized Senator Davis to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Adams who motioned for a favorable report for SB 414 with a serial referral to Appropriations. Chairman Bradford called for a vote. All members are in favor. SB 414 passes.

The meeting adjourned at 10:07 am.

Representative Bradford, Presiding Chair

Anita Spence, Committee Clerk



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

S D

# SENATE BILL 545 PROPOSED HOUSE COMMITTEE SUBSTITUTE S545-CSRIx-15 [v.5] 06/20/2017 4:56:06 PM

Short Title:	(Public		
Sponsors:			
Referred to:			

#### April 3, 2017

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE INSTALLATION OF A PUBLIC SAFETY TELECOMMUNICATIONS FACILITY IN CHIMNEY ROCK STATE PARK, TO ACCEPT CERTAIN OTHER PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Section 5 of Article XIV of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the North Carolina Constitution; and

Whereas, more than 7,900 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition to the Council of State dated May 6, 2014; and

Whereas, in accordance with G.S. 143-260.8, on May 2, 2017, the Council of State is scheduled to vote on a petition to the General Assembly to enact a law pursuant to Section 5 of Article XIV of the North Carolina Constitution to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, as a part of its petition of May 2, 2017, the Council of State is also slated to request that the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 143B-135.54 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore, The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-260.10 reads as rewritten:

#### "§ 143-260.10. Components of State Nature and Historic Preserve.

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of May 6, 2014: May 2, 2017: Baldhead Island State



Natural Area, Bay Tree Lake State Park, Natural Area, Bear Paw State Natural Area, Beech Creek Bog State Natural Area, Bullhead Mountain State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Carvers Creek State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Deep River State Trail, Dismal Swamp State Park, Elk Knob State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Grandfather Mountain State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, Lake Norman State Park, Lea Island State Natural Area, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Pineola Bog State Natural Area, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Sugar Mountain State Natural Area, Theodore Roosevelt State Natural Area, Weymouth Woods-Sandhills State Natural Area, and Yellow Mountain State Natural Area.

- All lands and waters within the boundaries of William B. Umstead State Park as of May 6, 2014, May 2, 2017, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.
- (3) Repealed by Session Laws 1999-268, s. 2.
- (4) All lands within the boundaries of Morrow Mountain State Park as of May 6, 2014, May 2, 2017, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.
- (5) Repealed by Session Laws 1999-268, s. 2.
- (6) All land within the boundaries of Crowders Mountain State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and

- McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.
- b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.
- c. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page No. 85, located on the north side of SR 2245 (Bethlehem Road) and containing 14,964 square feet as shown on the survey entitled "Survey for Crowders Mountain State Park, Deed Book 1103-107, Township 4 Kings Mountain, Cleveland County, N.C." by David W. Dickson, P.A. dated February 28, 2008.
- d. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page 85, and containing 0.06 acres and 0.515 acres as shown on the survey entitled "Boundary Survey for the State of N.C. Department of Administration, Township No. Four Cleveland County, N.C." by Carolinas Design Group, PLLC, dated November 6, 2007.
- e. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, described in Deed Book 2829, page 518, and containing 0.15 acres as shown on the survey entitled "Survey Made at Request of Larry Hyde, Park Superintendent, Crowders Mountain State Park" by Gray Surveying Co., Inc., dated September 12, 2012.
- (7) All lands owned in fee simple by the State within the boundaries of New River State Park as of May 6, 2014. May 2, 2017, with the exception of the following tracts: The portion of that certain tract or parcel of land at New River State Park in Ashe County, Chestnut Hill Township, described in Deed Book 432, Page 724, and containing 44,033 square feet as shown on the survey prepared by Thomas Herman Company, PLLC and entitled "Survey for State of North Carolina, Division of Parks and Recreation; Harold Davis; and Joe Davis" dated March 24, 2017, and on file with the State Property Office.
- (8) All lands and waters within the boundaries of Stone Mountain State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54.
- (9) All lands and waters located within the boundaries of the following State Historic Sites as of May 6, 2014: May 2, 2017: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor

c.

Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, <a href="President\_James K. Polk Memorial">President\_James K. Polk Memorial</a>, <a href="Polk">Polk</a>, <a href="Reed">Reed</a> Gold Mine, Somerset Place, <a href="Historic">Historic</a> Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, <a href="Endor Iron Furnace">Endor Iron Furnace</a>, and Thomas Wolfe Memorial.

- (10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.
- All lands and waters located within the boundaries of Hanging Rock State Park as of May 6, 2014, May 2, 2017, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54.
- (13) All lands and waters located within the boundaries of South Mountains State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54.
  - a, b. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.
    - The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Wildlife Resources Commission in January 2013 and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640; (iv) within that tract or property in Burke County, Silver Creek Township, described in Deed Book 1847, Page 287; (v) within that tract or property in Burke County, Upper Creek Township, described in Deed Book 882, Page 2347; (vi) within that tract or property in Burke County, Upper Creek Township, described in Deed Book 882, Page 2352; (vii) within that tract or property in Burke County, Upper Fork Township, described in Deed Book 886, Page 1964; (viii) within that tract or property in Burke County, Upper Fork Township, Deed Book 767, Page 1360; (ix) within that tract or property in Burke County, Upper Fork Township, Deed Book 884, Page 1648; or (x) within that tract or property in Burke County, Upper Fork Township, Book 886, Page 2228. The State of North Carolina may only exchange this land for other land for the expansion of South

Page 4 Senate Bill 545 S545-CSRIx-15 [v.5]

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Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- d. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.
- (14) Repealed by Session Laws 2003-234, s. 1, effective June 19, 2003.
- All lands and waters within the boundaries of Jockey's Ridge State Park as (15)of May 6, 2014, May 2, 2017, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and-the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 501, and Deed Book 230, Page 525, and containing 12,655 square feet as shown on the preliminary plat entitled "Easement Survey for Town of Nags Head" prepared by Seaboard Surveying & Planning, Inc., dated August 29, 2012.
- All lands and waters located within the boundaries of Mount Jefferson State (16)Natural Area as of May 6, 2014. May 2, 2017. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding In conformance with G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes.
- (17) All lands and waters within the Eno River State Park as of May-6, 2014, May 2, 2017, with the exception of the following tracts:

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- a. The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - b. The portion of that certain tract or parcel of land at Eno River State Park in Orange County, described in Deed Book 3878, Page 461, and Plat Book 98, Page 11, containing 5,313 square feet and required for the permanent easements for bridge replacement project B-4216 on SR 1002 (St. Mary's Road), as shown in the drawing entitled "Preliminary Plans, Project Reference No. B-4216" prepared for North Carolina Department of Transportation by Mulkey Engineers and Consultants dated March 10, 2009, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - All land and waters within the boundaries of Hemlock Bluffs State Natural (18)Area as of May 6, 2014, May 2, 2017, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of

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Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- (19)All lands and waters within the boundaries of Lake James State Park as of May 6, 2014. May 2, 2017, with the exception of the following tracts:
  - The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation across this tract to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.
  - b. The portion of that certain tract or parcel of land at Lake James State Park in McDowell County, Nebo Township, described in Deed Book 377, Page 423, and also shown as Tract B on the plat of survey prepared by Kenneth D. Suttles, RLS, dated December 4, 1987, entitled "Lake James State Park," Sheet 1 of 2, recorded in Plat Book 4, Page 275 of the McDowell County Registry, for a 40-foot right-of-way beginning at the southwest corner of Tract B and continuing along the southern boundary 86 38' 51" E for 400 feet to the now or former John D. Walker property. The State of North Carolina may grant an easement across this tract to extinguish prescriptive easements on Tract B to improve management of the State park property. The State may not otherwise sell or exchange this land. The easement excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 143B-135.54.
  - That portion of that certain tract or parcel of land at Lake James State c. Park in Burke County, Linville Township, described in Deed Book 1431, Page 859, and shown on the survey prepared by Suttles Surveying, PA dated May 2, 2014, entitled "Survey for State of North Carolina," containing 3.41 acres and on file with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lake James State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (20)All lands and waters within the boundaries of Lake Waccamaw State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts: The

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portions of that certain tract or parcel of land at Lake Waccamaw State Park in Columbus County described in Deed Book 835, Page 590, containing 48,210 square feet and being the portion of this tract shown as new R/W and permanent utility easement on drawing prepared by State of North Carolina Department of Transportation entitled "Map of Proposed Right of Way Property of State of North Carolina (Parks and Recreation) Columbus County" for Tip B-3830 on SR 1947 (Bella Coola Road) done by John E. Kaukola, PLS No. 3999 and compiled 1-18-2008, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lake Waccamaw State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(21) All lands and waters within the boundaries of Chimney Rock State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts:

The portion of that certain tract or parcel of land at Chimney Rock State Park in Rutherford County being a portion of Parcel 2 as described in Deed Book 933, Page 598, containing 346 square feet and being shown as proposed right-of-way for bridge replacement project B-4258 on U.S. 64 over the Broad River on drawing prepared by Kimley-Horn and Associates for the North Carolina Department of Transportation and revised October 26, 2007, and filed with the State Property Office. The portion of that certain tract or parcel of land at Chimney Rock State Park in Polk County, Cooper Gap Township, Deed Book 393, Page 1402, containing 6.5 acres more or less and shown on the survey entitled "Plat of Survey for The State of North Carolina" prepared by Stacy Kent Rhodes dated May 15, 2014, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Chimney Rock State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

With respect to the communications tower site on Chimney Rock <u>b.</u> Mountain located on a portion of that certain tract or parcel of land at Chimney Rock State Park in Rutherford County, Chimney Rock Township, described in Deed Book 933, Page 598, the State may provide space at the communications tower site to State public safety, emergency management, local governments in Rutherford County, and public television agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at or near the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Section 5 of Article XIV of the

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48 49 50 North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes.

- All State-owned land and waters within the boundaries of the (22)Mountains-to-Sea Trail as of May 6, 2014, May 2, 2017, with the exception of the following tract: The portion of that certain tract or parcel in Johnston County described in Deed Book 3634, Page 278, containing 4.72 acres and being described as proposed easement area for Piedmont Natural Gas Company transmission line on drawing entitled "Easement Survey Prepared for Piedmont Natural Gas Company, Line 142, Easement to be Acquired from the State of North Carolina" by McKim & Creed and dated July 31, 2008, and revised March 11, 2009. The State of North Carolina may grant an easement to Piedmont Natural Gas Company across this tract to facilitate the transmission of natural gas. The grant of the easement within the Mountains-to-Sea Trail to Piedmont Natural Gas Company under this section constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Section 5 of Article XIV of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of the Mountains-to-Sea Trail or another State park. The State may not otherwise sell or exchange this land.
- All State-owned land and waters within the boundaries of Gorges State Park (23)as of May 6, 2014, May 2, 2017, with the exception of the following tracts: The portions of that certain tract or parcel of land in Transylvania County, described in Deed Book 267, Page 838, containing a total of 7.26 acres for the North Carolina Department of Transportation project TIP R-2409C US 64 Safety Improvements. As shown on right-of-way drawing from the North Carolina Department of Transportation dated May 22, 2014, for TIP R-2409C, Parcel 002, on file with the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Gorges State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- All State-owned land and waters within the boundaries of Lower Haw State (24)Natural Area as of May 6, 2014, May 2, 2017, with the exception of the following tract: the portion of that certain tract or parcels in Chatham County, described in Deed Book 1319, Page 1047, containing 12,501 square feet and shown on a survey entitled "Recombination Survey for the North Carolina Division of Parks and Recreation and PK Ventures I LTD Partnership" prepared by S.D. Puckett and Associates dated April 22, 2014, and on file with the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lower Haw State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- 25) All State-owned land and waters within the boundaries of Lumber River State Park as of May 6, 2014, May 2, 2017, with the exception of the following tracts:
  - a. The portions of those certain tracts or parcels of land in Robeson County, described in Deed Book 919, Page 862, Deed Book 1097, Page 837, Deed Book 935, Page 170, Deed Book 1125, Page 562, and Deed Book 1117, Page 680, containing a total of 3.39 acres for the North Carolina Department of Transportation secondary road project 6C.078030 SR 2245 (VC Britt Road) and shown on the survey entitled "Survey of Tracts 1A and 1B, VC Britt Rd, Orrum NC" prepared by the North Carolina Department of Transportation. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lumber River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - b. The portions of that certain tract or parcel of property at Lumber River State Park in Robeson County, described in Deed Book 575, Page 523, and containing approximately 1.08 acre (Tract A) and 0.12 acre (Tract C) as shown in a survey by Jerry W. Lee entitled "Survey for State of North Carolina" dated June 28, 2016. The land described in this sub-subdivision is deleted from the Start Park System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lumber River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - C. The portion of those certain tracts or parcels of land at Lumber River State Park in Robeson County, Pembroke Township, described in Deed Book 575, Page 523 and Deed Book 931, Page 415 and containing a total of approximately 2.12 acres as shown in surveys prepared by McKim and Creed and labeled Drawing Number 2017-041 and 2017-042 dated April 24, 2017, and on file with the State Property Office.
- All State-owned land and waters within the boundaries of Mitchells Millpond State Natural Area as of May 6, 2014, May 2, 2017, with the exception of the following tract: the portions of that certain tract or parcel in Wake County, described in Deed Book 2445, Page 62, containing approximately 0.215 acres as shown on the right-of-way plan for SR 2224 (Mitchell Mill Road) bridge No. 162 replacement project and on file with the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of the State Parks system or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- All lands and waters within the boundaries of Carvers Creek State Park as of May 2, 2017, with the exception of the following tract: the portion of that certain tract or parcel of land at Carvers Creek State Park in Cumberland County, described in Deed Book 8466, Page 67, and containing 0.33 acres, more or less, as shown on the survey entitled "Ingress-Egress Easement for

General Assembly Of North Carolina	Session 2017
Stone Mountain Farm, LLC & William C. Elliott, Est	ate & The State of
North Carolina" by George L. Lott, PLS, dated November	er 2013, and revised
in May 2015 and filed with the State Property Office."	
<b>SECTION 2.</b> This act is effective when it becomes law.	



# **SENATE BILL 545: State Nature and Historic Preserve Adds/Dels.**

#### 2017-2018 General Assembly

Committee: House State and Local Government II

Introduced by: Sens. Hise, Britt Analysis of: PCS to First Edition

S545-CSRIx-15

**Date:** June 21, 2017

Prepared by: Jennifer McGinnis

Staff Attorney

OVERVIEW: The Proposed Committee Substitute for Senate Bill 545 would remove two parcels from the State Nature and Historic Preserve (Preserve).

#### The PCS would:

- Merge the contents of S140 with S545
- Except small parcels from Lumber River State Park and New River State Park from the Preserve for purposes described below
- Change a date included in the bill, and makes another technical correction

CURRENT LAW: Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly. The Preserve is intended to insure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house. G.S. 143-260.8 provides conditions and procedures for additions to, and deletions from, the Preserve, which must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.

**BACKGROUND:** Properties were last accepted into the Preserve in 2014. Since that time over 7,900 acres have been added to the North Carolina Park System. The Council of State met on May 2, 2017 and approved a petition for the General Assembly to accept into the Preserve various State parklands and historic sites. The petition is slated to also include a request to delete certain parcels from dedication in the Preserve for various reasons (in order to improve the management of units, allow for existing road relocations, allow for utility easements and cell towers, etc).

**BILL ANALYSIS:** The bill would except from dedication and/or delete from the Preserve two parcels as follows:

New River State Park: This clause excepts an area totaling approximately 1.011 acres for a non-exclusive access easement across State-owned lands. The access easement was in existence prior to State ownership, and its use was prescriptive. However, the adjoining landowner requested a permanent recorded easement for insurance purposes.

Karen Cochrane-Brown Director



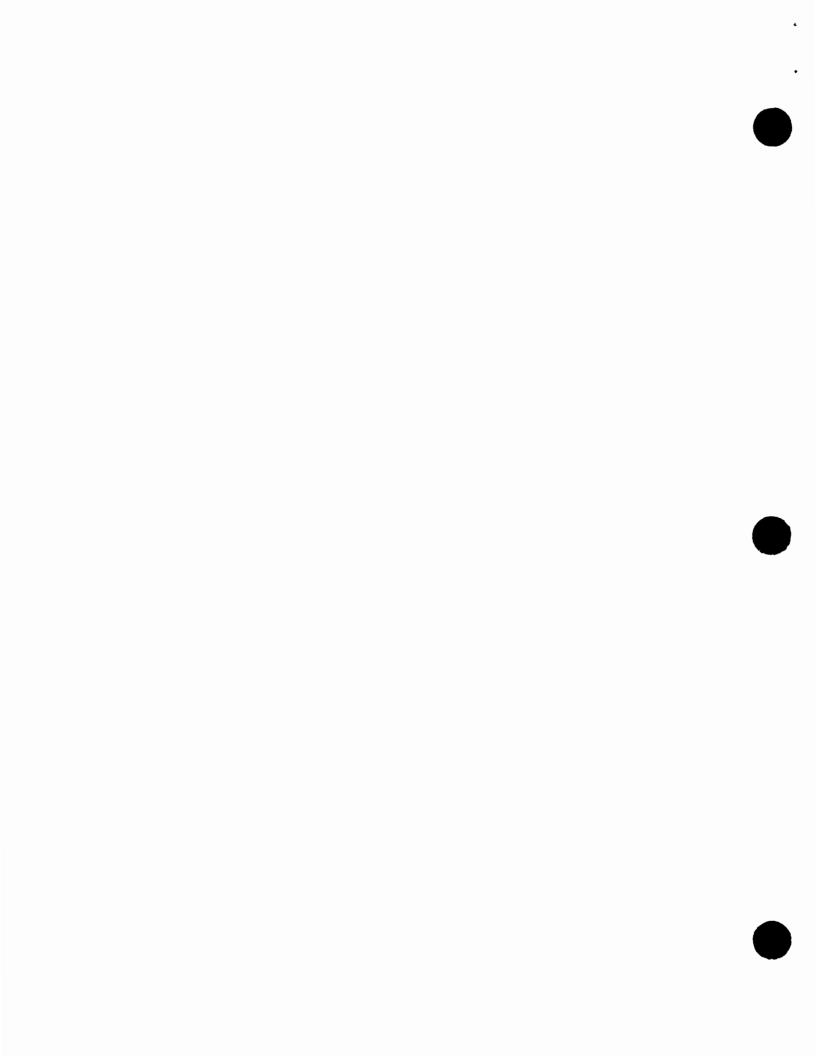
Legislative Analysis Division 919-733-2578

#### Senate PCS 545

Page 2

- Chimney Rock State Park: This clause excepts a parcel on which an existing communications tower is present. When this property was originally acquired by the State, the communications tower site was under lease for use by the State Highway Patrol and UNC-TV. The lease has expired, but an interagency agreement has been executed to allow the State Highway Patrol and UNC-TV to continue use the parcel in question for a communications tower, however, the tower subject to the former lease is in need of replacement, thus it will be replaced with a new tower in a location with easier road access, less visual impact, and less overall impact on the Park. As communication towers and tower sites are not public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, and the applicable provisions of the General Statutes that govern properties in the Preserve, this tract must be deleted.
- Lumber River State Park: This clause excepts two small tracts totaling approximately 1.2 acres needed for an exchange of property with the adjacent church. When survey work was done on a recent addition to the State Park, graves from the church's cemetery were found on State Park property. This property will be exchanged for frontage along the Lumber River.
- Lumber River State Park: This clause excepts two small tracts totaling approximately 2.12 acres needed for the installation of an electrical transmission line to service the local community. This transmission line is being relocated from a highly wooded area for ease of repair and service restoration during an outage.
- Carvers Creek State Park: This clause excepts two areas totaling approximately 0.33 acres for a non-exclusive access easement across State-owned lands. The access easement, known as "Elliot Road", was in existence prior to State ownership, and its use was prescriptive. However, the adjoining landowner requested a permanent recorded easement for insurance purposes.

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



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **SENATE BILL 545**

(Public)

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Sponsors:

Senators Hise and Britt (Primary Sponsors).

State Nature and Historic Preserve Adds/Dels.

Referred to:

Short Title:

Rules and Operations of the Senate

#### April 3, 2017

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#### A BILL TO BE ENTITLED

AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Section 5 of Article XIV of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the North Carolina Constitution; and

Whereas, more than 7,900 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition to the Council of State dated May 6, 2014; and

Whereas, in accordance with G.S. 143-260.8, on April 4, 2017, the Council of State voted to petition to the General Assembly to enact a law pursuant to Section 5 of Article XIV of the North Carolina Constitution to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, as a part of its petition of April 4, 2017, the Council of State also requested the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 113-44.14 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

"§ 143-260.10. Components of State Nature and Historic Preserve.

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of May 6, 2014: April 4, 2017: Baldhead Island State Natural Area, Bay Tree Lake State Park, Natural Area, Bear Paw State Natural Area, Beech Creek Bog State Natural Area, Bullhead Mountain



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State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Carvers Creek State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Deep River State Trail, Dismal Swamp State Park, Elk Knob State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Grandfather Mountain State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, Lake Norman State Park, Lea Island State Natural Area, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Pineola Bog State Natural Area, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Sugar Mountain State Natural Area, Theodore Roosevelt State Natural Area, Weymouth Woods-Sandhills State Natural Area, and Yellow Mountain State Natural Area.

- All lands and waters within the boundaries of William B. Umstead State Park as of May 6, 2014, April 4, 2017, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.
- (3) Repealed by Session Laws 1999-268, s. 2.
- (4) All lands within the boundaries of Morrow Mountain State Park as of May 6, 2014, April 4, 2017, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.
- (5) Repealed by Session Laws 1999-268, s. 2.
- (6) All land within the boundaries of Crowders Mountain State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.

- b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.
- c. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page No. 85, located on the north side of SR 2245 (Bethlehem Road) and containing 14,964 square feet as shown on the survey entitled "Survey for Crowders Mountain State Park, Deed Book 1103-107, Township 4 Kings Mountain, Cleveland County, N.C." by David W. Dickson, P.A. dated February 28, 2008.
- d. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page 85, and containing 0.06 acres and 0.515 acres as shown on the survey entitled "Boundary Survey for the State of N.C. Department of Administration, Township No. Four Cleveland County, N.C." by Carolinas Design Group, PLLC, dated November 6, 2007.
- e. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, described in Deed Book 2829, page 518, and containing 0.15 acres as shown on the survey entitled "Survey Made at Request of Larry Hyde, Park Superintendent, Crowders Mountain State Park" by Gray Surveying Co., Inc., dated September 12, 2012.
- (7) All lands owned in fee simple by the State within the boundaries of New River State Park as of May 6, 2014. April 4, 2017.
- (8) All lands and waters within the boundaries of Stone Mountain State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54.
- (9) All lands and waters located within the boundaries of the following State Historic Sites as of May 6, 2014: April 4, 2017: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, President James K. Polk Memorial, Polk, Reed Gold Mine, Somerset Place, Historic Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, Endor Iron Furnace, and Thomas Wolfe Memorial.
- (10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.

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- All lands and waters located within the boundaries of Hanging Rock State Park as of May 6, 2014, April 4, 2017, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54.
- (13) All lands and waters located within the boundaries of South Mountains State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54.
  - a, b. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.
    - The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Wildlife Resources Commission in January 2013 and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640; (iv) within that tract or property in Burke County, Silver Creek Township, described in Deed Book 1847, Page 287; (v) within that tract or property in Burke County, Upper Creek Township, described in Deed Book 882, Page 2347; (vi) within that tract or property in Burke County, Upper Creek Township, described in Deed Book 882, Page 2352; (vii) within that tract or property in Burke County, Upper Fork Township, described in Deed Book 886, Page 1964; (viii) within that tract or property in Burke County, Upper Fork Township, Deed Book 767, Page 1360; (ix) within that tract or property in Burke County, Upper Fork Township, Deed Book 884, Page 1648; or (x) within that tract or property in Burke County, Upper Fork Township, Book 886, Page 2228. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - d. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.
- (14) Repealed by Session Laws 2003-234, s. 1, effective June 19, 2003.
- (15) All lands and waters within the boundaries of Jockey's Ridge State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet

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as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 501, and Deed Book 230, Page 525, and containing 12,655 square feet as shown on the preliminary plat entitled "Easement Survey for Town of Nags Head" prepared by Seaboard Surveying & Planning, Inc., dated August 29, 2012.

(16)All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of May 6, 2014. April 4, 2017. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding In conformance with G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes.

(17) All lands and waters within the Eno River State Park as of May 6, 2014, April 4. 2017, with the exception of the following tracts:

a. The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State

(18)

Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- b. The portion of that certain tract or parcel of land at Eno River State Park in Orange County, described in Deed Book 3878, Page 461, and Plat Book 98, Page 11, containing 5,313 square feet and required for the permanent easements for bridge replacement project B-4216 on SR 1002 (St. Mary's Road), as shown in the drawing entitled "Preliminary Plans, Project Reference No. B-4216" prepared for North Carolina Department of Transportation by Mulkey Engineers and Consultants dated March 10, 2009, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- All land and waters within the boundaries of Hemlock Bluffs State Natural Area as of May 6, 2014, April 4, 2017, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (19) All lands and waters within the boundaries of Lake James State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts:
  - The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation across this tract to facilitate

the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.

- b. The portion of that certain tract or parcel of land at Lake James State Park in McDowell County, Nebo Township, described in Deed Book 377, Page 423, and also shown as Tract B on the plat of survey prepared by Kenneth D. Suttles, RLS, dated December 4, 1987, entitled "Lake James State Park," Sheet 1 of 2, recorded in Plat Book 4, Page 275 of the McDowell County Registry, for a 40-foot right-of-way beginning at the southwest corner of Tract B and continuing along the southern boundary 86 38' 51" E for 400 feet to the now or former John D. Walker property. The State of North Carolina may grant an easement across this tract to extinguish prescriptive easements on Tract B to improve management of the State park property. The State may not otherwise sell or exchange this land. The easement excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 143B-135.54.
- c. That portion of that certain tract or parcel of land at Lake James State Park in Burke County, Linville Township, described in Deed Book 1431, Page 859, and shown on the survey prepared by Suttles Surveying, PA dated May 2, 2014, entitled "Survey for State of North Carolina," containing 3.41 acres and on file with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lake James State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (20) All lands and waters within the boundaries of Lake Waccamaw State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts: The portions of that certain tract or parcel of land at Lake Waccamaw State Park in Columbus County described in Deed Book 835, Page 590, containing 48,210 square feet and being the portion of this tract shown as new R/W and permanent utility easement on drawing prepared by State of North Carolina Department of Transportation entitled "Map of Proposed Right of Way Property of State of North Carolina (Parks and Recreation) Columbus County" for Tip B-3830 on SR 1947 (Bella Coola Road) done by John E. Kaukola, PLS No. 3999 and compiled 1-18-2008, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant

- to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lake Waccamaw State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (21) All lands and waters within the boundaries of Chimney Rock State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts:
  - The portion of that certain tract or parcel of land at Chimney Rock a. State Park in Rutherford County being a portion of Parcel 2 as described in Deed Book 933, Page 598, containing 346 square feet and being shown as proposed right-of-way for bridge replacement project B-4258 on U.S. 64 over the Broad River on drawing prepared by Kimley-Horn and Associates for the North Carolina Department of Transportation and revised October 26, 2007, and filed with the State Property Office. The portion of that certain tract or parcel of land at Chimney Rock State Park in Polk County, Cooper Gap Township, Deed Book 393, Page 1402, containing 6.5 acres more or less and shown on the survey entitled "Plat of Survey for The State of North Carolina" prepared by Stacy Kent Rhodes dated May 15, 2014, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Chimney Rock State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- All State-owned land and waters within the boundaries of the (22)Mountains-to-Sea Trail as of May 6, 2014, April 4, 2017, with the exception of the following tract: The portion of that certain tract or parcel in Johnston County described in Deed Book 3634, Page 278, containing 4.72 acres and being described as proposed easement area for Piedmont Natural Gas Company transmission line on drawing entitled "Easement Survey Prepared for Piedmont Natural Gas Company, Line 142, Easement to be Acquired from the State of North Carolina" by McKim & Creed and dated July 31, 2008, and revised March 11, 2009. The State of North Carolina may grant an easement to Piedmont Natural Gas Company across this tract to facilitate the transmission of natural gas. The grant of the easement within the Mountains-to-Sea Trail to Piedmont Natural Gas Company under this section constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Section 5 of Article XIV of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of the Mountains-to-Sea Trail or another State park. The State may not otherwise sell or exchange this land.
- (23) All State-owned land and waters within the boundaries of Gorges State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts: The portions of that certain tract or parcel of land in Transylvania County, described in Deed Book 267, Page 838, containing a total of 7.26 acres for the North Carolina Department of Transportation project TIP R-2409C US 64 Safety Improvements. As shown on right-of-way drawing from the North

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Carolina Department of Transportation dated May 22, 2014, for TIP R-2409C, Parcel 002, on file with the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Gorges State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- All State-owned land and waters within the boundaries of Lower Haw State Natural Area as of May 6, 2014, April 4, 2017, with the exception of the following tract: the portion of that certain tract or parcels in Chatham County, described in Deed Book 1319, Page 1047, containing 12,501 square feet and shown on a survey entitled "Recombination Survey for the North Carolina Division of Parks and Recreation and PK Ventures I LTD Partnership" prepared by S.D. Puckett and Associates dated April 22, 2014, and on file with the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lower Haw State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (25) All State-owned land and waters within the boundaries of Lumber River State Park as of May 6, 2014, April 4, 2017, with the exception of the following tracts:
  - a. The portions of those certain tracts or parcels of land in Robeson County, described in Deed Book 919, Page 862, Deed Book 1097, Page 837, Deed Book 935, Page 170, Deed Book 1125, Page 562, and Deed Book 1117, Page 680, containing a total of 3.39 acres for the North Carolina Department of Transportation secondary road project 6C.078030 SR 2245 (VC Britt Road) and shown on the survey entitled "Survey of Tracts 1A and 1B, VC Britt Rd, Orrum NC" prepared by the North Carolina Department of Transportation. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lumber River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
  - b. The portions of that certain tract or parcel of property at Lumber River State Park in Robeson County, described in Deed Book 575, Page 523, and containing approximately 1.08 acre (Tract A) and 0.12 acre (Tract C) as shown in a survey by Jerry W. Lee entitled "Survey for State of North Carolina" dated June 28, 2017. The land described in this sub-subdivision is deleted from the Start Park System in accordance with G.S. 143B-135.54. The State of North Carolina may only exchange this land for other land for the expansion of Lumber River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (26) All State-owned land and waters within the boundaries of Mitchells Millpond State Natural Area as of May 6, 2014, April 4, 2017, with the exception of the following tract: the portions of that certain tract or parcel in

	General Assemb	ly Of North Carolina Session 2017
1		Wake County, described in Deed Book 2445, Page 62, containing
2		approximately 0.215 acres as shown on the right-of-way plan for SR 2224
3		(Mitchell Mill Road) bridge No. 162 replacement project and on file with the
4		State Property Office. The tract excluded from the State Nature and Historic
5		Preserve under this subdivision is deleted from the State Parks System in
6		accordance with G.S. 143B-135.54. The State of North Carolina may only
7		exchange this land for other land for the expansion of the State Parks system
8		or sell this land and use the proceeds for that purpose. The State may not
9		otherwise sell or exchange this land.
)	<u>(27)</u>	All lands and waters within the boundaries of Carvers Creek State Park as or
1		April 4, 2017, with the exception of the following tract: The portion of tha
2		certain tract or parcel of land at Carvers Creek State Park in Cumberland
3		County, described in Deed Book 8466, Page 67, and containing 0.33 acres
1		more or less, as shown on the survey entitled "Ingress-Egress Easement for
5		Stone Mountain Farm, LLC & William C. Elliott, Estate & The State or
5		North Carolina" by George L. Lott, PLS, dated November 2013, and revised
7		in May 2015 and filed with the State Property Office."
8	SECT	<b>ION 2.</b> This act is effective when it becomes law.



### **SENATE BILL 5:** Mecklenburg/Police Countywide Jurisdiction.

2017-2018 General Assembly

House State and Local Government II Committee:

June 20, 2017 Date: Prepared by:

**Introduced by:** Sens. Tarte, Bishop, J. Jackson

municipality's extraterritorial jurisdiction as they do within the municipality.

Brad Krehely Committee Co-Counsel

Analysis of:

Fourth Edition

OVERVIEW: Senate Bill 5 authorizes Mecklenburg County and the City of Charlotte to enter into an agreement that is subject to approval by the Mecklenburg County Board of Commissioners. The agreement would allow City of Charlotte police officers to exercise the same powers in Mecklenburg County as they do within the City of Charlotte. It also authorizes Mecklenburg County and any municipality in Mecklenburg County to enter into an agreement that is subject to approval by the Mecklenburg County Board of Commissioners. The agreement would allow the police officers of an individual municipality in Mecklenburg County to exercise the same powers throughout the

CURRENT LAW: Countywide Jurisdiction to Police Departments.--Chapter 1170 of the 1969 Session Laws authorizes the police of the City of Charlotte, with the approval of the Board of Commissioners of Mecklenburg County, to exercise the same jurisdiction, authority, powers and rights throughout Mecklenburg County as they do within the city limits of Charlotte.

#### **BILL ANALYSIS:**

Senate Bill 5 authorizes Mecklenburg County and the City of Charlotte to enter into an agreement that is subject to approval by the Mecklenburg County Board of Commissioners. The agreement would allow City of Charlotte police officers to exercise the same powers in Mecklenburg County as they do within the City of Charlotte. Charlotte and Mecklenburg County must enter into an agreement setting guidelines to implement the act.

The bill also authorizes Mecklenburg County and any municipality in Mecklenburg County to enter into an agreement that is subject to approval by the Mecklenburg County Board of Commissioners. The agreement would allow the police officers of an individual municipality in Mecklenburg County to exercise the same powers throughout the municipality's extraterritorial jurisdiction as they do within the municipality. The municipality and Mecklenburg County must enter into an agreement setting guidelines to implement the act.

The bill does not restrict or prohibit the authority of the Sheriff of Mecklenburg County and does not allow any police officer to exercise any powers outside of their original jurisdiction that they cannot exercise within their original jurisdiction.

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

\*Tawanda Foster and Jennifer Bedford, Staff Attorneys for the Legislative Analysis Division, contributed to this summary.





Legislative Analysis Division 919-733-2578



#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

S

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#### SENATE BILL 5

#### Corrected Copy 1/30/17

Judiciary Committee Substitute Adopted 4/20/17
Rules and Operations of the Senate Committee Substitute Adopted 4/20/17

Short Title:	Mecklenburg/Police Countywide Jurisdiction.	(Local)
Sponsors:		
Referred to:		
	January 26, 2017	
AUTHO DEPAR ENFOR FOR TI	A BILL TO BE ENTITLED RANTING MECKLENBURG COUNTY, WHO WAS PREVENTY TO EXTEND COUNTYWIDE JURISDICTION FOR THE CITY OF CHARLOTTE, AUTHORITY CEMENT AUTHORITY TO AN INDIVIDUAL TOWN WITHE AREA WITHIN THAT INDIVIDUAL TOWN'S EXICTION.	TO THE POLICE TO EXTEND LAW THIN THE COUNTY
	Assembly of North Carolina enacts: ECTION 1. Section 1 of Chapter 1170 of the 1969 Section 1.	ession Laws reads as
"Section policemen of throughout including ar	1. Upon approval of the Board of Commissioners of Most the City of Charlotte shall thereafter be authorized and exthe County of Mecklenburg the same jurisdiction, authoritiest and service of criminal and civil process, which they are thin the City of Charlotte, and shall have the privileges and	mpowered to exercise ty, powers and rights, e authorized by law to
Charlotte, p	nder Workmen's Compensation laws, which they now have rovided that the City of Charlotte and Mecklenburg Cour any of said powers or authority, enter into an agreement setting res for implementation of this Act.(a) Subject to the approve	ve within the City of nty shall, prior to the ng forth the guidelines
County Boar	rd of Commissioners, Mecklenburg County and the City of Cooran agreement to extend the powers and rights exercise	harlotte are authorized d by Charlotte police
jurisdiction,	authority, the power to arrest, and the power to serve crim	inal and civil process.
Workers' C	this agreement, a Charlotte police officer has the same privi- ompensation coverage throughout Mecklenburg County, a	as within the City of
	he agreement between Mecklenburg County and the City of C  Be made prior to the exercise of any powers or au police officer.	thority of a Charlotte
(b) S Mecklenbur	Set forth the guidelines and procedures to implement the Subject to the approval of the Mecklenburg County Boar of County and any municipality in Mecklenburg County are and to extend the powers and rights exercised by the municipality.	rd of Commissioners, nuthorized to enter into
	nunicipality throughout that municipality's extraterritorial in	



G.S. 160A-360. Those powers include jurisdiction, authority, the power to arrest, and the

	General	Asseml	oly Of North Carolina	Session 2	2017
1	power to	serve (	criminal and civil process. Pursuant to this agreement, a m	unicipality's pe	olice
2	officer h	as the s	ame privileges, immunities, and Workers' Compensation co	overage throug	hout
3	that mu	nicipalit	ty's extraterritorial jurisdiction defined in G.S. 160A-3	60 as within	the
4	municipa	ality. Th	e agreement between Mecklenburg County and the municipal	ality must:	
5		(1)	Be made prior to the exercise of any powers or authority	of a municipal	lity's
6			police officer.		
7		(2)	Set forth the guidelines and procedures to implement this	act.	
8	(c)	Noth	ing in this section shall:		
9		(1)	Restrict or prohibit the Sheriff of Mecklenburg County fro	om exercising t	<u>he</u>
10			powers and authority of the Sheriff's Office.		
11		(2)	Authorize any police officer in Mecklenburg County to ex	ercise any pov	ver
12		. ——	or right outside of their original jurisdiction that they cann	ot exercise wit	hin
13			their original jurisdiction."		



## SENATE BILL 414: Use of Funding Pool Grant Funds/Macon County.

2017-2018 General Assembly

**Committee:** Senate Rules and Operations of the Senate **Introduced by:** Sen. J. Davis

**Date:** April 10, 2017 **Prepared by:** Luke Gillenwater

Introduced by: S Analysis of:

First Edition

Staff Attorney

OVERVIEW: Senate Bill 414 modifies the Committee Report to the Current Operations and Capital Improvements Appropriations Act of 2016 (2016 Appropriations Act) (S.L. 2016-94) to provide (i) that funds appropriated to the Macon County Community Funding Pool Grant should be appropriated to Macon County instead and (ii) that the funds do not revert.

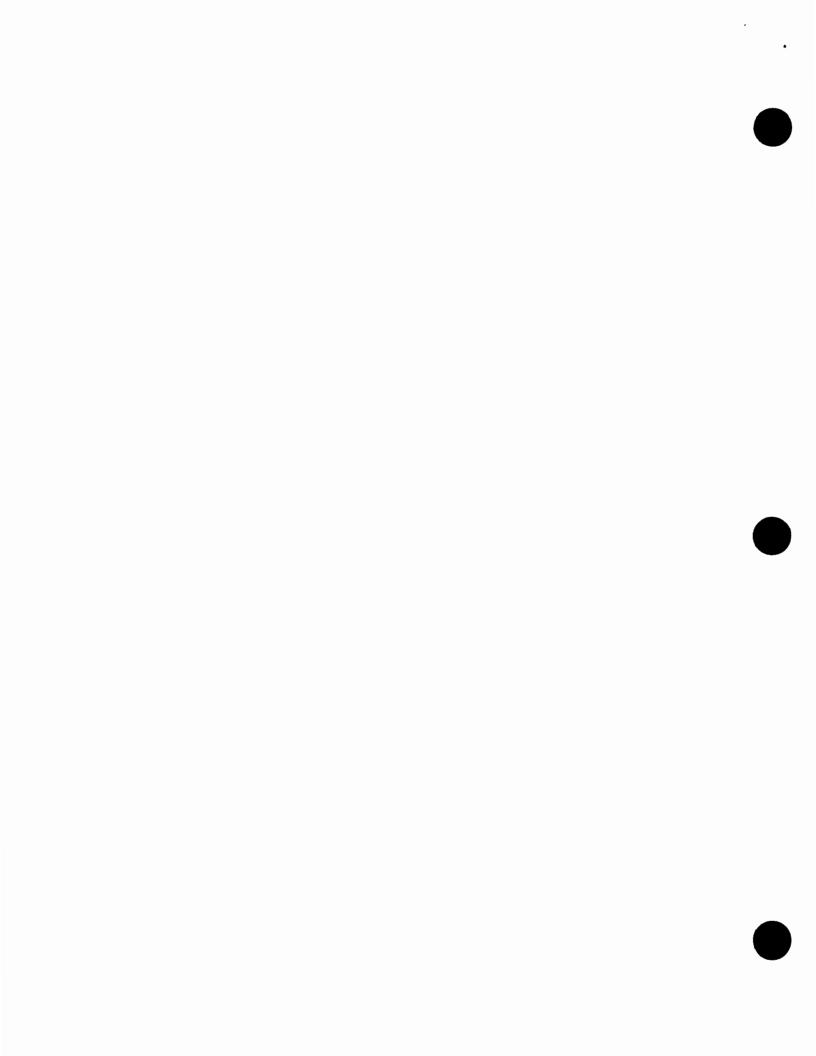
**CURRENT LAW:** Item 51 on page J58 of the Committee Report to the 2016 Appropriations Act appropriates \$100,000 in nonrecurring funds to the Macon County Community Funding Pool Grant.

**BILL ANALYSIS:** Senate Bill 414 modifies the Committee Report to the 2016 Appropriations Act to direct the \$100,000 appropriation to Macon County instead, and specifies that the funds are to be used for community purposes. In addition, Senate Bill 414 provides that the funds do not revert.

**EFFECTIVE DATE:** Senate Bill 414 is effective when it becomes law.







#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **SENATE BILL 414**

Short Title:	Use of Funding Pool Grant Funds/Macon County.	(Public)
Sponsors:	Senator J. Davis (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate	

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT FUNDS APPROPRIATED TO THE MACON COUNTY COMMUNITY FUNDING POOL GRANT FOR THE 2016-2017 FISCAL YEAR SHALL INSTEAD BE APPROPRIATED TO MACON COUNTY, TO AMEND THE PURPOSES FOR WHICH THE FUNDS MAY BE USED, AND TO MAKE THE FUNDS NONREVERTING.

The General Assembly of North Carolina enacts:

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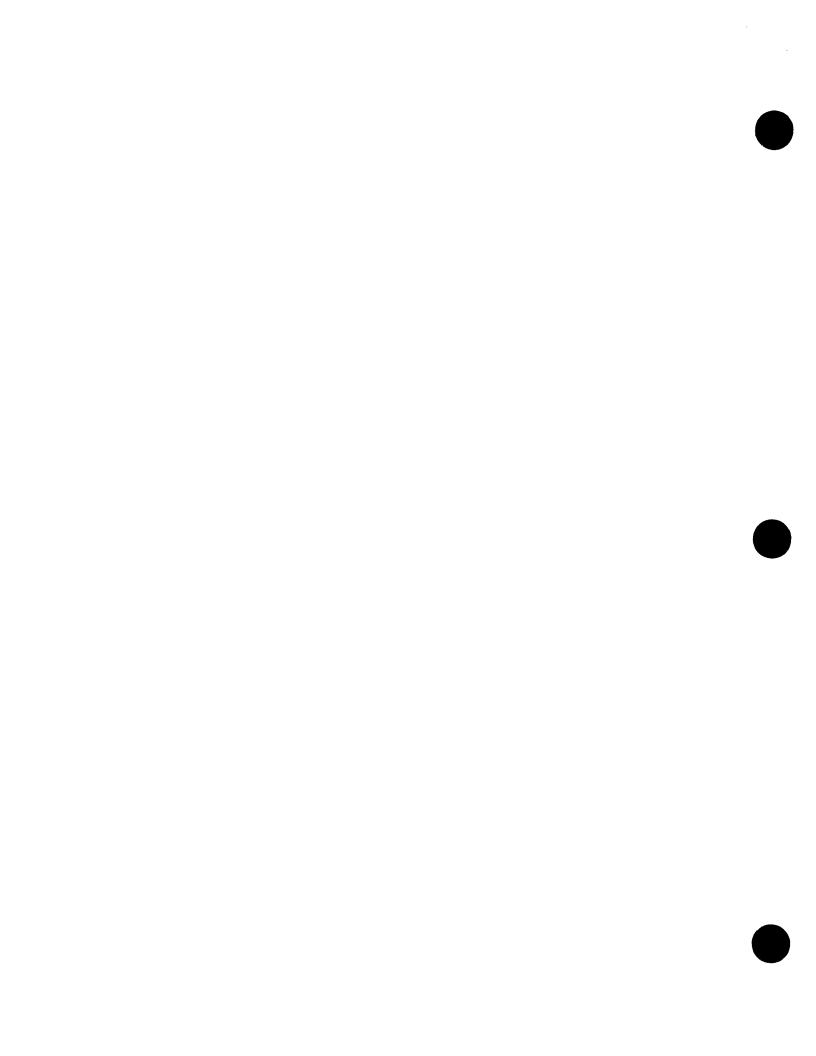
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**SECTION 1.** Notwithstanding any provision of S.L. 2016-94, or of the Committee Report described in Section 39.2 of that act, to the contrary, the sum of one hundred thousand dollars (\$100,000) in nonrecurring funds for the 2016-2017 fiscal year appropriated in that act to the Macon County Community Funding Pool Grant shall instead be appropriated to Macon County to be used for community purposes. G.S. 143C-1-2(b) shall not apply to the funds described in this section.

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





# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

SB 5 (CS#2) Mecklenburg/Police Countywide Jurisdiction.

Draft Number:

None

Serial Referral:

None None

Recommended Referral: Long Title Amended:

No

Floor Manager:

Brawley

#### **FAVORABLE AND RE-REFERRED**

SB 414 Use of Funding Pool Grant Funds/Macon County.

Draft Number: None

Serial Referral: APPROPRIATIONS

Recommended Referral: None Long Title Amended: No Floor Manager: Corbin

#### FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL

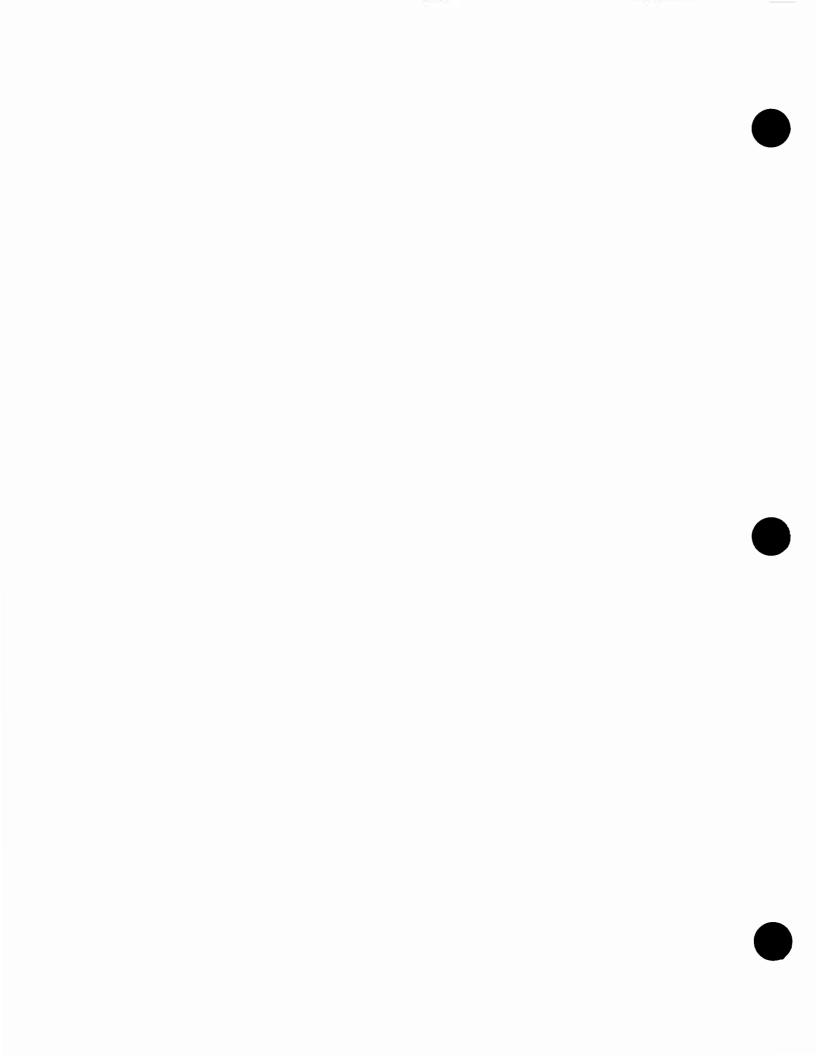
SB 545 State Nature and Historic Preserve Adds/Dels.

Draft Number: S545-PCS45458-RIx-15

Serial Referral:
Recommended Referral:
None
Long Title Amended:
Floor Manager:
Rogers

**TOTAL REPORTED: 3** 





#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

(CS#2) SB

Mecklenburg/Police Countywide Jurisdiction.

Draft Number:

None

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

Brawley

#### FAVORABLE AND RE-REFERRED

SB 414

Use of Funding Pool Grant Funds/Macon County.

Draft Number:

None

Serial Referral:

**APPROPRIATIONS** 

Recommended Referral: None Long Title Amended:

Floor Manager:

No Corbin

#### FAVORABLE HOUSE COM SUB, UNFAVORABLE ORIGINAL BILL

SB 545 State Nature and Historic Preserve Adds/Dels.

Draft Number:

S545-PCS45458-RIx-15

Serial Referral:

None

Recommended Referral: None

Long Title Amended:

Yes

Floor Manager:

Rogers

**TOTAL REPORTED: 3** 





Rm. 544

NAME OF	MEETING :_	States	of Local	Govt.	74

DATE: 06/21/2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Lex Vanes	DNCR
Carol Tingley	NC State Parks
Carol Tingley Mike Murphy	NC State Parks NC State Parks



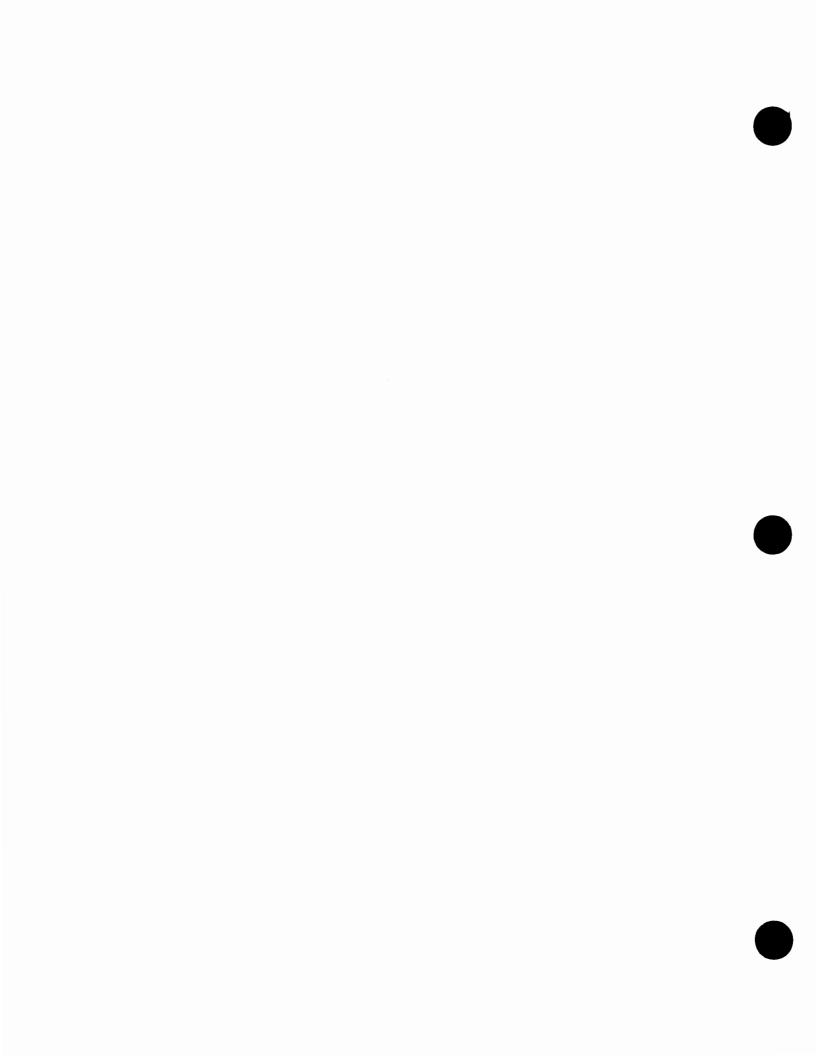
Rm. 544

NAME OF MEETING :	States	of Local	Govt.	7/
	· · · · · · · · · · · · · · · · · · ·			

DATE: 06/21/2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
David Finish	N
Pa , Hulls	506
A Company	(CA)
Deni Bullo	Mure
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# State & Local Government II 2018 Short Session



Representative Bradford, Chair Anita Spence, Committee Assistant

#### HOUSE COMMITTEE ON STATE & LOCAL GOVERNMENT II 2017-2018 SESSION

COMMITTEE ASSISTANT: ANITA SPENCE



REP. JOHN R. BRADFORD, III, CHAIR



REP. ADAMS



REP. AUTRY



REP. BALL



REP. BOLES



REP. BOSWELL



REP. C. GRAHAM REP. G. GRAHAM





REP. JOHN



REP. ROSS



REP. SAULS



REP. SETZER



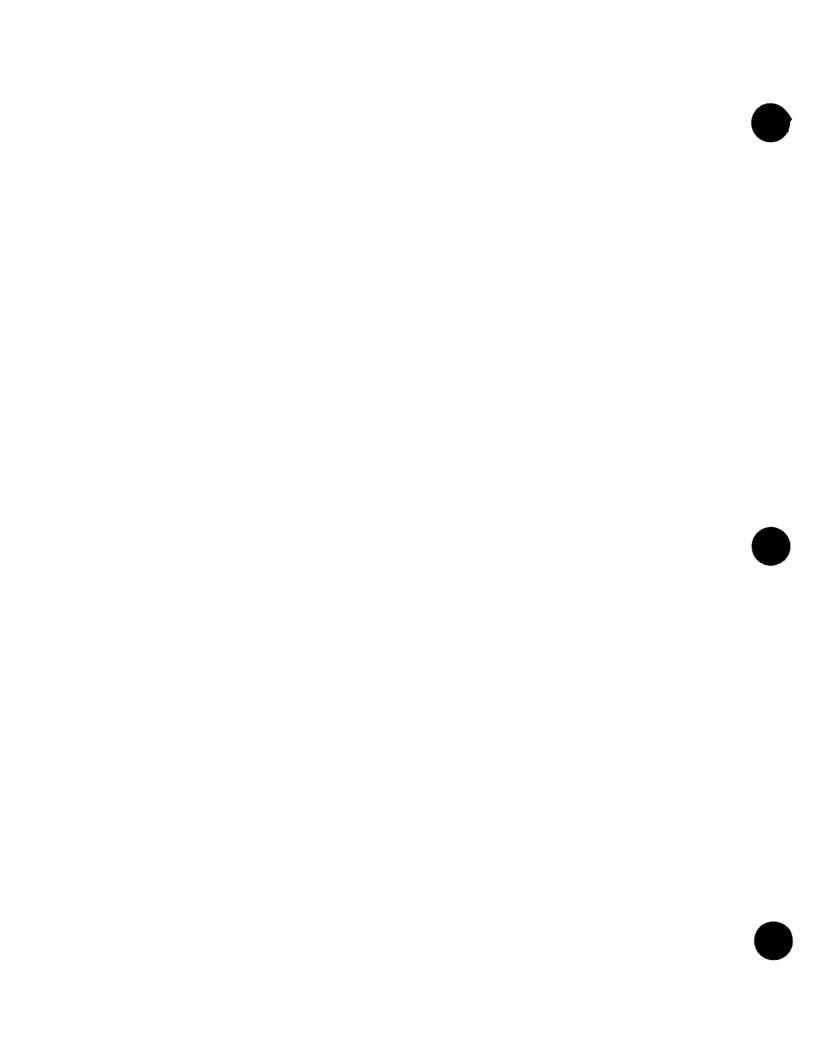
REP. STEINBURG



REP. WATFORD



REP. WILLIAMS

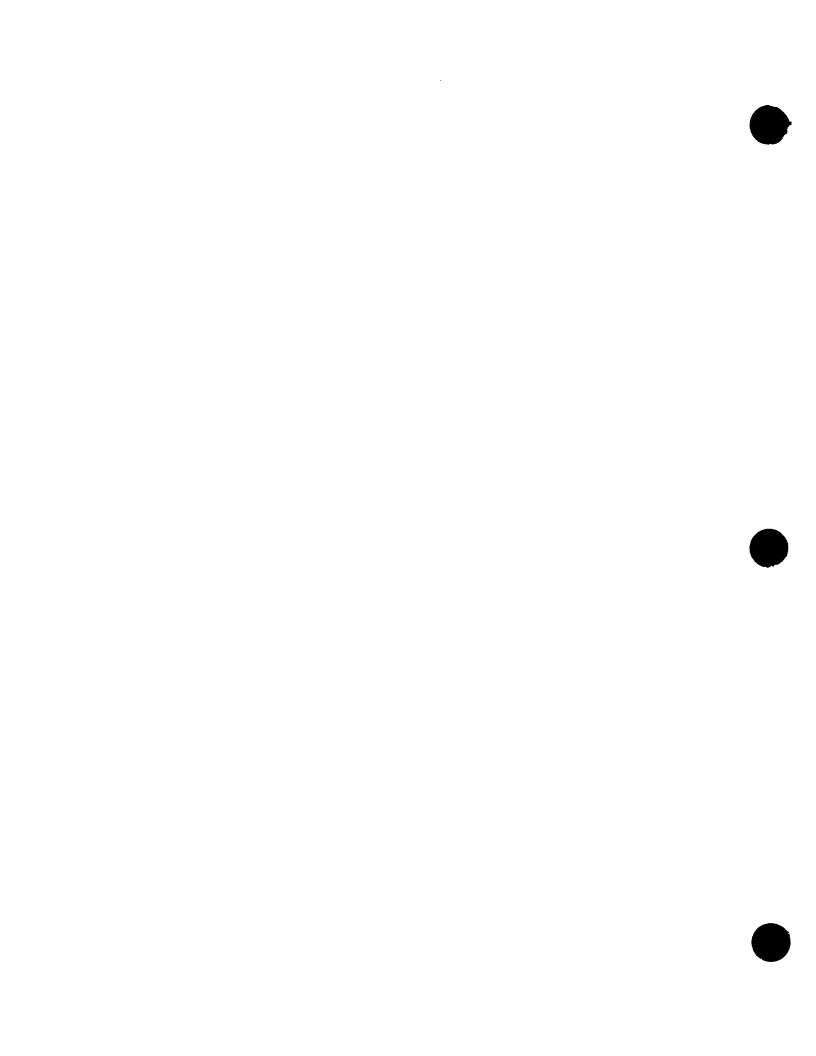


# HOUSE COMMITTEE ON STATE & LOCAL GOVERNMENT II

MEMBER	<u>ASSISTANT</u>	PHONE	<u>OFFICE</u>	SEAT
Rep. Bradford, Chair	Anita Spence	733.5828	2123	75
Rep. Adams	Susan Phillips	733.5988	2223	73
Rep. Autry	Tina Riley-Humphrey	715.0706	1019	115
Rep. Ball	James Whelan	733.5860	1319	118
Rep. Boles	Kerry Guice	733,5903	528	25
Rep. Boswell	Beth Strandberg	733.5906	531	97
Rep. C. Graham	Linda Laton	715.0875	1309	84
Rep. G. Graham	Beverlee Baker	733.5995	1321	79
Rep. John		733.5530	1013	117
Rep. Morey	Joyce Harris	733.7663	1111	104
Rep. Ross	Kirk O'Steen	733.5820	635	20
Rep. Sauls	Karen Rosser	715.3026	610	37
Rep. Setzer	Margaret Herrin	733.4948	2204	2
Rep. Steinburg	Diana London	733.0010	3018	43
Rep. Watford	Regina Irwin	733.5661	606	76
Rep. Williams	Kathy Peters	733.2962	603	90

#### COMMITTEE STAFF:

Cindy Avrette	733.2578
Nick Giddings	733.2578
Brad Krehely	733.2578



# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

2018 SHORT SESSION

MEMBERS	5.				
REP. BRADFORD CHAIR	<b>V</b>				
REP. ADAMS	1				
REP. AUTRY	1				
REP. BALL	~				
REP. BOLES					
REP. BOSWELL	V				
REP. C. GRAHAM	1				
REP. G. GRAHAM	1				
REP. JOHN	1				
REP. MOREY	1				
REP. ROSS	1				
REP. SAULS	V				
REP. SETZER					
REP. STEINBURG	1				
REP. WATFORD					
REP. WILLIAMS	1				
Anita Spence, Committee Assistant	1				
Cindy Avrette, Staff	V				
Nick Giddings, Staff	~				
Brad Krehely, Staff					

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#### House Committee on State and Local Government II Wednesday, May 30, 2018 at 10:00 AM Room 544 of the Legislative Office Building

#### MINUTES

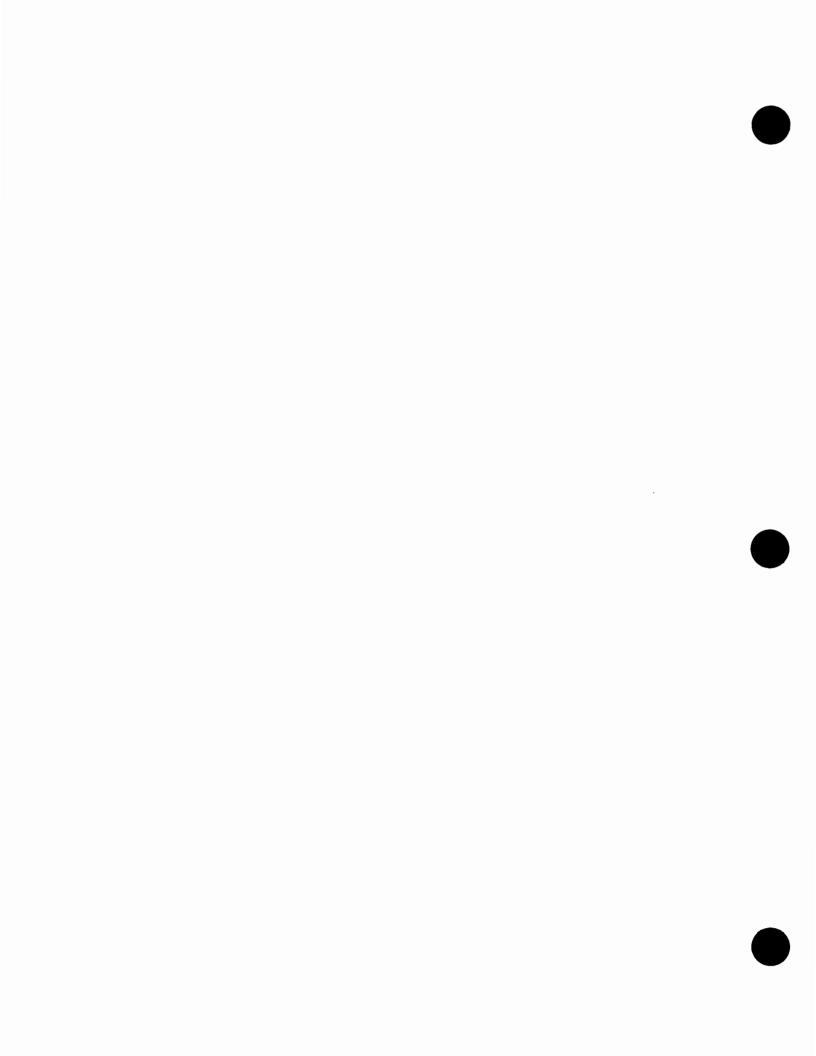
The House Committee on State and Local Government II met at 10:03 AM on April 24, 2017 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, Boswell, C. Graham, G. Graham, John, Morey, Ross, Sauls, Steinburg, Watford and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 10:03 AM. He introduced the Sargent at Arms and Pages.

The following bills were considered:

Chairman Bradford motioned for HB 954 Rockingham County School Board/Chair Term (Representatives Bert Jones, K. Hall) AN ACT TO ESTABLISH A ONE-YEAR TERM OF THE CHAIR OF THE ROCKINGHAM COUNTY BOARD OF EDUCATION to be before the committee. Chairman Bradford recognized Representative Jones to explain HB 954. This bill sets the term on the chair for the Rockingham County School Board to one year. This bill will not affect the term of the current chair. Chairman Bradford recognized Representative Autry who asked Representative Jones if this bill was requested by the school board. Representative Jones replied that it was requested by a majority of the school board members. Chairman Bradford recognized Representative Autry for a follow. Rep. Autry wants to know why there needs to be a bill limiting the term to one year. Representative Jones replied that this is something that is set in statue by the GA. Chairman Bradford recognized Representative Williams who motioned for a favorable report for HB 954. Representative Bradford calls for a vote. All members are in favor. HB 954 passes.

Chairman Bradford motioned for the PCS for HB 947 Municipal Local Option Sales Tax (Representative Fraley) AN ACT TO AUTHORIZE CERTAIN CITIES TO HOLD A REFERENDUM REGARDING THE LEVY OF A MUNICIPAL ONE-QUARTER PERCENT SALES AND USE TAX to be before the committee. Chairman Bradford recognized Representative Watford who brought forth an amendment for HB 947. Chairman Bradford states that this is a technical amendment for HB 947. Chairman Bradford calls for a motion to amend HB 947. Chairman Bradford recognized Representative Ross who motioned to approve the amendment to HB 947. All members are in favor. Chairman Bradford acknowledged the amendment passes so brings the committee



back to the amended PCS for HB 947. Chairman Bradford recognized Representative Fraley to explain HB 947. Representative Fraley said the town of Mooresville has experienced so much growth the Powerball money and other funds has not been sufficient to keep up with the local issues that impact the care of streets. Three municipalities are covered in this bill, all by referendum. Representative Stevens explains her city, Mt. Airy was added for the same purpose. There was no discussion on the HB 947. Chairman Bradford recognizes Representative Adams who motions for a favorable report to the PSC for HB 947 as amended rolled into a new PCS, with a serial referral to Finance. Representative Bradford calls for a vote. All members are in favor. HB 947 passes

Chairman Bradford motioned for HB 957 Graham County Occupancy Tax (Representative Corbin) AN ACT TO CREATE GRAHAM COUNTY DISTRICT G AND AUTHORIZE THE LEVY OF AN OCCUPANCY TAX IN THE DISTRICT to be before the committee. Chairman Bradford recognized Representative Corbin to explain HB 957. Representative Corbin said this is a local bill that was requested by the County Commissioners. This tax would allow his county to collect on every dollar spent which would bring in \$15. Chairman Bradford opened the floor to questions. There are no questions. Chairman Bradford recognized Representative Watford who motions for a favorable report for HB 957, with a serial referral to Finance. Representative Bradford calls for a vote. All members are in favor. HB 957 passes

The meeting adjourned at 10:13 AM.

Representative John R. Bradford, III, Presiding Co-Chair

Anita Spence, Committee Assistant

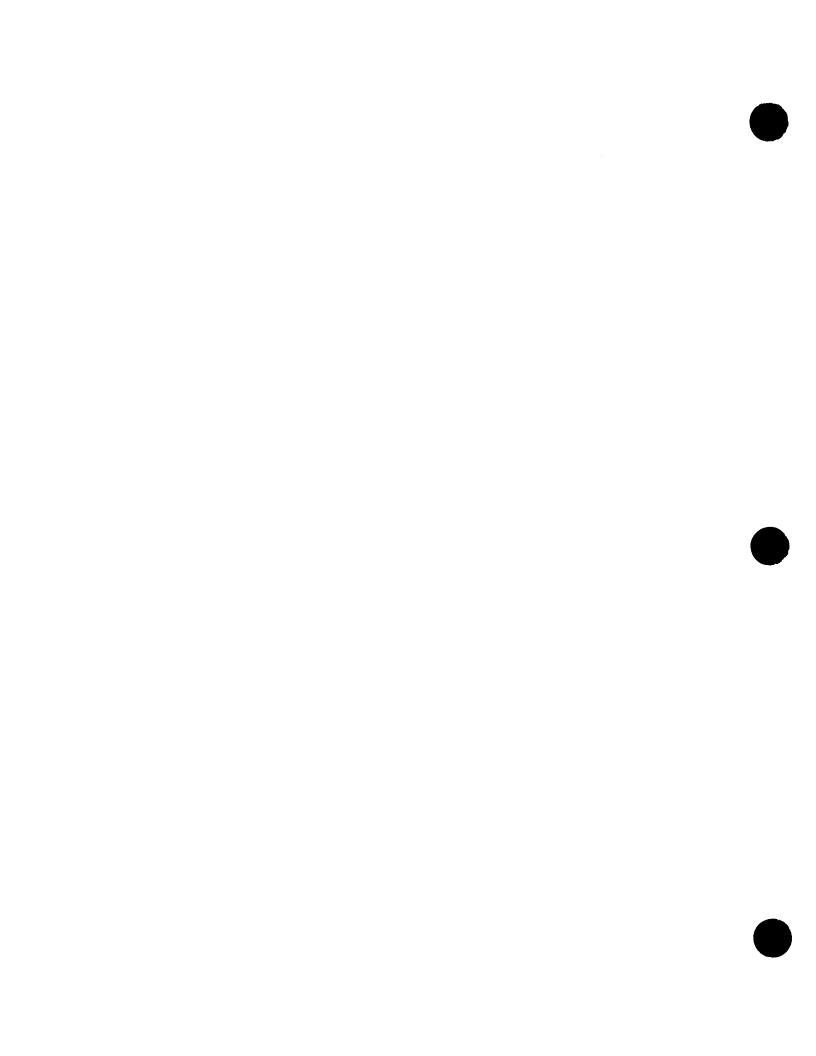
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# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

TIME:	TE: Wednesday, May 30, 2018 10:00 AM	
LOCATION	: 544 LOB	
The following	g bills will be considered:	
BILL NO.	SHORT TITLE	SPONSOR
HB 947	Mooresville Local Option Sales Tax.	Representative Fraley
<u>HB 954</u>	Rockingham County School	Representative Bert Jones
	Board/Chair Term.	Representative K. Hall
<u>HB 957</u>	Graham County Occupancy Tax.	Representative Corbin
	Respec	tfully,
	Represe	entative John R. Bradford, III, Chair
	fy this notice was filed by the committee y, May 25, 2018.	assistant at the following offices at 11:30
	Principal Clerk Reading Clerk – House Chamber	
Anita Spence	(Committee Assistant)	



# House Committee on State and Local Government II Wednesday, May 30, 2018, 10:00 AM 544 Legislative Office Building

## AGENDA

Welcome and Opening Remarks

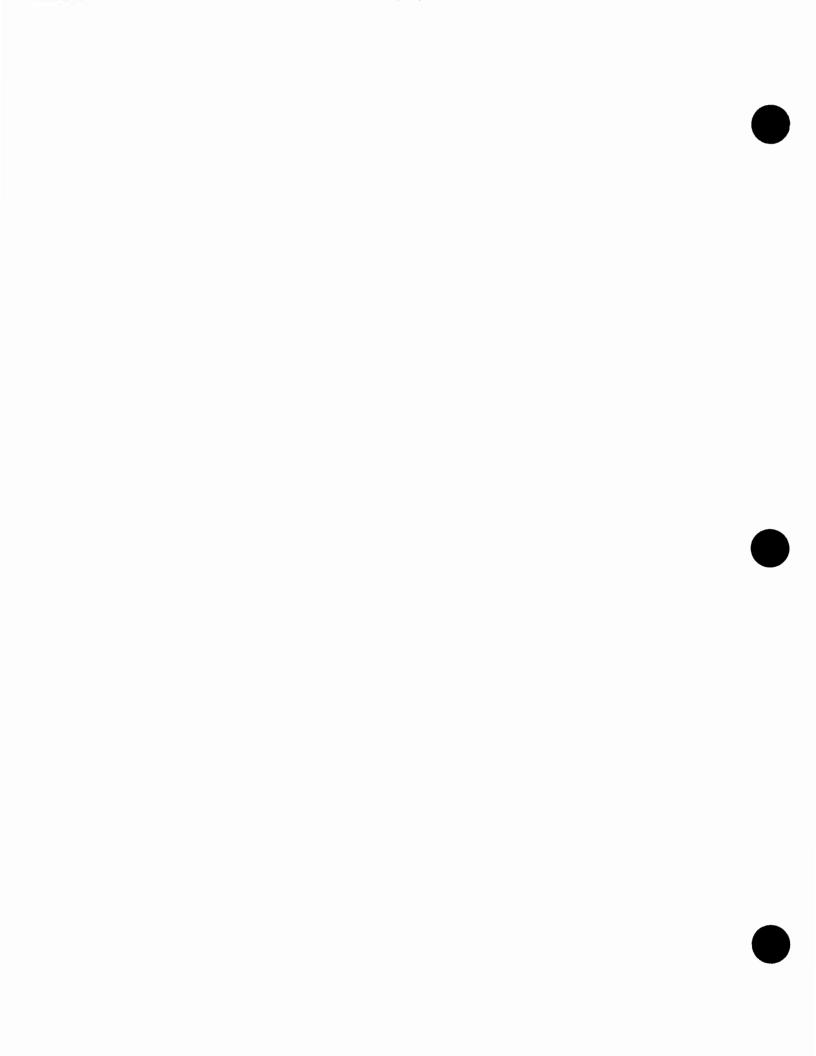
Introduction of Pages & Sergeant at Arms

Bills

BILL NO. HB 947	SHORT TITLE  Mooresville Local Option Sales  Tax.	SPONSOR Representative Fraley
HB 954	Rockingham County School Board/Chair Term.	Representative Bert Jones Representative K. Hall
HB 957	Graham County Occupancy Tax.	Representative Corbin

Presentations

Adjournment





# **HOUSE BILL 954:** Rockingham County School Board/Chair Term.

#### 2017-2018 General Assembly

**Committee:** House State and Local Government II

Introduced by: Reps. Bert Jones, K. Hall

**Analysis of:** First Edition

**Date:** May 30, 2018

Prepared by: Nicholas Giddings

Staff Attorney

OVERVIEW: House Bill 954 would require the Rockingham County Board of Education to elect one of its members as chair at the Board's meeting on the first Monday in December of 2018 to serve for a term of one year or until a successor is elected and qualified.

**CURRENT LAW:** Unless provided by local law, all local boards of education must have an organizational meeting no later than 60 days after the swearing in of members following election or appointment. At the organizational meeting, the members must elect one of their members as chair for a period of one year, or until their successor is elected and qualified.

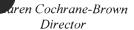
**BILL ANALYSIS:** House Bill 954 would require the Rockingham County Board of Education to elect one of its members as chair at the Board's meeting on the first Monday in December of 2018. The chair would serve for a term of one year or until a successor is elected and qualified.

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

**BACKGROUND:** Session Law 2015-38 repealed Session Law 2005-307, which contained a provision outlining the process by which the chair of the Rockingham County Board of Education would be elected.<sup>2</sup> Since this time, the Board has been operating under the provisions set forth in G.S. 115C-41.

Session Law 2015-38 structures the organizational meetings of the Board differently than provided under G.S. 115C-41 by requiring the members of the Board to be sworn in on the first Monday in December of the year of their election, but is silent as to the election of the Board's chair. Previously, under the provisions set forth under Session Law 2005-307, the chair would generally be elected on the first Monday in December after each election. Due to this, as well as the Board's organizational meetings being structured differently than what G.S. 115C-41 provides, this bill would put a specific provision outlining the election of the Board's chair back into Session Law 2015-38.

<sup>&</sup>lt;sup>2</sup> Session Law 2005-307 required the chair of the Rockingham County Board of Education to be elected by the Board from among its members at the organization meeting after each election, generally the first Monday in December following their election.





Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> G.S. 115C-41.

#### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

**HOUSE BILL 954** 

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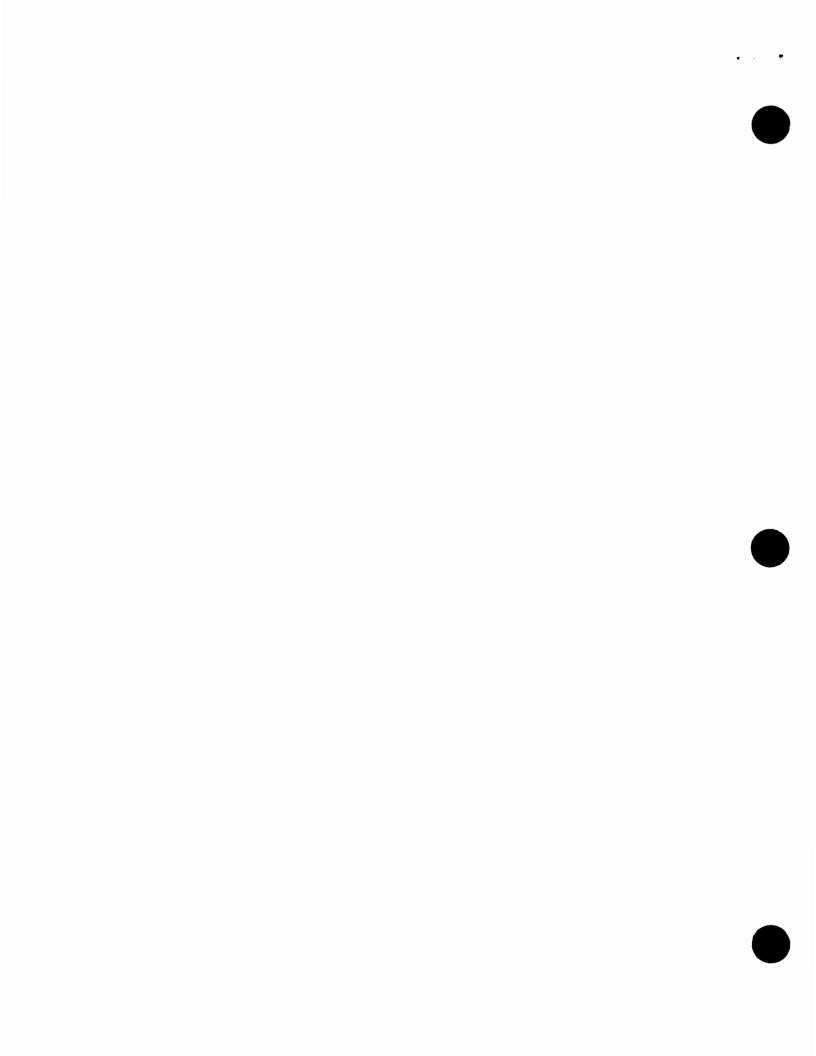
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Short Title: Rockingham County School Board/Chair Term. (Local) Sponsors: Representatives Bert Jones and K. Hall (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: State and Local Government II May 17, 2018 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A ONE-YEAR TERM OF THE CHAIR OF THE ROCKINGHAM COUNTY BOARD OF EDUCATION. The General Assembly of North Carolina enacts: **SECTION 1.** S.L. 2015-38 is amended by adding a new part to read: "PART IIIA. ELECTION OF CHAIR "SECTION 3A. Beginning with the meeting held on the first Monday in December of 2018, the members of the Rockingham County Board of Education shall elect one of the members of the Board as chair for a term of one year or until the successor is elected and qualified."

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







# **HOUSE BILL 947: Municipal Local Option Sales Tax.**

#### 2017-2018 General Assembly

Committee: House State and Local Government II. If Date:

May 30, 2018

favorable, re-refer to Finance

**Introduced by:** Rep. Fraley

Prepared by: Trina Griffin

**Analysis of:** PCS to First Edition H947-CSSVxfr-48

Staff Attorney

OVERVIEW: House Bill 947 authorizes the Town of Mooresville to conduct a referendum to authorize the levy of a 1/4% local sales and use tax for the purposes of street improvement.

The PCS would further allow the City of Mt. Airy to hold a similar referendum and would allow the City of Hendersonville to hold a referendum, but the purpose of the funds, if levied, would be for public facilities and infrastructure.

**CURRENT LAW:** No city in the State of North Carolina has the authority to levy a local sales and use tax. Counties are authorized to levy a local sales and use tax at a rate that varies from 2% to 2.75%. The counties must distribute a portion of the first 2% to the cities. The distribution between a county and its municipalities is based upon one of two methods: ad valorem or per capita.

Cities have authority to levy the property tax, the rental car gross receipts tax, the heavy equipment rental tax, and vehicle taxes. Cities also receive a distribution of beer and wine excise taxes and a portion of the sales taxes on electric utilities, piped natural gas, telecommunications services, and video programming services.

Cities also have the authority to levy special assessments for building and improving streets. Voter petitions are required, and the assessment must be levied after the project is complete.

**BILL ANALYSIS:** The Proposed Committee Substitute for House Bill 947 would, for the first time, authorize a municipality to levy a city-only sales tax. The bill would allow the Town of Mooresville<sup>2</sup> and the City of Mt. Airy<sup>3</sup> to each hold a referendum on the question of whether to levy a municipal sales tax at the rate of one-quarter percent (1/4%) and would restrict the use of the proceeds for street improvements. Street improvements are defined to mean grading, surfacing, widening, or paving a street; acquiring one or more rights of way for a street; and constructing a sidewalk, curb, or gutter.

The bill would also authorize the City of Hendersonville<sup>4</sup> to hold a referendum on the question of whether to levy a municipal sales tax at the rate of one-quarter percent (1/4%) and would restrict the use of the

aren Cochrane-Brown Director



Legislative Analysis
Division
919-733-2578

<sup>&</sup>lt;sup>1</sup> There are 6 counties that could have a total local sales and use tax rate of two and three-quarters (2.75%), for a total State and local rate of 7.5%. Those counties are: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake. Only 2 counties are levying at that rate. The maximum that may be levied in the other 94 counties is two and one-half percent (2½%). The reason for the difference is that those 94 counties may only levy a one-quarter cent (1/4%) tax for public transportation.

<sup>&</sup>lt;sup>2</sup> The Town of Mooresville is located in Iredell County, which levies a 2% local sales and use tax.

<sup>&</sup>lt;sup>3</sup> The City of Mt. Airy is located in Surry County, which levies a 2.25% local sales and use tax.

<sup>&</sup>lt;sup>4</sup> The City of Hendersonville is located in Henderson County, which levies a 2% local sales and use tax.

#### **House PCS 947**

Page 2

proceeds for public facilities and infrastructure. The term is broad and would include expenditures for things like parks, fire stations, police stations, storm drainage repairs, roads, and greenways.

For all municipalities covered by the bill, the tax would be administered in the same manner as the county local option sales tax. A city council may not levy the tax unless a majority of the voters approve the levy in a referendum, which may only be held as follows:

- (1) At the same time as any other State or county general election.
- (2) At the same time as the primary election in any even-numbered year.
- (3) At the same time as any other election requiring all the precincts in the county to be open.
- (4) At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

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

**BACKGROUND:** There may be some administrative issues to be resolved if a city-level sales tax were implemented. For example, under the Streamlined Sales Tax Agreement, the State must apply the lowest combined tax rate imposed in a zip code area if the area includes more than one tax rate. This requirement would need to be taken into consideration for cities that share a zip code or for cities that lie in multiple counties and across zip code areas. It could also present challenges for sellers when trying to identify the applicable rate. Also, an annexation or deannexation would potentially have the effect of changing the tax rate in a jurisdiction without sufficient notice to retailers.<sup>5</sup>

<sup>&</sup>lt;sup>5</sup> Under current law and under this bill, a rate increase may only go into effect on the first day of a calendar quarter after retailers have been given 60 days' notice; also, the local government must give the Department of Revenue 90 days' notice of the rate increase.

#### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

### **HOUSE BILL 947**

D

Short Title:	05/29/2018 06:15:05 PM Municipal Local Option Sales Tax.	(Local)
Sponsors:		
Referred to:		
	May 17, 2018	
	A DILL TO DE ENTITLED	
	A BILL TO BE ENTITLED AUTHORIZE CERTAIN CITIES TO HOLD A REFERI Y OF A MUNICIPAL ONE-QUARTER PERCENT SAL	
	ssembly of North Carolina enacts:	
	CTION 1.(a) This section applies to the Town of Moores	sville and the City of Mt.
Airy only.		
	CTION 1.(b) Subchapter VIII of Chapter 105 of the Gen	eral Statutes is amended
by adding a ne	w Article to read:	
	"Article 47.	as Tax
110 105 540 0	"First One-Quarter Cent (1/4¢) Municipal Sales and Us	se rax.
"§ 105-540. S	le is the First One-Quarter Cent (1/4¢) Municipal Sales an	d Use Tay Act
"§ 105-541. I		iu Ose Tax Act.
	ring definitions apply in this Article:	
(1)		
(2)		ng, or paving a street;
	acquiring one or more rights-of-way for a street; and	constructing a sidewalk,
	curb, or gutter.	
"§ 105-542. I		
	thority If the majority of those voting in a referendu	
	or the levy of the tax, the governing body of the municip	
	ays' public notice, levy a local sales and use tax at a rat	
	tion to any other State and local sales and use taxes levied	
	te. – The governing body of the municipality may directly an advisory referendum on the question of whether	
	municipality as provided in this Article. The election shall	
	by the governing body of the municipality and the count	
	n accordance with the procedures of G.S. 163A-1592.	y board of electronic and
	llot Question. – The form of the question to be presented	on a ballot for a special
	erning the levy of the tax authorized by this Article shall b	
	"[]FOR []AGAINST	
Local sale	s and use tax at the rate of one-quarter percent (1/4%) in a	addition to all other State
and local sales	s and use taxes for the purposes of street improvement."	
"§ 105-543. A	Administration.	
	provided in this Article, the adoption, levy, collection, ac	
of the addition	nal taxes authorized by this Article shall be in accordance	e with Article 39 of this



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Chapter. References to "county," "counties," or "board of county commissioners" within Article 39 of this Chapter shall be interpreted as referring to "municipality," "municipalities," or "governing body of the municipality," respectively, for purposes of the tax authorized by this Article. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a).

#### "§ 105-544. Distribution and use.

- (a) Distribution. The Secretary shall, on a monthly basis, distribute to each taxing municipality for which the Secretary collects the tax the net proceeds of the tax collected in that municipality under this Article. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing municipality, the Secretary shall allocate the taxes among the taxing municipalities in proportion to the amount of taxes collected in each municipality under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received.
- (b) Use. A municipality may use the net proceeds of a tax levied under this Article for street improvement."

**SECTION 2.(a)** This section applies to the Town of Hendersonville only.

**SECTION 2.(b)** Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

#### "Article 47.

"First One-Quarter Cent (1/4¢) Municipal Sales and Use Tax.

#### "§ 105-540. Short title.

This Article is the First One-Quarter Cent (1/4¢) Municipal Sales and Use Tax Act.

#### "§ 105-541. Definitions.

For purposes of this Article, net proceeds is defined in G.S. 105-472.

#### "§ 105-542. Levy.

- (a) Authority. If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the governing body of the municipality may, by resolution and after 10 days' public notice, levy a local sales and use tax at a rate of one-quarter percent (1/4%) in addition to any other State and local sales and use taxes levied pursuant to law.
- (b) Vote. The governing body of the municipality may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the municipality as provided in this Article. The election shall be held on a date jointly agreed upon by the governing body of the municipality and the county board of elections and shall be held in accordance with the procedures of G.S. 163A-1592.
- (c) Ballot Question. The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

#### "[] FOR [] AGAINST

Local sales and use tax at the rate of one-quarter percent (1/4%) in addition to all other State and local sales and use taxes for the purposes of public facilities and infrastructure."

#### "§ 105-543. Administration.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. References to "county," "counties," or "board of county commissioners" within Article 39 of this Chapter shall be interpreted as referring to "municipality," "municipalities," or "governing body of the municipality," respectively, for purposes of the tax authorized by this Article. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to

#### General Assembly Of North Carolina

Session 2017

G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a).

#### "§ 105-544. Distribution and use.

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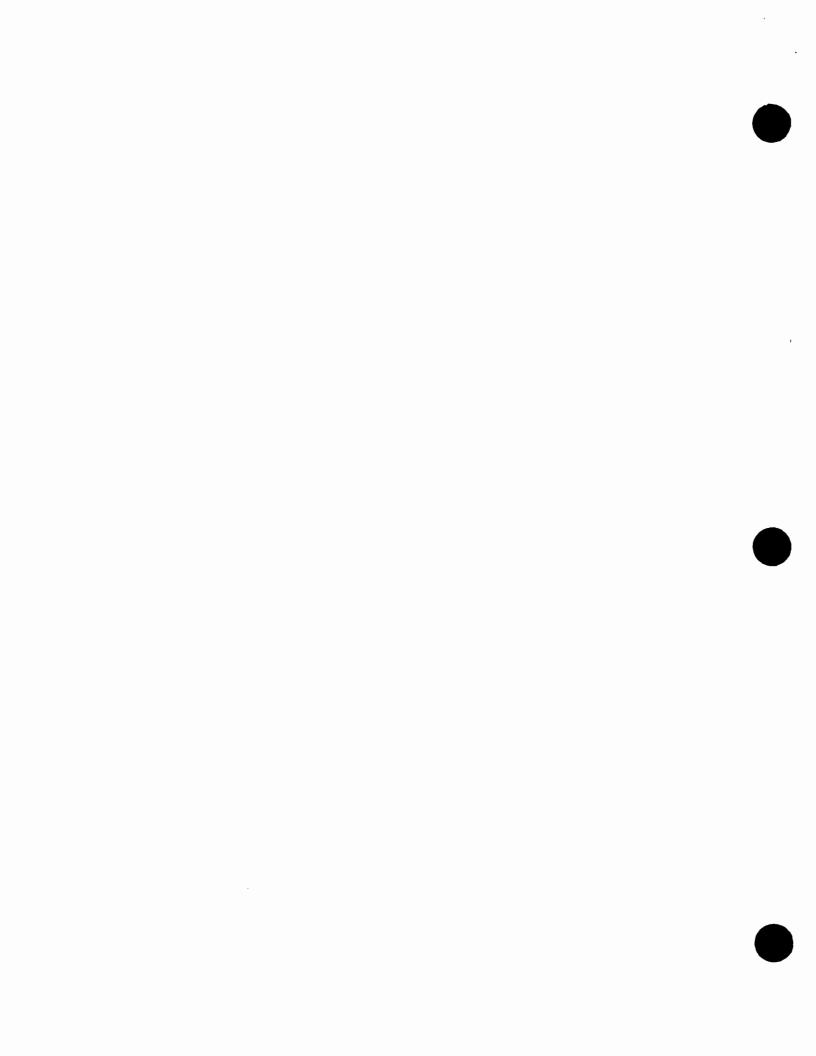
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The Secretary shall, on a monthly basis, distribute to each taxing municipality for which the Secretary collects the tax the net proceeds of the tax collected in that municipality under this Article. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing municipality, the Secretary shall allocate the taxes among the taxing municipalities in proportion to the amount of taxes collected in each municipality under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received.

(b) Use. – A municipality may use the net proceeds of a tax levied under this Article for public facilities and infrastructure."

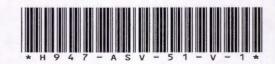
SECTION 3. This act is effective when it becomes law.

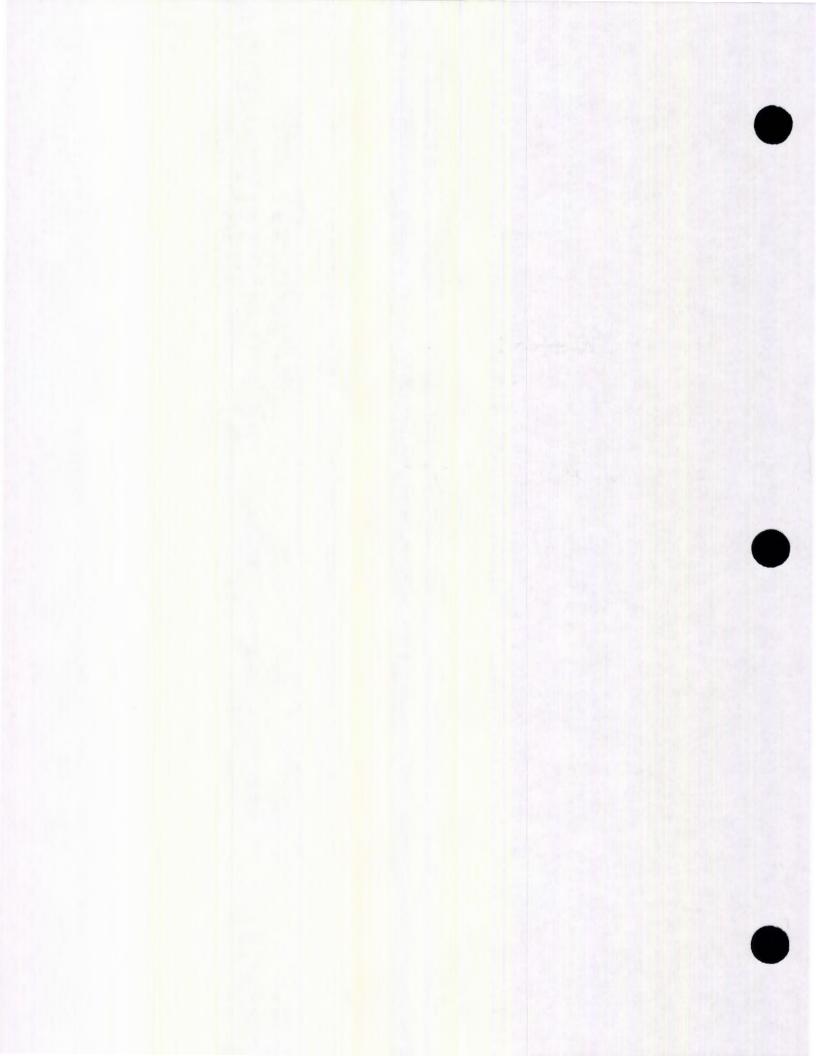




#### NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT House Bill 947

	H947-ASV-51 [v.1]	(t	MENDMENT NO to be filled in by Principal Clerk)
			Page 1 of 1
	Amends Title [NO] H947-CSSVxfr-48	Date	,2018
	Representative Watford	<u>-</u>	
1 2	moves to amend the bill on page 2, word "City".	line 20, by deleting the wo	ord "Town" and substituting the
	SIGNED Sam We Amenda	mentsponsor	
	SIGNED		
	Committee Chair if Ser	nate Committee Amendmen	t
	ADOPTED F.	AILED	TABLED





#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 954

Rockingham County School Board/Chair Term.

Draft Number:

None None

Serial Referral:

Recommended Referral: None Long Title Amended:

No

Floor Manager:

Bert Jones

#### FAVORABLE AND RE-REFERRED

HB 957 Graham County Occupancy Tax.

Draft Number:

None

Serial Referral:

**FINANCE** 

Recommended Referral: None

Long Title Amended:

No

Floor Manager:

Corbin

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 947

Mooresville Local Option Sales Tax.

Draft Number:

H947-PCS10459-SVxfr-48

Serial Referral:

**FINANCE** 

Recommended Referral: None Long Title Amended:

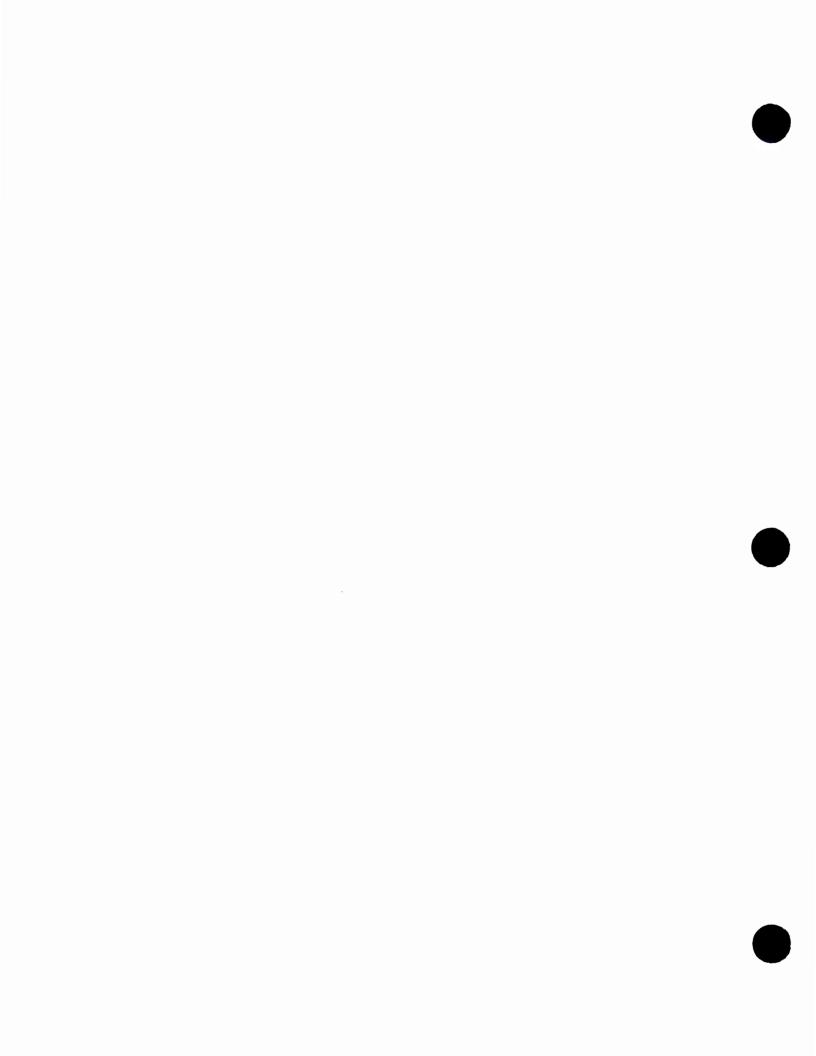
Yes

Floor Manager:

Fraley

TOTAL REPORTED: 3

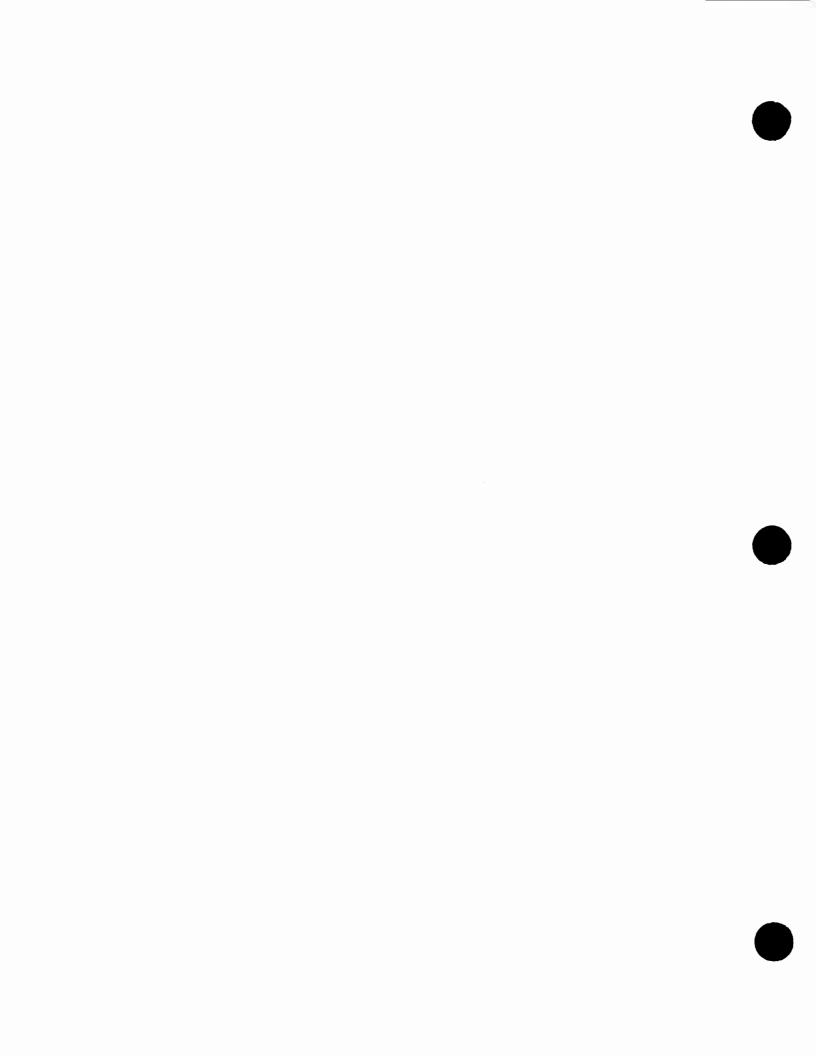






# Committee Sergeants at Arms

NAME O	OF COMMITTEE HOUSE COMM ON STATE & LO	CAL GOV II
DATE: _	5-30-18 Room: 544	
	House Sgt-At Arms:	
1. Name:	REGGIE SILLS	<b></b>
2. Name:	MARVIN LEE	
Name:	KENNETH GILBERT	
4. Name:	GLEN WALL	_
5. Name:		•
	Senate Sgt-At Arms:	
l. Name:		
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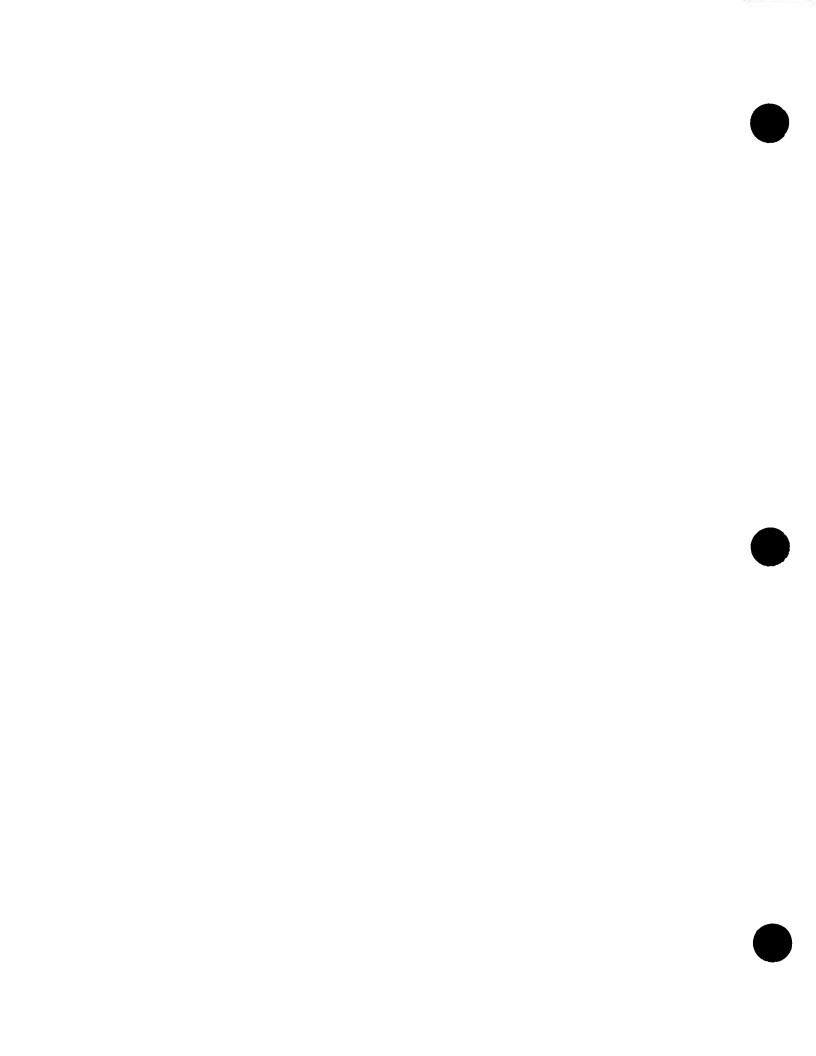
Loud Cail VISITOR REGISTRATION SHEET

Name of Committee

Date 5/30/18

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Elle	Nepul
Kurs Kize	Nepus
by ford	McGure Woods
Kara Wilsham	51
Will Pric	506
Caitlin Little	SUG.
Nick Bilman	MM .
Flint BENSON	SEANC
Sarah (olling	NCTW
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#### VISIOOR REGISTERATION SHEET!

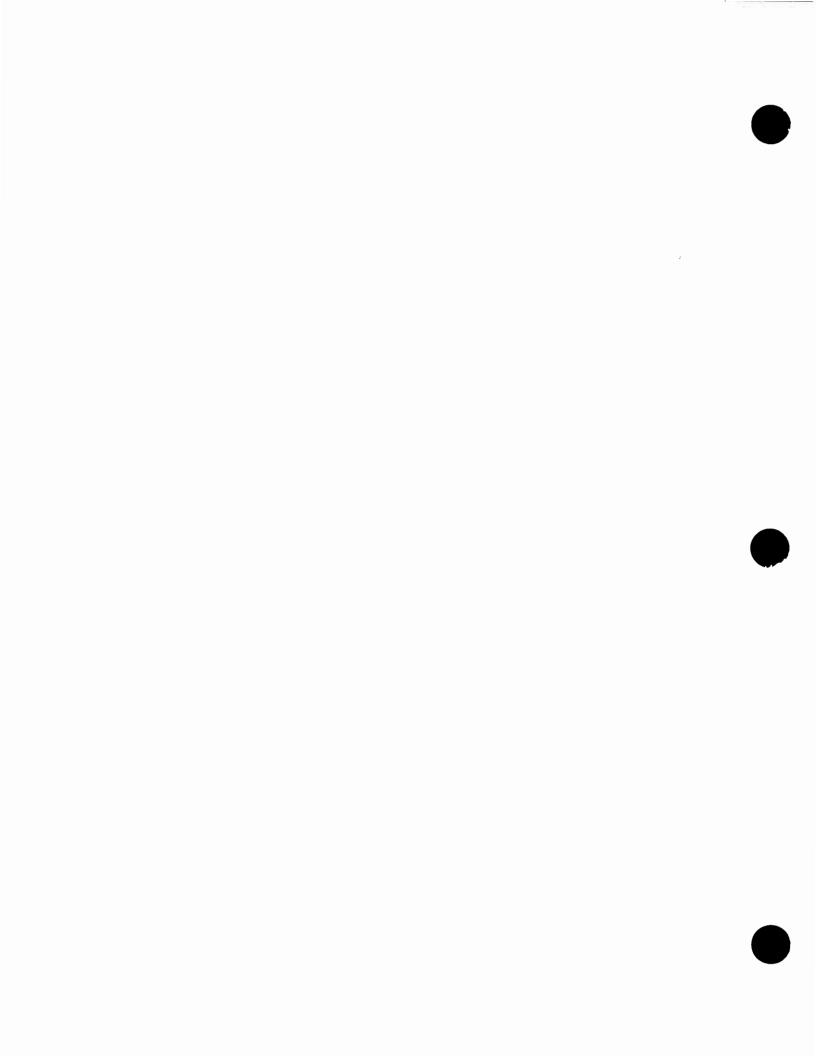
oal	Con'	)

Name of Committee

Date

# VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Zachan Horner	The Soutoit Herald
	208 St Clar Ct. Sanfard, NC 27330
J BUSSIAN	NC Preso Assa
MATTHEW DOLGE	PLEDMONT TRAD REGIONAL COUNCIC 1398 CARROLLTON CROSENG RD KERNERSVILLE, NC 27284
STEVE YOKELEY	CITY COMMISSIONER CITY OF MOUNT AIRY NC 27030
undy Collins	P.O. Box 913, Mr. HINY, NC, 27030
Angel Wight - Lanier	Tour of Monesuile, MC 413 N Main Street Monesuile, NC 2815
Ed Strickland	NE DOR SOI NW: Lungto St Raleigh NC
Ginny Upchurch	NCDOR
	·



# ATTENDANCE

# STATE & LOCAL GOVERNMENT II

2018 SHORT SESSION

MEMBERS	Jame (	
REP. BRADFORD CHAIR	v	
REP. ADAMS		
REP. AUTRY	<b>✓</b>	
REP. BALL	<b>✓</b>	
REP. BOLES	<b>✓</b>	
REP. BOSWELL	<b>√</b>	
REP. C. GRAHAM	<b>✓</b>	
REP. G. GRAHAM		
REP. JOHN		
REP. MOREY		
REP. ROSS		
REP. SAULS	<b>✓</b>	
REP. SETZER	<b>✓</b>	
REP. STEINBURG	<b>✓</b>	
REP. WATFORD	E	
REP. WILLIAMS	✓	
Anita Spence, Committee Assistant	<b>✓</b>	
Cindy Avrette, Staff	<b>√</b>	
Nick Giddings, Staff		
Brad Krehely, Staff	V	
Trina Griffin, Matf		

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## House Committee on State and Local Government II Wednesday, June 6, 2018 at 1:38 PM Room 425 of the Legislative Office Building

#### MINUTES

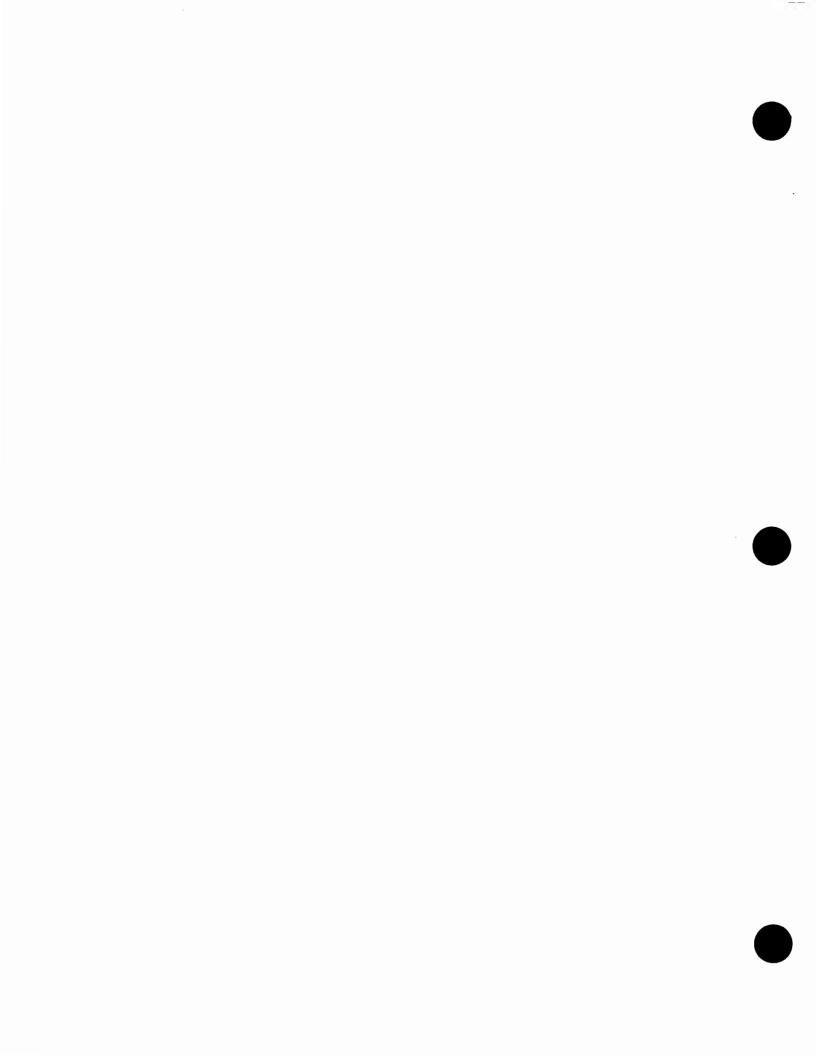
The House Committee on State and Local Government II met at 1:38 PM on June 6, 2018 in Room 425 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, Boles, C. Graham, G. Graham, John, Morey, Sauls, Setzer, Steinburg, and Williams attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 1:38 PM. He introduced the Sargent at Arms and House Pages.

HR 970 World War II Heritage Cities. (Representative Davis) A HOUSE RESOLUTION URGING CONGRESS TO ENACT LEGISLATION DIRECTING A FEDERAL AGENCY TO DESIGNATE AT LEAST ONE CITY IN THE UNITED STATES EACH YEAR AN "AMERICAN WORLD WAR II HERITAGE CITY," WITH WILMINGTON, NORTH CAROLINA, AS THE FIRST CITY TO BE SO DESIGNATED to be before the committee. Chairman Bradford recognized Representative Davis to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for a favorable report for HB 970. Chairman Bradford called for a vote. All members are in favor. HB 970 passes.

Chairman Bradford motioned for HB 992 Azalea Festival/Official Spring Celebration. (Representative Davis) AN ACT ADOPTING THE NORTH CAROLINA AZALEA FESTIVAL AS THE OFFICIAL CELEBRATION OF SPRING IN THE STATE OF NORTH CAROLINA AND APPROPRIATING FUNDS TO PROMOTE THE FESTIVAL to be before the committee. Chairman Bradford recognized Representative Davis to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Ball who motioned for a favorable report with a serial referral to appropriations for HB 992. Chairman Bradford called for a vote. All members are in favor. HB 992 passes.

Chairman Bradford motioned for HB 1019 Fallen Wildlife Officers Memorial License. (Representatives Dixon, J. Bell, Lewis, Adams) AN ACT TO ESTABLISH THE FALLEN WILDLIFE OFFICERS MEMORIAL LIFETIME SPORTSMAN LICENSE, ALSO KNOWN AS THE JOHN OLIVER EDWARDS MEMORIAL LIFETIME SPORTSMAN LICENSE, FOR SURVIVING FAMILY MEMBERS OF WILDLIFE ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY to be before the committee. Chairman Bradford recognized Representative Dixon to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative C. Graham who motioned for a favorable report with a serial referral to Appropriations for HB 1019. Chairman Bradford called for a vote. All members are in favor. HB 1019 passes.



Chairman Bradford motioned for HB 1050 Expansion of State Veterans Cemeteries. (Representatives Cleveland, Riddell, Floyd) AN ACT TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO APPLY FOR FEDERAL FUNDS FOR THE EXPANSION OF SANDHILLS STATE VETERANS CEMETERY AND WESTERN CAROLINA STATE VETERANS CEMETERY AND TO APPROPRIATE THOSE FUNDS; TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO UTILIZE AVAILABLE FUNDS TO MATCH FEDERAL DOLLARS FOR CONSTRUCTION OF TWO NEW STATE VETERANS HOMES AND TO APPROPRIATE THOSE FUNDS: AND TO PROVIDE A GRANT FOR THE VETERANS LIFE CENTER IN BUTNER to be before the committee. Chairman Bradford recognized Representative Ridell to explain the bill. There was discussion on the bill. Chairman Bradford recognized Representative Ball for a question. Representative Bradford recognized staff to answer her question. Chairman Bradford recognized Representative Autry for a question. He asked Representative Ridell what qualified someone to assume residence in one of these centers. Chairman Bradford recognized Charlie Smith, with the American Legion to speak briefly. Chairman Bradford recognized Representative Autry for an additional question. Representative Autry would like to know how a veteran qualifies for to live in one of the state veteran's homes. Chairman Bradford recognized Charlie Smith who responds that anyone who served active duty qualifies. Chairman Bradford recognized Representative Autry who motioned for the adoption of the PCS, unfavorable to the original bill with a serial referral to Appropriations for HB 1050. Chairman Bradford called for a vote. All members are in favor. HB 1050 passes.

Chairman Bradford motioned for HB 971 Winston-Salem Deannexation. (Representative Conrad) AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF WINSTON-SALEM to be before the committee. Chairman Bradford recognized Representative Conrad to explain the bill. Chairman Bradford recognized Representative Autry for a question. Chairman Bradford recognized Representative Setzer who motioned for a favorable report with a serial referral to Finance for HB 971. Chairman Bradford called for a vote. HB 971 passes.

Chairman Bradford motioned for HB 1017 Moore/Stanly Local Sales Tax Use Restriction. (Representatives Boles, McNeill) AN ACT TO MODIFY THE QUARTER-CENT LOCAL OPTION SALES TAX FOR MOORE AND STANLY COUNTIES to be before the committee. Chairman Bradford recognized Representative Boles to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative G. Graham who motioned for the adoption of the PCS, unfavorable to the original bill with a serial referral to Finance for HB 1017. Chairman Bradford called for a vote. HB 1017 passes

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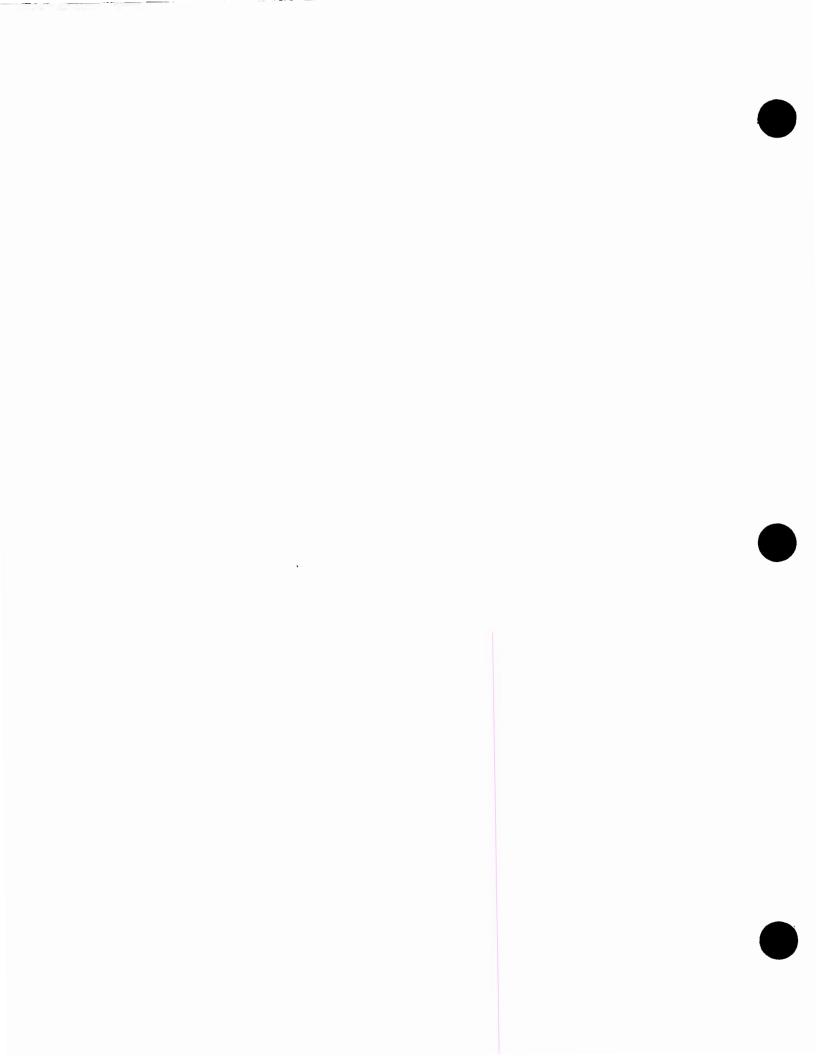
Chairman Bradford motioned for HB 935 Add Piedmont Community Charter School to SHP. (Representative Torbett) AN ACT TO AUTHORIZE PIEDMONT COMMUNITY CHARTER SCHOOL TO ELECT TO PARTICIPATE IN THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES to be before the committee. Chairman Bradford recognized Representative Boles to explain the bill. There was no discussion on the bill. Chairman Bradford recognized Representative Setzer who motioned for a favorable report for HB 935. Chairman Bradford called for a vote. HB 935 passes.

Chairman Bradford motioned for HB 990 Rockingham Cty/Publish Notices Electronically. (Representatives K. Hall, Bert Jones) AN ACT AUTHORIZING ROCKINGHAM COUNTY TO PARTICIPATE IN A PILOT PROGRAM ESTABLISHED IN 2017 THAT ALLOWS CERTAIN LOCAL GOVERNMENTS TO PUBLISH NOTICES ELECTRONICALLY AND TO PUBLISH LEGAL NOTICES VIA THE COUNTY-MAINTAINED WEB SITE FOR A FEE to be before the committee. Chairman Bradford recognized Representative K. Hall to explain the bill. There was discussion from committee members on the bill. Representative Bradford recognized the bill sponsors who asked to have HB 990 held until a future meeting.

The meeting adjourned at 2:05 PM.

Representative Braford, Presiding Chair

Anita Spence, Committee Assistant



Updated #4: \*\*\*ROOM CHANGE\*\*\*

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, June 6, 2018

TIME: 1:00 PM LOCATION: 425 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 990</u>	Rockingham Cty/Publish Notices	Representative K. Hall
	Electronically.	Representative Bert Jones
<u>HB 1017</u>	Moore/Stanly Local Sales Tax Use	Representative Boles
	Restriction.	Representative McNeill
HB 1019	Fallen Wildlife Officers Memorial	Representative Dixon
	License.	Representative J. Bell
		Representative Lewis
		Representative Adams
HB 935	Add Piedmont Community Charter	Representative Torbett
	School to SHP.	
<u>HB 971</u>	Winston-Salem Deannexation.	Representative Conrad
HB 1050	Expansion of State Veterans	Representative Cleveland
	Cemeteries.	Representative Riddell
		Representative Floyd
HR 970	World War II Heritage Cities.	Representative Davis
<u>HB 992</u>	Azalea Festival/Official Spring	Representative Davis
	Celebration.	

## Respectfully,

## Representative John R. Bradford, III, Chair

hereby certify this notice was filed by the committee assistant at the following offices at 2:54 PM ednesday, July 11, 2018.	on
Principal Clerk Reading Clerk – House Chamber	
nita Spence (Committee Assistant)	

### **Updated #3: ADDED HB 970 & HB 992**

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

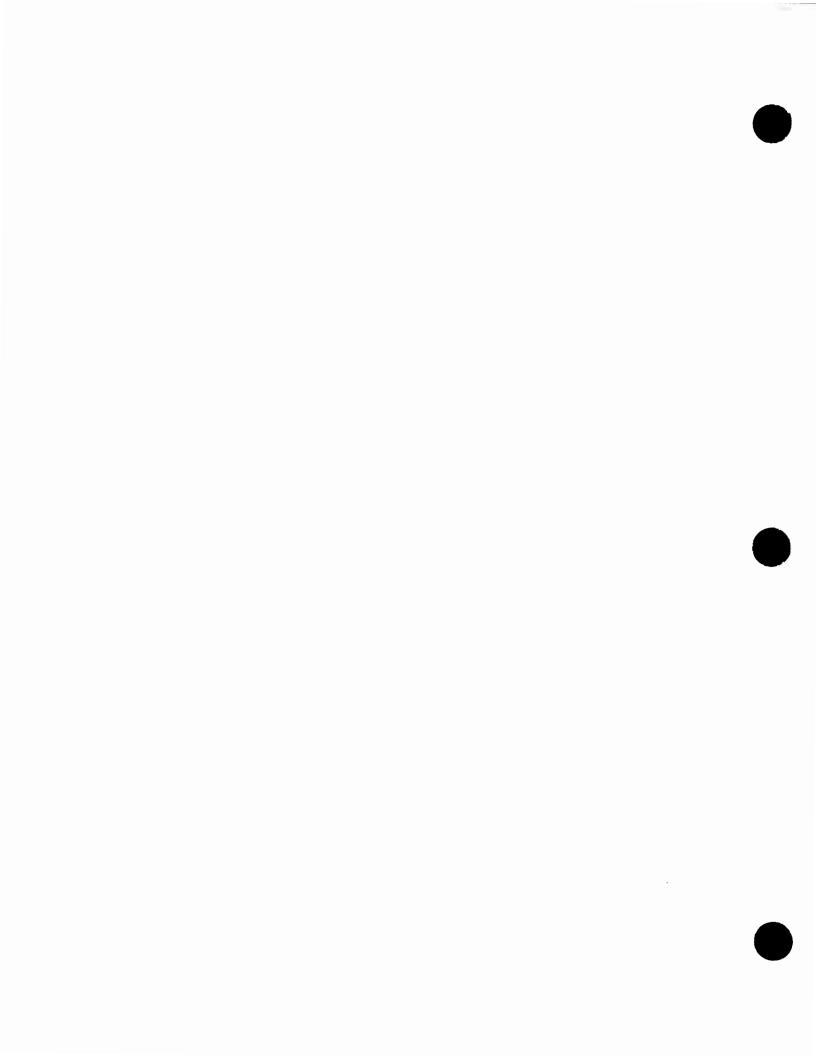
You are hereby notified that the House Committee on State and Local Government II will meet as follows:

DAY & DATE: Wednesday, June 6, 2018

TIME: 1:00 PM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 990	Rockingham Cty/Publish Notices	Representative K. Hall
	Electronically.	Representative Bert Jones
HB 1017	Moore County Local Sales Tax Use	Representative Boles
	Restriction.	Representative McNeill
<u>HB 1019</u>	Fallen Wildlife Officers Memorial	Representative Dixon
	License.	Representative J. Bell
		Representative Lewis
		Representative Adams
HB 935	Add Piedmont Community Charter	Representative Torbett
	School to SHP.	
<u>HB 971</u>	Winston-Salem Deannexation.	Representative Conrad
<u>HB 1050</u>	Expansion of State Veterans	Representative Cleveland
	Cemeteries.	Representative Riddell
		Representative Floyd
HR 970	World War II Heritage Cities.	Representative Davis
HB 992	Azalea Festival/Official Spring	Representative Davis
	Celebration.	_



### Updated #2: ADDED HB 935, HB 971 & HB 1050

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

**DAY & DATE:** Wednesday, June 6, 2018

TIME: 1:00 PM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 990</u>	Rockingham Cty/Publish Notices	Representative K. Hall
	Electronically.	Representative Bert Jones
HB 1017	Moore County Local Sales Tax Use	Representative Boles
	Restriction.	Representative McNeill
<u>HB 1019</u>	Fallen Wildlife Officers Memorial	Representative Dixon
	License.	Representative J. Bell
		Representative Lewis
		Representative Adams
HB 935	Add Piedmont Community Charter	Representative Torbett
	School to SHP.	
HB 971	Winston-Salem Deannexation.	Representative Conrad
<u>HB 1050</u>	Expansion of State Veterans	Representative Cleveland
	Cemeteries.	Representative Riddell
		Representative Floyd

Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 9:30 AM on Tuesday, June 05, 2018.
Principal Clerk Reading Clerk – House Chamber
Anita Spence (Committee Assistant)

#### Updated #1:

# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

DAY & DATE: Wednesday, June 6, 2018

TIME: 1:00 PM LOCATION: 544 LOB

The following bills will be considered:

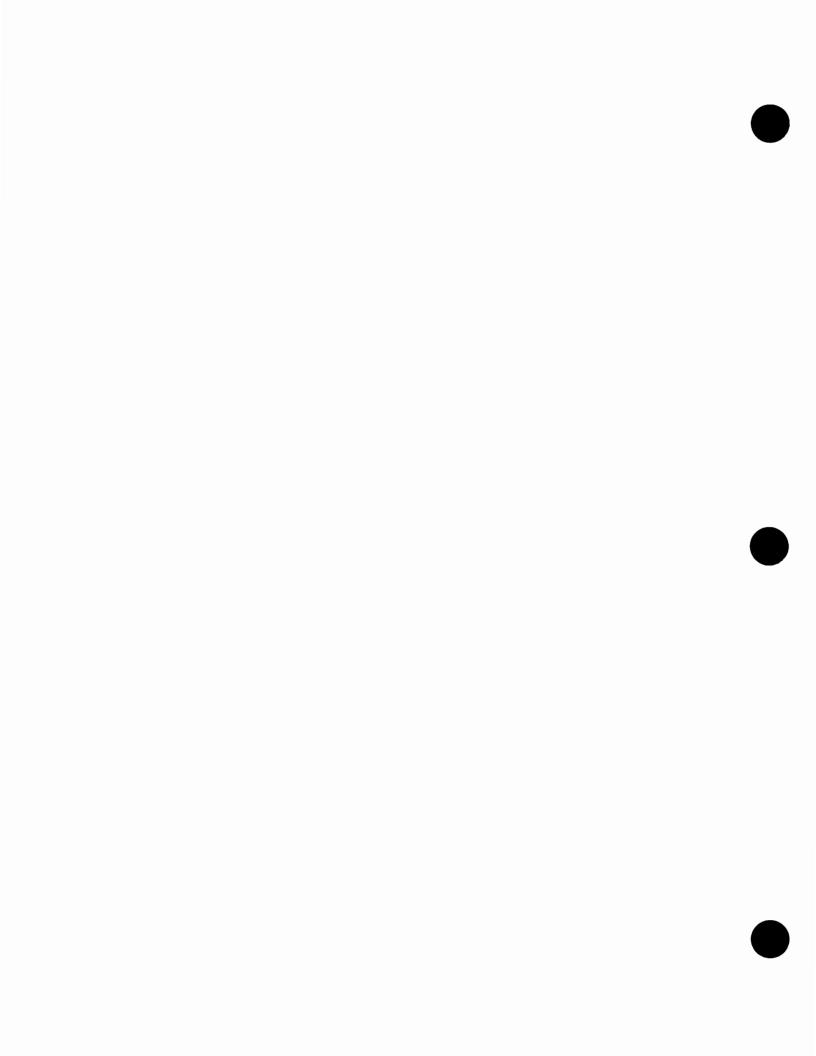
BILL NO. HB 935	SHORT TITLE Add Piedmont Community Charter School to SHP.	<b>SPONSOR</b> Representative Torbett
<u>HB 971</u> <u>HB 1050</u>	Winston-Salem Deannexation. Expansion of State Veterans Cemeteries.	Representative Conrad Representative Cleveland Representative Riddell Representative Floyd

Respectfully,

Representative John R. Bradford, III, Chair

I hereby certify	this notice was filed by the committee assistant at the following offices at 9:17
AM on Tuesda	y, June 05, 2018.
-	Principal Clerk
	Reading Clerk – House Chamber

Anita Spence (Committee Assistant)



# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

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

DAY & DATE: Wednesday, June 6, 2018

TIME: 1:00 PM LOCATION: 544 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 990</u>	Rockingham Cty/Publish Notices	Representative K. Hall
	Electronically.	Representative Bert Jones
<u>HB 1017</u>	Moore County Local Sales Tax Use	Representative Boles
	Restriction.	Representative McNeill
<u>HB 1019</u>	Fallen Wildlife Officers Memorial	Representative Dixon
	License.	Representative J. Bell
		Representative Lewis
		Representative Adams

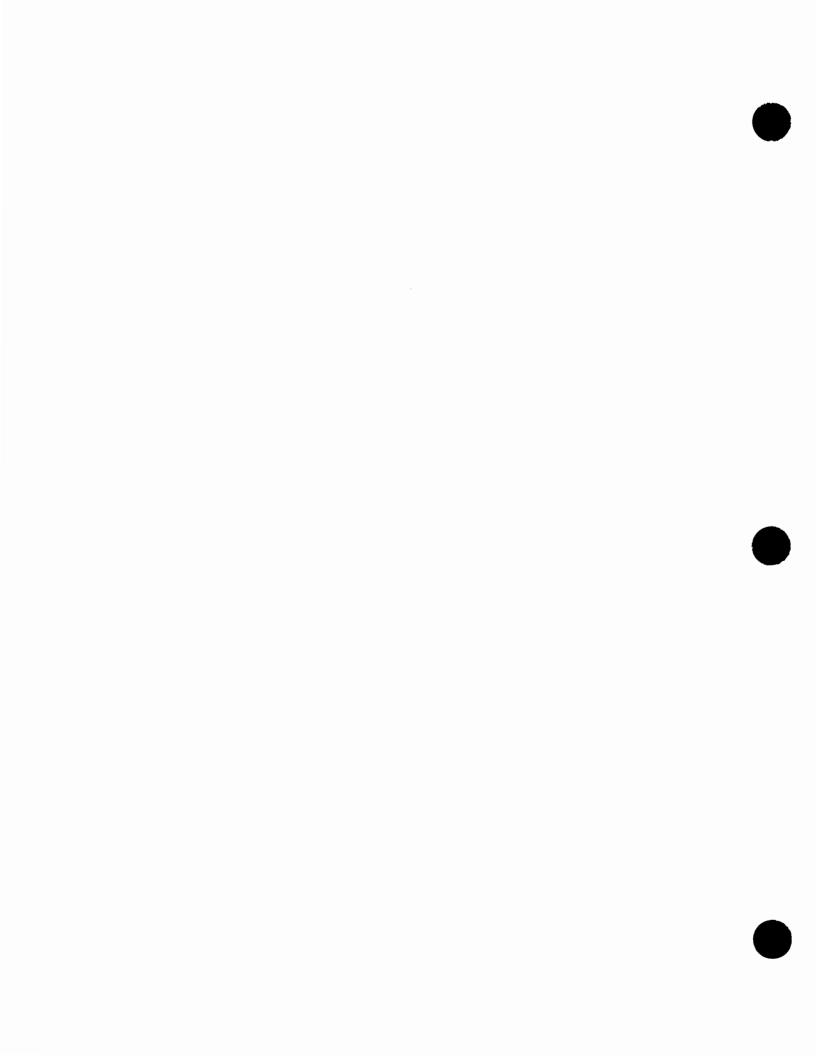
Respectfully,

Representative John R. Bradford, III, Chair

l hereby	certify	this	notice	was	filed	by tl	ne	committee	assistant	at t	he f	ollowing	offices	at :	3:28
PM on	Friday,	June	01, 20	18.											

 Principal Clerk
Reading Clerk – House Chamber

Anita Spence (Committee Assistant)



# House Committee on State and Local Government II Wednesday, June 6, 2018, 1:00 PM 544 Legislative Office Building

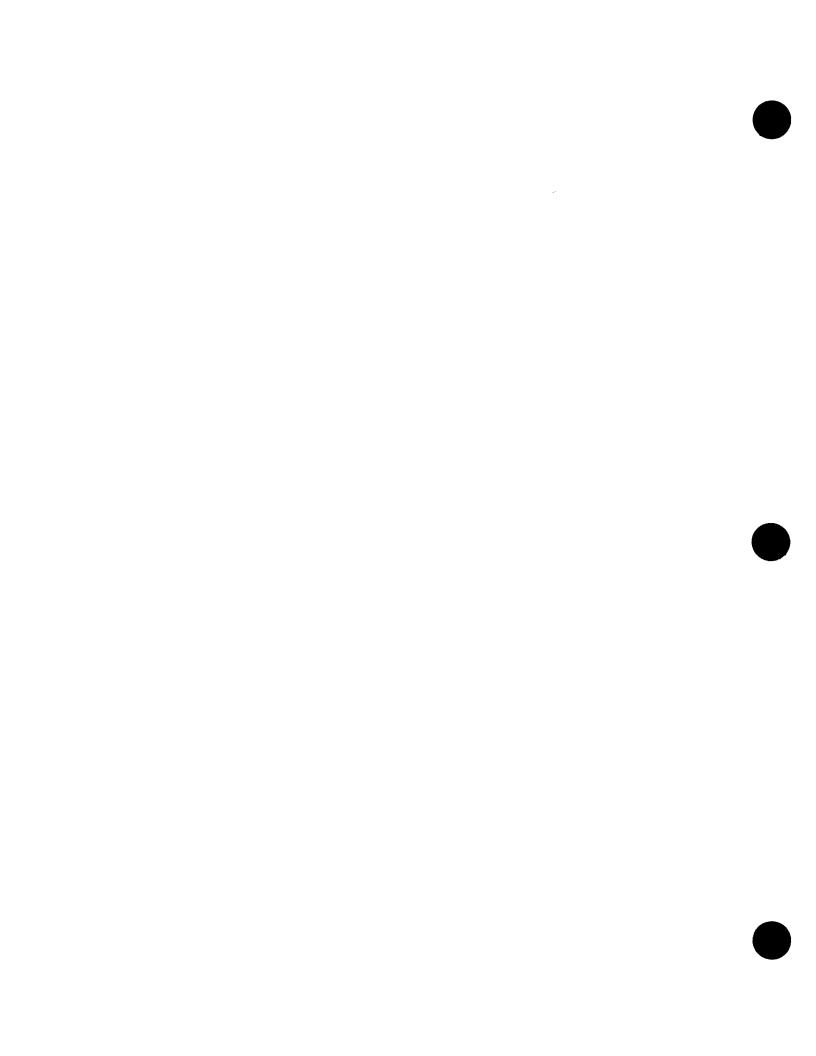
### AGENDA

Welcome and Opening Remarks

Introduction of Pages

#### Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 990	Rockingham Cty/Publish Notices	Representative K. Hall
	Electronically.	Representative Bert Jones
HB 1017	Moore County Local Sales Tax	Representative Boles
	Use Restriction.	Representative McNeill
HB 1019	Fallen Wildlife Officers Memorial	Representative Dixon
	License.	Representative J. Bell
		Representative Lewis
		Representative Adams
HB 935	Add Piedmont Community Charter School to SHP.	Representative Torbett
HB 971	Winston-Salem Deannexation.	Representative Conrad
HB 1050	Expansion of State Veterans	Representative Cleveland
	Cemeteries.	Representative Riddell
		Representative Floyd
HR 970	World War II Heritage Cities.	Representative Davis
HB 992	Azalea Festival/Official Spring Celebration.	Representative Davis



# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 935 Add Piedmont Community Charter School to SHP.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Torbett

FAVORABLE AND RE-REFERRED

HB 971 Winston-Salem Deannexation.

Draft Number: None
Serial Referral: FINANCE
Recommended Referral: None

Long Title Amended: No Floor Manager: Conrad

HB 992 Azalea Festival/Official Spring Celebration.

Draft Number: None Serial Referral: None

Recommended Referral: APPROPRIATIONS

Long Title Amended: No Floor Manager: Davis

HB 1019 Fallen Wildlife Officers Memorial License.

Draft Number: None

Serial Referral: APPROPRIATIONS

Recommended Referral: None Long Title Amended: No Floor Manager: Dixon

FAVORABLE FOR ADOPTION

HR 970 World War II Heritage Cities.

Draft Number:
Serial Referral:
Recommended Referral:
Long Title Amended:
Floor Manager:
None
No
Davis

**TOTAL REPORTED: 5** 



# NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

# STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### FAVORABLE COM SUB, UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 1017 Moore County Local Sales Tax Use Restriction.

Draft Number: H1017-PCS40753-SVxfr-50

Serial Referral: FINANCE
Recommended Referral: None
Long Title Amended: Yes

Long Title Amended: Yes
Floor Manager: Boles

HB 1050 Expansion of State Veterans Cemeteries.

Draft Number: H1050-PCS40752-BAa-28

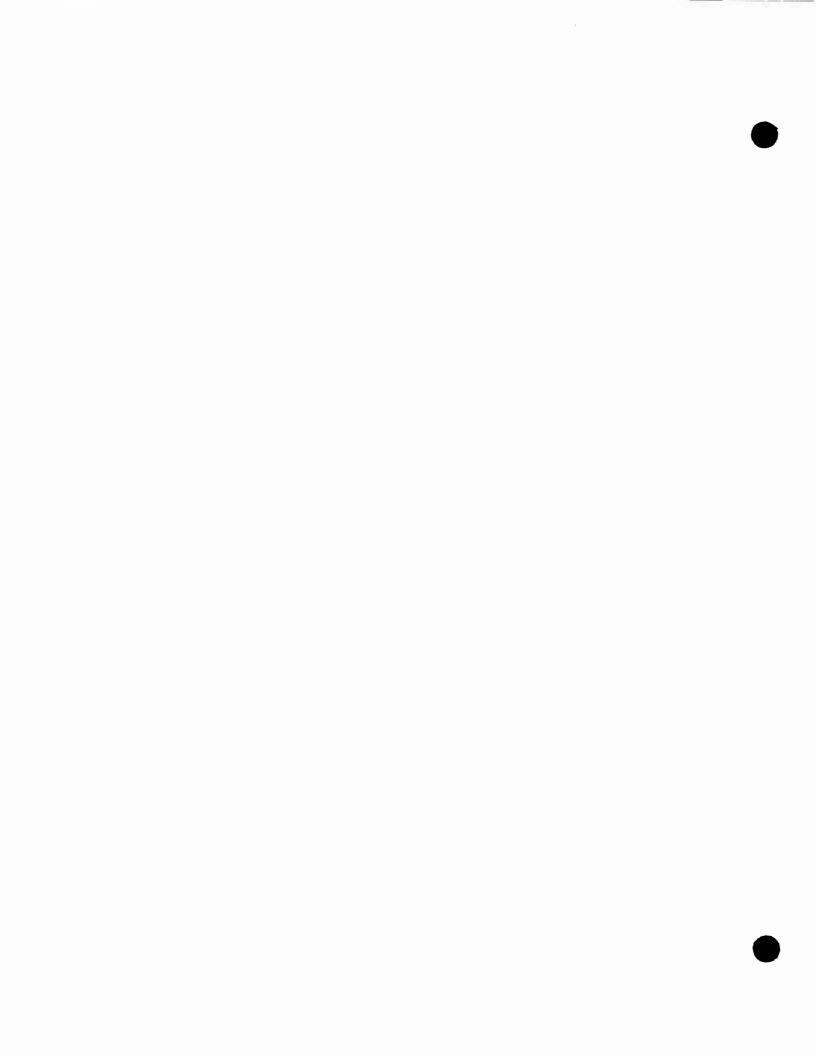
Serial Referral: APPROPRIATIONS

Recommended Referral: None Long Title Amended: Yes

Floor Manager: Cleveland

TOTAL REPORTED: 2





## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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#### **HOUSE RESOLUTION 970**

Sponsors:

Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to:

State and Local Government II

May 21, 2018

A HOUSE RESOLUTION URGING CONGRESS TO ENACT LEGISLATION DIRECTING A FEDERAL AGENCY TO DESIGNATE AT LEAST ONE CITY IN THE UNITED STATES EACH YEAR AN "AMERICAN WORLD WAR II HERITAGE CITY," WITH WILMINGTON, NORTH CAROLINA, AS THE FIRST CITY TO BE SO DESIGNATED.

Whereas, over the past few years, several members of Congress have introduced legislation directing the Secretary of Veterans Affairs to designate at least one city in the United States each year as an "American World War II Heritage City" based on the fact that many cities across the United States contributed to the war effort during World War II; and

Whereas, the legislation set out the criteria for establishing the designation to be based on the following: (1) contributions by a city to the war effort during World War II, including those related to defense manufacturing, bond drives, service in the Armed Forces, and the presence of military facilities within the city, and (2) efforts by a city to preserve the history of the city's contributions during World War II, including through the establishment of preservation organizations or museums, restoration of World War II facilities, and recognition of World War II veterans; and

Whereas, the legislation suggested that the City of Wilmington should be designated as the first "American World War II Heritage City" based upon the following findings:

- (1) During World War II, Wilmington was the country's unique wartime boomtown, aptly and officially named "The Defense Capital of the State."
- (2) Wilmington based and trained all five military services which were the predecessor to the air force at the Wilmington Airport, the Army at Camp Davis and Fort Fisher, the Navy at Fort Caswell, the Coast Guard at Wrightsville Beach, and the Marine Corps at Camp Lejeune.
- (3) The North Carolina Shipbuilding Company of Wilmington, the State's largest employer at that time with 23,000 employees, constructed 243 cargo vessels which provided goods and equipment to our soldiers.
- (4) Wilmington provided the following: the Atlantic Coast Line Railroad headquarters; three housing camps for German prisoners of war; a major training base for P-47 fighters; defense industries that produced goods and equipment; a British patrol base; and a shipping point for "Lend-Lease" supplies to the Allies.
- (5) Wilmington dispatched thousands of area men and women to fight the enemy on land, sea, and air as Navy frogmen, P-51 fighter aces, Tuskegee Airmen, submarine skippers, bomber pilots, Marine riflemen, Army artillerymen, physicians and nurses, and volunteers of all sorts.



Whereas, further evidence that the City of Wilmington deserves to earn the first designation as an "American World War II Heritage City" include the following:

(1) Since 1961, Wilmington has been home to the World War II Battleship North Carolina, the State's memorial to its World War II dead now expanded as a memorial to its subsequent veterans, and a major tourism attraction and public venue.

transportation, medical and social services, law enforcement, and food supply;

- (2) Wilmington is promoted as a World War II history tourism destination.
- (3) Wilmington has honored its two World War II Medal of Honor recipients by naming a middle school, city park, and city street for them as well as erecting a memorial to them at New Hanover High School.
- (4) In 2000, Wilmington established the World War II Wilmington Home Front Coalition, a nonprofit corporation, whose mission is to identify, preserve, and interpret the area's rich wartime legacy.
- (5) Wilmington has saved, renovated, and restored its World War II USO building, the Hannah Block Historic USO/Community Arts Center public venue, which is on the National Register of Historic Places, and celebrated its 75th anniversary in 2016 with an original musical play.
- (6) Other legacy accomplishments include memorial and markers; USO style-big-band dances; veterans tributes and jamborees; national media campaign including publication of two books and hundreds of articles; guide maps of WWII sites and guided tours; annual Pearl Harbor commemorations; exhibits; cultural and educational events; and earning preservation achievement awards; and

Whereas, in order to preserve the City's rich heritage and vast contributions to World War II, it is vital that the City of Wilmington be designated as an "American World War II Heritage City"; Now, therefore,

Be it resolved by the House of Representatives:

and

**SECTION 1.** The House of Representatives urges Congress to enact legislation directing a federal agency to designate at least one city in the United States each year as an "American World War II Heritage City" with Wilmington, North Carolina, as the first city to be so designated.

**SECTION 2.** The Principal Clerk shall transmit a copy of this resolution to each member of North Carolina's congressional delegation.

**SECTION 3.** This resolution is effective upon adoption.

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# **HOUSE RESOLUTION 970:** World War II Heritage Cities.

2017-2018 General Assembly

House State and Local Government II **Committee:** 

First Edition

June 5, 2018 Date:

**Introduced by:** Rep. Davis

Analysis of:

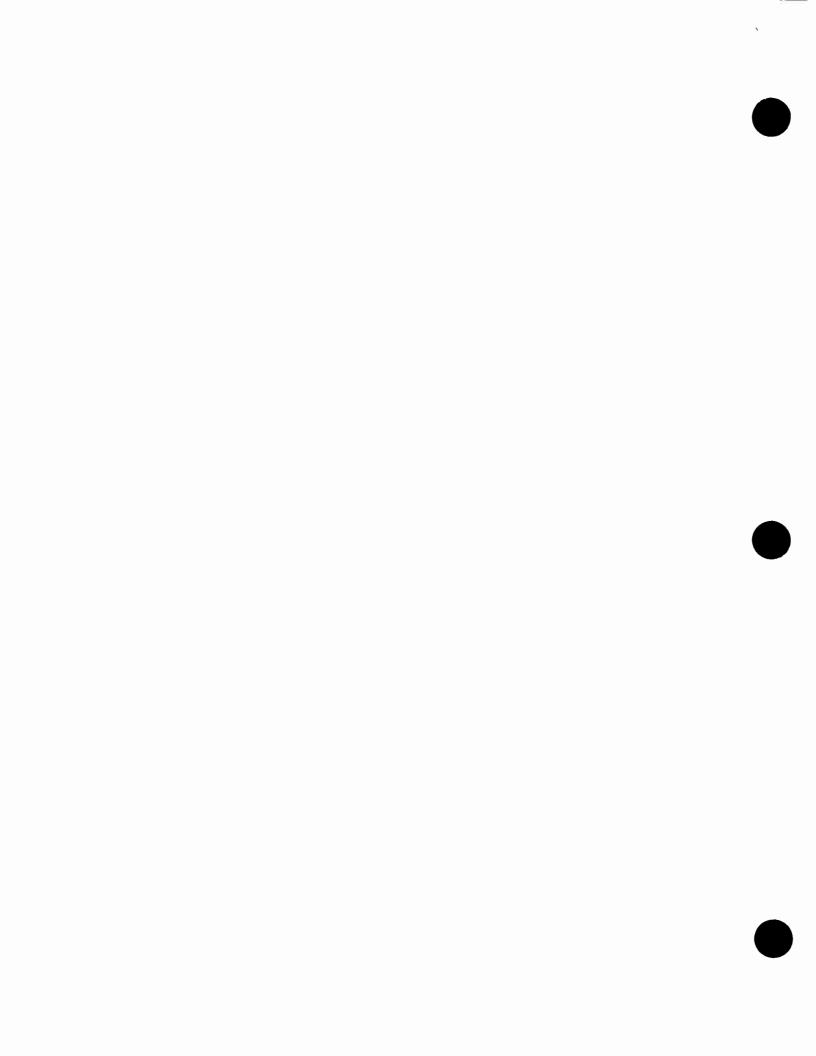
Prepared by: Brad Krehely

Committee Counsel

OVERVIEW: House Resolution 970 urges Congress to enact legislation directing a federal agency to designate at least one city in the United States each year as an "American World War II Heritage City" and to select Wilmington, North Carolina, as the first city to be so designated. The resolution directs the House Principal Clerk to transmit a copy of the resolution to each member of North Carolina's congressional delegation. The resolution is effective upon adoption.







## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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#### **HOUSE BILL 992**

Short Title: Azalea Festival/Official Spring Celebration. (Public) Sponsors: Representative Davis. For a complete list of sponsors, refer to the North Carolina General Assembly web site. Referred to: State and Local Government II

#### May 24, 2018

A BILL TO BE ENTITLED 2

AN ACT ADOPTING THE NORTH CAROLINA AZALEA FESTIVAL AS THE OFFICIAL CELEBRATION OF SPRING IN THE STATE OF NORTH CAROLINA AND APPROPRIATING FUNDS TO PROMOTE THE FESTIVAL.

Whereas, the North Carolina Azalea Festival is held annually in Wilmington during April and has celebrated the season of spring continuously since 1948; and

Whereas, the mission of the North Carolina Azalea Festival is to be nationally recognized as a showcase for the community's rich array of artwork, gardens, history, and culture through recreational, educational, and family-oriented events. The Festival encourages volunteerism and civic participation as it contributes to the region's economy and promotes the unique qualities of Wilmington's river-to-the-sea community; and

Whereas, the North Carolina Azalea Festival has an annual economic impact of over \$50 million to Wilmington and the surrounding region; and

Whereas, every year, the North Carolina Azalea Festival brings in nationally recognized touring artists and guests to enjoy the southern charm and hospitality of Wilmington and the City's one million azaleas; and

Whereas, the North Carolina Azalea Festival is regularly selected as a Southeast Tourism Society's Top 20 Event in April; and

Whereas, the North Carolina Azalea Festival has won numerous international awards through the International Festivals and Events Association; and

Whereas, the North Carolina Azalea Festival's volunteers won the Governor's Medallion for Volunteer Service in 2017 for their dedication to this annual springtime community event: and

Whereas, each year, the Governor of North Carolina proclaims the Azalea Festival dates in honor of the North Carolina Azalea Festival and commends its observance to all North Carolina citizens; and

Whereas, the North Carolina Azalea Festival should be adopted as the official celebration of spring in the State of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

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

"§ 145-49. Official celebration of spring.

The North Carolina Azalea Festival is adopted as the official celebration of spring in the State of North Carolina."



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## **HOUSE BILL 992:** Azalea Festival/Official Spring Celebration.

#### 2017-2018 General Assembly

Committee:

House State and Local Government II

Date:

June 5, 2018

Introduced by: Rep. Davis Analysis of:

First Edition

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 992 would adopt the North Carolina Azalea Festival as the official celebration of spring in North Carolina, and appropriates \$10,000 in non-recurring funds for the 2018-2019 fiscal year to promote the celebration.

CURRENT LAW: Chapter 145 of the General Statutes contains many State symbols and other official State adoptions.

**BILL ANALYSIS:** House Bill 992 would do two things:

- Adopt the North Carolina Azalea Festival as the official celebration of spring in North Carolina.
- Appropriate \$10,000 in nonrecurring revenues for the 2018-2019 fiscal year to promote the celebration.

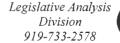
**EFFECTIVE DATE:** The appropriation would become effective July 1, 2018, and the remainder is effective when it becomes law.

BACKGROUND: The North Carolina Azalea Festival is held annually in Wilmington, NC, during the month of April when the bloom cycle for the City's one million azaleas begins. It has celebrated the season of spring continuously since 1948. The mission of the Festival is to be nationally recognized as a showcase for the community's rich array of artwork, gardens, history, and culture through recreational, educational, and family-oriented events. The Festival encourages volunteerism and civic participation as it contributes to the region's economy and promotes the unique qualities of Wilmington's river-to-the-sea community.

The Festival draws nationally recognized touring artists and guests. It is regularly selected as a Southeast Tourism Society's Top 20 Events in April, and it has won numerous awards and recognitions.









## HOUSE BILL 1019: Fallen Wildlife Officers Memorial License.

#### 2017-2018 General Assembly

Analysis of:

Committee: House State and Local Government II. If Date:

June 6, 2018

favorable, re-refer to Appropriations

Introduced by: Reps. Dixon, J. Bell, Lewis, Adams

First Edition

Prepared by: Nicholas Giddings

Staff Attorney

OVERVIEW: House Bill 1019 would create the Fallen Wildlife Officers Memorial Lifetime Sportsman License, which would provide a lifetime sportsman license free of charge to a surviving spouse, child, grandchild, or great-grandchild of a wildlife enforcement officer killed in the line of duty. The bill would also appropriate \$5,000 in nonrecurring funds to the Wildlife Resources Commission to design the license and implement the provisions of this act.

**CURRENT LAW:** Sportsman licenses entitle the licensee to statewide hunting and inland fishing. This includes hunting for big game, hunting on game lands, hunting for waterfowl, fishing in public mountain trout waters, fishing in trout waters on game lands, and fishing in joint waters. It does not include fishing in coastal waters. Sportsman licenses may be purchased on an annual basis for residents of North Carolina, or for the lifetime of the licensee for residents and nonresidents.

BILL ANALYSIS: House Bill 1019 would create the Fallen Wildlife Officers Memorial Lifetime Sportsman License, also known as the John Oliver Edwards Memorial Lifetime Sportsman License. This license would be issued free of charge to a surviving spouse, child, grandchild, or great-grandchild of a wildlife enforcement officer killed in the line of duty. Each applicant seeking to be issued a Fallen Wildlife Officers Memorial Lifetime Sportsman License must provide proof of relationship to the fallen wildlife officer. On top of entitling the licensee to statewide hunting and inland fishing, the license would allow a nonresident licensee to avoid having to purchase a nonresident bear hunting license, and allow resident and nonresident licensees to receive bear management stamps at no cost.

The bill would also appropriate \$5,000 in nonrecurring funds to the Wildlife Resources Commission to design and develop the license and to implement the provisions of this act.

**EFFECTIVE DATE:** Sections 1, 2, and 3 of the bill would become effective July 1, 2019. The remainder of the bill would become effective when law.

**BACKGROUND:** Since 1930, eleven wildlife enforcement officers have fallen in the line of duty. John Oliver Edwards lost his life in the line of duty on August 3, 1963. This license is named in his memory.



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### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

**HOUSE BILL 1019** 

Short Title: Fallen Wildlife Officers Memorial License. (Public)

Sponsors: Representatives Dixon, J. Bell, Lewis, and Adams (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Appropriations

May 28, 2018

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#### A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE FALLEN WILDLIFE OFFICERS MEMORIAL LIFETIME SPORTSMAN LICENSE, ALSO KNOWN AS THE JOHN OLIVER EDWARDS MEMORIAL LIFETIME SPORTSMAN LICENSE, FOR SURVIVING FAMILY MEMBERS OF WILDLIFE ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY.

Whereas, Deputy Game Warden John W. Hollowell lost his life in the line of duty on August 30, 1930; and

Whereas, Game Warden Joseph D. Whitaker lost his life in the line of duty on November 15, 1936; and

Whereas, District Game and Fish Protector W. I. Wright, Jr., lost his life in the line of duty on October 31, 1948; and

Whereas, Wildlife Agent Grover C. Quinn, Jr., lost his life in the line of duty on March 25, 1949; and

Whereas, Wildlife Protector William G. Holler lost his life in the line of duty on October 19, 1951; and

Whereas, Wildlife Protector Amos M. Bordeaux lost his life in the line of duty on April 10, 1962; and

Whereas, Wildlife Enforcement Officer John O. Edwards lost his life in the line of duty on August 3, 1963; and

Whereas, Wildlife Refuge Manager Dewey H. McCall lost his life in the line of duty on September 5, 1971; and

Whereas, Wildlife Enforcement Area Leader Troy M. Sigmon lost his life in the line of duty on September 1, 1978; and

Whereas, Wildlife Enforcement Officer Lloyd O. Mayse lost his life in the line of duty on November 27, 1980; and

Whereas, Wildlife Enforcement Officer William A. Williamson lost his life in the line of duty on December 4, 1985; and

Whereas, thousands of men and women proudly perform their duties as wildlife enforcement officers throughout the United States and the State of North Carolina; and

Whereas, Section 5 of Article XIV of the North Carolina Constitution declares it to be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry; and



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Whereas, Section 5 of Article XIV of the North Carolina Constitution also declares it to be the proper function of the State to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, open lands, and places of beauty; and

Whereas, G.S. 143B-135.42 provides that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources and finds that these resources are part of the heritage of the people of this State and should be preserved and managed by the people for their use and for the use of their visitors and descendants; and

Whereas, the Wildlife Enforcement Officers of the Wildlife Resources Commission are dedicated public servants and work tirelessly to uphold these provisions of the State's Constitution and General Statutes, fulfill their duties to preserve our State's spectacular natural resources, and assure the safety of the State's citizenry in enjoying these resources; and

Whereas, the origins of the Wildlife Resource Commission may be traced to 1947, when the General Assembly established the agency to conserve and sustain the State's wildlife and inland fish resources; and

Whereas, the Wildlife Enforcement Officers of the Wildlife Resources Commission have responsibility for enforcement of the inland fishing, hunting, trapping, and boating laws throughout the State; and

Whereas, many Wildlife Enforcement Officers have been injured in the line of duty, and eleven Wildlife Enforcement Officers have lost their lives in the line of duty; and

Whereas, it is fitting to honor and commend the exemplary group of men and women who have served and continue to serve our State and nation and routinely endure dangerous and difficult conditions in the performance of their duties and those that have been injured and lost in the line of duty through service to their State and nation; Now, therefore,

The General Assembly of North Carolina enacts:

#### **SECTION 1.** G.S. 113-270.1D reads as rewritten: "§ 113-270.1D. Sportsman licenses.

- Annual Sportsman License \$50.00. This license shall be issued only to an individual resident of the State and entitles the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. An annual sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters.
- Lifetime Sportsman Licenses. Except as provided in subdivision (7) of this subsection, lifetime sportsman licenses are valid for the lifetime of the licensees. Lifetime sportsman licenses entitle the licensees to take all wild animals and wild birds by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters. A lifetime sportsman license issued under this subsection does not entitle the licensee to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. Lifetime sportsman licenses issued by the Wildlife Resources Commission are:
  - (1)Infant Lifetime Sportsman License – \$200.00. This license shall be issued only to an individual under one year of age.
  - Youth Lifetime Sportsman License \$350.00. This license shall be issued (2) only to an individual under 12 years of age.
  - Adult Resident Lifetime Sportsman License \$500.00. This license shall be (3) issued only to an individual resident of the State who is 12 years of age or older but younger than 70 years of age.
  - Nonresident Lifetime Sportsman License \$1,200. This license shall be (4) issued only to an individual nonresident of the State.

### GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

H

**HOUSE BILL 1050** 

D

## PROPOSED COMMITTEE SUBSTITUTE H1050-CSBAa-1050 [v.2]

06/04/2018 04:11:29 PM

Short Title:	Expansion of State Veterans Cemeteries.	(Public)
Sponsors:		
Referred to:		

June 1, 2018

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO APPLY FOR FEDERAL FUNDS FOR THE EXPANSION OF SANDHILLS STATE VETERANS CEMETERY AND WESTERN CAROLINA STATE VETERANS CEMETERY AND TO APPROPRIATE THOSE FUNDS: TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO UTILIZE AVAILABLE FUNDS TO MATCH FEDERAL DOLLARS FOR THE CONSTRUCTION OF TWO NEW STATE VETERANS HOMES AND TO APPROPRIATE THOSE FUNDS; AND TO PROVIDE A GRANT FOR THE VETERANS LIFE CENTER IN BUTNER.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Military and Veterans Affairs (hereinafter "Department") is authorized to apply for federal funds for the expansion of Sandhills State Veterans Cemetery and Western Carolina State Veterans Cemetery to make site improvements at the cemeteries. The Department is authorized to use the fund balance from Budget Code 23050 and any other funds available to the Department for the required ten percent (10%) match for this grant.

**SECTION 2.** There is appropriated from 23050 Special Revenue Account the State match funds and the federal funds described in Section 1 of this act for the purpose of the expansion of Sandhills State Veterans Cemetery and Western Carolina State Veterans Cemetery to make site improvements at the cemeteries.

SECTION 3. The General Assembly authorizes the Department to fund the construction of two new State veterans homes located in the Triangle and Triad Regions with funds available to it from the North Carolina Veterans Home Trust Fund established under G.S. 143B-1293 in an amount not to exceed twenty-eight million dollars (\$28,000,000). The funds shall be used to provide the required State match for federal funding of the veterans home construction projects, and the matching funds and any federal dollars received for that purpose are hereby appropriated.

SECTION 4.(a) Notwithstanding 143B-1293(b), there is appropriated the sum of five hundred thousand dollars (\$500,000) from the North Carolina Veterans Home Trust Fund to the Department of Veterans and Military Affairs to be transferred to the Office of State Budget and Management to provide a grant to the Veterans Leadership Council of North Carolina-Cares to be used for the Veterans Life Center in Butner.

SECTION 4.(b) On or before June 1, 2019, the Veterans Leadership Council of North Carolina-Cares shall submit a detailed report on its use of the grant funds provided in this section to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division.



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**SECTION 5.** This act becomes effective July 1, 2018.



## **HOUSE BILL 1050: Expansion of State Veterans Cemeteries.**

#### 2017-2018 General Assembly

Committee:

House State and Local Government II. If Date:

June 6, 2018

Introduced by:

Reps. Cleveland, Riddell, Floyd

favorable, re-refer to Appropriations

Prepared by: Nicholas Giddings

Analysis of:

Staff Attorney

PCS to First Edition

H1050-CSBAa-28

OVERVIEW: House Bill 1050 would authorize the Department of Military and Veterans Affairs to apply for federal funds to expand Sandhills State Veterans Cemetery and Western Carolina State Veterans Cemetery and appropriate those funds.

The PCS to House Bill 1050 would add sections 3 and 4. Section 3 would authorize the Department of Military and Veterans Affairs to use available funds to match federal dollars for the construction of two new State veterans' homes and appropriate those funds. Section 4 would provide a grant for the Veterans Life Center in Butner.

**CURRENT LAW:** No money shall be drawn from the State treasury unless appropriated by law. A law enacted by the General Assembly that authorizes the expenditure of money from the State treasury is an appropriation; however, an enactment by the General Assembly that authorizes, specifies, or otherwise provides that funds may be used for a particular purpose is not an appropriation.

**BILL ANALYSIS:** The PCS to House Bill 1050 would do the following:

Section 1 would authorize the Department of Military and Veterans Affairs to apply for federal funding to expand Sandhills State Veterans Cemetery and Western Carolina State Veterans Cemetery. This section would also authorize the Department to use certain funds to satisfy the 10% match for the federal grant.

Section 2 would appropriate the funds in Section 1 for the cemetery expansions.

Section 3 would authorize the Department of Military and Veterans Affairs to use available funds in the North Carolina Veterans Home Trust Fund, up to \$28 million, to satisfy the required State match when receiving federal funding in order to construct two new State veterans' homes.<sup>2</sup> This section would also appropriate the matching funds as well as the federal funds.

Section 4 would appropriate \$500,000 from the North Carolina Veterans Home Trust Fund to provide a grant for the Veterans Life Center in Butner and require the Veterans Leadership Council of North Carolina-Cares to submit a detailed report on its use of the grant funds to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division by June 1, 2019.

**EFFECTIVE DATE:** This bill would become effective July 1, 2018.

<sup>&</sup>lt;sup>2</sup> The Department of Veterans Affairs (VA) provides assistance to states for the acquisition, construction, and renovation of state veterans' homes, adult day care centers and domiciliary through the VA State Home Construction Grant Program. The VA provides funding up to 65% of the allowable costs of the project, and states provide 35% matching funds.





Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> Section 7 of Article V of the North Carolina Constitution and G.S. 143C-1-2.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H HOUSE BILL 971\*

Short Title:	Winston-Salem Deannexation. (Local
Sponsors:	Representative Conrad.
	For a complete list of sponsors, refer to the North Carolina General Assembly web site.
Referred to:	State and Local Government II, if favorable, Finance

May 21, 2018

#### A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

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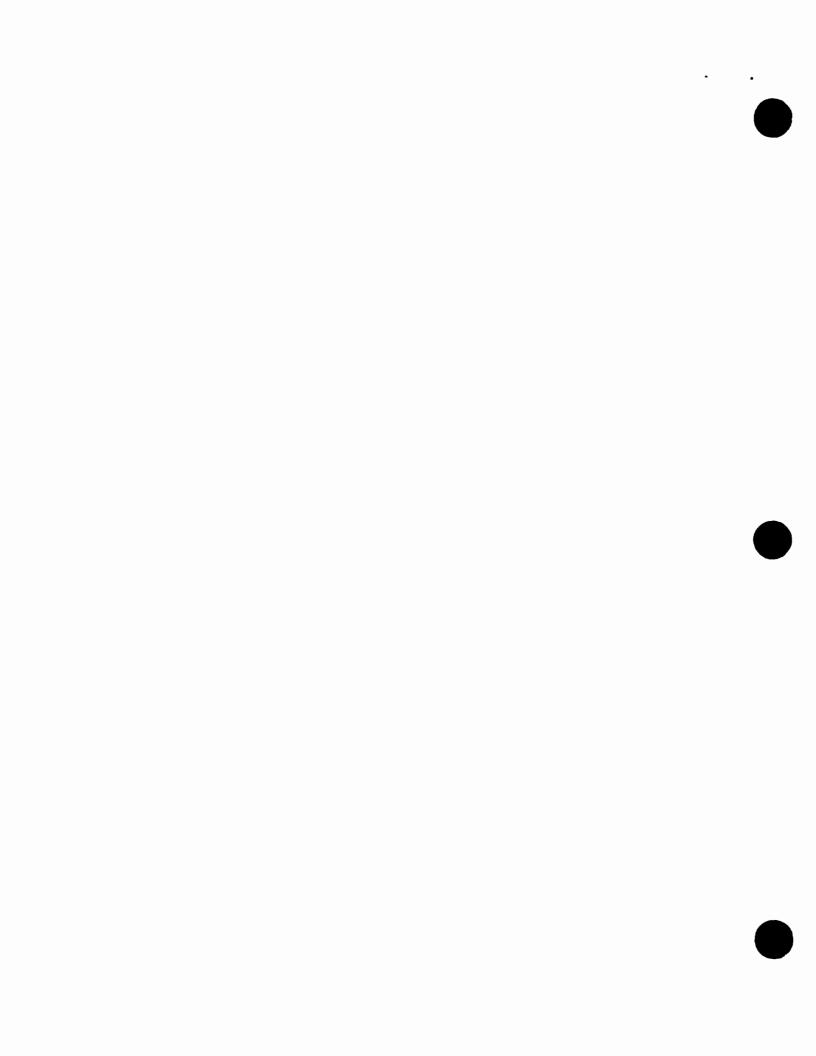
**SECTION 1.** The following described property is removed from the corporate limits of the City of Winston-Salem:

BEGINNING at an iron stake at the north right-of-way line of Hilltop Road, which iron stake being S 81° 35' E and 282.4 feet eastwardly of an iron Axle buried in the south margin of said road the southeast corner of the R.G. Beck property, and running thence with the north right-of-way line of said Hilltop Road the two chord distances and bearings S 67° 18' E 110.85 feet to an iron stake, and S 51° 51' E 75.0 feet to an iron stake in the Fred A. Pfaff Estate; thence the three following new lines with said Estate N 32° 51' E crossing an iron stake at 186.80 feet continuing a branch 239.78 feet or in all 426.58 feet to an iron stake a new corner, N 67° 18' W 258.0 feet to a new corner, S 22° 45' W crossing a branch and crossing an iron stake at 124.57 feet continuing 275.0 feet or in all 399.57 feet to the place of BEGINNING; containing 2.06 acres more or less. The above described property being known as a parcel from the 25.12-acre tract of the Fred A. Pfaff Estate, better known as the Luther Pfaff land.

**SECTION 2.** This act has no effect upon the validity of any liens of the City of Winston-Salem 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 were still within the corporate limits of the City of Winston-Salem.

**SECTION 3.** This act becomes effective June 30, 2018. Property in the territory described in Section 1 of this act as of January 1, 2018, is no longer subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2018.







# **HOUSE BILL 971:** Winston-Salem Deannexation.

#### 2017-2018 General Assembly

Committee: House State and Local Government II. If Date: June 4, 2018

favorable, re-refer to Finance

Introduced by: Rep. Conrad Prepared by: Cindy Avrette

Analysis of: First Edition Staff Attorney

OVERVIEW: House Bill 9711 would remove a 2.06 acre tract of land from the corporate limits of the City of Winston-Salem.

**CURRENT LAW:** Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities, and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes which governs municipal annexations. In addition, the General Assembly may annex property by local act. The General Assembly has not enacted any method for municipalities to *deannex* property; that power remains with the General Assembly.

**BILL ANALYSIS:** House Bill 971 would deannex a 2.06 acre tract of land from the corporate limits of the City of Winston-Salem. The deannexation would not affect any property tax liens or special assessments by the City on the deannexed property outstanding as of June 30, 2018.

**BACKGROUND:** The deanexation comes at the request of the property owner; the City neither favors nor opposes the request. The property was voluntarily annexed into the City's limits in 2007 at the request of the property owner, who was required to live inside the city limits to hold the position of chief information officer. The land owner is no longer employed by the City. The property will lose city services, such as garbage collection and police service; the property does not have sewer service.<sup>2</sup>

**EFFECTIVE DATE:** The bill would become effective June 30, 2018, and apply to tax years beginning July 1, 2018.

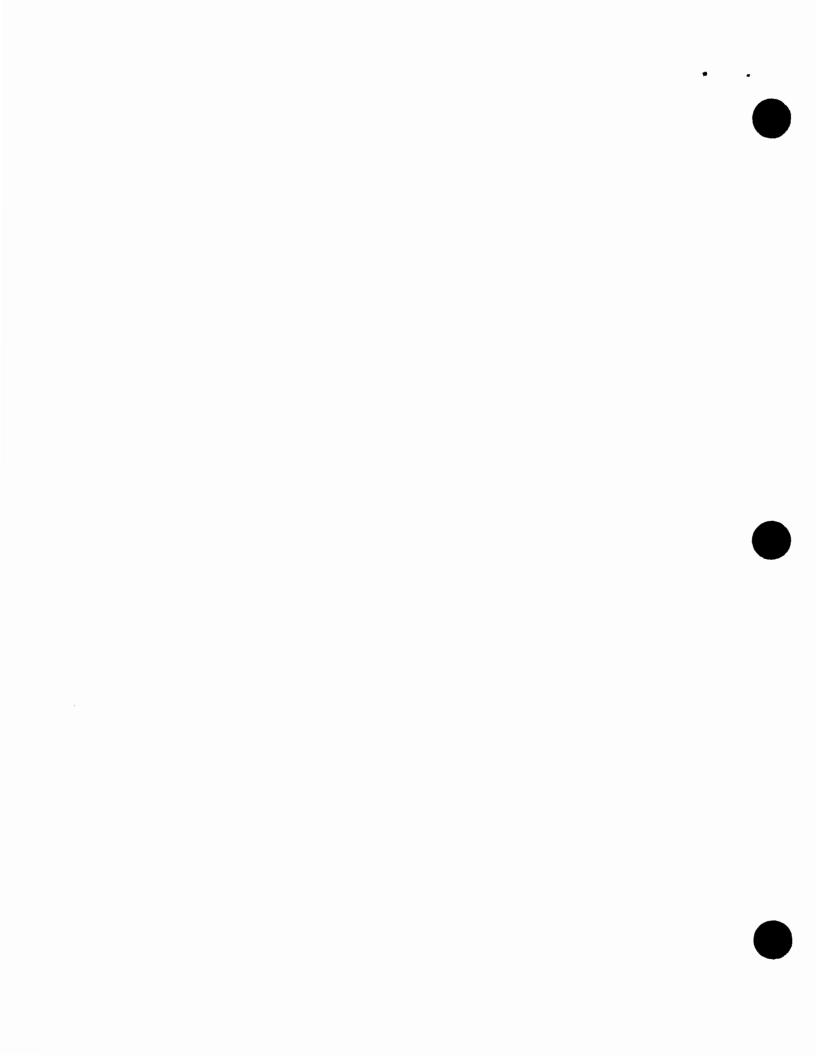
<sup>&</sup>lt;sup>2</sup> Information obtained from a news article written by Wesley Young, and published in the Winston-Salem Journal on June 2, 2018.





Legislative Analysis Division 919-733-2578

<sup>&</sup>lt;sup>1</sup> As introduced, this bill is identical to Senate Bill 752, sponsored by Senators Krawiec and Lowe, and currently in Senate Finance Committee.



## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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35 36 HOUSE BILL 1017

## PROPOSED COMMITTEE SUBSTITUTE H1017-CSSVxfr-1017 [v.1]

06/05/2018 12:42:46 PM

Short Title:	Moore/Stanly Local Sales Tax Use Restriction.	(Local)
Sponsors:		
Referred to:		

May 28, 2018

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE QUARTER-CENT LOCAL OPTION SALES TAX FOR MOORE
AND STANLY COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) This section applies to Moore County only.

SECTION 1.(b) G.S. 105-537(c) reads as rewritten:

"(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

"[]FOR []AGAINST

Local sales and use tax at the rate of one-quarter (1/4) of one percent (0.25%) in addition to all other State and local sales and use taxes to be used only for public school construction, repair, and renovation purposes. For example, tax on a purchase of one hundred dollars (\$100.00) would be an extra twenty-five cents (25¢)."

SECTION 1.(c) G.S. 105-538 reads as rewritten:

"§ 105-538. Administration and use of taxes.

(a) Administration. – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

(b) Use. – A county may use funds received under this Article only for funding public school construction, repair, and renovation purposes. A county shall use funds to supplement and not to supplant or replace existing funds or other resources for public school construction."

SECTION 2.(a) This section applies to Stanly County only.

SECTION 2.(b) G.S. 105-537(c) reads as rewritten:

"(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:



D

"[]FOR []AGAINST

Local sales and use tax at the rate of one-quarter (1/4) of one percent (0.25%) (1%) in addition to all other State and local sales and use taxes to be used only for public education purposes. For example, tax on a purchase of one hundred dollars (\$100.00) would be an extra twenty-five cents  $(25\phi)$ ."

**SECTION 2.(c)** G.S. 105-538 reads as rewritten:

"§ 105-538. Administration and use of taxes.

(a) Administration. – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.

(b) Use. – A county may use funds received under this Article only for funding public education. A county shall use funds to supplement and not to supplant or replace existing funds or other resources for public education."

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



## **HOUSE BILL 1017:** Moore/Stanly Local Sales Tax Use Restriction.

#### 2017-2018 General Assembly

Committee:

House State and Local Government II. If Date:

June 6, 2018

favorable, re-refer to Finance

Introduced by:

Reps. Boles, McNeill

Prepared by: Trina Griffin

Analysis of:

PCS to First Edition

Staff Attorney

H1017-CSSVxfr-50

OVERVIEW: House Bill 1017 would modify the purposes for which Moore County may use the proceeds of the one-quarter cent local sales and use tax and would specifically identify that purpose on the ballot for approval of the tax. If approved, the proceeds of the tax may only be used for public school construction, repair, and renovation only. The county is directed not to supplant or replace existing funds for public school construction with these funds.

The PCS provides a similar limitation for Stanly County with the purpose being public education.

CURRENT LAW: All 100 counties levy at least a 2.0% local sales and use tax. All 100 counties also have the ability to levy an additional one-quarter cent local sales and use tax, upon approval of the voters, and the proceeds may be used for any public purpose. To date, 36 counties levy this tax.

The State and local sales and use tax rate in Moore County is 6.75% (4.75% State + 2.0% local). Moore County has held two unsuccessful referenda in May of 2008 and March of 2016 in an attempt to levy the additional quarter-cent tax.

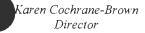
The State and local sales and use tax rate in Stanly County is also 6.75%. Stanly County has held four unsuccessful referenda in May of 2008, November of 2014, March of 2016, and November 2016 in an attempt to levy the additional quarter-cent tax.

Counties may only hold the referendum at the same time as any other State or county general election or at the same time as the primary election in any even-numbered year. The earliest that a tax could be levied under this legislation is April 1, 2019.<sup>1</sup>

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1017 would authorize Moore County and Stanly County to modify the ballot question for purposes of levying the one-quarter cent local sales and use tax under Article 46 of Chapter 105 of the General Statutes. In terms of the overall rate, it would not provide any additional taxing authority to either county.

For Moore County, the ballot question would be whether the voters support a one-quarter cent local sales and use tax to be used only for public school construction, repair, and renovation purposes. The bill directs the county not to supplant or replace existing funds or other resources for public school construction with funds from this tax.

A rate increase may only go into effect on the first day of a calendar quarter after retailers have been given 60 days' notice; also, the local government must give the Department of Revenue 90 days' notice of the rate increase.





## **House PCS 1017**

Page 2

For Stanly County, the ballot question would be whether the voters support a one-quarter cent local sales and use tax to be used only for *public education purposes*. The bill directs the county not to supplant or replace existing funds or other resources for public education.

**EFFECTIVE DATE:** This act would become effective when it becomes law.

- (5) Age 70 Resident Lifetime Sportsman License \$15.00. This license shall be issued only to an individual resident of the State who is at least 70 years of age.
- (6) Repealed by Session Laws 2005-455, s. 1.7 effective January 1, 2007.
- (7) Resident Disabled Veteran Lifetime Sportsman License \$100.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.
- (8) Resident Totally Disabled Lifetime Sportsman License \$100.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by rules of the Wildlife Resources Commission.
- (9) Fallen Wildlife Officers Memorial Lifetime Sportsman License. This license shall also be known as the John Oliver Edwards Memorial Lifetime Sportsman License and shall be issued free of charge only to a surviving spouse, child, grandchild, or great-grandchild of a wildlife enforcement officer killed in the line of duty."

SECTION 2. G.S. 113-270.3 reads as rewritten:

#### "§ 113-270.3. Special activity licenses; big game kill reports.

- (a) In addition to any hunting, trapping, or fishing license that may be required pursuant to G.S. 113-270.1B(a), individuals engaging in specially regulated activities must have the appropriate special activity license and stamp prescribed in this section before engaging in the regulated activity.
- (b) The special activity licenses and stamp issued by the Wildlife Resources Commission are as follows:
  - (1) Resident Big Game Hunting License \$13.00. This license shall be issued only to an individual resident of the State and entitles the holder to take big game by all lawful methods and during all open seasons.
  - (1a) Nonresident Bear Hunting License \$225.00. This license is valid for use only by an individual within the State and must be procured before taking any bear within the State. Notwithstanding any other provision of law, a nonresident individual may not take any bear within the State without procuring this license; provided, that <u>neither</u> those persons who have a nonresident lifetime sportsman combination license purchased prior to May 24, 1994, <u>nor those persons who have obtained a lifetime license established by G.S. 113-270.1D(b)(9) shall not-have to purchase this license.</u>
  - (1b) Bear Management Stamp \$10.00. This electronically generated stamp must be procured before taking any bear within the State. Notwithstanding any other provision of law, a resident or nonresident individual may not take any bear within the State without procuring this stamp; provided, that those persons who have purchased a lifetime license established by G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-351(c)(3) prior to July 1, 2014, those persons who have obtained a lifetime license established by G.S. 113-270.1D(b)(9). and those persons exempt from the license requirements as set forth in G.S. 113-276(c), G.S. 113-276(d), and G.S. 113-276(n) shall obtain this stamp free of charge. All of the revenue

- generated by this stamp shall be dedicated to black bear research and management.
- (2) Nonresident Big Game Hunting License. This license shall be issued only to an individual nonresident of the State and entitles the holder to take big game by all lawful methods and during all open seasons. The nonresident big game hunting licenses issued by the Wildlife Resources Commission are:
  - a. Season License \$80.00.
  - b. Ten-Day License \$60.00. This license is only valid for the 10 consecutive dates indicated on the license.
- (2a) Bonus Antlerless Deer License \$10.00. This license shall be issued to an individual resident or nonresident of the State who holds a valid North Carolina big game hunting license or an individual resident who is exempt from the hunting license requirement in accordance with G.S. 113-276(c) and G.S. 113-276(d) and entitles the holder to take two antlerless deer during seasons and by methods authorized by the Wildlife Resources Commission. This license expires June 30.
- (3) Game Land License \$15.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to hunt and trap on game lands managed by the Wildlife Resources Commission. The Wildlife Resources Commission may, pursuant to G.S. 113-264(a), designate in its rules other activities on game lands that require purchase of this license and may charge additional fees for use of specially developed facilities.
- (4) Falconry License \$10.00. This license shall be issued to an individual resident or nonresident of the State and must be procured before:
  - a. Taking, importing, transporting, or possessing a raptor; or
  - b. Taking wildlife by means of falconry.

The Wildlife Resources Commission may issue classes of falconry licenses necessary to participate in the federal/State permit system, require necessary examinations before issuing licenses or permits to engage in various authorized activities related to possession and maintenance of raptors and the sport of falconry, and regulate licenses as required by governing federal law and rules. To defray the costs of administering required examinations, the Wildlife Resources Commission may charge reasonable fees upon giving them. To meet minimum federal standards plus other State standards in the interests of conservation of wildlife resources, the Wildlife Resources Commission may impose all necessary controls, including those set out in the sections pertaining to collection licenses and captivity licenses, and may issue permits and require reports, but no collection license or captivity license is needed in addition to the falconry license.

(5) Migratory Waterfowl Hunting License – \$13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl.

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- Any individual who kills any species of big game must report the kill to the Wildlife Resources Commission. The Commission may by rule prescribe the method of making the report, prescribe its contents, and require positive identification of the carcass of the kill, by tagging or otherwise. The Wildlife Resources Commission may administratively provide for the annual issuance of big game tags or other identification for big game authorized by this section to holders of lifetime sportsman licenses and lifetime comprehensive hunting licenses.
- Any individual who possesses any of the lifetime sportsman licenses established by G.S. 113-270.1D(b) may engage in specially regulated activities without the licenses required by subdivisions (1), (2), (3), and (5) of subsection (b) of this section. Any individual possessing an annual sportsman license established by G.S. 113-270.1D(a) or a lifetime or annual comprehensive hunting license established by G.S.113-270.2(c)(2) or (5) may engage in specially regulated activities without the licenses required by subdivisions (1), (3), and (5) of subsection (b) of this section.
- When the Wildlife Resources Commission establishes a primitive weapons season pursuant to G.S. 113-291.2(a), all of the combination hunting and fishing licenses established in G.S.113-270.1C, sportsman licenses established in G.S. 113-270.1D, and hunting licenses established in G.S. 113-270.2(c)(1), (2), (3), (5), and (6) entitle the holder to participate. For purposes of this section, "primitive weapons" include bow and arrow, muzzle-loading firearm, and any other primitive weapon specified in the rules of the Wildlife Resources Commission."

**SECTION 3.** G.S. 113-272.3 reads as rewritten:

- "§ 113-272.3. Special provisions respecting fishing licenses; grabbling; taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources Commission headquarters; personalized lifetime sportsman combination licenses.
- The Wildlife Resources Commission by rule may define the meaning of "hook and (a) line" and "special device" as applied to fishing techniques. Any technique of fishing that may be lawfully authorized which employs neither the use of any special device nor hook and line must be pursued under the appropriate hook-and-line fishing license.
- In accordance with established fishing customs and the orderly conservation of wildlife resources, the Wildlife Resources Commission may by rule provide for use of nets or other special devices which it may authorize as an incident to hook-and-line fishing or for procuring bait fish without requiring a special device license. In this instance, however, the individual fishing must meet applicable hook-and-line license requirements.
- Lifetime licenses are issued from the Wildlife Resources Commission headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime Sportsman License must be accompanied by a certified copy of the birth certificate, adoption order containing the date of birth, or other proof of age satisfactory to the Commission, of the individual to be named as the licensee. Each application for a Fallen Wildlife Officers Memorial Lifetime Sportsman License shall be accompanied by proof of relationship to the fallen wildlife officer, satisfactory to the Wildlife Resources Commission, of the individual to be named as the licensee.
- In issuing lifetime licenses, the Wildlife Resources Commission is authorized to adopt rules to establish a personalized series for certain license types and to charge a five dollar (\$5.00) administrative fee, to be deposited in the Wildlife Fund, to defray the cost of issuance of the personalized license. The fee shall not be assessed for a personalized Fallen Wildlife Officers Memorial Lifetime Sportsman License as enacted under G.S. 113-270.1D(b)(9)."
- SECTION 4. The Wildlife Resources Commission may adopt rules to implement this act.
- SECTION 5. Five thousand dollars (\$5,000) in nonrecurring funds for the 2018-2019 fiscal year is appropriated to the Wildlife Resources Commission to design and develop the Fallen Wildlife Officers Memorial Lifetime Sportsman License and to implement the provisions of this act.
  - **SECTION 6.** The provisions of G.S. 143C-5-2 do not apply to this act.

#### General Assembly Of North Carolina

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Session 2017

**SECTION 7.** Sections 1, 2, and 3 of this act become effective July 1, 2019. The remainder of this act is effective when it becomes law.

## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

H

Short Title:

#### **HOUSE BILL 935**

(Public)

1

Sponsors: Representative Torbett.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, State and Local Government II

Add Piedmont Community Charter School to SHP.

#### May 17, 2018

1 2

## A BILL TO BE ENTITLED AN ACT TO AUTHORIZE PIEDMONT COMMUNITY CHARTER SCHOOL TO ELECT TO

PARTICIPATE IN THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

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SECTION 1. Notwithstanding the time limitation contained in G.S. 135-48.54, the Board of Directors of Piedmont Community Charter School, a charter school located in Gastonia, may elect to become a participating employing unit in the State Health Plan for Teachers and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The election authorized by this act shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-48.54.

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

11 12





## HOUSE BILL 935: Add Piedmont Community Charter School to SHP.

2017-2018 General Assembly

Committee: House State and Local Government II

Touse State and Local Government in

Introduced by: Rep. Torbett Analysis of: First Edition

**Date:** June 4, 2018

Prepared by: Cindy Avrette

Staff Attorney

OVERVIEW: House Bill 935 authorizes Piedmont Community Charter School to elect to participate in the State Health Plan for Teachers and State Employees. This bill received a favorable report from the House Committee on Pensions and Retirement on May 31st.

CURRENT LAW: A charter school operated by a private nonprofit corporation may elect to become a participating employer in the State Health Plan. The election must be made no later than 30 days after the signing of the written charter. The election must be in writing and filed with the State Health Plan and State Board of Education. The election is effective for all eligible charter school employees and is irrevocable.

BILL ANALYSIS: Notwithstanding the time limitation of G.S. 135-48.54, the bill authorizes Piedmont Community Charter School to elect to participate in the State Health Plan. The election must be made no later than 30 days after the effective date of this act. Similar legislation has been enacted for the following charter schools: Sterling Montessori Academy and Charter School (2012), Casa Esperanza Montessori Charter School (2012), Corvian Community School (2013), Pioneer Springs Community School (2015), and Longleaf School of the Arts (2016).

**BACKGROUND:** The Piedmont Community Charter School is a charter school located in Gastonia. It filed its Charter Application in 1999, and renewed its Charter Agreement in 2015.

House Bill 977, introduced by Representatives Ross, McNeill, and Dulin, would amend the current law to change the 30-day time period limitation to two years for all private, nonprofit charter school corporations. House Bill 977 is currently calendared pursuant to Rule 36(b).

**EFFECTIVE DATE:** This bill becomes effective when it becomes law.

Tawanda Foster, counsel to the House Committee on Pensions and Retirement, substantially contributed to this summary.

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

## GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2017**

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D

# **HOUSE BILL 990**

	PROPOSED COMMITTEE SUBSTITUTE H990-CSRNf-26 [v.3]
	Short Title: Counties Publish Notices Electronically. (Local
	Sponsors:
	Referred to:
	May 24, 2018
1	A BILL TO BE ENTITLED
2	AN ACT AUTHORIZING DAVIDSON AND ROCKINGHAM COUNTIES TO
3	PARTICIPATE IN A PILOT PROGRAM ESTABLISHED IN 2017 THAT ALLOWS
4	CERTAIN LOCAL GOVERNMENTS TO PUBLISH NOTICES ELECTRONICALLY
5	AND TO PUBLISH LEGAL NOTICES VIA THE COUNTY-MAINTAINED WEB SITE
6	FOR A FEE.
7	The General Assembly of North Carolina enacts:
8	<b>SECTION 1.</b> Section 1(f) of S.L. 2017-210 reads as rewritten:
9	"SECTION 1.(f) This section applies only to Guilford County Davidson, Guilford, and
10	Rockingham Counties and to any municipality located wholly or partly in Guilford County.any
11	of those counties."
12	<b>SECTION 2.</b> Section 2(b) of S.L. 2017-210 reads as rewritten:
13	"SECTION 2.(b) This section applies to Guilford County Davidson. Guilford, and
14	Rockingham Counties only."
15	<b>SECTION 3.</b> This act becomes effective December 1, 2018, and applies to notice

published on or after that date. 





# **HOUSE BILL 990:**Counties Publish Notices Electronically.

2017-2018 General Assembly

Committee:

House State and Local Government II. If Date:

June 5, 2018

favorable, re-refer to Rules, Calendar, and

Operations of the House

Introduced by:

Reps. K. Hall, Bert Jones

Analysis of:

PCS to First Edition

H990-CSRN-26

Prepared by: Brad Krehely

Committee Counsel

OVERVIEW: The Proposed Committee Substitute (PCS) for House Bill 990 would allow Davidson and Rockingham Counties to participate in a pilot program that allows certain local governments to publish notices electronically and to publish legal notices via the County-maintained Web site for a fee. The act would become effective December 1, 2018, and would apply to notices published on or after that date. The PCS added Davidson County to the bill.

CURRENT LAW: North Carolina law requires various legal notices and advertisements to be published in a newspaper of general circulation in the area impacted by the legal notice. Examples include judicial sales under Article 29A of Chapter 1 of the General Statutes, administration of estates under Chapter 28A of the General Statutes, and execution sales under Article 29B of Chapter 1 of the General Statutes.

More specifically, the General Statutes and sometimes local acts, require governing boards of counties and cities to publish notice or to advertise prior to taking certain actions. When publishing notices, the county or city does so by inserting the notice in a newspaper qualified under G.S. 1-597 in that county or city. Some of the items that require notice or advertisement are:

- Various public hearings statutorily required prior to the county or city taking action or adopting certain ordinances, such as zoning ordinances. Often, the statute requiring the public hearing will specify how notice of the public hearing is to be given, usually requiring publication in a newspaper of general circulation within a specified timeframe of the public hearing.
- Budget ordinance. Chapter 159.
- Sale and disposition of property. Article 12 of Chapter 160A.
- Purchase and contract bids. Article 8 of Chapter 143.
- Changes in form of government. Article 4 of Chapter 153A and Article 5 of Chapter 160A.
- Assessments. Article 9 of Chapter 153A and Article 10 of Chapter 160A.
- Development agreements. Article 18 of Chapter 153A and Article19 of Chapter 160A.
- Dates of primary, general and special elections, and hours the voting places that will be open for those elections. Chapter 163.

BILL ANALYSIS: The PCS for House Bill 990 does the following:

Allows certain governing boards in Davidson and Rockingham only to adopt an ordinance authorizing electronic publication of public notices and advertisements required to be published by that governing board. Such electronic notice could be in lieu of, or in addition to, newspaper publication. The ordinance may also control public notices and advertisements of any board

Karen Cochrane-Brown Director



Legislative Analysis Division 919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

#### **House PCS 990**

Page 2

appointed by the governing body such as the planning board, board of social services, and board of health.

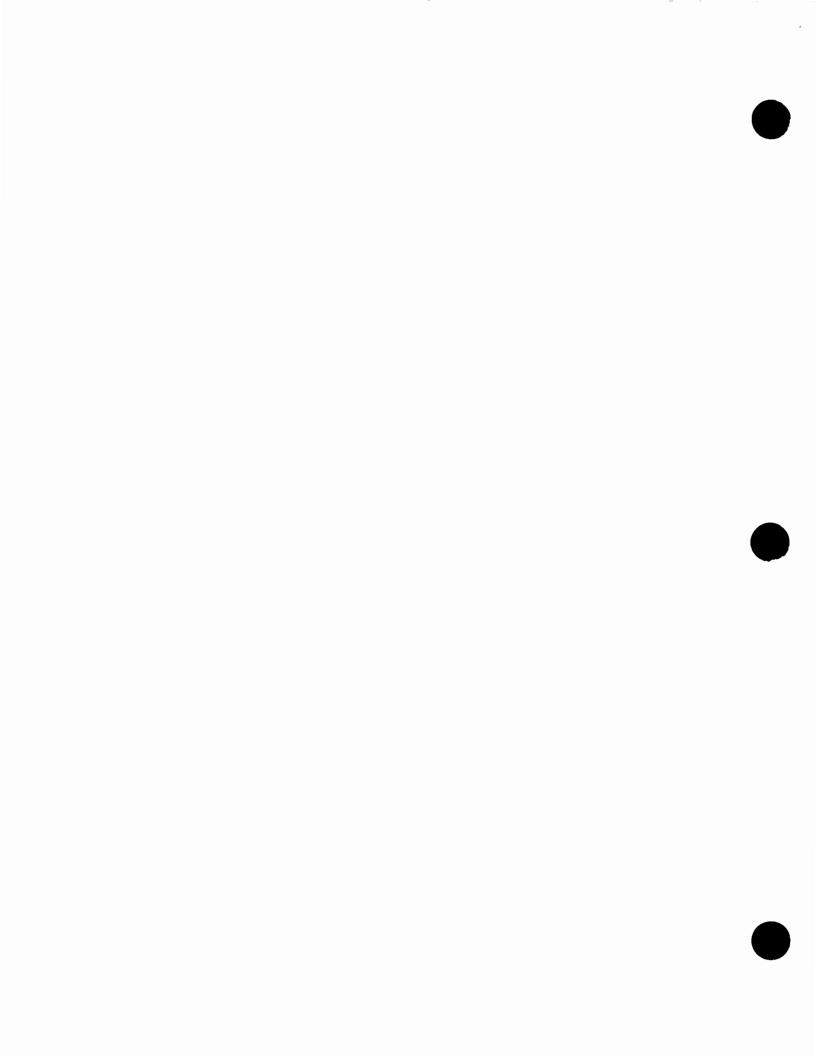
The governing boards that may adopt such an ordinance are:

- Davidson and Rockingham County Boards of Commissioners.
- Davidson and Rockingham County Boards of Elections.
- Municipal governing board of any city or town wholly or partly within Davidson County (Denton, High Point, Lexington, Midway, Thomasville, and Wallburg).
- Municipal governing board of any city or town wholly or partly within Rockingham County (Eden, Madison, Mayodan, Reidsville, Stoneville and Wentworth).
- Authorizes Davidson and Rockingham Counties to adopt an ordinance authorizing publication of any legal notice, for any private or governmental entity, on a website maintained by the County in lieu of newspaper publication. The county is authorized to charge an administrative fee to do so.

**EFFECTIVE DATE:** The PCS would become effective December 1, 2018, and would apply to notices published on or after that date.

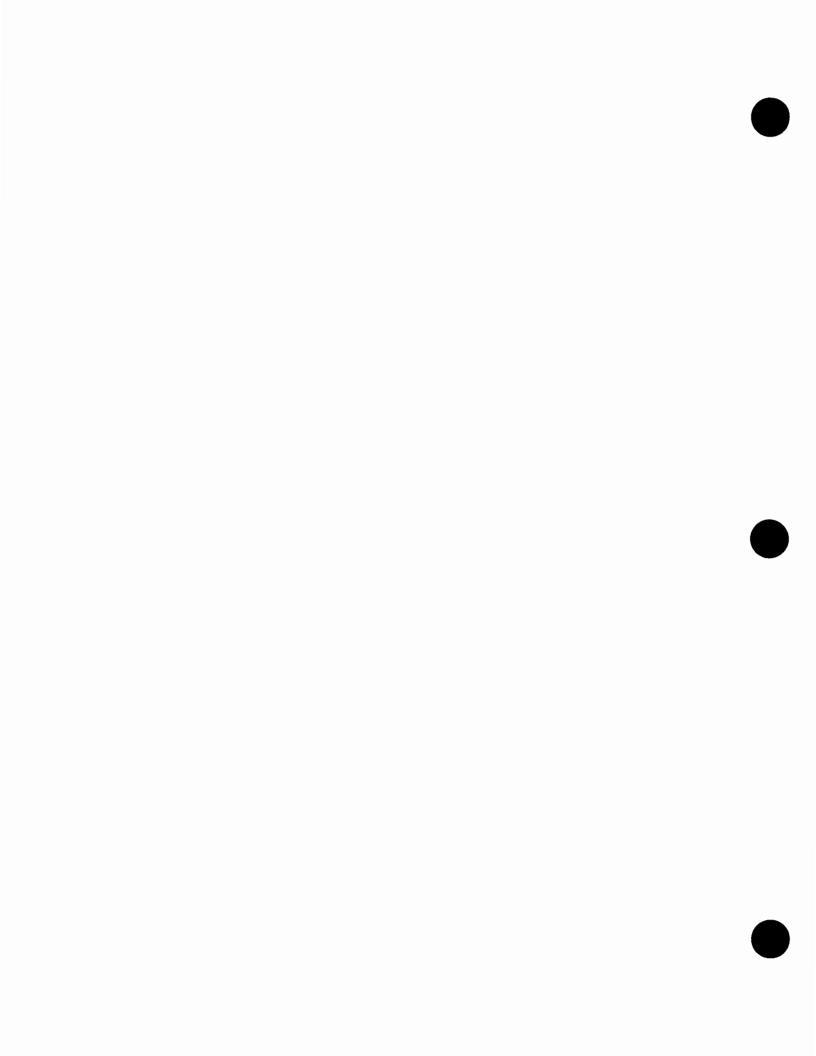
**BACKGROUND:** S.L. 2017-210 created this pilot program in Guilford County. Additionally, the following local governments are permitted to use electronic notice for public hearings: Cabarrus County (S.L. 2003-81), City of Raleigh and Town of Lake Waccamaw (S.L. 2003-161), Towns of Apex, Garner, and Knightdale (S.L. 2007-86), and Town of Cary (S.L. 2008-5).

Billy R. Godwin and R. Erika Churchill, Staff Attorneys for the Legislative Analysis Division, contributed to this summary.



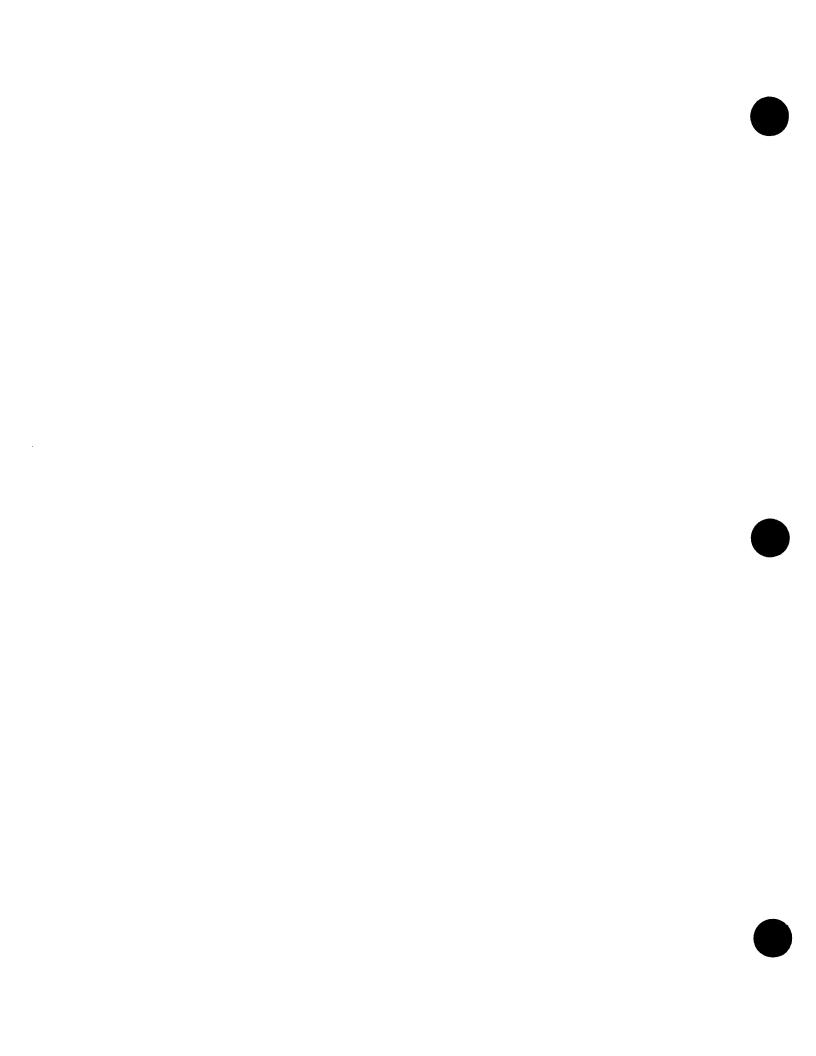
State and Local Government II	6/6/2018
Name of Committee	Data

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A. J. Evans	NCURC
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that Maurey	Times News (Buxlenta)
Katie Stanley	DOA
Hugh Johnson	NODE!
Ohis Millere	BP.
Chois Valani	Valanci Group, LLC
Dennis Newman	Self-2344 Hillip Dr W-5, NC



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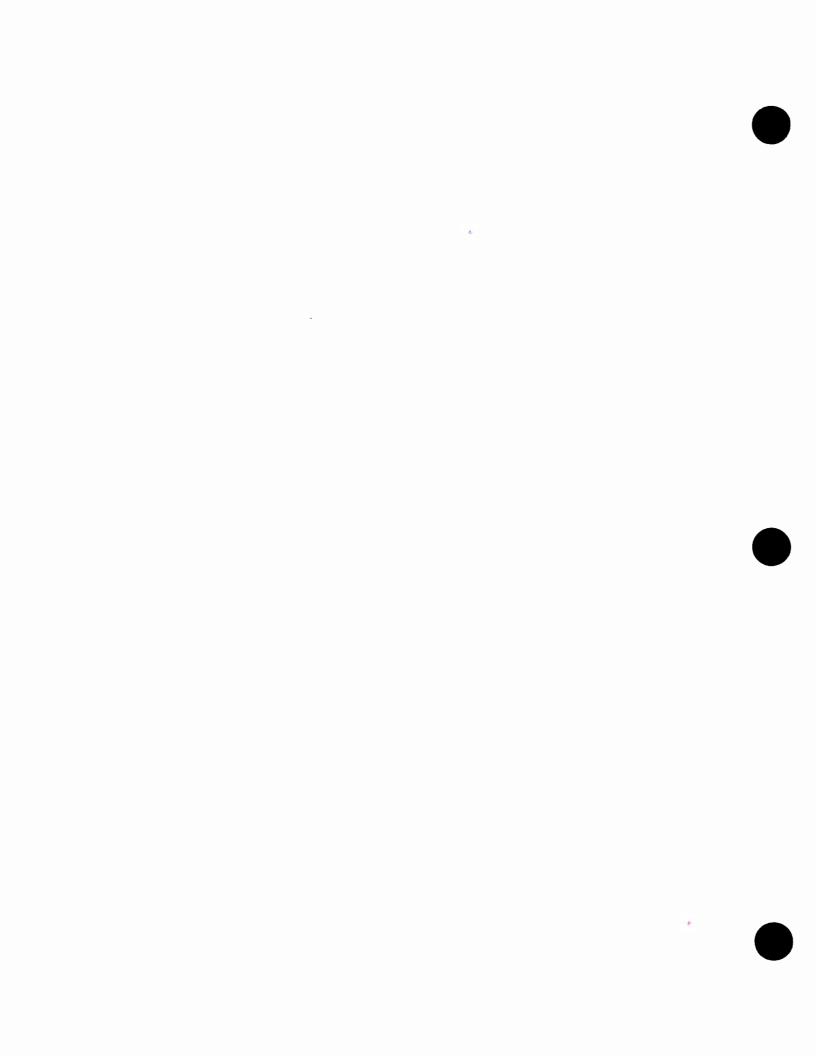


## ATTENDANCE

## STATE & LOCAL GOVERNMENT II

2018 SHORT SESSION

MEMBERS	JUNE 13
REP. BRADFORD CHAIR	
REP. ADAMS	/
REP. AUTRY	
REP. BALL	
REP. BOLES	
REP. BOSWELL	<b>√</b>
REP. C. GRAHAM	
REP. G. GRAHAM	<b>✓</b>
REP. JOHN	N N
REP. MOREY	
REP. ROSS	E in another committee
REP. SAULS	
REP. SETZER	
REP. STEINBURG	
REP. WATFORD	
REP. WILLIAMS	E
Anita Spence, Committee Assistant	<u> </u>
Cindy Avrette, Staff	✓
Nick Giddings, Staff	
Brad Krehely, Staff	
Brika Churchill	



## House Committee on State and Local Government II Wednesday, June 13, 2018 at 10:00 AM Room 544 of the Legislative Office Building

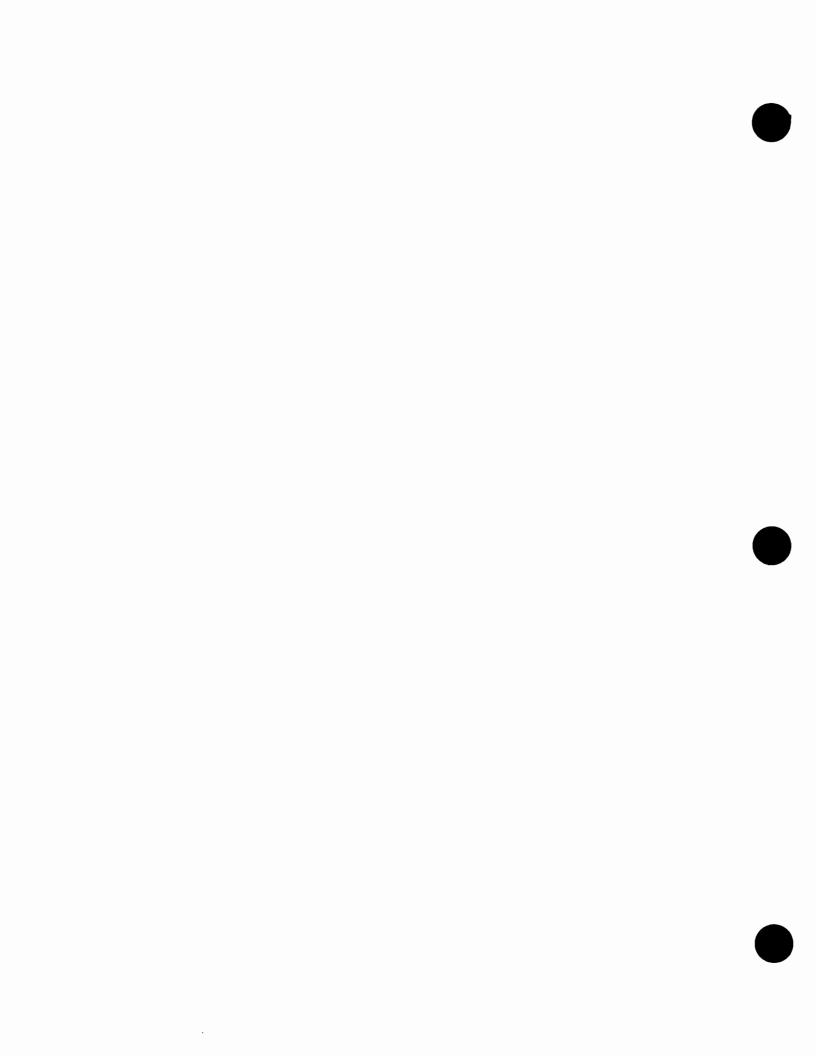
#### MINUTES

The House Committee on State and Local Government II met at 10:02 AM on June 13, 2018 in Room 544 of the Legislative Office Building. Representatives Bradford, Adams, Autry, Ball, Boswell, C. Graham, G. Graham, John, Morey, Sauls, Steinberg, and Watford attended.

Representative John R. Bradford, III was the presiding chair. He called the meeting to order at 2:01 pm. He introduced the Sargent at Arms and House Pages.

Chairman Bradford motioned for HB 1058 Dissolve Airport Commission of Forsyth County (Representatives Conrad, Hanes, Terry, Lambeth) AN ACT TO AUTHORIZE THE AIRPORT COMMISSION OF FORSYTH COUNTY TO CONVEY ALL OF THE REAL AND PERSONAL PROPERTY OF THE AIRPORT COMMISSION TO AN ENTITY ESTABLISHED BY FORSYTH COUNTY AND TO DISSOLVE THE AIRPORT COMMISSION to be before the committee. Chairman Bradford recognized Representative Conrad to explain the bill. Chairman Bradford recognized for Representative Autry who had a couple of questions for Representative Conrad. Chairman Bradford recognized for Representative Lambeth who share that this bill was unanimous in support from their local delegation. Chairman Bradford recognized Representative Adams who said he would like to hear the problems with this bill. Chairman Bradford recognized Representative Autry who would also like to know the issues DOT has with the way the airport is currently operated. Chairman Bradford recognized Representative Boswell for a question. Chairman Bradford recognized Representative Ted Kaplan, Forsyth and Airport County Commissioner and Dudley Watts the Forsyth County Manager. They shared the current structure creates a separate municipality right in the middle of Winston Salem and Forsyth County. The county commissioners would like set up an advisory board. Currently there are no shared services between the airport commission and the county. By restricting it there would be a cost savings as well as meeting the needs of the community. The insurance savings alone are over \$50K. Chairman Bradford recognized Representative Adams who would like to know who opposes this bill. Chairman Bradford recognizes Representative Boswell who motions for a favorable report of HB 1058. Chairman Bradford called for a vote. All members are in favor. HB 1058 passes.

Chairman Bradford motioned for HB 1086 Counties/Internet Infrastructure (Representatives Dobson, Corbin, Presnell, Rogers) AN ACT AUTHORIZING CERTAIN COUNTIES TO PROVIDE HIGH-SPEED INTERNET ACCESS SERVICE AS A PUBLIC ENTERPRISE to be before the committee. Chairman Bradford recognized

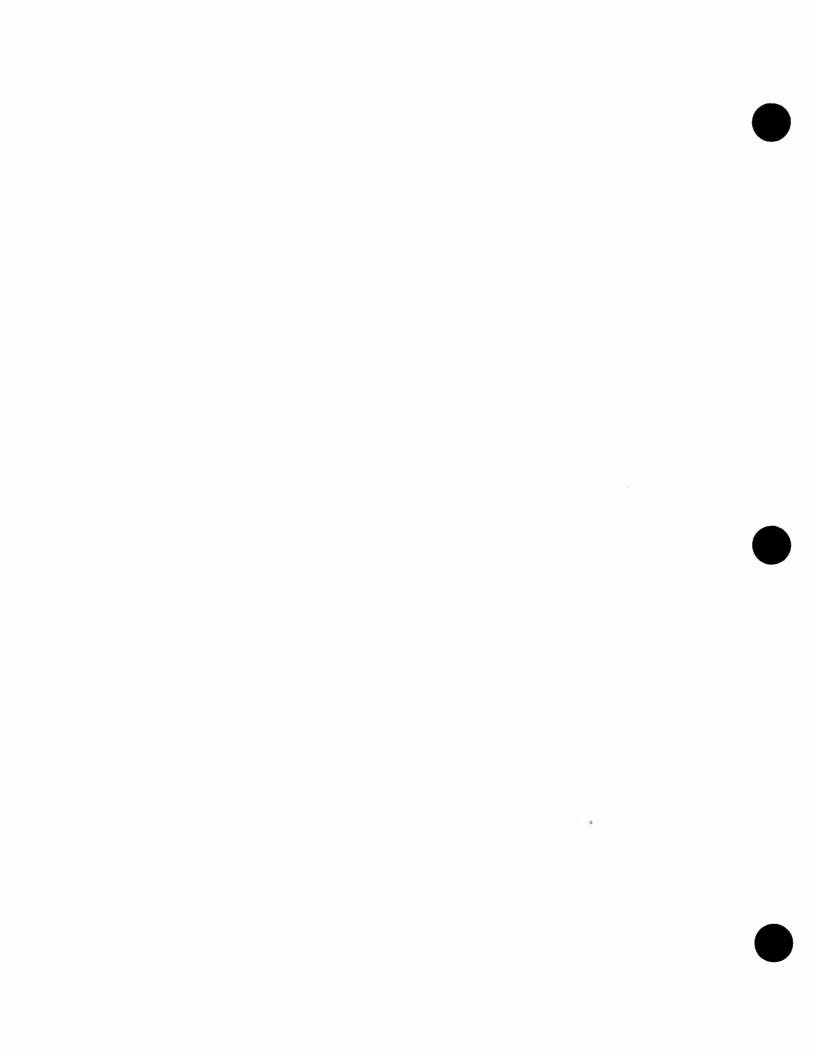


Representative Dobson to explain the bill. Representative Dobson explained that in every county one out of every two students does not have access to high speed internet. He understands that there is no quick fix to this crisis. HB 1086 would give us one more tool to provide internet service in underserved areas across our state. It will allow counties to build the infrastructure and contract with providers. Chairman Bradford recognized Representative Corbin. Representative Corbin reiterates the importance of this bill for the western part of the state. In Representative Corbin's district close to 50% of students do not have internet access once they leave school. This bill provides a way for counties to provide that infrastructure. Chairman Bradford recognized Representative Presnell who shared that in Haywood County alone there is a road that is so remote constituents have to come into town on the weekends to access internet services. Chairman Bradford recognized Johanna Reese, NC Association of County Commissioners. Ms. Reese shared that they do support this local bill which mirrors statewide piece of their legislative agenda, to provide access in all areas of the state. This remains one of the biggest needs her association hears across the state. Ms. Reece makes it clear that local governments are not seeking to get into providing service. They want to put in the infrastructure and lease it to the private providers. Chairman Bradford recognized Representative Ball for a couple of questions. Representative Ball would like to know how this bill will impact the 10\$ million that is set aside for the broadband program. Representative Ball asks for a rough estimate of the total cost. Representative Dobson explains that each county would be different. Representative Ball would like to see this bill replicated in other parts of the state. Representative Dobson explains that he would like to do a state wide bill in the long session. Chairman Bradford recognized Representative Watford for a comment. Representative Watford asks if anyone has studied the cost to each county. Representative Dobson explains that counties see it as worth the investment. Chairman Bradford recognizes Representative C. Graham for a question. Representative C. Graham would like to know if there is a fiscal note for this HB 1086. Representative Dobson explains that there is not a fiscal note because there is no cost to the state. It is up to the counties to make that investment and set up the structure. Chairman Bradford recognized Representative Watford motioned for a favorable report for HB 1086, with a serial referral to finance. Chairman Bradford called for a vote. members are in favor. HB 1086 passes.

The meeting adjourned at 10:21 AM.

Representative John Bradford, Presiding Chair

Anita Spence, Committee Clerk



# NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2017-2018 SESSION

You are hereby notified that the House Committee on State and Local Government II will meet as follows:

follows:		
DAY & DAT TIME: LOCATION	10:00 AM	
The following	g bills will be considered:	
BILL NO. HB 1058	SHORT TITLE Dissolve Airport Commission of Forsyth County.	SPONSOR Representative Conrad Representative Hanes Representative Terry Representative Lambeth
<u>HB 1086</u>	Counties/Internet Infrastructure.	Representative Dobson Representative Corbin Representative Presnell Representative Rogers
	Respec	etfully,
	Repres	entative John R. Bradford, III, Chair
I hereby certi Tuesday, June	-	assistant at the following offices at 2:18 PM on
	Principal Clerk Reading Clerk – House Chamber	
Anita Spence	(Committee Assistant)	

## House Committee on State and Local Government II Wednesday, June 13, 2018, 10:00 AM 544 Legislative Office Building

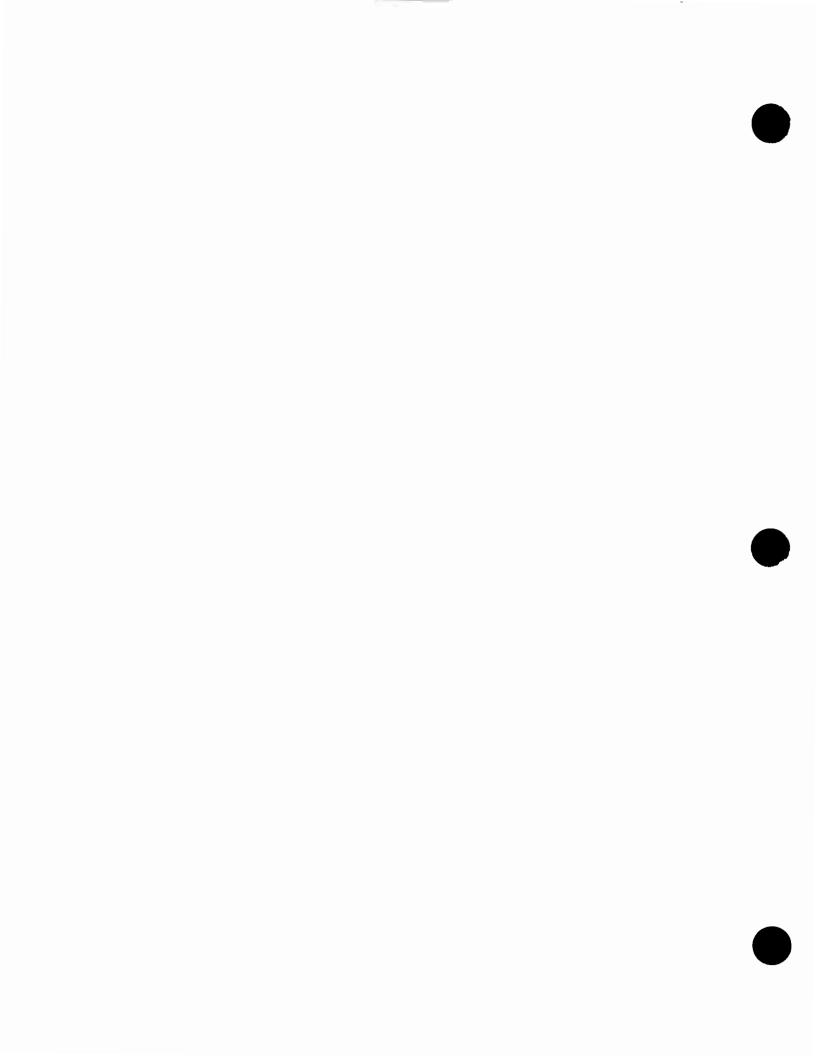
## **AGENDA**

Welcome and Opening Remarks

Introduction of Sergeant at Arms and Pages

BILL NO.	SHORT TITLE	SPONSOR
HB 1058	Dissolve Airport Commission of	Representative Conrad
	Forsyth County.	Representative Hanes
		Representative Terry
		Representative Lambeth
HB 1086	Counties/Internet	Representative Dobson
	Infrastructure.	Representative Corbin
		Representative Presnell
		Representative Rogers

Adjournment



#### NORTH CAROLINA GENERAL ASSEMBLY HOUSE OF REPRESENTATIVES

#### STATE AND LOCAL GOVERNMENT II COMMITTEE REPORT Representative John R. Bradford, III, Chair

#### **FAVORABLE**

HB 1058

Dissolve Airport Commission of Forsyth County.

Draft Number: Serial Referral:

None Recommended Referral: None Long Title Amended: No Floor Manager: Conrad

#### FAVORABLE AND RE-REFERRED

HB 1086 Counties/Internet Infrastructure.

Draft Number:

None

**FINANCE** 

None

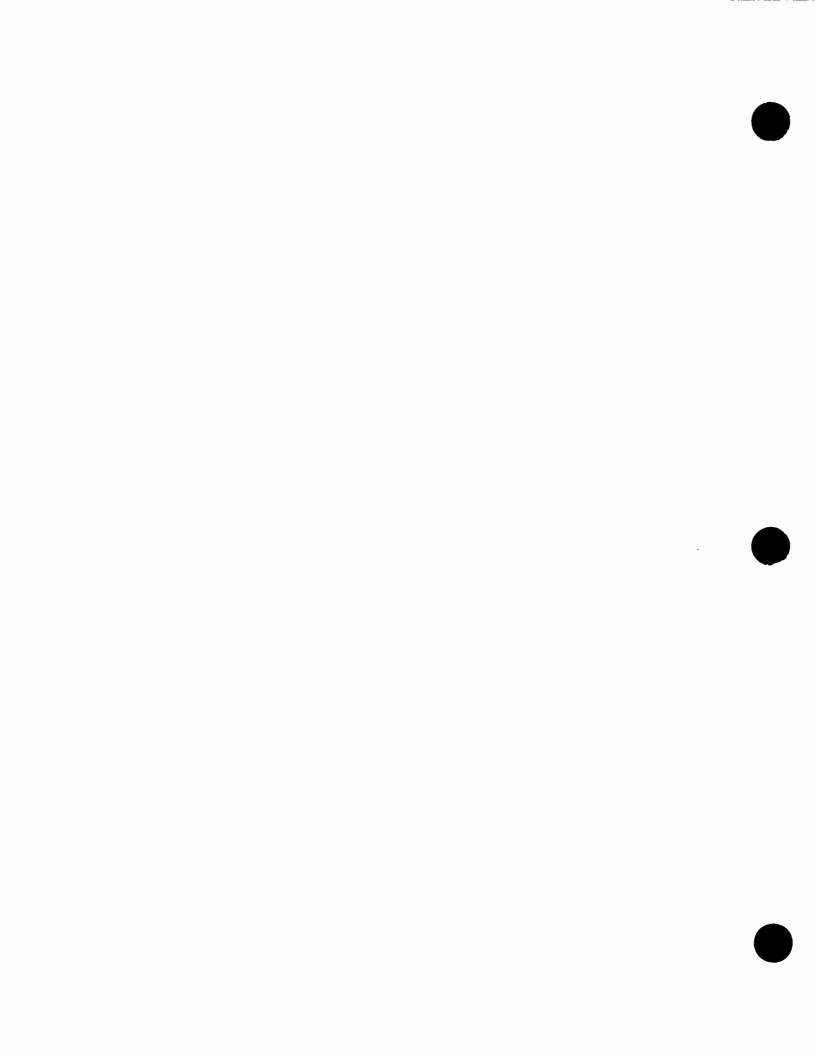
Serial Referral: Recommended Referral: None

Long Title Amended: Floor Manager:

No Dobson

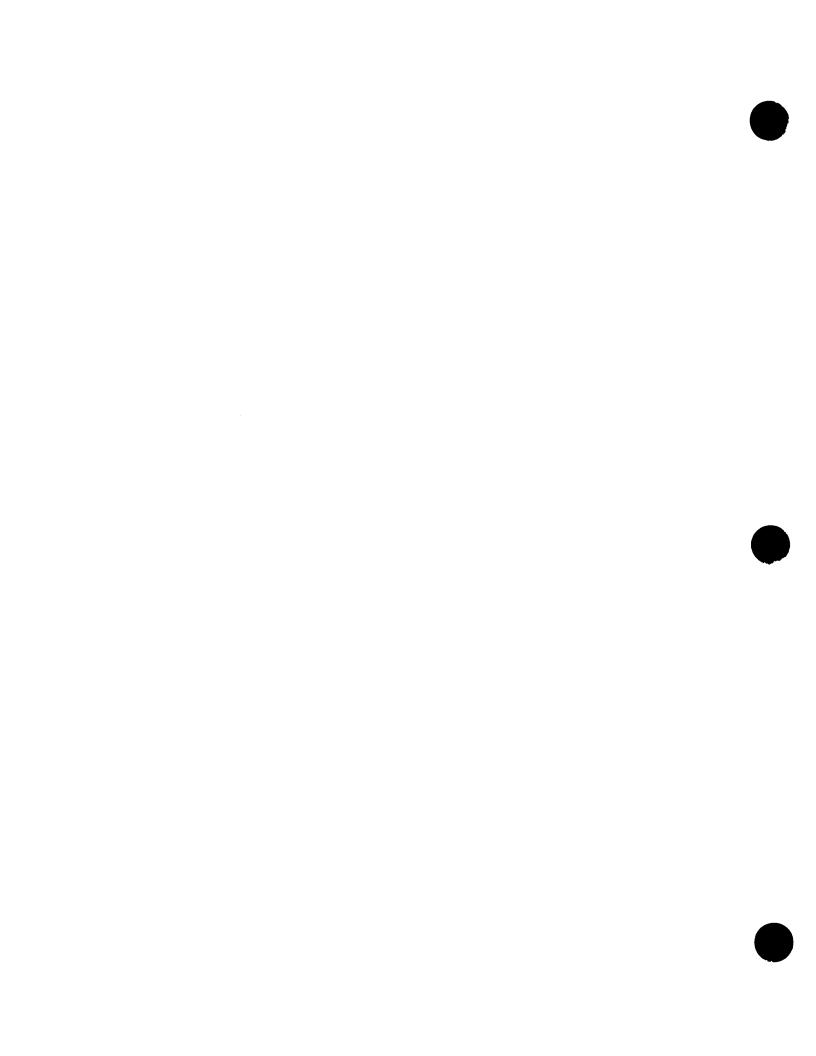
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## Committee Sergeants at Arms

NAME O	F COMMITTE	HOUSE COMM ON STATE AND LOCAL GOV II
DATE: _	6-13-18	Room: _ 544
		House Sgt-At Arms:
1. Name:	REGGIE SILLS	
2. Name:	MARVIN LEE	
Name:	JIM MORAN	
4. Name:	JOHN GILBERT	
5. Name:	·	•
		Senate Sgt-At Arms:
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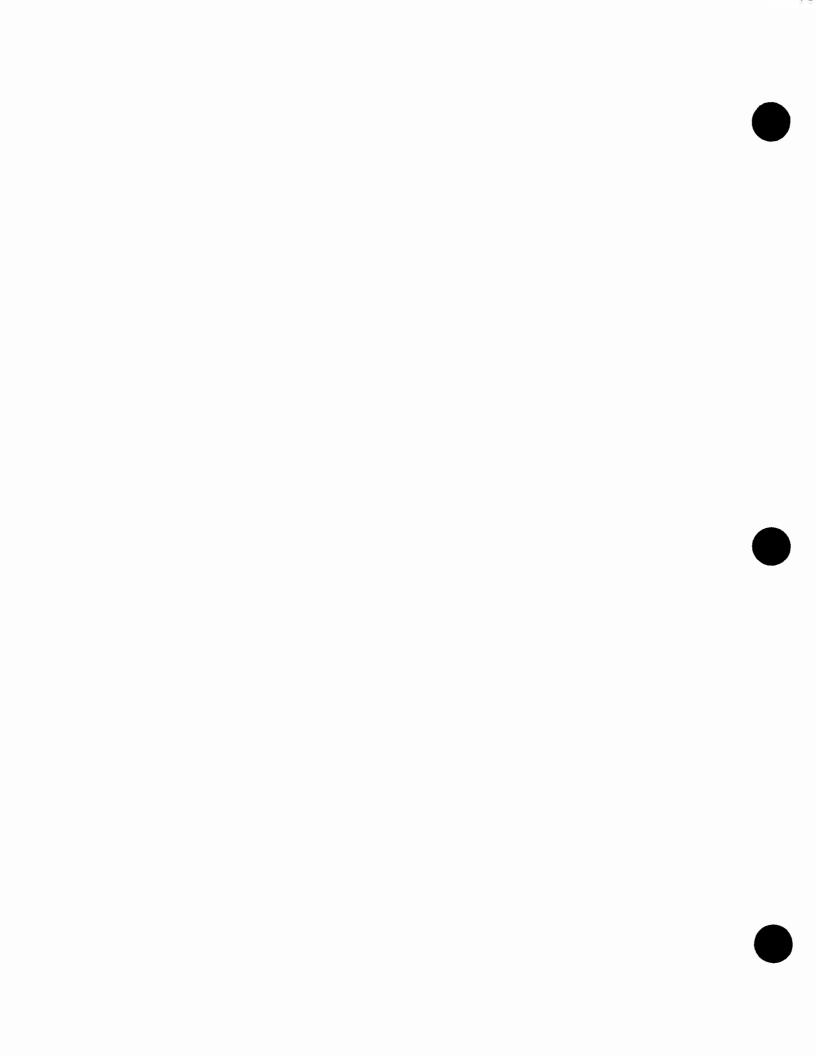
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## VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

## FIRM OR AGENCY AND ADDRESS

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RURAL HALL FIRE DEPT
Clemmans Fre Dept.
Kernersville Fine Ncchiefs Assoc.
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Date

Name of Committee

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Rachel Harrand	Delle Energy
Josh Gart	Ense ades
Chris Broughon	nwc
Elizabeth Bise	75P
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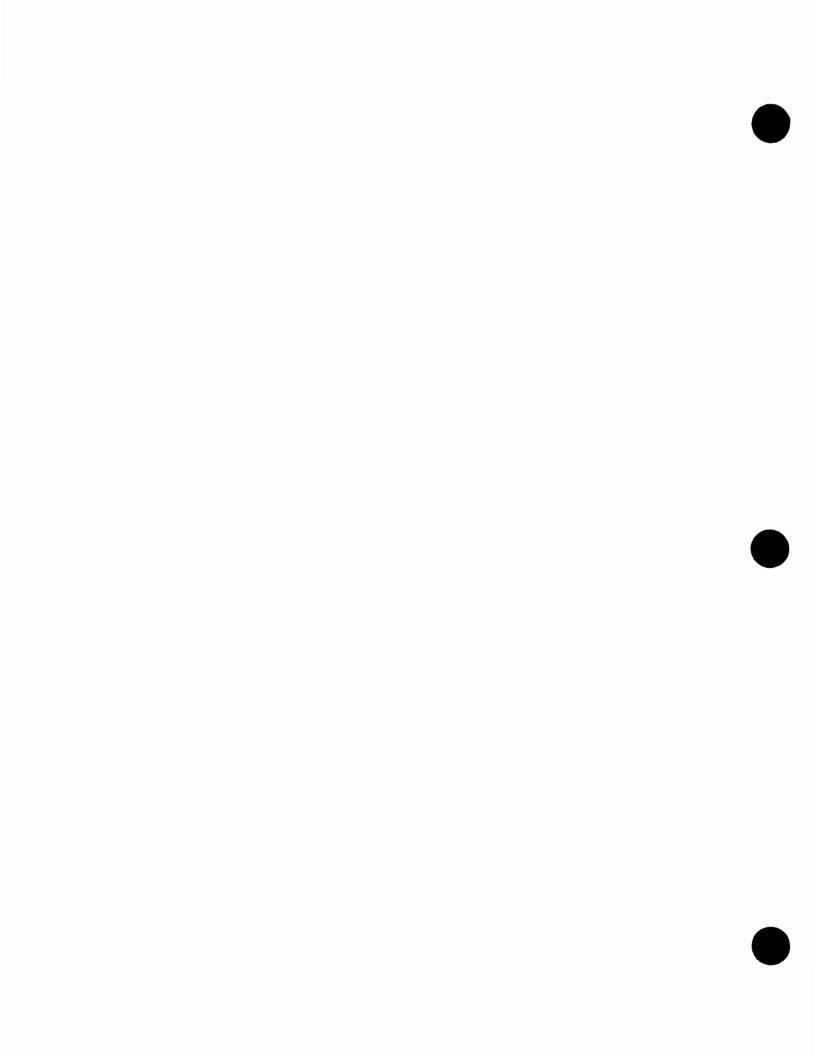
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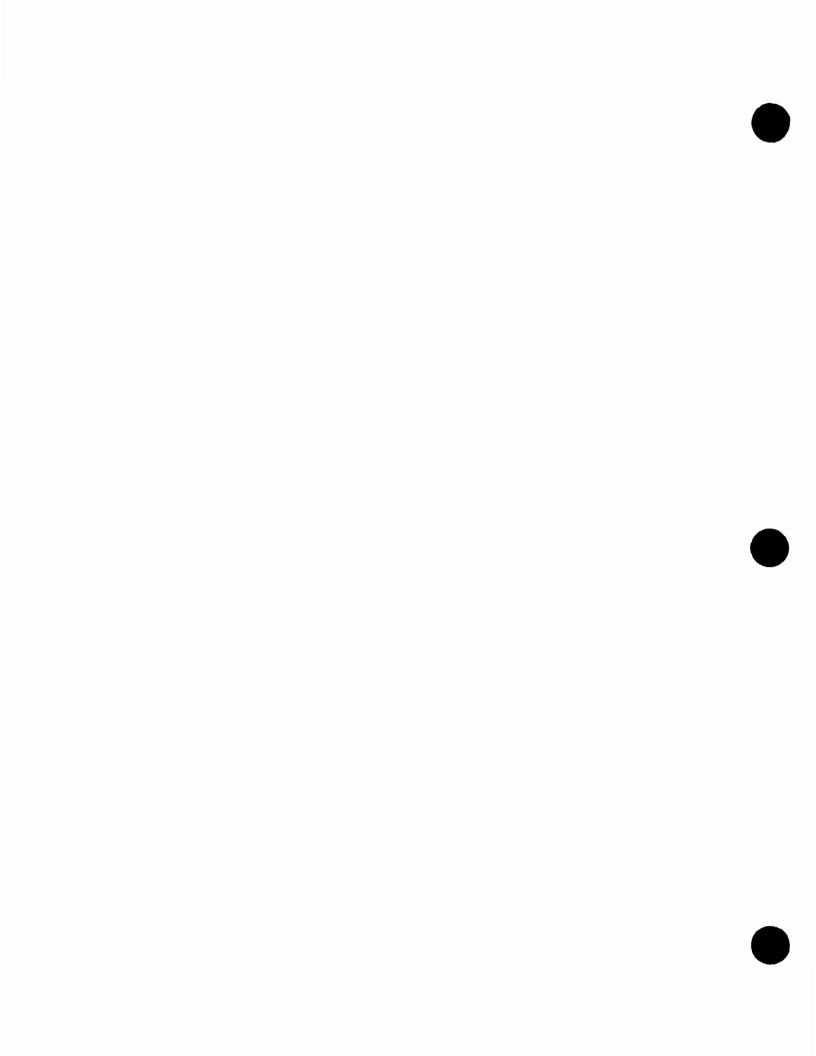
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Kelli Kila	Duko Emergy
Lexi ordinar	JLF
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Joe Box+	Chylatia Chamate
Erin Wynia	NCLM
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Name of Committee	6-13 16
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Dawp so	NewFrance	
John West	NewFrance	



## SPEAKER REGISTRATION SHEET

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6.13.18

Date

NAME	FIRM OR AGENCY AND ADDRESS
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