



INTRODUCTION

The last two weeks of the "short" legislative session were, if possible, even more hectic than the weeks before. As the session winds to a close several "big" issues were resolved, only to be thrown into upheaval once again. The budget bill, Senate Bill 950, was approved by the Legislature on June 21st, only to be vetoed by Governor Perdue eight days later. In anticipation of a veto and override votes, bills were prepared for each contingency, one making modifications to SB 950 in the event it becomes law, the other containing the bare minimum language required to keep the state government operational in case the veto cannot be voted down. Both House and Senate budget leaders have made clear that if they cannot overcome the Governor's veto that they will allow the two year budget that was approved last year to stay in place and will not work out a new budget plan. This puts the minority party in a tough spot as the current budget plan is better in many respects than last year's budget for education, state employees, teachers and the gas tax. So if they vote to overcome the Governor's veto they would actually be providing less money to some of their signature issues.

Other big issues are Senate Bill 416, the bill that makes changes to the 2009 Racial Justice Act, and Senate Bill 820, the controversial bill that would put North Carolina on the path to authorize natural gas "fracking." Both were also vetoed by the Governor. Veto override votes for all three bills are expected in both chambers this coming week.

While the end of session was proposed at various times for June 19th and June 28th, both those dates passed with work yet to be completed. As lawmakers awaited word from the Governor on various vetoes, other issues moved ahead. A compromise was reached on the divisive Dental Practice Management issue, after months of vigorous lobbying and over a million dollars in TV ads. The delayed implementation of the "Jordan Lake Rules," which was scheduled to begin limiting development based on nutrient load limits and stormwater management, was sought as an extension for the city of Greensboro and divided both its delegation and the chambers, garnering bipartisan support and opposition. The measure was important enough to its backers to be included in three separate bills, with the hope that at least one of them would become law.



NORTH CAROLINA GROUND WATER ASSOCIATION



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A significant amount of time was spent addressing the controversy known as “lettergate,” in which an assistant to Department of Transportation Chief Operations Officer James Trogden used an electronic signature to sign letters, originally written by Trogden but edited by members of Governor Perdue’s staff, that were sent to members of the General Assembly requesting funding for two transportation projects. Committee hearings and testimony from the relevant personnel occupied much of the Senate Rules Committee’s time over the last two weeks, setting off fierce debates in committee and on the Senate floor. In an environment of heightened tensions that always accompanies the end of session, these hearings have seemed to increase the partisanship that is already in abundant supply in an election year.

Political observers spent a great deal of time discussing who had won the perceived budget “showdown” between Senate and House leadership. While neither Speaker Tillis nor President Pro Tem Berger seemed to get their way entirely, much of the Senate leaders’ education reform package was included in the final budget, while compensation for victims of the state’s forced sterilization program, one of Speaker Tillis’ personal priorities, was left out. House Majority Leader Stam’s signature issue of the session, tax breaks for corporate scholarships to private school (a measure public school advocates decried as the gateway to vouchers) was defeated in committee, with two of his caucus members helping to vote it down. Other measures backed by influential members, including bills that would raise the age of offenders considered juveniles from 16 to 18 and one that would legalize and tax video sweepstakes parlors, also fell short. A possible ‘compromise’ version of legislation requiring a photo ID to vote, floated by Speaker Tillis, also never materialized.

In this environment, outright legislative victories were few and far between. Even measures that had found compromise positions became “long session issues”, a polite way of saying that they are dead for the year, and the end of the “working” session was clear for all to see. Despite, or perhaps because of this, the end of session also becomes a very dangerous time, as lobbyists and legislators are desperate to get final measures passed, often without much warning or chance for review. Significant pieces of legislation have been passed in this manner in previous sessions, so playing defense becomes the necessary standard and vigilance becomes the watchword, right up until the last gavel falls.

June ended with “adjournment sine die” (“without day,” or the end of session) expected for Tuesday, July 3rd. Governor’s vetoes may yet delay that date once again, but with several Democratic members already on record in support of an override vote on the budget, the end may well be in sight. This report will be the last official update until our full end of session report, which will contain full summaries of relevant enacted legislation. In the meantime, we will continue to closely monitor all of the Legislature’s activity in these final days of the session, and keep you up to date on any last minute developments that affect you and your members.

BILL OF INTEREST

HOUSE BILL 1234, 2012 Speaker’s Appointments Bill, would appoint persons to various public offices upon the recommendation of the Speaker of the House of Representatives. We will provide a complete review of the appointments to relevant boards and commissions in the final report. **Introduced by and referred to the House Rules Committee.**

BILL UPDATES

HOUSE BILL 555, 2012 President Pro Tempore's Appointments Bill. The Senate Rules Committee removed the original provisions of the bill and replaced them with new provisions that would appoint persons to various public offices upon the recommendation of the President Pro Tempore of the Senate and make technical corrections to previous appointments. **The bill as amended was approved by the Senate Rules Committee, but was re-referred to the committee to combine the House and Senate Appointment Bills into one bill.**

HOUSE BILL 953, Amend Environmental Laws 2, was changed by the Senate Rules Committee to: (1) specify that if S820, Clean Energy and Economic Security Act, becomes law, change the date by which specified reports must be made to Joint Legislative Commission on Energy Policy and the Environmental Review Commission from January 1, 2013 to October 1, 2013; (2) changes the time limit for right of rescission for oil and gas rights leases from three to seven days; and (3) adds a section dealing with the Jordan Lake rules (section 2 of Senate Bill 382, below), in an effort to ensure that the effective date for those rules was extended whether S382 became law or not. **The bill as amended was approved by the House on June 27th, the Senate voted not to concur with the House's changes and a Conference Committee will be assigned to draft a Conference Report for the bill, which will then be heard in both chambers.**

HOUSE BILL 1052, Mechanics Liens/Payment Bond Reforms, was amended in the Senate Judiciary I Committee to clarify that a lien waiver signed by the contractor prior to the commencement of an action to enforce a perfected claim of lien on real property granted under G.S. 44A-23 waives the subcontractor's right to enforce the contractor's claim of lien on real property, but does not affect the subcontractor's right to a claim of lien on funds or the subcontractor's right to a claim of lien on real property. The bill was further amended on the Senate floor to remove the provisions that would have made the violation an unfair and deceptive trade practice subject to treble damages. **The bill as amended was approved by the Senate and House, and has been sent to the Governor for her signature.**

SENATE BILL 42, Mech. Liens/PVT Lien Agent, would make the following changes:

- require property owners to designate a lien agent when making certain improvements to the property costing \$30,000 or more, and requires the owner to notify the lien agent of this designation. Improvements to single-family residences used by the owner as a primary residence are exempted from this requirement. Defines lien agent as a title insurance company or title insurance agency selected from a list of registered agents maintained by the Department of Insurance. The bill would require the owner to designate a successor lien agent if the lien agent becomes unable or unwilling to serve, and would require a closing attorney to contact the lien agent and request copies of the notices received by the agent no more than five business days before the deed is recorded;
- require owners required to designate a lien agent to post any building permit and a sign displaying the lien agent's contact information on the property to be improved. The owner would be required to provide the lien agent's, and any successor lien agents', contact information to a potential lien claimant within seven days of receipt of the request;
- require contractors and subcontractors to provide the lien agent information to any subcontractors, and clarifies that no action of a contractor can be effective to prejudice the rights of a subcontractor without the subcontractor's written consent, given certain conditions are met;

- detail lien agent notification requirements for contracts involving design professionals: architects, engineers, land surveyors, and landscape architects; and
- detail conditions and procedures for making a claim of lien on the property. States that a potential lien claimant is not required to comply with these provisions if the lien agent's contact information is not included in the building permit or posted on the property and not otherwise provided to the claimant in response to a request, and details the obligations of lien agents when receiving and acknowledging notices delivered by potential lien claimants.

The bill was approved by the House and Senate and sent to the Governor for her signature or veto on June 28th.

SENATE BILL 229, Amend Environmental Laws 2012, was approved by both the House and the Senate in different forms so was referred to a conference committee. The committee modified the bill in several areas, notably: (1) clarifying criteria that must be met for single-family residences to encroach on the riparian buffer rules; and (2) clarifying that the method for measuring the setbacks required be consistent with method for measuring the applicable buffer. A section dealing with the Jordan Lake rules (section 2 of Senate Bill 382, below) was also added, in an effort to ensure that the effective date for those rules was extended whether S382 became law or not. **The Conference Report for S229 was approved by the House on June 28th and will next be heard by the full Senate.**

SENATE BILL 231, Incorporation/ETJ Study. The original provisions of this bill were removed in the House Finance Committee and were replaced with new provisions that would establish the House Select Study Committee on Municipal Incorporations, Extraterritorial Jurisdiction, and Municipal Services. The Committee would study issues related to the standards required for the incorporation of a municipality, extraterritorial jurisdiction, and the extension of municipal services, as it relates to incorporation, and any other issues related to the incorporation of a municipality as the Committee deems appropriate. The Committee would submit a final report of its findings and recommendations to the 2013 General Assembly, including draft legislation to implement its recommendations and an analysis of the fiscal impact of each recommendation. **The bill as amended was approved by the House Finance Committee and the full House. However, the Senate failed to concur with the changes made by the House, and conference committee will be appointed.**

SENATE BILL 382, Amend Water Supply/Water Quality Laws, would prohibit a city from denying water and sewer service to a property owner in an urban growth area for reasons that are not also applied to property owners within the city's corporate limits. The bill would also allow the city to charge the property owner up to twice the rate for services and the cost of necessary infrastructure improvements, until and unless the area is annexed into the city, in which case the normal rates would apply. The bill would also make changes to the Rules Review Commission's New Development Rule "Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development," specifically delaying the implementation of a local stormwater management program until the later of: (1) August 10, 2014; (2) within three months after the Commission's approval of a local program; or (3) upon the Division's first renewal of a local government's NPDES stormwater permit. This section was also included in Senate Bill 229 and House Bill 953 (see above). **The bill as amended was approved by the House and returned to the Senate to consider the changes made by the House.**

SENATE BILL 399, Ecosystem Enhancement Program. The original provisions of this bill were removed in the House Finance Committee and were replaced with new provisions that would authorize the Legislative Research Commission to study issues related to the Ecosystem Enhancement Program. The study would include the following:

- (1) the process for annual adjustments of EEP fees;
- (2) whether compensatory mitigation should be allowed to be performed in any hydrologic area located in the same river basin as the site being mitigated; and
- (3) whether the compensatory mitigation fee payment system represents the most efficient and effective way to provide compensatory mitigation and how the program could be revised to lessen its economic impact on the State's businesses and industries.

The Legislative Research Commission would report its findings and any recommended legislation to the 2013 General Assembly upon its convening. **The bill as amended was approved by the House Finance Committee and the full House, and will next be considered by the Senate.**

SENATE BILL 428, Selective Vegetation Amendments/W&S Study. The original provisions of this bill were removed in the House Environment Committee to remove decorative water features as an acceptable use of gray water. The bill also was amended to require the Environmental Review Commission to study the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State, including: (1) Sanitary Districts; (2) Water and Sewer Authorities; (3) Metropolitan Water Districts; (4) Metropolitan Sewerage Districts; (5) County Water and Sewer Districts; and (6) any other similar organizations that provide water or sewer service. The Commission would determine whether, how, and to what extent the number of statutory models should be reduced and consolidated, and would consider and address any impacts on the ongoing operations and financing of existing organizations for the provision of water and sewer services. The Commission would report its findings and recommendations to the 2013 General Assembly upon its convening. **The bill as amended was approved by the House Environment Committee, and will next be considered by the House Rules Committee.**

SENATE BILL 820, Clean Energy and Economic Security Act, was approved by the House on June 14th and sent to the Senate for concurrence. **The Senate voted to concur with the House's changes (detailed in the preceding report) on June 21st, and the bill was sent to the Governor, who vetoed it on July 1st. Veto override votes are expected the week of July 2nd.**

SENATE BILL 828, Unemployment Insurance Changes, was amended in the conference committee to restore a previously deleted provision that provides that any executive order issued by the Governor to extend unemployment insurance benefits, whether those benefits will be paid from federal or State funds, is void, unless authorized by the General Assembly or the U.S. Congress. **The bill as amended was ratified by the House and the Senate, and was signed into law by the Governor on June 29, 2012.**

SENATE BILL 866, Essential Adjustments to 2011 Budget, would only become law if Senate Bill 950 (the 2012 budget update) is not ratified, meaning it is vetoed by Governor Perdue and the House and Senate cannot override the veto. The Governor announced on June 29th she will veto the budget, and override votes are expected the first week of July. S866 contains required language related to the disbursement of federal block grants, but none of the other appropriations or special provisions included in S950. Essentially, this means in the budget update does not become law, the 2011 budget bill, which covered both the 2011-12 and 2012-12 fiscal years,

would remain in effect. **The bill was approved by the Senate on June 28th and will be heard next in the House Appropriations Committee.**

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