



# NORTH CAROLINA GROUND WATER ASSOCIATION

LEGISLATIVE REPORT

FEBRUARY 11, 2009



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## INTRODUCTION

The session is officially underway and although there are severe budget constraints we understand that the staff has more bill requests than ever including funding requests. Committees are not meeting yet as the Senate just announced their chairs and the House has not released its list yet. In the House, all bills are being referred to the House Rules Committee until the committees are established, and on the Senate side, bills are being sent to committee, but we do not expect those committees to start meeting until next week or the week after.

In our introductory report, we provided a list of new legislators in the House, but failed to list new senators. The new senators are as follows:

<u>Senator</u>	<u>County</u>	<u>District</u>
Debbie Clary	Cleveland	46
Don Davis	Greene	5
David Rouzer	Johnston	12
Josh Stein	Wake	16
Don Vaughan	Guilford	27

Leadership in both the House and the Senate remains the same as it was last session with Senator Marc Basnight being President Pro Tempore of the Senate and Senator Tony Rand serving as Majority Leader. On the Republican side, Senator Phil Berger continues to be the Republican Minority Leader. On the House side, Representative Joe Hackney remains the Speaker of the House with Representative Hugh Holliman as the Majority Leader and Representative Paul Stam as the Minority Leader. On the first day of session, both the House and the Senate established their rules for the session. Included in those rules are the bill filing deadlines that legislators and staff must follow for the session. The crossover deadline is May 14, 2009, and this is the date that all legislation must move from one house to the other to remain eligible for consideration during the short session.

**2009 House Deadlines**

<b>Drafts</b>	<b>To Bill Drafting by 4 pm</b>	<b>Filed in House by 3 pm Wednesdays</b>
Local Bills	Wednesday, March 18	April 1
Public Bills ( <b>Not</b> Appropriations or Finance)	Thursday, March 26	April 8
Appropriations and Finance	Wednesday, April 22	May 6

**2009 Senate Deadlines**

<b>Drafts</b>	<b>To Bill Drafting by 3 pm</b>	<b>Filed in Senate by 3 pm Wednesdays</b>
Local	Tuesday, March 3	March 11
Public & Resolutions	Friday, March 13	March 25

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If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, you may receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills office at 919/733-5648. They will need to know if it is a House bill or Senate bill and the bill number. (For example, Senate Bill 8). Copies are also available on the General Assembly's World Wide Web site: <http://www.ncleg.net>.

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**BILLS OF INTEREST**

**HOUSE BILL 2, Prohibit Smoking in Public and Work Places**, would prohibit smoking in public places and places of employment, including restaurants and bars. The bill would provide for the following exemptions: (1) private residences, as long as the residence does not provide child care or adult care services; (2) tobacco shops; (3) tobacco manufacturing facilities; and (4) designated smoking guest rooms in lodging establishments that may not exceed 20% of a facility's guest rooms. Public places and places of employment would be required to post no-smoking signs, remove ash trays, and direct persons who smoke in these areas to extinguish their smoking products. A violation of this prohibition would be a \$50 fine. **Introduced by Representative Holliman and referred to the House Rules Committee.**

HOUSE BILL 3, Disapprove Jordan Lake Rules, would disapprove various rules adopted by the Environmental Management Commission in May 2008 and approved by the Rules Review Commission in October 2008 regarding the Jordan Water Supply Nutrient Strategy and Riparian Buffer Mitigation. **Introduced by Representatives Allred and McCormick and referred to the House Rules Committee.**

HOUSE BILL 9, No Texting While Driving, would make it unlawful to engage in text messaging while driving. The bill would also make it unlawful to use additional technology associated with any mobile phone while driving a vehicle on a public street, highway, or vehicular area, including any technology that provides access to digital media, including a camera, e-mail, music, the internet, or games. A violation would be an infraction punishable by a \$100 fine and court costs; however, no drivers license points or insurance surcharge could be assessed. Exemptions would be provided for members of law enforcement and fire departments and for operators of public or private ambulance services while performing their official duties. The bill also provides that failure of a vehicle operator to comply would not support a claim of negligence per se or contributory negligence in any action for the recovery of damages against the vehicle operator engaging in the offense. **Introduced by Representative Pierce and referred to the House Rules Committee.**

HOUSE BILL 10, Garnish Wages to Satisfy a Judgment, would authorize the garnishment of a debtor's wages to pay a judgment creditor the amount owed from the debtor's disposable earnings that are non-exempt and would provide for garnishment procedures. An employer would be allowed to deduct a maximum fee of \$5 per pay period from the garnishment amount and the creditor would be required to apply the employer's fee toward satisfaction of the judgment. The garnishment order would continue until either the judgment has been satisfied in full or the debtor ceases to be employed by the employer. The priority for garnishment, regardless of when the order was entered, would be as follows: (1) garnishment for child support; (2) garnishment by a governmental entity; and (3) all other garnishments. Payments received by the creditor would be applied in the following order: (1) against the record costs of the judgment and garnishment orders; (2) against the accrued interest on the unpaid balance of the judgment, including post-judgment interest; (3) against the principal amount of the judgment; and (4) against any attorneys' fees and costs awarded. The debtor could serve a notice of objection on the creditor and employer at any time after the garnishment order has been issued. **Introduced by Representatives Moore and Wiley and referred to the House Rules Committee.**

HOUSE BILL 23, Strengthen Child Labor Violation Penalties, would increase the civil penalties for violations of the youth employment regulations. In addition, employers would be required to include the ages of employees in the records of persons they employ. The bill would add a civil penalty of up to \$14,000 for each serious violation of the Occupational Safety and Health Act of North Carolina (OSHANC) that involves injury to or endangerment of an employee less than 18 years of age and a civil penalty of up to \$7,000 for each serious violation of OSHANC that does not involve injury to or endangerment of an employee less than 18 years of age. Any employer who willfully violates OSHANC and the violation causes the death of any employee less than 18 years

of age would be subject to fines and criminal penalties. **Introduced by Representatives Weiss, Luebke, Bryant, and Goodwin and referred to the House Rules Committee.**

HOUSE BILL 35, Independent Redistricting Commission, would allow a referendum to amend the North Carolina Constitution to reform legislative and congressional redistricting by creating a new agency in the executive branch responsible for creating new districts. The bill would allow any citizen of North Carolina to submit a proposed redistricting plan. **Introduced by Representative Dollar and referred to the House Rules Committee.**

HOUSE BILL 44, Three-Fifths Vote to Levy Taxes, would allow a referendum by the voters to amend the North Carolina Constitution to require a three-fifths vote by the Senate and a three-fifths vote by the House of Representatives before enacting any law that imposes a tax upon the citizens of North Carolina, including increasing a tax rate or levying a new tax. This bill would not apply to the authority of cities and counties to levy a tax. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 45, Zero-Based Budgeting, would subject all state government programs to a zero-based budget review at least once every 6 years and would require the Governor to submit a zero-based budget in each odd-numbered year beginning in 2011 for agencies with a cumulative total of expenditures of 33% of the General Fund budget. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 47, Initiative, would allow citizens of the State of North Carolina to initiate a referendum on proposed amendments to the Constitution by presenting a petition to the State Board of Elections with signatures of at least 20% of the voters for all candidates for Governor at the last gubernatorial election. No more than 15% of the signatures could be from any one congressional district. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 48, Line-Item Veto, would amend the North Carolina Constitution to allow the Governor to disapprove, on a separate basis, any item of an appropriations bill if the Governor does not return the entire bill with objections. Any remaining part of the bill would become law and the item(s) disapproved would be void, unless reconsidered and passed over the Governor's objections. The Governor would be required to set out the item disapproved and the reasons for the objection in writing. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 49, Citizens Efficiency Commission, would create the Citizens Efficiency Commission to review programs and recommend efficiencies, including closing, relocating, or merging state agencies, eliminating programs, or transferring programs. The Commission would be required to conduct public hearings on its recommendations and they would be subject to approval or disapproval by the Governor and the General Assembly. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 50, Recall Elections, would allow a referendum by the voters to amend the North Carolina Constitution to make any person holding an elected office subject to recall from office by qualified voters. At least 25% of the registered qualified voters of the area that elected the officer would be required to sign a petition calling for a recall before a recall election could be held. No recall petition could be filed within 6 months of the expiration of the officer's term and no more than one recall election could be held within a single term of office for an officer. **Introduced by Representative Blust and referred to the House Rules Committee.**

HOUSE BILL 54, Texfi Cleanup Funds, would provide \$50,000 to the Department of Environment and Natural Resources, Division of Waste Management, for the cleanup and monitoring of groundwater and other contamination at the Texfi site in Fayetteville and for any emergency cleanup activities needed at the site. **Introduced by Representatives Glazier, Dickson, and Lucas and referred to the House Rules Committee.**

HOUSE BILL 61, Permit Semimonthly Sales Tax Payments, is identical to Senate Bill 48, summarized below in this legislative report. **Introduced by Representative Tarleton and referred to the House Rules Committee.**

HOUSE BILL 68, Prohibited Use of Electronic Devices/Driving, is identical to Senate Bill 12, summarized below in this legislative report. **Introduced by Representative Cole and referred to the House Rules Committee.**

HOUSE BILL 71, Four-Year Terms, would allow a referendum to amend the state Constitution to allow for four-year terms, instead of the current two-year terms, for members of the Senate and House of Representatives. The bill would also amend various provisions to reflect the new election cycle for other elected officials to coincide with the election of members of the General Assembly. **Introduced by Representatives Goforth, Brubaker, Carney, and Howard and referred to the House Rules Committee.**

HOUSE BILL 85, Increase Raffle Prize Limit, would increase the maximum allowable total cash prize or the total fair market value of merchandise provided by any nonprofit organization or association for raffle prizes in a calendar year from \$50,000 to \$125,000. **Introduced by Representative Burr and will be referred to a House committee this week.**

SENATE BILL 12, Ban Mobile Phone Use While Driving, would make it unlawful to use a mobile phone or access additional technology while operating a motor vehicle on a public street, highway or public vehicular area. Additional technology is defined as any technology that provides access to digital media, including a camera, e-mail, music, the internet, or games. Exceptions would be provided for the following: (1) communications with an emergency response operator; a hospital, physician's office, or health clinic; a public or privately owned ambulance company or service; a fire department; or a law enforcement agency; (2) communications by law enforcement officers, members of a fire department, or operators of a public or private ambulance in the performance of

their official duties; and (3) the use of a hands-free mobile telephone to make a call and not for the purpose of accessing additional technology. A violation would be a \$100 fine, plus court costs. **Introduced by Senator Dannelly and referred to the Senate Commerce Committee.**

SENATE BILL 14, Create Employment Safety & Security Commission, would create the Employment Safety and Security Commission and would transfer to the Commission certain powers of the Commissioner of Labor as well as the following agencies: the Office of Occupational Safety and Health; the North Carolina Occupational Safety and Health Review Commission; the State Advisory Council on Occupational Safety and Health; and the Agricultural Safety and Health Bureau. The Commissioner of Labor would be directed to take the necessary steps to ensure the transfer of functions and personnel. **Introduced by Senator Doug Berger and referred to the Senate Commerce Committee.**

SENATE BILL 15, Session Limits, would limit the number of days a member of the General Assembly may receive per diem to 135 days in odd-numbered years and 60 days in even-numbered years. **Introduced by Senator Rand and referred to the Senate Rules Committee.**

SENATE BILL 19, Use of Additional Technology Prohibited, is substantially similar to House Bill 9, summarized above in this legislative report. **Introduced by Senator Goss and referred to the Senate Judiciary I Committee.**

SENATE BILL 22, Ban Texting While Driving, is identical to House Bill 9, summarized above in this legislative report. **Introduced by Senator Forrester and referred to the Senate Judiciary II Committee.**

SENATE BILL 32, Employers Must Use Federal E-Verify Program, would require all state, county, city, and local governments and their contractors and licensees to register and participate in the federal work authorization program by using the E-Verify Program. The bill also contains several provisions regarding the employment of illegal aliens, including: (1) providing for the loss of business licenses for violations of federal immigration law; (2) prohibiting the employment of unauthorized aliens; (3) detailing procedures for complaints, civil actions, and penalties related to knowingly employing unauthorized aliens; (4) requiring that, after December 31, 2009, every employer must verify the employee's employment eligibility through the federal work authorization program or other such program, after hiring an employee; and (5) providing that it is an unfair trade practice to discharge any U.S. citizen or permanent resident alien employee while employing an unauthorized alien. **Introduced by Senator Snow and referred to the Senate Commerce Committee.**

SENATE BILL 48, Permit Semi-Monthly Sales Tax Payments, would allow a taxpayer who is consistently liable for at least \$10,000 per month in state and local sales and use tax and who employs less than 50 employees to pay the tax twice a month and to file a return on a monthly basis. An employer who did not choose to make semimonthly payments but who is consistently liable for

at least \$10,000 per month in state and local sales and use tax would be required to make a monthly prepayment of the next month's liability. The employer would be required to file a return and pay tax in accordance with the Department of Revenue's directions until the employer is notified in writing to file and pay under a different schedule. **Introduced by Senator Goss and referred to the Senate Finance Committee.**

SENATE BILL 49, Broaden Price Gouging Protections, would increase the civil penalty for price gouging from \$5,000 to \$10,000 for a first violation and would clarify that price gouging is unlawful whether or not a state of emergency has been declared. **Introduced by Senator Goss and referred to the Senate Commerce Committee.**

SENATE BILL 73, Commercial Loan Interest, would require written loan commitments by lending institutions to clearly state when the interest on the loans accrues on a different schedule than the payoff. If a lending institution computes daily interest on the basis of a 360-day year, it could not collect interest for more than 360 days per year unless disclosed at the time of the loan. **Introduced by Senator Hunt and referred to the Senate Commerce Committee.**

SENATE BILL 87, Taxpayers' Protection Act, would allow a referendum by the voters to amend the North Carolina Constitution to establish a fiscal year spending limit which caps the annual growth of the state budget at a percentage equal to the sum of inflation and the annual percentage increase in the state's population. The bill would also create the Emergency Reserve Fund, which could only be used during a declared emergency with the approval of a three-fifths majority of each chamber of the General Assembly, and the Budget Stabilization Fund, which could only be used when state revenues are less than the fiscal year spending limit. **Introduced by Senator Tillman and will be referred to a Senate committee this week.**

SENATE BILL 88, Health Insurance Tax Deduction, would allow a state income tax deduction for any amount paid for health insurance for the taxpayer or his or her dependents for which the taxpayer did not receive a federal deduction or credit. **Introduced by Senator Tillman and will be referred to a Senate committee this week.**

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