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Focusing on Legislative Representation

## NORTH CAROLINA GROUND WATER ASSOCIATION

LEGISLATIVE REPORT April 23, 2009

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### INTRODUCTION

The Legislature has kicked into high gear with bill drafting deadlines, budget proposals, negotiations, and the cross-over deadline only three short weeks away. The Senate passed their version of the budget in only one week, which is sure to be record time. They rolled out the budget in subcommittees on Monday afternoon, the full Appropriations Committee met all day Tuesday and debated amendments, and then the Senate voted on Wednesday and Thursday to approve the budget bill. In an interesting strategy, the Senate did NOT include their revenue package but provided that they would have one that would raise \$500 million. Apparently, the Senate will be considering taxing various services and creating some new revenue streams. The revenue numbers from the 15th should be coming in shortly and everyone expects the revenue picture for the state to get even worse so that the budget will have to make cuts or raise revenue to fill an additional \$800 million to \$1 billion shortfall. The House will be much more deliberate in their budget discussions, but we do expect them to have their proposal ready by the end of May. We will provide a summary of the Senate budget in the next legislative report.

The House and Senate have combined to file over 2,600 bills so far this session! House members are still permitted to file appropriations or revenue bills, but there should only be a handful remaining. Now that all those bills have been filed, the committees are meeting at a brisk pace and running into problems in the legislation. Since there are so many bills, most lobbyists and legislators have not had a chance to review all of the legislation so the bills are running into problems in the committee meetings as changes are being requested to the legislation. The cross-over deadline, which requires legislation to pass either chamber to remain eligible for continued consideration, is May 14th, so there is a lot of work to be done. I expect the next three weeks to be very intense as sponsors fight to satisfy the deadline and get their bills through the committees.

The mood at the Legislature this week is somber as Senator Vernon Malone, who represented Wake County, passed away on Saturday. Senator Malone was well liked and very much respected at the Legislature and was currently in his fourth term as a State Senator.

### **EXEMPT PLUMBING CONTRACTORS FROM WELL CONTRACTOR CERTIFICATION REQUIREMENTS**

HOUSE BILL 1030, Exempt Plumbing Contractor/Well Contractor Reqs., would exempt a person who is licensed as a plumbing contractor and who (1) installs pumps or pumping equipment; (2) installs, breaks, or reinstalls a well seal; or (3) disinfects a well incident to the installation, alteration, or replacement of pumps or pumping equipment within or near a well from well contractor certification requirements. The plumbing contractor would be required to attend a continuing education course that covers well seal installation, protection, and sanitation provided by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors. **Introduced by Representatives Howard and Allred and referred to the House Commerce, Small Business, and Entrepreneurship Committee. This is one of several bills to allow plumbers to be exempted from the well contractor certification requirements.**

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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 website: <http://www.ncleg.net>.

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### **BILLS OF INTEREST**

HOUSE BILL 805, Workers' Comp./Calculation of Income, would include an employer's contributions to an employee's retirement account in the calculation of "average weekly wage" under the Workers' Compensation Act, if the contributions are vested, quantifiable, and available to the employee. **Introduced by Representative Glazier and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 810, Reduce Plastic Bags Use, would reduce the use of plastic bags in North Carolina by prohibiting retailers who have at least 5,000 square feet of retail or wholesale space or are part of a chain of 5 or more stores from offering plastic bags to customers unless the bags are compostable or reusable, except for bags that contain fresh fish, meat, poultry, or produce. **Introduced by Representatives Harrison, Justice, and Martin and referred to the House Environment and Natural Resources Committee.**

HOUSE BILL 814, Small Business Assistance Fund, is identical to Senate Bill 982, summarized below in this legislative report. **Introduced by Representative Crawford and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 831, Oppose Employee Free Choice Act, would express opposition to the enactment of the Employee Free Choice Act or other similar federal legislation. Currently, companies are allowed to petition for a federally supervised secret ballot election on whether to have a union in their workplace. The Employee Free Choice Act would seek to get rid of the secret ballot and install a union if a majority of the workers sign authorization cards. **Introduced by Representatives Crawford, Brubaker, and Howard and referred to the House Rules Committee.**

HOUSE BILL 840, Limit Political Party Campaign Fund-Raising, would limit the role of political parties in campaign fund-raising by limiting contributions. **Introduced by Representative Current and referred to the House Judiciary I Committee.**

HOUSE BILL 843, Workers' Comp./Medical Diagnostic Testing, would require the attending physician of an employee to select the health care provider and the diagnostic services center to administer and analyze any diagnostic tests authorized by the physician under the Workers' Compensation Act. **Introduced by Representative Jackson and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 847, Legislative Commission on Gasoline Shortages, would create the Legislative Study Commission on Gasoline Shortages to study the issue of gasoline shortages experienced in the state following the hurricanes in 2008 and to identify methods of avoiding shortages in the future. **Introduced by Representative Coates and referred to the House Rules Committee.**

HOUSE BILL 877, Repeal UI Disqualification for Trailing Spouses, would provide that an unemployment claimant who has left work to accompany his or her spouse who has secured work in a new place of residence that is too far away for the claimant to reasonably continue the claimant's work has left work for good cause. **Introduced by Representative Wainwright and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 893, Auto Insurance Diminution in Value, is identical to Senate Bill 660, summarized in the March 31, 2009 legislative report. **Introduced by Representative Justice and referred to the House Judiciary III Committee.**

HOUSE BILL 894, Independent Redistricting Commission, would allow a referendum by the voters to amend the North Carolina Constitution to create an Independent Redistricting Commission that would establish the North Carolina Senate and House of Representatives districts and the United States House of Representatives districts as soon as practical after each decennial census. The bill includes guidelines for drawing the districts to ensure one person, one vote, and to avoid elongated and irregularly shaped districts and split communities of interest. **Introduced by Representative Blust and referred to the House Judiciary I Committee.**

HOUSE BILL 922, NC Illegal Immigration Prevention Act, would enact the North Carolina Illegal Immigration Prevention Act to provide for the comprehensive regulation of persons in North Carolina who are not lawfully present in the United States, including provisions regarding: the verification of employee work authorization; the unlawful transfer or concealment of an alien; requiring public contractors and private employers to use the federal work authorization program; facilitating enforcement of federal immigration laws in North Carolina; the Immigration Assistance Registration Act; tax changes; the verification of eligibility for public benefits; the presumption against the pretrial release of illegal aliens; identity theft; and prohibiting illegal aliens from public postsecondary education. **Introduced by Representatives Holloway, Blust, Cleveland, and Neumann and referred to the House Judiciary I Committee.**

HOUSE BILL 972, Boone Water Intake Easement, would grant the Town of Boone the right to construct and maintain a water intake system in the waters and submerged land of the South Fork of the New River. **Introduced by Representative Tarleton and referred to the House Water Resources and Infrastructure Committee.**

HOUSE BILL 974, Political Robo Calls/Do Not Call Registry, would amend the definition of "telephone solicitation" to include a political message if the message is communicated through the use of an automatic dialing and recorded message player. **Introduced by Representative Harrison and referred to the House Election Law and Campaign Finance Reform Committee.**

HOUSE BILL 1022, Worker's Comp./Duration of Total Disability, is identical to Senate Bill 975, summarized below in this legislative report. **Introduced by Representative Goforth and referred to the House Insurance Committee.**

HOUSE BILL 1056, Civil Liability/Prohibited Debt Collection, is identical to Senate Bill 965, summarized below in this legislative report. **Introduced by Representative Blue and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 1061, Revise UM/UIM Liability Coverage Requirements, would require a person who has motor vehicle liability insurance to purchase minimum uninsured and underinsured motorist coverage and would require that the underinsured motorist coverage be equal to the amount of uninsured motorist coverage purchased. **Introduced by Representative Allen and referred to the House Insurance Committee.**

HOUSE BILL 1070, Back to Work Tax Incentive, would provide unemployment tax relief to employers who hire persons who are receiving unemployment benefits by not requiring the employer to pay contributions on payments the employer makes to an individual for 6 months after the individual is hired if the individual was receiving unemployment benefits at the time he or she was hired. **Introduced by Representative Lewis and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

HOUSE BILL 1071, No State Income Tax on Unemployment Benefits, would allow a state income tax deduction for unemployment benefits received by a taxpayer. **Introduced by Representative Lewis and referred to the House Finance Committee.**

HOUSE BILL 1072, Tax Credit for Hiring Unemployment Recipient, would allow a tax credit for a taxpayer who hires a person who is receiving unemployment benefits at the time of hire for a full-time position in the state for a period of at least 9 months. The amount of the credit would be equal to the wages paid to the disadvantaged worker during the taxable year up to a maximum of \$2,000 per disadvantaged worker. **Introduced by Representative Lewis and referred to the House Commerce, Small Business, and Entrepreneurship Committee.**

SENATE BILL 866, APA Rules: Increasing Costs Prohibition, would prohibit a state agency from adopting a rule that results in additional costs on persons who are subject to the rule, unless the rule is required to respond to at least one of the following: (1) a serious and unforeseen threat to public health, safety, or welfare; (2) an act of the General Assembly or United States Congress; (3) a change in federal or state budgetary policy; (4) a federal regulation; or (5) a court order. **Introduced by Senator Hoyle and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 876 Study Consolidated Environmental Commission, would direct the Environmental Review Commission to study the desirability and feasibility of consolidating the state's environmental policy-making, rule-making, and quasi-judicial functions into one comprehensive full-time environmental commission, similar to the North Carolina Utilities Commission. The ERC would report its finding and recommendations to the 2010 Session of the General Assembly. **Introduced by Senator Clodfelter and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 919, Study Interbasin Transfer Netting, would direct the Environmental Review Commission to study the feasibility and environmental impact of intrabasin and interbasin netting of water withdrawals and discharges by contract among water systems and to submit its final report to the 2011 General Assembly. **Introduced by Senator Bingham and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 925, Misrepresentation of Bottled NC Spring Water, would make it an unfair trade practice for a person who is engaged in the business of selling or offering for sale bottled water to misrepresent the bottled water as North Carolina natural spring water. To be represented as "North Carolina natural spring water," the water would be required to flow freely without the use of a borehole and without mechanical aid from an underground land formation through an orifice that is located on land in North Carolina. **Introduced by Senator Apodaca and referred to the Senate Judiciary II Committee.**

SENATE BILL 926, Misbranding of Bottled NC Spring Water, would provide that water is misbranded if it is represented as being "North Carolina natural spring water" and is offered for sale as a beverage and it is not from a North Carolina natural spring. North Carolina natural spring water would mean water that is derived from an underground land formation from which the water freely flows without the use of a borehole and without the aid of mechanical means and that is collected at the natural orifice in the earth's surface and is on land located in North Carolina. The bill would also include water that is bottled and offered for sale in the definition of food. **Introduced by Senator Apodaca and referred to the Senate Judiciary II Committee.**

SENATE BILL 965, Civil Liability/Prohibited Debt Collection, would increase the civil penalties for debt collectors and collection agencies who engage in prohibited collection acts by authorizing the court to award actual damages caused and statutory damages of not less than \$3,000 and not more than \$6,000 per violation. **Introduced by Senator Nesbitt and referred to the Senate Judiciary I Committee.**

SENATE BILL 975, Workers' Compensation/Duration of Total Disability, would allow an employee who is entitled to total disability compensation under the workers' compensation program to continue to receive services until either the employee reaches 65 years of age or the date that is 300 weeks from the date of injury, whichever period is longer. **Introduced by Senator Apodaca and referred to the Senate Commerce Committee.**

SENATE BILL 982, Small Business Assistance Fund, would establish the Small Business Assistance Fund and the Small Business Jobs Preservation and Emergency Assistance Fund to allow small businesses to apply for loans to be used to: (1) guarantee commercial loans; (2) finance bonds to allow small businesses to better leverage federal stimulus dollars; (3) provide emergency bridge loans where the ability to repay has been established but credit remains unavailable; and (4) lend for other purposes related to small business job preservation. The total amount of funds that a business could receive would be capped at an aggregate total of \$35,000. **Introduced by Senator Jenkins and referred to the Senate Commerce Committee.**

SENATE BILL 1016, State Minimum Wage/Inflation Increases, is identical to House Bill 175, summarized in the February 24, 2009 legislative report. **Introduced by Senator Stein and referred to the Senate Commerce Committee.**

SENATE BILL 1017, Enhance Protections Against Identity Theft, would enhance protections against identity theft and protect the credit of crime victims during the pendency of Crime Victims Compensation Fund applications and appeals by: expanding the methods by which a consumer may request a security freeze; providing that a consumer reporting agency may report a security freeze to a third party but may not state or imply that the freeze reflects a negative credit score, history, report, or rating; requiring consumer reporting agencies to create and maintain a shared website and toll-free number for use by consumers to request security freezes and actions related to security freezes; shortening the time in which a reporting agency must place a surety freeze on a consumer's credit report and send confirmation of security freezes to consumers; allowing a parent or guardian to request a credit report for their minor; modifying the notice summarizing rights that must be provided to consumers; modifying the requirements for

notice of security breaches and adding a requirement that when a business provides notice under the section, it shall also provide notice to the Consumer Protection Division; requiring registers of deeds and clerks of court to apply optical character recognition technology and other reasonably available technology to official records placed on Internet websites available to the general public in order to identify and redact Social Security and driver's license numbers; prohibiting a creditor that is owed money for services provided to a victim as a result of the criminally injurious conduct inflicted on the victim from communicating any information about the debt to a consumer reporting agency during the pendency of an application for an award or an appeal of an award under the Crime Victims Compensation Fund. The bill would also enact the Credit Monitoring Services Act that would require credit monitoring services to provide disclosures to consumers before charging or collecting any fee or compensation from a consumer for obtaining, providing, or monitoring the consumer's credit report on behalf of the consumer. A violation of the Act would be considered an unfair or deceptive act or practice. **Introduced by Senator Stein and referred to the Senate Judiciary I Committee.**

SENATE BILL 1018, Reduce Plastic Bag Use, is identical to House Bill 810, summarized in the March 31, 2009 legislative report. **Introduced by Senator Stein and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 1024, NC 2050 Sustainability Task Force, would establish the North Carolina Sustainability 2050 Task Force to develop a plan for sustainable growth and development in North Carolina through the year 2050. The Task Force would focus on: (1) economic development, including transportation and water and sewer infrastructure; (2) natural resources, including land, water, air, local food supply, and energy supplies; and (3) quality of life issues, including health and education. **Introduced by Senator Stein and referred to the Senate Select Committee on Energy, Science, and Technology.**

SENATE BILL 1025, Small Business Health Insurance Expansion, would increase and extend the sunset for the small business health benefits credit from \$250 to \$400, enact the Healthy NC program to facilitate the availability of affordable accident and health insurance coverage to small employers and self-employed individuals, and create the Small Employer Stop Loss Fund from which participating insurers could receive reimbursement for claims paid by the insurer. A small employer would be defined as an employer who employs no more than 25 employees with at least 30% of those earning wages of not more than \$12 per hour, has not provided health coverage to its employees during the 12-month period immediately preceding its application for a qualifying group health insurance contract, has its principal place of business in North Carolina, and contributes at least 50% of the premium for employee coverage under the qualifying group health insurance contract. **Introduced by Senator Stein and referred to the Senate Commerce Committee.**

SENATE BILL 1050, Openbook Government, would create NC Openbook, a searchable website on state spending for grants and contracts. All state contracts and grants awarded that are in amounts greater than \$10,000 and a list of specified information regarding those contracts and grants would be included on the website. **Introduced by Senator Phil Berger and referred to the Senate Appropriations Committee.**

SENATE BILL 1055, Labor/Mandatory Lunch Break, would require all employers to allow each employee to take at least one break for a meal during the employee's workday or shift. **Introduced by Senator Clodfelter and referred to the Senate Commerce Committee.**

SENATE BILL 1085, Legislative Commission on Gasoline Shortages, would establish the Legislative Commission on Gasoline Shortages to study the issue of gasoline shortages. The Commission would review gasoline shortages, particularly those that occurred in the western part of the state after Hurricanes Ike and Gustav, including how the shortage occurred, obstacles that slowed gasoline supply recovery after the shortage, and methods of avoiding gasoline shortages in the future. **Introduced by Senator Snow and referred to the Senate Rules Committee.**

SENATE BILL 1093, Appropriations Act of 2009, is the bill that was filed in the Senate to contain the Governor's proposed budget. **Introduced by Senator Garrou and referred to the Senate Appropriations Committee.**

## BILL UPDATES

HOUSE BILL 2, Prohibit Smoking in Public Places. This bill was amended several times before being approved by the full House. Smoking would be permitted in private vehicles and private residences and the bill was clarified to provide that individuals who manage, operate, or control a prohibited smoking place are responsible for preventing smoking in that location. The bill was also amended to allow local governments to pass ordinances that are more restrictive than state law. Exemptions were added to the bill to allow smoking in the following locations: a cigar bar; a public place or place of employment that does not provide service to or allow entry to any person less than 18 years old if smoke does not migrate into a no-smoking area; a private club; and all premises, facilities, and vehicles owned, operated, or leased by a tobacco leaf grower, processor, or dealer. **The bill as amended was approved by the House Judiciary I Committee and the full House and will next be considered by the Senate Health Care Committee.**

HOUSE BILL 9, Ban Texting While Driving. This bill was amended in the House Ways and Means/Broadband Connectivity Committee to provide that additional technology does not include electronic mail or text messaging. It would be unlawful to use a mobile phone to manually enter multiple letters or text in the device to communicate with another person or to read any electronic mail or text message that is transmitted to the device or stored within the device; however, this prohibition would not apply to any name or number stored in the device or to any caller identification information. The bill was also amended to add exemptions to using a mobile telephone for e-mailing or texting while operating a motor vehicle for: (1) operators of vehicles that are lawfully parking or stopped; (2) the use of global positioning systems or wireless communication devices; and (3) the use of voice-operated technology. **The bill as amended was approved by the House Ways and Means/Broadband Connectivity Committee and will next be considered by the House Judiciary III Committee. The**

**companion bill in the Senate, Senate Bill 22, has had the same modifications and will next be considered by the Senate Appropriations Committee.**

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