



NORTH CAROLINA GROUND WATER ASSOCIATION



2008 Final Legislative Report

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INTRODUCTION

The 2008 short session was truly short this year, beginning on May 13th and ending on July 18th. The session ran more smoothly with Speaker Hackney fully taking the reigns of power in the House and working out his leadership structure. There were no sessions late into the night or into the early hours and most sessions ended by 8:00 or 9:00 p.m. even during the last two weeks. There were 229 bills and 31 joint resolutions approved by the General Assembly in 2008. For the entire 2007-2008 session, there were 4,991 bills filed, the second highest number of filings in a century.

The readjustment of the budget is the primary purpose of the short session. Although budget negotiations took place at record speed, both the House and the Senate came up with budget packages that were acceptable to most Democrat and Republican members. There were no new tax increases and increased funding was provided for mental health and education. Although neither chamber wanted to take up controversial legislation before the election, many controversial issues were discussed, debated, and voted upon. The Senate approved an annexation moratorium that was not taken up by the House and the House approved changes to the eminent domain laws that were not taken up by the Senate. In addition, legislation regarding barring guns from those who have been involuntarily committed, the bullying bill, and bills regarding immigration and other hot button issues were all debated. Both parties tried to maneuver legislation that would assist them this fall in their attempts to gain more seats in the House and Senate. The Republicans hope to gain enough seats to gain the majority in the Senate and have some opportunities since at least 5 senators are either running for higher office or resigning and there are many open seats for the Democrats to defend. The House looks to be much more stable and it is doubtful that the Democrats will lose control of the House and, in fact, it is likely that the Democrats will gain seats to have a more solid majority.

In this final report, we have reviewed all of the legislation that has been approved this session and have provided summaries of the bills that are of interest to your association. In addition, we have provided a summary of the budget changes for the 2008-2009 fiscal year. And, finally, we have also included a select list of legislation that was not enacted during the 2008 session. Since this is the end of a two-year session, any legislation not enacted is no longer pending. The 2009 session that will start January 28, 2009 will start the process over again and all legislation must be filed again before it can be considered.



More than a month after the session ended, for the first time in North Carolina history, the Legislature overrode a veto that Governor Easley signed on House Bill 2167, Towing of Recreational Boats/Exemption. This bill was an unlikely vehicle for this historic event considering the budget issues and controversial topics that come up in the Legislature every year. Although Governor Easley has vetoed other pieces of legislation, this is the first time that the General Assembly and the Governor's Office have not been able to reach some kind of consensus to avoid a vote to override the veto. Under the North Carolina Constitution, both chambers must override a governor's veto by three-fifths of present and voting members. Both the House and Senate overwhelmingly overrode the Governor's veto with very little discussion on the merits of the bill. The legislators argued that without these changes in the law that economic opportunities would be lost in the state due to loss of boat shows, fishing tournaments and other boat-related activities based on the ability of boats to be towed throughout the state and especially the coast. The Governor's Office argued, through the State Highway Patrol, that the new law was unsafe as it would allow boats that were over the width of the driving lane to be towed in North Carolina. The veto override clearly shows that Governor Easley is a lame duck governor who is losing his influence. It will be interesting to see how much the veto is used by the new administration that will be coming into office after the November 4th election.

It has been an honor to represent the **North Carolina Groundwater Association** during the 2007-2008 legislative session. I look forward to continuing to work with you and your members during the 2009-2010 session to continue your objectives and goals.

DROUGHT/WATER MANAGEMENT

HOUSE BILL 2499, Drought/Water Management Recommendations. The North Carolina Ground Water Association worked hard this session to defeat or at least modify the drought/water management bill as recommended by the Governor's Office. As the bill was originally filed, local governments would have been able to regulate how much water could be used from private wells in severe, extreme, or extraordinary drought. There was no provision in the bill regarding how much water was needed for an individual's property or if the well water would affect the actual drought or the local water system; however, the provisions regarding the regulation of private wells continued to appear in drafts of the bill. There were many drafts and amendments proposed throughout the process, including a restriction only on irrigation wells, restrictions on all wells, exempting deep water wells, and a variety of other changes. The North Carolina Ground Water Association worked closely with allies and other stakeholders in the process including the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Farm Bureau, and the North Carolina Green Industry Council. We also worked with legislators and the environmental staff to educate them regarding wells and how vital wells can be in conserving water in times of drought. Members of the North Carolina Ground Water Association also played an important role by participating in a lobby day to talk directly to legislators about our

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concerns. Many letters, calls, and e-mails were made to legislators regarding this important legislation. Those contacts made all the difference as legislators clearly did not want to regulate private wells in the drought/water management bill. Since there have been a variety of versions of the bill, we will provide a summary of the final version of the drought/water management bill for the North Carolina Ground Water Association.

The drought/water management bill has a variety of provisions regarding drought, including more stringent registration of water withdrawals and transfers that require a report to be filed no later than two months after the initiation of a withdrawal or transfer for 100,000 gallons per day. Previously, the report had to be made within six months. In addition, farmers will be working on a data collection process to allow them to report their water use of 10,000 gallons per day or more through a survey. The new law also provides important definitions that will be used going forward when determining drought requirements.

- “Essential water use” means the use of water necessary for firefighting, health and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, state, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to maintain the economy of the state, region, or area.
- “Large community water system” means a community water system that regularly serves 1,000 or more service connections or 3,000 or more individuals.
- “Water shortage emergency” means a water shortage resulting from prolonged drought, contamination of the water supply, damage to water infrastructure, or other unforeseen causes that present an imminent threat to public health, safety, and welfare or to the environment.

One of the most controversial aspects of the drought/water management bill was the provision that allowed the state, through the Department of Environment and Natural Resources (DENR) or the Governor’s Office, to require local governments to implement tiered conservation measures. Through long negotiations between local governments and the Governor’s Office, a resolution was reached that requires local governments that provide public water service and large community systems to develop and implement water conservation measures to respond to drought or other water shortage conditions. The local governments must set up water shortage response plans that will be submitted to DENR for review and approval. The plans must meet the following criteria: (1) the plan must include tiered levels of water conservation measures or other response actions based upon the severity of water shortage conditions; (2) each tier of water conservation measure must be based on increased severity of drought or water shortage conditions that will result in more stringent water conservation measures; (3) the previous requirements for water shortage supply rules that were implemented in 2002; and (4) **the water supply plans must not contain any provision that meters or regulates private drinking water wells as defined in General Statute 87-85.** This last

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provision was added to the law by an amendment in the Senate to protect well owners from local government regulations. This section of the law also includes regulations regarding when DENR or the Governor's Office may require more stringent water conservation measures. Several issues that must be considered before requiring those measures include hydrological drought conditions, drought forecasts, reductions in water use, availability of other water supply sources, economic impacts, and conservation measures. The U.S. drought monitor designation will be used as a default; however, the Drought Management Advisory Council may request a different designation based on local conditions.

As part of the new law, the Environmental Review Commission will be required to study issues related to increasing the water supply, issues related to reservoir construction, and state laws and rules governing reservoir construction. This section previously included a study regarding whether private wells should be regulated during drought conditions. This study was removed through an amendment on the Senate floor; however, we believe the water allocation study that is currently ongoing by the Institute of Government will include issues regarding private wells and we expect that we will have to deal with these issues again in 2010 when the study is completed.

Many of the powers to regulate drought that were provided to the Environmental Management Commission have now been transferred to the Department of Environment and Natural Resources. Water shortage emergency powers have been expanded to allow the Governor to declare a water shortage emergency for a period that may not exceed 30 days after consultation with the affected water system and the local government. During a water shortage emergency, the Governor could require water systems to share their water supply and may also adopt rules governing the conservation and use of water within the water shortage emergency area necessary to maintain essential water use. Like any emergency power placed in the Governor regarding public health, it appears to us that this emergency power would also include the regulation of private wells, although it is not clear in the statutory language and there is disagreement about whether this language provides that power to the Governor.

The law also requires local government water systems and large community water systems to require separate meters for new in-ground irrigation systems that are connected to their systems. **This does not require meters for private wells.** In addition, to be eligible for state water infrastructure funds from the Drinking Water Revolving Fund, the Drinking Water Reserve Fund, or any other grant or loan of funds provided for extending water lines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system: (1) has established a water rate structure that is adequate to pay the costs of maintaining, repairing, and operating the system both during periods of normal use and reduced water use due to the implementation of water conservation measures; (2) has implemented a leak detection and repair program; (3) has an improved water supply plan; (4) meters all water use, except for use that is impractical to meter; (5) does not use a rate structure that gives residential water customers a lower per unit water rate as

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water use increases; (6) has evaluated the extent to which future water needs can be met by reclaimed water; and (7) has implemented a consumer education program that emphasizes the importance of water conservation.

Several of these provisions have been urged by the North Carolina Ground Water Association for years to address our state's water supply. In addition, the law also sets out a water reuse policy to try to use treated wastewater or reclaimed water for toilet flushing, fire protection, decorative water features, and landscape irrigation. The Environmental Review Commission will establish rules regarding encouraging and promoting safe and beneficial reuse of treated wastewater. In addition, the Commission for Health Services will establish rules to authorize the use of gray water, which is wastewater removed from household wash basins, bathtubs, and showers, during periods of drought to hand water trees, shrubs, and inedible plants on single family residential property.

The law also includes similar provisions for loan and grant criteria from the Wastewater Reserve and the Drinking Water Reserve. For those systems to receive funding they must show bulk water reuse facilities, construction of interconnection between water systems intended for use in drought or other water shortage emergencies, repair or replacement of leaking water lines, and replacement of meters and installation of new metering systems.

There was a lot of discussion during the debate on this bill regarding the Drought Management Advisory Council. At one point, a member recommended by the North Carolina Ground Water Association was appointed to this advisory council, along with a member of the North Carolina Farm Bureau. During the debate of the bill, many other groups were added including environmental groups and other lobbying and advocacy organizations. When the bill was on the Senate floor, an amendment was filed that would remove all of the groups except for those originally on the Drought Management Advisory Council. Language was also inserted to require that anyone who serves on the Council must have expertise in meteorology, groundwater, surface water, hydrology, water system operation and management, reservoir management, emergency response, or another subject area related to the assessment and management of drought impacts. In addition, other agencies and organizations may participate in the work of the Council with respect to particular drought-related issues. Even though the North Carolina Ground Water Association is not specifically added to the Council, we will work hard to be a part of the Drought Advisory Council's work and to be advised of its decisions and meetings going forward.

Several other studies were authorized in the new law, including guidelines to be developed for water rate structures that are adequate for paying the costs of the systems by the State Water Infrastructure Commission. In addition, the Department of Environment and Natural Resources will study water efficiency standards for water using fixtures in residential and commercial buildings and in-ground irrigation systems. The new law also includes provisions that will keep a resident who is in a

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homeowner's association from being punished for not watering their lawn during a drought based on conservation requirements by local governments.

And, finally, the law specifically provides that **“Nothing in this act shall be construed to expand or limit the authority of a unit of local government or public water supply system to regulate water use from a well located outside of its jurisdiction, a well not connected to its water system, or any other private well.”** This provision was placed in the law as the result of our efforts to restrict new regulations of private wells except for those that are currently in place regarding siting of wells, permitting, and other regulations regarding the construction of wells. **Local governments will not have expanded authority to regulate water use from private wells and, as provided earlier in the statute, they may not include the regulation of private wells in their water supply plans. Effective: The majority of these provisions are effective July 31, 2008.**

The North Carolina Ground Water Association should expect these issues to continue to be debated at the General Assembly and we must continue our efforts to educate legislators, as well as legislative staff, regarding groundwater and private wells. It is important to take every opportunity to discuss these issues with legislators while they are home in their districts because we will be dealing with these issues again in 2010. I also want to thank the members of the North Carolina Ground Water Association for their hard work in assisting me to convince legislators to remove some of the most dangerous provisions from this bill and to make sure that private wells were not impacted by this legislation.

AMEND ENVIRONMENT LAWS

SENATE BILL 845, Amend Environmental Laws/Environmental Technical Corrections 2008. This law was passed during the last two days of the session and includes a variety of provisions to amend environmental laws. Each year, there is at least one environmental technical corrections bill; however, this year the bill included a variety of substantive provisions. We learned about the first provision of this bill, which we opposed, on the day the bill was modified in committee and moved to the House floor. The North Carolina Ground Water Association strongly opposed the first section of this bill which would add new parameters for the private well testing program. The primary reason for our opposition was the fact that the private well testing program only became effective July 1, 2008 and that it was too early to start adding new parameters. Additionally, we felt that the cost of these new tests was exorbitant and should not be shared by all new well owners but only those who were in danger of finding these elements in their groundwater. The new law requires these additional parameters to be tested: methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane, 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes, trichloroethylene, and tetrachloroethylene. We worked hard with a variety of legislators, our contacts at the North Carolina Association of County Commissioners, and the Department of Environment and Natural Resources. It is our understanding that the Department did not request

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these new parameters and that this provision came about because of one legislator who requested the provision.

Although we originally tried to defeat the bill, or at least this provision, outright during the last two days of session, we were unsuccessful in that endeavor. However, we were able to move the effective date of the bill out to October 1, 2009. This means that the new parameters will not be tested until that date and that we may work on this issue next year during the long session. We have already spoken to the North Carolina Association of County Commissioners and others regarding their potential support for a provision which would localize testing to allow local health departments to determine which parameters must be tested based on their prevalence in the area. We will continue to work on this issue next year to provide more common sense solutions for water well testing.

Several other provisions in the bill are relevant to the North Carolina Ground Water Association, including some changes to the Environment Management Commission's ability to create rules for stormwater runoff, changes to the Commercial Petroleum Underground Storage Tank provisions, and a requirement that the Department of Environment and Natural Resources aggressively compel persons who are responsible for the contamination of groundwater to assess and remediate the groundwater contamination. Additionally, a new provision provided specific requirements for the limits on impervious surfaces for parking lots. **Effective: The first provision regarding private well testing is effective October 1, 2009 and most of the remainder of the law is effective August 8, 2008.**

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>.

LEGISLATION ENACTED

HOUSE BILL 738, Insurance Changes. This law makes a variety of changes to the insurance laws in North Carolina and includes a provision that commercial motor vehicles or fleet vehicles will not be required to provide uninsured motorist coverage. The new law also provides a prohibition on free insurance by prohibiting a person to advertise, offer, or provide free insurance for damage, loss, or theft as an inducement to the purchase, sale, or rental of consumer goods or services directly or

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indirectly connected with the purchase of consumer goods. **Effective: The majority of the provisions become effective on October 1, 2008.**

HOUSE BILL 821, Specify Out-of-State Areas for IBT Notice. This law specifies the areas outside of the State of North Carolina that must receive notices related to proposed interbasin transfers of water. The law also provides for a study by the Environmental Review Commission of the delineation of major river basins and sub-basins within the state as part of the ongoing study of the allocation of water resources by the Commission. **Effective: July 28, 2008.**

HOUSE BILL 1230, Nonprofit ABC Law Changes. This law expands the one-time alcohol permit that nonprofit organizations may receive by adding mixed beverages to the items that may be included in the permit. The permit would only be good for a single fundraising event of the organization. **Effective: August 3, 2008.**

HOUSE BILL 1770, Future Conveyances/Special Assessments. This law allows cities and counties to issue revenue bonds that would be payable from special assessments on benefitted property within the city or county for the purpose of financing the capital costs of the projects. In other words, they may “charge” the taxpayer/citizen for the improvements and use those payments to pay the debt. The following projects may be assessed: sanitary sewer systems; storm sewers and flood control facilities; water systems; public transportation facilities; school facilities; and streets and sidewalks. Neither the county nor city may impose a special assessment unless it receives a petition for the project to be financed by at least a majority of the owners of the real property to be assessed who must represent at least 66% of the assessed value of the real property. Any assessments imposed by the cities and counties may be payable in annual installments which may not exceed thirty payments. The installments would be due on the date the property taxes are due. **Effective: August 3, 2008. The provisions authorizing the cities and counties to charge assessments expires on July 1, 2013. The expiration will not affect the validity of assessments imposed or bonds issued prior to the effective date of the expiration.**

HOUSE BILL 2178, Electronic Voting for Nonprofits. This law allows nonprofit corporations to vote electronically to the extent that the corporation and its members have agreed to allow notice to be provided electronically. A nonprofit corporation may agree to conduct a transaction by electronic means through its Articles of Incorporation, bylaws, or by action of its Board of Directors. Requirements that a vote of the members be made by written ballot may be satisfied by a ballot submitted electronically, including electronic mail, provided that such transmission can be submitted with the appropriate information to determine that the transmission was authorized by the member or the member’s proxy. **Effective: October 1, 2008.**

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HOUSE BILL 2308, CDL/Federal Compliance. This law makes amendments to North Carolina's commercial driver's license laws to comply with federal law. The changes require that certain revocations and other punishments apply not only to a driver who is operating a commercial motor vehicle but also apply if the person was holding a commercial driver's license at the time of the offense. In addition, a person who has tested positive on a drug or alcohol test must be disqualified from operating commercial motor vehicles for a minimum of 30 days and until receipt of proof of successful completion of assessment and treatment by a substance abuse professional. A notation of disqualification must be retained on the record of a person for a period of 3 years following the end of any disqualification. **Effective: December 1, 2008 and applies to offenses committed on or after that date.**

HOUSE BILL 2353, Irrigation Contractors Licensure/Fees. This law creates the North Carolina Irrigation Contractors Licensing Board and requires all irrigation contractors to be licensed in the State of North Carolina. An "irrigation contractor" is defined as any person who for compensation constructs, installs, expands, services, or repairs irrigation systems. A "system" is defined as all piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation that are downstream of a well, pond or other surface water, potable water or groundwater source, or grey water source. The law includes a grandfathering provision to allow certified irrigation contractors or certified irrigation designers, as well as landscape contractors and licensed plumbing contractors, to be licensed without the requirement of an examination if they meet all other requirements and qualifications for licensure. In addition, anyone who has been in business for 10 years as an irrigation contractor and can document competency in the practice of irrigation contracting can be licensed without the requirement of an examination if they submit their application for licensure within 180 days. **Effective: October 1, 2008.**

HOUSE BILL 2431, The Studies Act of 2008. This law is the annual studies bill that authorizes the Legislative Research Commission and other legislative standing committees and task forces to study a variety of issues from bills that were not approved during the session and other issues of interest to the Legislature. As you can see, there are over one hundred studies, but very few will actually take place before the next session begins. The following is a list of studies that are authorized to be conducted and the committee or commission that will undertake the study.

- The Legislative Research Commission may study issues relating to reviewing and increasing television access to state government. The Commission may also study television access to local governments.
- The Legislative Research Commission may study improvements in consumer reporting practices, including allowing businesses and other credit reporting entities with fewer than 500 customers or accounts to provide consumer credit reports.



- The Joint Legislative Education Oversight Committee, in consultation with the Department of Public Instruction, may study the impact of raising the compulsory public school attendance age from 16 years of age to 17 or 18 years of age.
- The Environmental Review Commission, in consultation with Division of Air Quality in the Department of Environment and Natural Resources, may study the costs and benefits of adopting the California motor vehicle emissions standards in North Carolina.
- The Environmental Review Commission may study the feasibility of implementing a stormwater management program without requiring the issuance of a state permit prior to construction. The study will consider whether to accept an engineering certification that the stormwater management system complies with stormwater requirements provided by statute or by the Environmental Management Committee rules instead of requiring a permit review by the Department of Environment and Natural Resources. The study will address the enforcement of stormwater requirements; the impact on local stormwater programs; consistency with federal requirements under the Clean Water Act, including limits on non-point source runoff; the ability to accurately track nutrient reductions under nutrient sensitive waters strategies; implications for other environmental review processes; potential impacts on the state's ability to protect water quality and aquatic resources; and the costs and benefits to the property owner or developer.
- The Environmental Review Commission may study abolishing existing environmental regulatory programs and replacing them with a new, full-time Environmental Management Commission, modeled after the North Carolina Utilities Commission, to improve efficiency, communication, and coordination within state government in developing and implementing environmental and natural resources policies.
- The Environmental Review Commission may study requiring retailers who own or control more than 10,000 square feet of retail space in the state and who provide customers with plastic bags for carrying purchased items to implement a plastic bag collection program. The program would require recycling and would provide a clearly marked receptacle for collecting plastic bags, and arrange for the pickup, transport, and recycling of the plastic bags collected. The Commission may also study what alternatives are available to using plastic bags.



- The Environmental Review Commission, in consultation with the Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance, may study issues related to a recycling program for florescent lamps.
- The State Ethics Commission, in consultation with the Legislative Ethics Commission, will study the implementation and effectiveness of the State Government Ethics Act. The study will identify:
 - the areas of the ethics and lobbying process in which public input is needed;
 - the need for notice to the public of interpretations of the law;
 - the effectiveness of the ethics and lobbying education process;
 - the volume of requests for advice;
 - the adequacy of staffing to timely meet the needs of the Act;
 - the general perception of the community affected by the Act; and
 - proposed legislative changes in the governmental process and the law needed to promote and continue high ethical behavior by governmental officers and employees.

The Commission will report its findings and recommendations to the Legislative Ethics Commission on or before March 1, 2009.

- The Legislative Study Commission on Urban Growth and Infrastructure Issues will study measures the General Assembly may take to: (1) foster regional water resource and transportation planning; (2) encourage the use of incentive-based planning by urban area local governments; and (3) assist urban communities in maximizing the benefits of growth and coping with the challenges of rapid growth in population, school enrollment, vehicle miles traveled on urban roads and highways, and related demands for public services while preserving a viable economic climate and building greater regional cooperation.

HOUSE BILL 2487, *Change Format of Drivers Licenses/Under 21*. This law allows driver's licenses or special identification cards to be issued in a vertical format for those under the age of 21 that distinguishes them from the horizontal format for easier identification by members of industries that regulate controlled products and are sales-restricted by age and to assist law enforcement officers with enforcing the law. **Effective: October 1, 2008 and applies to driver's licenses and special identification cards issued or renewed on or after that date.**

HOUSE BILL 2498, *Underground Storage Tank Program Amendments - 2008*. This law makes a variety of changes and clarifications to the Commercial Leaking Petroleum Underground Storage Tank Program. The fees paid by owners and operators of the storage tanks will be increased and

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the Department must establish a pilot program to evaluate the use of site specific clean up standards to provide an expedited assessment and clean up of releases and discharges from petroleum underground storage tanks. **Effective: The majority of the law is effective January 1, 2009.**

HOUSE BILL 2542, Clarify Ethics and Lobbying Laws. This law makes a wide variety of technical and a few substantive changes to the ethics and lobbying law that was passed several years ago. Many of the changes are cosmetic in nature and correct terms and references; however, we will only summarize the substantive changes. The first one provides that all requests for advisory opinions from the Ethics Commission and all information provided for that opinion will remain confidential and are not part of the public record. In addition, formal advisory opinions will now be issued within 30 days of issuance instead of once every year.

The law clarifies that compensation for services includes reimbursement for actual travel, subsistence, and administrative expenses. This was a question that many of you had regarding how to report compensation on your principal registration reports. You will now need to include reimbursed expenses, including mileage, hotel, parking, registration fee and other expenses. The law provides that a lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying. This means that when we provide a percentage of the fee that you have paid quarterly for lobbying that you may rely on that statement and may not be punished for inaccurate information. We will continue to provide a percentage of the fee paid that is for actual lobbying work each quarter.

The law also clarifies that, upon any allegation of unethical conduct by a covered person or a legislative employee, the Ethics Commission will immediately notify the covered person or legislative employee subject to the inquiry in writing so that they are aware of the allegation. And finally, the law provides new definitions for open meetings, gatherings of organizations, and public meetings which was one of the more controversial aspects of the original bill. Many groups have struggled with how to deal with receptions and other events both for their organizations and for legislators whom they would like to invite. These provisions provide new requirements for open meetings where legislators can be invited and attend. **Effective: August 15, 2008.**

HOUSE BILL 2788, Speaker's and President Pro Tempore's Appointments. This legislation appoints persons to various boards and commissions based upon the recommendations of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. **Effective: July 17, 2008.**

- C. Lorance "Rance" Henderson of Burke County and Kevin W. Markham of Wake County are appointed to the Clean Water Management Trust Fund Board of Trustees for terms expiring on July 1, 2012.



- Malcolm I. “Butch” Heyworth of Mecklenburg County and Victor N. Shaw of Union County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on July 1, 2012.
- Donnie W. Brewer of Pitt County is appointed to the Environmental Management Commission for a term expiring on June 30, 2010.
- Jeffrey A. Knight (to fill the unexpired term of Ralph Hollowell) of Union County is appointed to the North Carolina On-Site Wastewater Contractors and Inspections Certification Board for a term expiring on July 1, 2011.
- Jeffrey Starkweather of Chatham County is appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for a term expiring on June 30, 2009, to fill the unexpired term of Thomas S. Blue.
- Chris Dickey of Cherokee County and A.M. “Buck” Demarest of Wake County are appointed to the Well Contractors Certification Board for terms expiring on June 30, 2011.

SENATE BILL 1259, Public Water Service Warranties. This law provides that water supplied by a public water system regulated under the North Carolina Drinking Water Act is not subject to warranties, including the implied warrant of merchantability and the implied warranty of fitness. **Effective: July 28, 2008.**

SENATE BILL 1799, DMV Record Checks and License Changes. This law allows the Division of Motor Vehicles to mail drivers’ licenses to post office boxes if the Division has verified the applicant’s address. This change was necessary because new rules enacted last year that required the Division to send drivers’ licenses only to physical addresses. In addition, criminal record checks will be required for Division of Motor Vehicles employees who are involved in the manufacturer or production of drivers’ licenses and identification cards or who have access to the identity information that appears on drivers’ licenses or identification cards. **Effective: August 8, 2008.**

SENATE BILL 1872, Extend Water Allocation Study. This law allows the Environmental Review Commission and the University of North Carolina at Chapel Hill School of Government to continue their water allocation study. Although the study was originally scheduled to end this year, the study is now extended and the Environmental Review Commission will submit a final report of its findings and recommendations, including any legislative proposals, to the General Assembly on or before October 1, 2010.

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Although the study for regulating private water wells was removed from the drought bill, we expect the water allocation study to continue to review the regulation of private wells, especially since part of the study includes the availability and allocation of ground water resources in North Carolina. The **North Carolina Ground Water Association** will need to continue to fight to protect against the regulation of private wells. **Effective: June 25, 2008.**

SENATE BILL 1875, Clarify Auditor Hotline Authority/Secretary. This law is a reaction to the controversy that erupted when the State Auditor investigated allegations of misconduct and conflict of interest by various senators. The previous law allowed the State Auditor to be responsible for receiving reports of improper governmental activities and there was no specific limitation on the Auditor's jurisdiction. The new law provides that the Auditor is still responsible for receiving reports of allegations of improper government activities; however, the Auditor must now refer cases that allege criminal misconduct to either the State Bureau of Investigation or the district attorney in the county in which the misconduct occurred. Allegations regarding lobbying activities, ethics and campaign finances must be referred to the State Ethics Commission and allegations of violations of election laws must be referred to the State Board of Elections. The law provides that all information related to allegations referred to the State Ethics Commission, including interpretations, advisory opinions, or other information or materials furnished to the Commission must remain confidential and are not public records. The law further provides that the Ethics Commission will be the sole state agency with the authority to determine compliance with or violations of the ethics law and to issue interpretations and advisory opinions. Decisions and advisory opinions by the Commission will be binding on all other state agencies including the Auditor's Office. **Effective: August 15, 2008 and applies to all information received or collected by the State Auditor concerning ethics violations on or after January 1, 2007.**

SENATE BILL 2157, Cumberland Assessments/Installment Payments. This law allows those who are making installment payments for assessments in Cumberland County to make those installments over a 15-year period instead of the 10 years previously allowed. Assessments are typically made for improvements to property, including water lines, sewer lines and sidewalks. This act only applies to Cumberland County. **Effective: July 17, 2008.**

FINAL BUDGET

In the short session, the budget provisions are only to modify the previous budget adopted last year based on new projections for income and expenses for the state. Although they are only supposed to be a "tinkering" with the budget, short sessions have become almost identical to the long session in terms of the process and the length of time it takes to draft, amend and negotiate the budget. The process was very condensed this year and therefore very hurried and hectic. There are several items that always seem to increase and must be paid, including state employee pay raises, Medicaid increases and teachers' bonuses. There is usually little to no money left to provide to the other

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agencies and non-profits who are seeking more funding. In addition, both the House and the Senate wanted to provide their members with talking points for the upcoming election to show that they are providing tax breaks for citizens and spending tax money appropriately. Although the state requires a balanced budget, the Governor has already announced that because of the economic conditions going into the 4th quarter of 2008, that each agency will need to cut an additional 2% from their budgets to prepare for lower income revenues.

Natural and Economic Resources

Green Industries Education and Promotion. The budget provides \$300,000 for water conservation education and promotion.

Water Quality Monitoring on Ferry Vessels. The budget provides over \$384,000 for the FerryMon and ModMon programs which evaluate water quality in the Pamlico Sound, tributary rivers, and the Neuse River using equipment attached to ferries.

River Basin Water Supply Planning. The budget provides over \$508,000 for five new positions to work on river basin water supply plans to ensure the sustainability of the state's water supplies in each river basin, for strengthening the water use database and performing instream flow studies, and for support to the river basin commissions.

Agricultural Drought Response. The budget provides \$200,000 to farmers throughout the state for drought assistance, including well drilling and repair.

Drought Reserve. The budget provides \$660,000 for three water supply interconnections, local water audits, and drought education materials.

Clean Water State Revolving Fund Match. The budget provides over \$2.4 million to meet the 20% state match required to receive the maximum available federal funds for the Clean Water State Revolving Fund.

Drinking Water State Revolving Fund Match. The budget provides over \$5.5 million to meet the 20% state match required to receive the maximum available federal funds for the Drinking Water State Revolving Fund.

One North Carolina Small Business. The budget provides \$3.5 million to the Department of Commerce for grants under the North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Incentive Programs.

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Green Business Fund. The budget provides \$1 million to the NC Green Business Fund for grants to private businesses with less than 100 employees, non-profit organizations, and state agencies to encourage the growth of the state green economy.

Water, Sewer, and Natural Gas Funds. The budget provides \$50 million to the Rural Economic Development Center for grants to local governments to address critical needs related to supplying drinking water, wastewater treatment, and natural gas lines.

Transportation

Leaking Underground Storage Tank Fund. The budget reduces funding for the Leaking Underground Storage Tank Fund.

Reserves/Debt Service/Adjustments

Small Business. The budget extends the tax credit for small business employee health benefits to 2010.

State Funded Compensation Increases. The budget provides for a salary increase to permanent employees of state agencies and departments of the greater of \$1,100 or 2.75%.

Earned Income Tax. The budget allows a 5% credit against the earned income tax, which was increased from 3.5%.

Tax Holiday. The budget creates a sales tax holiday for energy star qualified products including clothes washers, air conditioners, ceiling fans, and other electronic devices. The sales tax holiday will occur on the first Friday of November and last through the weekend.

Small Business Protection Act. The budget includes a new provision by the General Assembly called the Small Business Protection Act which seeks to assist small businesses with the North Carolina Department of Revenue. The Act provides protections for small business owners and allows them to avoid assessments under certain circumstances. In addition, if a tax payer receives erroneous advice from the Department, then the tax payer is not liable for any penalty or additional assessment to the extent that the advice was relied upon and the Department provided the advice in writing or the records establish that the Department provided erroneous verbal advice. In addition, the Revenue Laws Study Committee will review a variety of issues regarding the taxation of services necessary to complete the sale of tangible personal property including the distinction between taxable and non-taxable services.

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Repeal Gift Tax Law. The budget includes a provision that repeals the gift tax in North Carolina.

Capital

Water Resources Development Projects. The budget provides \$20 million for the state's share of Water Resources Development Projects.

LEGISLATION NOT ENACTED

This is not a comprehensive list of the legislation that was not enacted during the 2007/2008 session; however, I wanted to remind you of some of the important legislation that we reported to you. This legislation will have to be re-filed in 2009 to be considered again by the General Assembly.

HOUSE BILL 2497, Amend Bernard Allen Emergency Drinking Water Fund.

SENATE BILL 1749, Chapel Hill Water Conservation Strategies.

HOUSE BILL 2612, Water Resources Grants Funds.

SENATE BILL 2002, Employers Must Use Federal E-Verified Program.

SENATE BILL 699, Labor/Mandatory Lunch Break.

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