



INTRODUCTION

The 2012 “short” legislative session started with a bang on Wednesday, May 16th at noon, as several contentious issues were tackled in the first day of session by the Senate, including a landmark bill that would repeal forced annexations that were ongoing by nine North Carolina cities and establish strict rules for any future annexations. The Senate also approved legislation that would allow live-dealer gaming at Cherokee casinos, a bill expected to meet fierce opposition from a coalition of conservative Republicans and liberal Democrats in the House.

Despite warnings from House and Senate leadership that only a select few issues would be addressed during this short session, over 100 public bills were filed in the first two days of session. Senator Rucho’s “fast-track” bill that would authorize the controversial oil and gas extraction method known as “fracking” was introduced, which will be met by Rep. Gillespie’s “go-slow” fracking bill, expected to be filed in the House this week. Many of these bills were filed more to make a point than with any expectation of serious consideration, including a Democratic proposal to restore over \$500 million to K-12 education to restore the roughly 10,000 positions eliminated by last session’s budget, which will receive little consideration during session but will likely be featured on a number of campaign mailers this fall.

Looming over all other issues is the budget (the original purpose of the short session was to tweak the two year budget based upon actual revenues and expenses; however, it has become a shorter version of the long session). There are many questions that have yet to be answered - will the good working relationship continue between the House and Senate or will their recent spats cause the process to slow down? Will the 5 Democrats in the House that voted for the budget stay the course and vote with the Republicans? Will the Governor veto the budget and most of the legislation sent to her? Will the Republicans be able to overcome any of the Governor's vetoes or any of her expected ones?

Of course, there are also things that we do know. They have to find more money for the budget and will do so with more cuts. The Republicans will not agree to raise taxes. Everything will be done with an eye on the elections in November. The session will move quickly and will be incredibly unpredictable and difficult to follow.

We will continue to closely monitor all the activity in both chambers and keep you updated throughout the weeks ahead. Below is a summary of selected bills introduced last week.



NORTH CAROLINA GROUND WATER ASSOCIATION



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VOC TESTING REQUIREMENTS

SENATE BILL 810, Regulatory Reform Act of 2012, would make a wide variety of changes to regulatory statutes including:

1. Reestablishing the Joint Legislative Administrative Procedure Oversight Committee and repeal the requirement that rule-making bodies must approve a fiscal note for a rule before submitting it for approval (but most agencies must submit proposed rules to the Office of State Budget and Management for certification prior to publication);
2. Amending the 2011 Regulatory Reform Act of 2011 (Senate Bill 781/Session Law 2011-398) to extend the effective date for changes to final decision-making authority in certain contested cases, including in certain Medicaid cases. The new effective date would be the date the waiver from the single state agency requirement is granted or February 1, 2013, whichever comes first;
3. Limiting to five years (from ten) the length of time records must be kept in cases of unclaimed property;
4. Requiring state agencies to provide written notice at least seven days in advance of conducting any authorized audit of a business or individual;
5. Clarifying that in statutes regarding the “discharge of waste” into state waters, the term “discharge” does not include air contaminants;
6. The North Carolina Ground Water Association has been working for years to prevent the requirement that Volatile Organic Compounds (VOC's) be tested for in all new wells. We have been able to push back the effective date for this provision for many years, but have now been working on a more long term solution. The Regulatory Reform Bill, Senate Bill 810, includes a provision requested by the **North Carolina Ground Water Association** that would make any testing contingent upon rules created by the Commission for Public Health. The revised statute would allow, rather than require, the Commission for Public Health to establish rules for testing of private drinking water wells for the presence of certain volatile organic compounds (VOCs). If the Commission finds that testing for certain VOCs is “necessary to protect public health and initiates rule making to require testing” for certain VOCs, the Commission “shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites.”
7. Requiring the State Department of Environment and Natural Resources (DENR) to track and report annually on the permit application processing times;
8. Amending SL 2011-39 (Senate Bill 368, Modify Public Swimming Pool Requirements) to postpone the date for public swimming pool owners and operators to comply with the wading pool fence requirements set out in that legislation from July 1, 2012 to July 1, 2013; and

9. Requiring the Commission on Public Health to develop rules and fee schedule recommendations that would allow applicants for sanitary landfills to choose between a five-year permit or a ten-year permit with a five-year limited review.

Introduced by Senators Rouzer, Brown and Davis and referred to the Senate Commerce Committee.

RESTORE PRIVATE WELL PROGRAM/FUNDS

SENATE BILL 814, Restore Private Well Program/Funds, would appropriate \$222,000 from the General Fund for operating expenses for the Private Well Program and to restore three Environmental Health Regional Specialist positions dedicated to the Private Well Program. **Introduced by Senator Hartsell, and referred to the Senate Appropriations Committee. This legislation is supported by the North Carolina Ground Water Association.**

BILLS OF INTEREST

HOUSE BILL 955, Protect DENR from Co-Applicant Liability, was recommended by the Environmental Review Commission. This bill would seek to protect the Department of Environment and Natural Resources and the State from potential liability associated with becoming a co-applicant with a regional water supply system on the federal approvals needed for the establishment or expansion of a water supply reservoir or other water supply resources. The regional water supply system would be required to indemnify the Department and the State for any liability or other costs incurred related to (i) personal injury or injury to real or personal property to any person or entity in connection with any federal approvals, arising out of negligence, intentional acts or omissions, or unlawful conduct of the regional water supply, and (ii) any violation of the federal approval, whether or not caused by the regional water supply. **Introduced by Representatives Gillespie and Samuelson and referred to the House Environment Committee.**

HOUSE BILL 995, Tax Adjustment Plan, would increase the state's sales and use tax by 1%, and use the generated revenue to reduce the corporate income tax by 1%, increase the exemption for personal income tax, provide a 2% raise to state employees and teachers, and direct any remaining balance to the Department of Public Instruction to reduce the LEA budget adjustment. **Introduced by Representative Owens and referred to the House Finance Committee.**

HOUSE BILL 1009, MSD Amendments, would establish guidelines for appointing members to Metropolitan Sewerage Districts in multi-county districts, and would grant to Metropolitan Sewerage District all the powers of a Metropolitan Water District. **Introduced by Representatives McGrady and Moffitt and referred to House Government Committee.**

SENATE BILL 812, Protect DENR from Co-applicant Liability, is identical to House Bill 955, summarized above in this legislative report. **Introduced by Senators Brown, Goolsby, and Rabon and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 820, Clean Energy and Economic Security Act. This legislation includes the Senate recommendations on "fracking" in North Carolina and is considered the "fast-track" bill that would allow fracking as early as 2014. The bill would also create a new 9 member Oil and Gas Board to regulate the oil and gas industry related to oil and natural gas exploration and allow them to establish the necessary regulations. The House has already announced that they will file a bill that will follow a "go slow" model that will include all of the recommendations made by DENR and by the Attorney General. Republicans are clearly in disagreement about which camp to be in and negotiations are going on behind the scenes to reach a compromise. **Introduced by Senators Rucho, Blake and Walters, and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

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