

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

School of Government

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House Legislative Day 4

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Senate Legislative Day 4

Tuesday, February 1, 2011

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SUMMARIES OF BILLS FILED

Public Bills

HOUSE BILLS

H 20. [TEXFI CLEANUP FUNDS](#) (=S 12). Filed 2/1/11. *TO APPROPRIATE FUNDS FOR MONITORING AND EMERGENCY CLEANUP OF THE TEXFI SITE CONTAMINATION.* Identical to S 12, filed 1/31/11.

Intro. by Lucas, Floyd, Parfitt, Glazier. APPROP

Budget and Appropriations;
Agriculture, Environment, and
Natural Resources

H 21. [COUNTY ADMINISTRATION OF MUNICIPAL ELECTIONS.](#) Filed 2/1/11. *TO CLARIFY THE ADMINISTRATION OF NONPARTISAN MUNICIPAL ELECTIONS BY COUNTY BOARDS OF ELECTIONS SINCE GENERAL ABOLITION OF MUNICIPAL BOARDS OF ELECTIONS IN 2001.*

Deletes subsection (a) of GS 163-284, which detailed the transfer procedures for registration and election administration from municipalities and special districts to county boards of elections. Clarifies that the specific municipalities listed in GS 163-285 (Morganton, Old Fort, Granite Falls, and Rhodhiss) are excepted from mandatory voter registration and election administration by county boards of elections. Makes conforming changes.

Intro. by Crawford.

GS 163

Local Government; Elections Law

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H 22. VANCE-GRANVILLE COMM. COLL. BOND FUNDS. Filed 2/1/11. *TO PROVIDE FOR ADDITIONAL FLEXIBILITY FOR VANCE-GRANVILLE COMMUNITY COLLEGE BOND FUNDS.*

Amends Section 3(b) of SL 2000-3 as the title indicates. Makes an exception for Vance-Granville Community College in the use of college bond funds allocated for new construction purposes to allow the funds to be reallocated from a site outside the main campus to a site within the main campus county.

Intro. by Crawford. UNCODIFIED Education; Budget and Appropriations

H 23. CREATE GLOBAL ENGAGEMENT STUDY COMMITTEE (=S 15). Filed 2/1/11. *TO STUDY MEANS TO INCREASE NORTH CAROLINA'S GLOBAL ENGAGEMENT.* Identical to S 15, filed 1/31/11.

Intro. by Carney. STUDY General Assembly; Business and Commerce

H 24. EXPAND DUTIES OF ECONOMIC DEV. OVERSIGHT COMM. (=S 14). Filed 2/1/11. *TO MODIFY AND EXPAND THE DUTIES OF THE JOINT LEGISLATIVE ECONOMIC DEVELOPMENT OVERSIGHT COMMITTEE.* Identical to S 14, filed 1/31/11.

Intro. by Carney. GS 120 Business and Commerce; Community and Economic Development; General Assembly

H 25. LYMPHEDEMA AWARENESS DAY. Filed 2/1/11. *DESIGNATING MARCH SIXTH OF EACH YEAR AS LYMPHEDEMA AWARENESS DAY.*

Enacts new GS 103-12 to provide as title indicates.

Intro. by Cotham. GS 103 State Government

H 27. FORENSIC SCIENCES ACT. Filed 2/1/11. *TO (1) CREATE THE NORTH CAROLINA FORENSIC SCIENCE ADVISORY BOARD, (2) ENCOURAGE EFFORTS TO ELIMINATE SOURCES OF HUMAN ERROR IN FORENSIC EXAMINATIONS, (3) REQUIRE CERTIFICATION OF FORENSIC SCIENCE PROFESSIONALS, (4) RENAME THE STATE BUREAU OF INVESTIGATION LABORATORY AS THE NORTH CAROLINA STATE CRIME LABORATORY, (5) CREATE THE POSITION OF OMBUDSMAN TO ENSURE THAT THE BEST FORENSIC PROCESSES AND PROCEDURES ARE UTILIZED IN THE STATE CRIME LABORATORY, (6) CLARIFY STATUTES THAT ALLOW FOR THE ADMISSIBILITY OF FORENSIC ANALYSES INTO EVIDENCE, (7) CLARIFY THE STATE'S OBLIGATION TO DISCLOSE TO THE DEFENDANT ALL INFORMATION RELATING TO THE TESTING OR EXAMINATION OF EVIDENCE AND TO PENALIZE OMISSION OR MISREPRESENTATION RELATING TO DISCLOSURE, AND (8) CLARIFY THAT STATE CRIME LABORATORY PERSONNEL SERVE THE PUBLIC AND THE CRIMINAL JUSTICE SYSTEM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON THE PRESERVATION OF BIOLOGICAL EVIDENCE, AND TO PROVIDE THAT THE ACT SHALL BE ENTITLED "THE FORENSIC SCIENCES ACT OF 2011."*

Enacts new GS 114-16.1, establishing a 16-member North Carolina Forensic Science Advisory Board (Board) in the Department of Justice (DOJ). Indicates that the membership will include the State Crime Laboratory Director, and 15 specified members, appointed by the Attorney General. Details meeting, membership term, and expense requirements for the Board. Authorizes the Board to review State Crime Laboratory (Laboratory) operations and make recommendations as necessary and concerning any of the following: (1) new scientific programs, protocols, and methods of testing; (2) plans for new program implementation, and existing program maintenance, improvement, or elimination; (3) testing protocols, and examination methods and guidelines for court presentations; and (4) qualification standards for Laboratory forensic scientists. Directs the Board to, at the Laboratory Director's request, review the work of Laboratory scientists. Explains that the reviewed records retain their confidential status and are considered part of a criminal investigation. Details procedures for Board review of records, and directs the Board to recommend to the Laboratory a review process for retesting and reexamination requests.

Directs the State Bureau of Investigation (SBI) to encourage and seek collaborative opportunities and grant funds, in association with the university program or independent nationally-recognized forensic institutions, to research human observer bias and sources of human error in forensic examinations. Directs the Laboratory, in consultation with the Board, to develop standard operating procedures to minimize potential bias and sources of human error in forensic science, and to apply the procedures to all forensic analyses that may be used in litigation.

Mandates individual certification of Laboratory forensic science professionals as soon as practicable, and no later than June 1, 2012, unless inconsistent with international and ISO standards. Provides access to the certification process to all forensic science professionals.

Directs the Revisor of Statutes to replace the name of the State Bureau of Investigation or any other similar reference, with "North Carolina State Crime Laboratory."

Creates the position of ombudsman in the Laboratory within the DOJ. Directs the ombudsman to work with interested parties and the general public to ensure that Laboratory procedures and protocols are consistent with state and federal law, best forensic law practices, and in the best interests of justice. Lists additional responsibilities and reporting requirements. Makes the creation of the ombudsman position effective July 1, 2011.

Amends GS 8-58.20 (pertaining to the admissibility of forensic evidence) to require that a forensic analysis or a DNA analysis be performed by a laboratory that is accredited by an accrediting body that requires conformance to forensic specific requirements, and is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement for Testing (previously required accord with SBI or accreditation by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board). Makes a conforming change to GS 20-139.1(c2) (providing admissibility requirements for chemical analyses of blood and urine).

Amends GS 15A-903 to specify that any matter or evidence submitted for testing or examination, any results, and all other data, calculations, or writings, including, but not limited to, preliminary test or screening results and bench notes, be provided, upon motion, to the defendant. Requires that all public and private entities that obtain information related to an investigation, disclose the information to the appropriate prosecutorial agency for disclosure to the defendant. Provides that a knowing and voluntary omission or misrepresentation in connection with the statute constitutes an obstruction of justice and is punishable as provided by law. Makes technical and conforming changes.

Amends GS 114-16 to clarify that employees of the Laboratory provide services to the public and the criminal justice system (rather than the prosecuting officers of the state).

Provides that nothing in the act is intended to amend or modify the statutory or criminal law applicable to discovery in criminal cases, which was applicable before the act's effective date. Clarifies that prosecutions for offenses committed before the act's effective date are not abated or affected, and the statutes that would apply but for the act remain applicable to those prosecutions.

Intro. by Glazier, Stam, Michaux, Jackson. GS 8, 15A, 20, 114

State Government; Criminal Law, Procedure, and Sentencing; Courts

SENATE BILLS

S 17. JOINT REGULATORY REFORM COMMITTEE. Filed 2/1/11. *TO ESTABLISH THE JOINT REGULATORY REFORM COMMITTEE.*

Establishes the 16-member Joint Regulatory Reform Committee (Committee). Provides that the Committee's purpose is to foster a strong environment for creating private sector jobs by removing the undue burden imposed by outdated, unnecessary, and vague rules. Enumerates the process for the appointment of members to the Committee. Delineates the powers and duties of the Committee. Allows any proposed legislation from the Committee to be introduced and considered during the 2011 Regular Session of the General Assembly through sine die adjournment. Provides additional guidelines regarding organization of the Committee and declares that the Committee has the powers of a joint committee under GS 120-19 through GS 120-19.4 while it is discharging its duties. Effective upon ratification and expires December 31, 2012.

Intro. by Brown, Rouzer, Jackson.

JOINT RES

Business and Commerce; General Assembly

S 18. CLARIFY DEFINITION/ JUD. DISTRICT/ STATE BAR. Filed 2/1/11. *CLARIFYING THE DEFINITION OF JUDICIAL DISTRICTS UNDER THE LAWS REGULATING THE NORTH CAROLINA STATE BAR.*

Amends GS 84-19 to clarify that the term *judicial district* includes the High Point Superior Court District as described under GS 7A-41(b)(13).

Intro. by Vaughan.

GS 84

Employment and Retirement

S 20. STUDENT REFUNDS BY PROPRIETARY SCHOOLS. Filed 2/1/11. *REGARDING THE REFUND POLICIES OF PROPRIETARY SCHOOLS.*

Amends GS 115D-90(b)(7) to require that the school bulletin that must be included with a proprietary school's license application contain policies and regulations providing for at least a full refund if the student withdraws before the first day of class or the college cancels the class and a 75% refund if the student withdraws

within the first 25% of the enrollment period that the student was charged for. Applies beginning with the 2011-12 academic year.

Intro. by Tillman, Clodfelter. GS 115D Education

S 21. ADD PROGRAM EVALUATION COMMITTEE. Filed 2/1/11. *CREATING THE PROGRAM EVALUATION COMMITTEE AS A STANDING COMMITTEE OF THE SENATE.*

As title indicates.

Intro. by Clary. SENATE RES General Assembly

S 22. APA RULES: INCREASING COSTS PROHIBITION. Filed 2/1/11. *TO LIMIT NEW AGENCY REGULATORY REQUIREMENTS.*

Amends GS 150B-19 to prohibit an agency from adopting a rule that results in additional costs for those subject to the rule unless the rule must be adopted in order to respond to: (1) a serious and unforeseen threat to public health, safety, or welfare; (2) an act of the General Assembly or Congress; (3) a change in federal or state budgetary policy; (4) a federal regulation; or (5) a court order. Applies to rules adopted on or after the act's effective date.

Intro. by Brown, Rouzer. GS 150B APA/Rule Making; State Government

S 23. PROTECT HEALTH CARE FREEDOM. Filed 2/1/11. *TO PROTECT THE FREEDOM TO CHOOSE HEALTH CARE AND HEALTH INSURANCE.*

Enacts new Article 49A to GS Chapter 58, entitled the North Carolina Health Care Protection Act. New GS 58-49A-1(a) prohibits a law or rule from (1) compelling a person to provide for health care services or medical treatment for that person, or compelling a person to contract with, or enroll in, a public or private health care system or health insurance plan; (2) interfering with a person's right to pay directly for lawful health care services or medical treatment to preserve or enhance that person's life or health; or (3) imposing a penalty, tax, fee, or fine on a person for providing for, or failing to provide for, health care services or medical treatment for that person, or for contracting with, or enrolling in, or failing to contract with or enroll in, a public or private health care system or health insurance plan. Provides that *health care services* or *medical treatments* do not include drug testing, drug screening, or communicable disease controls. Also provides that the subsection does not apply to persons in custody of the Department of Correction or a local confinement facility, or to persons who have not completed all sentence requirements imposed as a result of a criminal conviction, including, but not limited to, probation, parole, or post-release supervision.

New GS 58-49A-1(b) provides that the statute will not expand, limit, or modify the following: (1) the common law doctrine of necessities, or any duty a person owes to a spouse or dependent concerning health care services or medical treatment; (2) any law regarding the legality of health care services or medical treatments in NC or any law regarding the parties authorized to provide those services; (3) any right or duty of a health care agent related to a duly executed health care power of attorney; (4) any law regarding the right or duty of a parent or guardian in the determination or provision of health care services or medical treatment for a minor; (5) any law regarding newborn screenings for metabolic or other heredity and congenital disorders; (6) any law regarding health care services or medical treatment ordered under the Workers' Compensation Act; (7) any law regarding health care services or medical treatment related to involuntary commitments for mental illness or substance abuse; (8) any law relating to the taking of DNA or other bodily fluid upon arrest; or (9) any law requiring the provision of health insurance to employees as a condition of state economic incentives receipt.

New GS 58-49A-1(c) provides a private right of action to an individual aggrieved by a violation of the statute. Directs the Attorney General to bring or defend a state or federal action or proceeding on behalf of NC residents, if necessary to enforce the statute.

Intro. by Clary, Rouzer, Pate. GS 58 Health, Social Services, and Aging

S 24. U. S. NAVY SPECIALTY PLATES. Filed 2/1/11. *TO CHANGE THE NAME OF THE U.S. NAVY SPECIALTY PLATE TO THE U.S. NAVY SUBMARINE VETERAN PLATE, TO CHANGE THE PHRASE ON THE PLATE, AND TO ADD MORE DETAIL TO THE REPRESENTATION QUALIFICATION PIN.*

Amends GS 20-79.4(146) as the title indicates.

Intro. by Hunt. GS 20 Military and Veterans Affairs; Transportation

S 25. ONLY BARBERS TO USE BARBER POLE/ADVERTISEMNT. Filed 2/1/11. *PROVIDING THAT ONLY BARBERS MAY USE THE STRIPED BARBER POLE AS A MEANS OF ADVERTISEMENT.*

Amends GS 86A-1 to prohibit advertising or representing oneself as a barber, including through the use or display of the barber pole, by a person, persons, or a corporation who has not obtained a certificate of registration as a registered barber or a shop permit or a school permit issued by the State Board of Barber Examiners under the provisions of GS Chapter 86A. Makes a violation of GS 86A-1 (necessity for certificate of registration and shop or school permit) a Class 3 misdemeanor.

Intro. by D. Berger.

GS 86A

Employment and Retirement;
Business and Commerce

S 26. NORTH CAROLINA BENEFIT CORPORATION ACT. Filed 2/1/11. *TO ENACT THE NORTH CAROLINA BENEFIT CORPORATION ACT.*

Adds new Article 18, *The North Carolina Benefit Corporation Act* (Benefit Corporation Act), to GS Chapter 55. Provides that new Article 18 applies to all benefit corporations and defines *benefit corporations* to mean a business corporation that elects to become subject to the Benefit Corporation Act and that has not terminated its status as a benefit corporation under proposed GS 55-18-23 (termination of benefit corporation status). Provides additional details regarding the application and effect of the Benefit Corporation Act.

Provides definitions for the terms used in the Benefit Corporation Act. Defines *specific public benefit* to mean conferring any particular benefit on society or the environment. Requires that the formation of a benefit corporation adhere to the provisions of the other Articles in GS Chapter 55 but that the articles of incorporation for the benefit corporation must state that it is a benefit corporation.

Requires heightened voting requirements for some actions and changes within a benefit corporation that are in addition to provisions of other Articles in GS Chapter 55. Provides process for a business corporation to elect to become a benefit corporation under proposed Article 18. Includes process for termination of benefit corporation status. Directs that the purpose of a benefit corporation must be to create general public benefit and that this purpose is in addition to any lawful business purpose.

Includes accountability provisions setting standards of conduct for directors and officers of a benefit corporation. Requires that the board of directors of a benefit corporation include one director who is designated as the Benefit Director. Delineates the powers, duties, rights, and immunities specific to the Benefit Director. Provides for election or removal of the Benefit Director under the provisions of Part 1 of Article 8 of GS Chapter 55.

Allows for the designation of a benefit officer and provides for the officer's duties. Limits enforcement of the duties of directors and officers under the Benefit Corporation Act to only in a benefit enforcement proceeding. Provides guidelines for commencing or maintain a benefit enforcement proceeding.

Requires that a benefit corporation prepare an annual benefit report to be sent to each shareholder. Additionally requires the benefit corporation to post its annual benefit report on the public portion of its web site; however, permits redaction of information regarding compensation paid to directors and any financial or proprietary information included in the benefit report.

Requires the annual report that must be submitted by a benefit corporation to the Secretary of Revenue, or to the Secretary of State under GS 55-16-22, to include the most recent benefit report delivered to shareholders, but allows omission of the information regarding compensation paid to directors and any financial or proprietary information included in the benefit report.

Effective December 1, 2011.

**Intro. by Vaughan, Stevens,
Kinnaird.**

GS 55

Business and Commerce

Local Bills

HOUSE BILLS

H 26. HENDERSON COUNTY FIRE DISTRICTS. Filed 2/1/11. *TO ALLOW HENDERSON COUNTY TO INCLUDE ALL UNINCORPORATED AREAS IN A FIRE PROTECTION DISTRICT.*

Amends SL 2000-4 to provide that the boundaries of any fire protection district in Henderson County may be changed by resolution of the Henderson County Board of Commissioners to include any unincorporated area if (1) all the unincorporated areas, except those owned by the U.S., are placed in a fire protection district and (2) no fire district contains any new noncontiguous territory, other than a noncontiguity caused by federally owned property. Makes any resolution effective on the first day of the next fiscal year. Makes a technical change.

Intro. by McGrady, Guice.

HENDERSON

Henderson

SENATE BILLS

S 19. UNION FIRE FEE SUNSET REPEALED. Filed 2/1/11. *TO REPEAL THE SUNSET ON FIRE PROTECTION FEES IN UNION COUNTY.*

Repeals Section 2 of SL 2010-84, as title indicates.

Intro. by Tucker.

UNION

Union

ACTION ON BILLS

February 1, 2011

- NOTES**
1. Amendments and committee substitutes adopted today are summarized following the chamber action.
 2. Subscribers can find the digest of every version of each bill online at www.dailybulletin.unc.edu.
 3. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
 4. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
 5. Enacted bills are indicated by #, failed bills by *. Actions that change a bill are indicated by HA or SA.

PUBLIC BILLS

H0002 Protect Health Care Freedom. 01-31-11	H	Placed On Cal For 2/2/2011
H0018 Felony Firearms Act Amend/Tech Correction.	H	Passed 1st Reading
H0019 Permanent House Rules.	H	Ref To Com On Judiciary
	H	Passed 1st Reading
	H	Ref To Com On Rules, Calendar, and Operations of the House
H0020 Texfi Cleanup Funds.	H	Filed
H0021 County Administration of Municipal Elections.	H	Filed
H0022 Vance-Granville Comm. Coll. Bond Funds.	H	Filed
H0023 Create Global Engagement Study Committee.	H	Filed
H0024 Expand Duties of Economic Dev. Oversight Comm.	H	Filed
H0025 Lymphedema Awareness Day.	H	Filed
H0027 Forensic Sciences Act.	H	Filed
S0010 Children's Advocacy Centers Funds.	S	Passed 1st Reading
	S	Ref To Com On
Appropriations/		Base Budget
S0011 NC Military Business Center Funds.	S	Passed 1st Reading
	S	Ref To Com On
Appropriations/		Base Budget
S0012 Texfi Cleanup Funds.	S	Passed 1st Reading
	S	Ref To Com On
Appropriations/		Base Budget
S0013 Balanced Budget Act of 2011.	S	Passed 1st Reading
	S	Ref To Com On
Appropriations/		Base Budget
S0014 Expand Duties of Economic Dev. Oversight Comm.	S	Passed 1st Reading
	S	Ref To Com On Finance

S0015 Create Global Engagement Study Committee.	S	Passed 1st Reading
	S	Ref To Com On Finance
S0016 Require Blood Test for All Deaths by Vehicle.	S	Passed 1st Reading
	S	Ref To Com On Judiciary II
S0017 Joint Regulatory Reform Committee.	S	Filed
S0018 Clarify Definition/Jud. District/State Bar.	S	Filed
S0020 Student Refunds by Proprietary Schools.	S	Filed
S0021 Add Program Evaluation Committee.	S	Filed
S0022 APA Rules: Increasing Costs Prohibition.	S	Filed
S0023 Protect Health Care Freedom.	S	Filed
S0024 U.S. Navy Specialty Plate Changes.	S	Filed
S0025 Only Barbers to Use Barber Pole/ Advertisement.	S	Filed
S0026 North Carolina Benefit Corporation Act.	S	Filed

LOCAL BILLS

H0026 Henderson County Fire Districts.	H	Filed
S0019 Union Fire Fee Sunset Repealed.	S	Filed

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

None

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Notes

None

NEXT SESSIONS

February 2, 2011

HOUSE convenes at 2:00 p.m.

SENATE convenes at 2:00 p.m.