

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 61

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Senate Legislative Day 61

Tuesday, May 10, 2011

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SUMMARIES OF BILLS FILED

Public Bills

None

Local Bills

None

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ACTION ON BILLS**May 10, 2011**

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

PUBLIC BILLS

H0115 North Carolina Health Benefit Exchange. 03-30-11, 05-10-11	HA Reptd Fav Com Sub 2 H Re-ref Com On Appropriations
H0129 Level Playing Field/Local Gov't Competition. 03-23-11, 03-24-11, 03-28-11, 04-27-11, 04-28-11, 05-02-11	H Pres. To Gov. 5/10/2011
H0197 School Calendar Flexibility/Inclement Weather. 05-05-11	S Passed 2nd & 3rd Reading
H0222 Electric Vehicle Incentives. 04-13-11, 04-14-11, 05-10-11	S Reptd Fav Com Substitute SA Com Substitute Adopted
H0311 Household Goods Carriers/ID Markings. 05-05-11	S Rec From House S Passed 1st Reading S Ref to Transportation. If fav, re-ref to Finance
H0318 State Treasurer's Investments.-AB 05-04-11	H Passed 2nd & 3rd Reading
H0348 Offenders/No Access to Personnel Records.-AB 05-09-11	H Postponed To 5/17/2011
H0379 Uniform Depositions and Discovery Act. 05-09-11	H Passed 2nd & 3rd Reading
H0380 Amend RCP/Electronically Stored Information. 05-09-11	H Passed 2nd & 3rd Reading
H0388 Reclaimed Water Cross-Connection Control. 05-09-11	H Passed 2nd & 3rd Reading
H0397 DHHS Penalties and Remedies Revision.-AB 04-20-11	S Passed 1st Reading S Ref to Health Care. If fav, re-ref to Finance
H0406 Voluntary Agriculture Districts.	H Reptd Fav H Re-ref Com On Finance H Withdrawn From Com H Cal Pursuant Rule 36(b) H Placed On Cal For 5/11/2011
H0423 Enact First Evaluation	HA Reptd Fav Com Sub 2

Program.	H	Placed On Cal For 5/11/2011
04-20-11, 05-10-11		
H0453 Allow Salary Protection Insurance.	H	Reptd Fav
	H	Re-ref Com On Finance
H0483 DNA Samples/Additional Felonies.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Judiciary I
05-05-11		
H0490 Rename Yadkin River Bridge.	H	Reptd Fav
	H	Cal Pursuant Rule 36(b)
	H	Placed On Cal For 5/11/2011
H0493 Landlord Tenant Law Changes.	H	Placed On Cal For 5/11/2011
05-09-11		
H0497 Clarify Definition of General Contractor.	H	Withdrawn From Cal
	H	Re-ref Com On Judiciary Subcommittee A
H0542 Tort Reform for Citizens and Businesses.	HA	Reptd Fav Com Substitute
	H	Cal Pursuant Rule 36(b)
	H	Placed On Cal For 5/11/2011
05-10-11		
H0561 No DOT Medians on Certain Roads.	S	Withdrawn From Cal
	S	Re-ref Com On Rules and Operations of the Senate
05-04-11		
H0589 Divorce/DVPO/Child Support Changes.	H	Amend Failed 1
	HA	Amend Adopted 1
	H	Passed 2nd & 3rd Reading
	H	Ordered Engrossed
05-04-11, 05-10-11		
H0692 Increase Payment of Unclaimed Property Claims.	S	Rec From House
	S	Passed 1st Reading
	S	Ref To Com On Finance
05-05-11		
H0737 Strengthen Child Safety Laws/ Care Facilities.	H	Placed On Cal For 5/11/2011
H0814 Fair Compensation for Mortgage Broker/Lender.	H	Withdrawn From Com
	H	Re-ref Com On Rules, Calendar, and Operations of the House
H0823 Governance of the Dep't of Public Instruction.	H	Serial Referral to Finance Stricken
H0917 Modify Local Sales Tax City Distribution.	H	Withdrawn From Com
	H	Re-ref Com On Rules, Calendar, and Operations of the House
S0090 State Board of Education Confirmation.	S	Withdrawn From Com
	S	Re-ref Com On Rules and Operations of the Senate
S0126 Drivers License/Military ID Validity.	S	Passed 2nd & 3rd Reading
S0170 Clarify Nuisance Abatement Laws.	S	Reptd Fav Com Substitute
	SA	Com Substitute Adopted
05-10-11		
S0212 Cemeteries/Survey Stamp.	H	Passed 3rd Reading
S0271 Commercial and Other M/V Law Changes.-AB	S	Withdrawn From Com
	S	Placed On Cal For 5/17/2011

05-04-11
S0300 Miscellaneous Service/Process S Reptd Fav
Amendments.

S0323 State Hlth Plan/ HA Conf Report Adopted
Appropriations & Transfer ll.

03-24-11, 04-19-11, 04-20-11, 04-28-11
S0345 Encourage Invest to Retain S Passed 2nd & 3rd Reading
Art 3A Installment.

S0354 Rental Property/Lithium S Passed 2nd & 3rd Reading
Battery Smoke Alarms.

05-04-11
S0374 Landowner Protection Act. S Reptd Fav Com Substitute
SA Com Substitute Adopted

05-10-11
S0380 ETJ/Definition of Bona Fide S Amend Failed 1
Farm Purposes. S Passed 3rd Reading

04-28-11
S0426 Modify/Clarify Public Finance S Reptd Fav Com Substitute
Statutes. SA Com Substitute Adopted

05-10-11
S0428 Study Consolidated S Reptd Fav
Environmental Commission.

S0432 Revise Probate Code. S Passed 3rd Reading

05-02-11
S0484 REPS Credits at Cleanfields S Reptd Fav Com Substitute
Parks. SA Com Substitute Adopted

05-10-11
S0498 Modify Law Re: Corporal S Passed 2nd & 3rd Reading
Punishment.

05-05-11
S0513 Allow Savings Promotion S Reptd Fav
Raffles.

S0527 Life Sciences Development Act. S Withdrawn From Com
S Re-ref Com On Finance

S0549 Honor Maxine Swalin. S Withdrawn From Com
S Placed On Cal For 5/12/2011

S0600 Out-of-State Law Enforcement/ S Reptd Fav Com Substitute
Special Events. SA Com Substitute Adopted

05-10-11
S0607 Conform Medical Record Laws. H Passed 1st Reading
H Ref To Com On Health and
Human Services

04-28-11, 05-05-11
S0613 Hunting & Fishing/Active Duty S Reptd Fav Com Substitute
Military. SA Com Substitute Adopted

05-10-11
S0626 PED to Study DENR Action/ S Reptd Fav Com Substitute
Alcoa Contamination. SA Com Substitute Adopted

05-10-11
S0648 Amend Law Re: School S Withdrawn From Cal
Discipline. S Placed On Cal For 5/11/2011

05-05-11
S0661 License Plate Agency S Reptd Fav Com Substitute
Contracts. SA Com Substitute Adopted

05-10-11
S0667 Permit Advertising on School S Withdrawn From Com

Buses.	S	Re-ref Com On Education/ Higher Education
S0669 Dix Property-Mental Health Trust Fund. 05-04-11	S	Passed 2nd & 3rd Reading
S0676 Clarify Water & Well Rights/ Private Property. 05-03-11	S	Withdrawn From Cal Placed On Cal For 5/12/2011
S0709 Energy Jobs Act. 05-04-11, 05-10-11	SA	Amend Adopted 1 Passed 2nd & 3rd Reading
S0724 An Act to Improve Public Education. 05-05-11	S	Passed 2nd & 3rd Reading
S0731 Zoning/Design and Aesthetic Controls. 05-10-11	S	Reptd Fav Com Substitute SA Com Substitute Adopted
S0749 Modify Weight Limits for Farm Operations. 04-28-11	S	Reptd Fav

LOCAL BILLS

H0150 Greensboro Charter Amendments. 05-09-11	H	Postponed To 5/11/2011
H0207 Local Development for Winston- Salem. 05-05-11	S	Rec From House Passed 1st Reading Ref To Com On State and Local Government
H0208 Acquiring by Right- Condemnation of Property.	H	Passed 3rd Reading
H0352 Delay Kannapolis Annexation.	S	Rec From House Passed 1st Reading Ref To Com On State and Local Government
H0371 Winston-Salem/Informal Bids Electronically.	S	Rec From House Passed 1st Reading Ref To Com On State and Local Government
H0415 Topsail Beach/Nags Head/ Littoral Rights. 05-04-11	S	Passed 2nd & 3rd Reading
H0435 Mecklenburg Energy Efficiency/ Renewable. 05-09-11	H	Passed 2nd & 3rd Reading
H0510 Reidsville Elections.	S	Rec From House Passed 1st Reading Ref To Com On State and Local Government
H0532 Graham County/Cemetery Tax By General Law.	H	Passed 3rd Reading
H0558 Forsyth/Winston-Salem Zoning Amendments.	S	Rec From House Passed 1st Reading Ref To Com On State and Local Government

S0019 Union Fire Fee Sunset Repealed.	S	Passed 2nd Reading
S0200 Alamance/Orange 9% Boundary.	S	Withdrawn From Cal
	S	Placed On Cal For 5/12/2011
S0201 Alamance/Orange Boundary.	S	Withdrawn From Cal
	S	Placed On Cal For 5/12/2011
04-14-11		
S0269 Hillsborough Occupancy Tax.	H	Passed 3rd Reading
S0295 Marshville Charter Consolidation.	H	Passed 3rd Reading
S0431 Fontana Dam Incorporated.	S	Passed 2nd Reading

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 115. NORTH CAROLINA HEALTH BENEFIT EXCHANGE. Filed 2/16/11. House committee substitute makes the following changes to 2nd edition.

Adds a definition for *navigator* in proposed GS 58-50-300. Changes the North Carolina Health Benefit Exchange Authority Board (Board) to include 12 members (rather than 11) in addition to the Commissioner of Insurance and the Director of the Division of Medical Assistance (DMA), and specifies the appointing authority and member requirements. States that the Director of DMA will only vote in the case of a tie. Adds that the annual salary for the Executive Director will not exceed 150% of the annual salary for Council of State members. Directs the Exchange Authority to also consider the extent to and the circumstances under which benefits for spiritual care services, as defined, will be made available under the Exchange Authority. Deletes, from the list of the Exchange Authority's duties, the directive to credit the amount of any free choice voucher to the monthly premium of the plan in which a qualified employee is enrolled. Specifies that any insurer offering only catastrophic plans outside of the Exchange Authority without offering any plans in the Exchange will be required to participate and offer identical catastrophic plans inside the Exchange Authority. Adds provision stating that proposals submitted by the Exchange Authority to ensure solvency will not include General Fund appropriations. Clarifies that an annual budget for the Exchange Authority will be submitted to the Commissioner of Insurance (Commissioner) at least 120 days before the beginning of the next fiscal year. Removes directive to the Commissioner to promulgate regulations pursuant to the Administrative Procedure Act. Makes additional clarifying changes.

Health, Social Services, and Aging;
Business and Commerce

H 222. ELECTRIC VEHICLE INCENTIVES. Filed 3/2/11. Senate committee substitute makes the following changes to 3rd edition.

Clarifies one of the requirements of a plug-in electric vehicle, in proposed GS 20-4.01(28a)b., to require that the four-wheeled motor vehicle must not be modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.

Transportation

H 423. ENACT FIRST EVALUATION PROGRAM. Filed 3/22/11. House committee substitute makes the following changes to 2nd edition.

Changes the section number of proposed GS 122C-263A to GS 122C-263.1. Clarifies that a waiver granted by the Secretary of Health and Human Services (Secretary) is in effect for up to three years and may be rescinded at any time if the Secretary finds that the local management entity has failed to meet the statute requirements. Directs the Department of Health and Human Services (DHHS) to maintain a list of individuals on the DHHS website who have successfully completed the standardized training program and examination. Makes other clarifying changes.

Adds a new section directing each 24-hour residential facility that (1) falls under the category of non-hospital medical detoxification, facility-based crisis service, or inpatient hospital treatment; (2) is not a state facility under the jurisdiction of the Secretary; and (3) is designated as a facility for the custody and treatment under specified petitions of involuntary commitment to submit, beginning January 1, 2012, a written report on involuntary

commitments each January 1 and each July 1 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, including three detailed components. Health, Social Services, and Aging

H 542. TORT REFORM FOR CITIZENS AND BUSINESSES. Filed 3/30/11. House committee substitute makes the following changes to 1st edition. Amends Article 4 of GS Chapter 8C by rewriting Rule 414 to clarify that the rule does not impose an affirmative duty to seek a reduction in billed charges to which a party is not contractually entitled, and deletes language stating that evidence of source of payment and rights of subrogation related to a payment are admissible. Amends GS 8-58.1 to delete a provision stating that the testimony of a specified person establishes a rebuttable presumption of the reasonableness of the amount of the charges. Amends GS 1D-25(d)(2) by clarifying that 75% of the amount over \$100,000, less a proportionate part of the costs of litigation, including reasonable attorneys' fees, be remitted to the Civil Penalty and Forfeiture Fund, and adds language to instruct the jury of the provisions of subsection (d) before the jury begins its deliberations.

Amends GS 99B-12 by clarifying that no manufacturer or seller of drugs is liable in any product liability action if the drug alleged to have caused harm was approved for safety and efficacy by the United States Food and Drug Administration (FDA) and its labeling was in compliance with the FDA's approval at the time the drug left the control of the manufacturer or seller. Deletes proposed subsection (c) of GS 99B-12, which stated that the statute does not expand authority or affect liability, as specified.

Amends GS 6-21.1 to clarify that where there was an unwarranted refusal by the defendant to negotiate or pay the claim that is the basis for the suit, the amount of damages is \$20,000 (was, \$15,000) or less, and the damages recovered exceed the highest offer made by the defendant 30 days or more before the start of the trial (previously no time limit), then the presiding judge may, at the judge's discretion, allow reasonable attorneys' fees to the duly licensed attorney representing the litigant obtaining a judgment for damages in the lawsuit. Makes a conforming change.

Amends proposed GS 38B-3(2) by adding the following additional element which must be present for a possessor of land to be liable for the bodily injury or death of trespassing children resulting from an artificial condition of the land: the utility of maintaining the condition and the burden of eliminating the danger were slight as compared with the risk to the child. Adds new subdivision (3) to GS 38B-3 to provide, as an exception to the general rule, that a possessor of land may be liable for the physical injury or death of a trespasser if the possessor discovers the trespasser in a position of peril or helplessness on the property and fails to exercise ordinary care not to injure the trespasser.

Deletes other provisions of previous edition with the exception of amendments to GS 8C-702(a), GS 99B-1, and proposed GS Chapter 38B. Makes other clarifying changes.

Civil Law and Procedure; Courts;
Business and Commerce

H 589. DIVORCE/DVPO/CHILD SUPPORT CHANGES. Filed 4/4/11. House amendment makes the following changes to 2nd edition. Provides that the act is effective October 1, 2011, and applies to actions or motions filed on or after that date (was, effective when it becomes law and applies to actions filed on or after that date).
Family Law

SENATE BILLS

S 170. CLARIFY NUISANCE ABATEMENT LAWS. Filed 3/1/11. Senate committee substitute makes the following changes to 1st edition. Amends GS 19-1(a) and (b) to add in both subsections that the remedy of forfeiture of real property provided in GS 19.6.1 does not apply to multifamily buildings containing more than four individual rental units. Adds similar additional language to GS 19-1.2(6). Amends GS 19.1.1 to add new subdivision (8a) providing a definition for the term *repeated acts* in GS Chapter 19. Makes a conforming change to the bill title.

Civil Law and Procedure; Courts

S 374. LANDOWNER PROTECTION ACT. Filed 3/17/11. Senate committee substitute makes the following changes to 1st edition. Amends proposed GS 113-291.12 by deleting the word "take" and substituting the word "hunt" throughout. Amends GS 113-291.12(c) to make it unlawful to take fish from private ponds, as defined in GS 113-129(13). Further amends GS 113-291.12(c) by clarifying that it is not a violation of the subsection to retrieve hunting dogs that have strayed onto another's land, provided the hunter does so without a firearm, bow and arrow, or crossbow, does not operate a motor vehicle on the land, and the land is neither posted in accordance

with GS 14-159.7 or enclosed by a fence. Amends GS 14-159.7 by providing the owner or lessee of property an additional method of posting property by placing purple paint marks, as detailed, around the area to be posted. Makes a conforming change to GS 14-159.6 and to the bill title. Amends GS 14-159.10, clarifying that Article 22A of GS Chapter 14 may be enforced by sheriffs or deputy sheriffs, law enforcement officers of the Wildlife Resources Commission, and other peace officers with general subject matter jurisdiction.

Property, Land Use, and Housing;
Animal Law

S 426. MODIFY/CLARIFY PUBLIC FINANCE STATUTES. Filed 3/24/11. Senate committee substitute makes the following changes to 1st edition. Deletes in its entirety proposed GS 159-142 regarding the timely payments of bonds. Deletes amendments to GS 159-56 and GS 159I-30(g)(3) made in the previous edition. Amends GS 159-54, clarifying that a bond order will be introduced before the governing board of the issuing unit after or at the same time the application is filed with the Local Government Commission (was, after or at the same time the publication of the notice of intent to make application is approved).

Rewrites Section 5 of SL 2008-165 to remove the sunset on special assessments for critical infrastructure needs (currently expires July 1, 2013). Makes other clarifying changes, and makes a conforming change to the bill title.

Local Government

S 484. REPS CREDITS AT CLEANFIELDS PARKS. Filed 3/31/11. Senate committee substitute makes the following changes to 1st edition. Rewrites Section 4 of SL 2010-195 to restore language deleted in the previous edition, and provide that the additional credits assigned to the first 10 megawatts of biomass renewable energy facility generation capacity are eligible for and must be used to meet the requirements of GS 62-133.8(f). States that after the requirements of GS 62-133.8(f) are met, then the additional credits assigned to the first 10 megawatts of biomass renewable energy facility generation capacity will be used to comply with GS 62-133.8(b) and (c). Changes the title to *AN ACT TO PROVIDE THAT THE ADDITIONAL CREDITS ASSIGNED TO THE FIRST TEN MEGAWATTS OF BIOMASS RENEWABLE ENERGY FACILITY GENERATION CAPACITY PURSUANT TO S.L. 2010-195 (CLEANFIELDS ACT OF 2010) ARE ELIGIBLE TO SATISFY THE POULTRY WASTE SET-ASIDE.*

Energy and Utilities

S 600. OUT-OF-STATE LAW ENFORCEMENT/SPECIAL EVENTS. Filed 4/14/11. Senate committee substitute makes the following changes to 1st edition. Enacts new subsection (e) to proposed GS 160A-288.3 providing that out-of-state law enforcement officers sworn in their home jurisdictions are deemed to have met certification requirements for the purpose of being a sworn officer of the requesting agency. Deletes the term "home state" and substitutes the term "home jurisdiction" in the definitions section. Makes other technical and conforming changes.

Local Government; Emergency
Services

S 613. HUNTING & FISHING/ACTIVE DUTY MILITARY. Filed 4/14/11. Senate committee substitute makes the following changes to 1st edition. Amends GS 113-130(4)c. to clarify that members of the military on active duty in the armed forces of the United States are to be considered residents for the purposes of obtaining *certain* specified hunting, fishing, trapping, and special activity licenses. Expands the specified licenses to include (1) Combination Hunting and Inland Fishing Licenses issued under GS 113-270.1C(b)(1), (2) Sportsman Licenses issued under GS 113-270.1D(a); (3) Hunting Licenses issued under GS 113-270.2(c)(1) and (c)(5); (4) Trapping Licenses issued under GS 113-270.5(b)(1); (5) Hook-and-Line Licenses issued under GS 113-271(d)(1), (d)(2), and (d)(6)a; and (6) Unified Hunting and Fishing License issued under GS 113-351(c)(1) and (c)(2), in addition to licenses designated in the previous edition. Makes clarifying changes and amends the title.

Military and Veterans Affairs;
Animal Law

S 626. PED TO STUDY DENR ACTION/ALCOA CONTAMINATION. Filed 4/14/11. Senate committee substitute makes the following changes to 1st edition. Changes the title to *AN ACT DIRECTING THE PROGRAM EVALUATION DIVISION TO STUDY THE PROGRESS OF CLEANUP AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES' HANDLING OF CONTAMINATION PRESENT IN THE AREA SURROUNDING THE FACILITY OWNED BY ALCOA POWER GENERATING, INC., LOCATED IN THE TOWN*

OF BADIN IN STANLY COUNTY. As title indicates (formerly directed the Joint Legislative Program Evaluation Oversight Committee to direct the Program Evaluation Division to perform the study).

General Assembly; Agriculture,
Environment, and Natural
Resources

S 661. LICENSE PLATE AGENCY CONTRACTS. Filed 4/19/11. Senate committee substitute makes the following changes to 1st edition. Directs the Program Evaluation Division (PE Division) of the General Assembly to study and evaluate the Division of Motor Vehicles' Commission Contract for the Issuance of Plates and Certificates program, as authorized in GS 20-63(h) (was, directed the Joint Legislative Program Evaluation Oversight Committee (Committee) to include the study in the 2011-12 Work Plan for the PE Division). Directs the Committee to report any recommendations based upon the study to the 2012 Regular Session of the 2011 General Assembly. Directs the Commissioner of Motor Vehicles not to cancel any Commission contracts for any reason other than malfeasance, misfeasance, or nonfeasance of the Commission contractor until the 2011 General Assembly adjourns sine die (was, until the study is complete and final recommendations have been acted on by the Committee). Makes a conforming change to the title.

Previously: Transportation
Now: Transportation; General
Assembly

S 709. ENERGY JOBS ACT. Filed 4/19/11. Senate amendment makes the following changes to 2nd edition. Amends and adds various 'whereas' clauses. Directs 15% (previously 20%) of revenues and royalties be credited to the Highway Trust Fund. Directs 10% (previously 5%) of revenues and royalties be transferred to the Community Colleges System Office. Adds new section encouraging the Governor to join the governors of Alaska, Texas, Louisiana, Mississippi, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition.

Energy and Utilities; Community
and Economic Development

S 731. ZONING/DESIGN AND AESTHETIC CONTROLS. Filed 4/19/11. Senate committee substitute makes the following changes to 1st edition. Makes clarifying and technical changes to new subsections GS 160A-381(g) and GS 153A-340(j) regarding certain municipal and county subdivision and zoning regulations relating to building design elements that may not be applied to residential structures containing four or fewer dwelling units except under specified circumstances. Amends the specified circumstances to include individually designated local, state, or national historic landmarks.

Local Government; Property, Land
Use, and Housing

Legislation Enacted

None

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None

NEXT SESSIONS

May 11, 2011

HOUSE convenes at 2:00 p.m.

SENATE convenes at 3:00 p.m.