

The Daily Bulletin: 2023-09-12

PUBLIC/HOUSE BILLS

H 22 (2023-2024) [CONCEALED GUN PERMIT/CLARIFY DISCHARGE. \(NEW\)](#) Filed Jan 26 2023, *AN ACT TO LIMIT THE CONDITIONS OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES OF AMERICA THAT MAY BE USED BY A SHERIFF TO DENY AN APPLICATION FOR A CONCEALED HANDGUN PERMIT.*

House committee substitute to the 1st edition makes the following changes. Amends GS 14-415.12(b)(7) to change the requirement for denial of a concealed handgun permit from discharge from the US Armed Forces under conditions other than honorable, to under conditions other than honorable with a discharge classified as a bad conduct discharge, a dishonorable discharge, a dismissal, or a discharge under other than honorable conditions. Adds that an application will not be denied for an entry level separation or a discharge characterized as an honorable or general discharge.

Changes the act's effective date from when the act becomes law to December 1, 2023, applicable to permit applications submitted on or after that date. Changes the act's short title.

Intro. by Crutchfield.

GS 14

[View summary](#)

[Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Military and Veteran's Affairs](#)

H 542 (2023-2024) [HOA REVISIONS/FORECLOSURE TRUSTEE AUCTIONS. \(NEW\)](#) Filed Mar 30 2023, *AN ACT TO AMEND LAWS GOVERNING THE CREATION AND ENFORCEMENT OF LIENS SECURING AMOUNTS OWED TO UNIT OWNERS' ASSOCIATIONS AND HOMEOWNERS' ASSOCIATIONS, TO STRENGTHEN REQUIRED NOTICE OF DELINQUENT ASSESSMENTS GIVEN BY ASSOCIATIONS TO APPRISE OWNERS OF THE DELINQUENCY AND POTENTIAL FILING OF A CLAIM OF LIEN, TO REQUIRE ALL FINES COLLECTED BY AN ASSOCIATION TO BE REMITTED TO THE CIVIL FINES AND FORFEITURES FUND, TO EXPAND OWNERS' ACCESS TO HOA RECORDS, TO PROHIBIT ASSOCIATIONS FROM COMPENSATING A MANAGING AGENT BASED ON THE AMOUNT OF FINES COLLECTED, TO PROHIBIT ASSOCIATION REGULATION OF PARKING ON PUBLIC STREETS OR ROADS, TO PROHIBIT ASSOCIATION ENFORCEMENT OF RESTRICTIONS ON CERTAIN LESSONS GIVEN ON THE OWNER'S PROPERTY TO A GROUP OF FIVE OR FEWER PERSONS, TO ALLOW CERTIFIED COPIES OF COURT-FILED DOCUMENTS TO BE RECORDED WITHOUT MEETING CERTAIN CONFORMING REQUIREMENTS OF THE REGISTER OF DEEDS, TO ALLOW FOR CERTAIN FORECLOSURE SALES TO BE CONDUCTED AT DESIGNATED PUBLIC LOCATIONS, TO EXPAND THE TIME ALLOWED FOR A SCHEDULED FORECLOSURE SALE TO COMMENCE, AND TO ESTABLISH A PROCEDURE FOR REMOTE BIDDING AT A FORECLOSURE SALE.*

Senate amendment to the 3rd edition makes the following changes.

Sections 1 and 5.

Changes certain powers of the unit owners' association (Association) under the NC Condominium Act (GS 47C-3-102) or a homeowners' association (HOA) under the NC Planned Community Act (GS 47F-3-102) as follows.

Now prohibits managing agent or other contractor/employee contracts from exceeding one year in duration or containing an automatic renewal provision that requires the Association/HOA to give notice of nonrenewal more than 30 days prior to the contract's anniversary date (was, bar on automatic renewal of such agreements). Provides for termination of automatically renewable contracts upon 60 days notice by the Association/HOA. Prohibits a managing agent from collecting from an Association/HOA or property owner any fee in connection with its collection of a fine imposed by the Association/HOA.

Prevents an Association/HOA from enforcing any restriction on parking of newly defined term, personal vehicle, on a public street or public road for which the NC Department of Transportation (DOT) or local government has assumed responsibility for maintenance and repairs, unless the Association/HOA has been delegated such enforcement (was, blanket bar on enforcement of parking restrictions on public roads/streets). Authorizes the Association/HOA to enforce such restrictions if the authority regulate parking has been expressly delegated to the Association/HOA by DOT or the local government. Specifies that such delegations are only valid for five years, after which the Association/HOA must reapply to the delegating authority.

Authorizes the Association/HOA to impose charges in connection with the preparation of a lender's questionnaire or certification or a statement of unpaid assessments (was, reasonable charges in connection with the preparation of statements of unpaid assessments) which now must be furnished within 10 days (was, 10 business days) after receipt of the request. Makes conforming changes. Changes the time period triggering the expedited fee from when the request is made within 48 hours of closing to if the item is to be furnished less than 10 days after the receipt of the request. Specifies that charges for the preparation of the lender's questionnaire or certification must be made by the requesting party. Prevents an Association/HOA or either of their managing agents (was just Association/HOA) from imposing a charge for administrative tasks required upon the transfer of title to a unit, except as authorized by GS 47C-3-102(12a) (Associations) or GS 47F-3-102(13a) (HOAs). Extends unfair trade and deceptive practice provisions to managing agents.

Requires the Association/HOA to provide a fair, reasonable and expeditious procedure for making a decision pertaining to a proposed change to a unit or limited common element. Requires that the Association/HOA's decision be in writing, made in good faith, and not be unreasonable, arbitrary, or capricious. Requires that procedure be set forth in the Association/HOA's governing documents. Provides for timeframe on decision and a procedure for reconsideration of the decision if disapproved by the Association/HOA's executive board.

Sections 2 and 6.

Amends GS 47C-3-107.1 (process for fines collected by an Association) and GS 47F-3-107.1 (same-HOA) to provide for a written notice of hearing to be sent to a unit owner not less than 10 days prior to the hearing date to be heard on any charges by the Association/HOA. Caps any fines imposed without further hearing on the violation at \$2,500 for continuing violations.

Sections 3 and 7.

Amends GS 47C-3-116 (pertaining to liens imposed for sums due to Associations) and GS 47F-3-116 (pertaining to liens imposed due to HOAs in planned communities) as follows.

Removes 30-day lien filing deadline for fines imposed by the Association/HOA that are solely comprised of interest on unpaid fines, or attorneys' fees incurred by the Association/HOA solely associated with fines imposed by the Association/HOA. Now requires that a claim of lien securing a debt consisting of fines or fine-related charges must be filed separately from a claim of lien securing other sums owed to the Association/HOA and must be filed within 90 days after the date the fine was imposed. Defines fines or fine-related charges to mean fines imposed by the Association/HOA, interest on unpaid fines, or attorneys' fees incurred related to fines imposed by the Association/HOA. Makes technical changes.

Deletes requirement that Association/HOA ensure that its records contain a current phone number for a property owner subject to the Association/HOA. Makes conforming changes. Changes required language on the first page of a claim of lien to remove reference to judicial foreclosure and to specify that the Association/HOA can pursue remedies against the property owner and the property (was, just property). Narrows the scope of those debts which are extinguished if the Association/HOA fails to initiate proceeds to enforce the lien to just fines or fine-related charges (was, a debt consisting solely of fines imposed by the Association/HOA, interest on unpaid fines, or attorneys' fees incurred by the Association/HOA solely associated with fines imposed by the Association/HOA). Increases the time that the Association/HOA has to initiate enforcement proceedings to one year after the filing of the claim of lien in the office of the clerk of superior court (was, within 180 days after the filing of the claim of lien in the office of the clerk of superior court).

Deletes cap on an award of attorneys' fees cannot exceed 15% of the amount recovered in any such actions. Instead, allows imposition of reasonable attorneys' fees not to exceed the higher of \$10,000 or 15% of the amount recovered so long as the court finds (1) there was an unwarranted refusal by the property owner to negotiate or pay the fines or fine-related charges and (2) the amount of damages recovered exceeded the highest offer made by the property owner no later than 90 days before the commencement of trial. Requires judge to issue written factual findings detailing the basis for the award. Makes organizational changes.

Reinstates authority to Association/HOAs to foreclose a claim of lien in like manner as a mortgage or deed of trust on real estate under power of sale but only if the debt consists of sums due the Association/HOA other than fines or fine-related charges and if the delinquency has continued for 180 days or more (was, 90 days or more). Provides for content and delivery of notice. Provides for a process by which the clerk must inquire as to whether the subject property is the owner's principal residence and if so, what efforts the Association/HOA made to communicate with the owner and to resolve the matter voluntarily before foreclosure proceedings. Provides for a process for continuance of the hearing for up to 90 days if the clerk finds there is good cause to believe that additional time or additional measures have a reasonable likelihood of resolving the delinquency without foreclosure. Reinstates language clarifying that an Association/HOA may pursue judicial foreclosure of an allowed claim of lien and that the attorneys' fees for these matters are not subject to the limitations set forth above. Authorizes enforcement of a claim of lien securing a debt consisting of fines or fine related-charges by filing a civil action seeking a judgment. Provides for an effective date for liens that arise as a result of entry of judgment. Makes conforming changes.

Sections 4 and 8.

Amends GS 47C-3-118 (Association records) and GS 47F-3-118 (HOA records) to allow for reasonable attorneys' fees and costs to the prevailing party if a motion to compel such records is filed. Also allows the court to order the association to pay an owner's costs incurred in obtaining an order when the association doesn't allow the owner to inspect and copy the requested contract and the court later enters an order compelling the association to do so.

Makes conforming changes to the act's long title.

Intro. by Liu, Brody, Tyson, Iler.

[GS 45](#), [GS 47C](#), [GS 47F](#), [GS 115C](#), [GS 161](#)

[View summary](#)

[Development, Land Use and Housing, Property and Housing](#)

H 893 (2023-2024) [PRIVATE COMMERCIAL BUILDING INSPECTION](#). Filed Apr 25 2023, *AN ACT TO AUTHORIZE INSPECTIONS BY PRIVATE INSPECTORS OF COMMERCIAL BUILDINGS AND STRUCTURES FOR COMPLIANCE WITH THE NORTH CAROLINA STATE BUILDING CODE AND TO EXPEDITE LOCAL GOVERNMENT APPROVAL OF SEALED COMMERCIAL AND MULTIFAMILY BUILDING PLANS.*

House committee substitute to the 2nd edition makes the following changes.

Amends proposed GS 143-151.14A to require that a standard Level I, II, or III private commercial inspector certification must be issued to a licensed engineer without requiring an exam (was, licensed engineers may be issued a standard Level I or Level II private commercial inspector certificate without examination or a Level III private commercial inspector certificate upon passing the exam).

Makes a technical change in Section 3(d).

Amends proposed GS 160D-1105.1 (private commercial inspection authorized; exceptions) as follows. Adds that upon issuing an inspection report receipt the local government or Commissioner of Insurance, its inspection departments, and its inspectors are immune from any liabilities, duties, and responsibilities with respect to or in common law from any claim arising out of or attributed to the inspection for which the report was submitted. No longer excludes from the statute final fire inspections under new GS 160D-1105.2. Deletes the content of proposed GS 160D-1105.2, which specified that private commercial inspectors did not have authority to conduct final fire inspections and instead provides that Article 11 does not prevent a local government, before issuing a certificate of occupancy, from conducting acceptance testing or approving any fire prevention systems for which a private commercial inspector has issued a certificate of compliance.

Makes a technical change to Section 3(j).

Amends the proposed changes to GS 160D-1110 as follows. Removes the requirement that the local government permit fee schedule for projects to be inspected by private commercial inspectors be reduced by 80% and the remaining 20% retained by the local government as an administrative cost. Provides instead that a project is subject to the same local government permit

fee schedule that would apply without the notice of intent to use a private commercial inspector for a commercial development project. Makes additional clarifying and technical changes.

Amends GS 160D-116 by adding that upon issuing a certificate of occupancy or temporary certificate for any commercial project in which a private commercial inspector has issued a certificate of compliance, the local government or Commissioner of Insurance, its inspection departments, and its inspectors are immune from any liabilities, duties, and responsibilities with respect to or in common law from any claim arising out of or attributed to the certificate of compliance.

Adds the following new content, effective July 1, 2024..

Enacts GS 160D-1110.1, requiring local governments to complete review of commercial and multifamily building plans submitted with a permit application sealed by a licensed engineer or licensed architect and issue applicable building permit decisions within 21 days after a local government receives all necessary approvals unless otherwise agreed by the parties. Requires the local government to issue all applicable permits within 10 days after receiving additional requested information or a resubmitted plan with changes from the permit applicant. Authorizes local governments to use and contract with the Department of Insurance (DOI) or contract with licensed engineers or certified architects to perform plan reviews within the timeframe required. Allows the permit applicant to elect, if the review does not exceed the prescribed time, to contract with any of the following to perform independent third-party plan reviews: (1) a licensed professional engineer or licensed architect that meets the certification requirements, (2) a private commercial inspector that meets the specified certification and registration requirements, or (3) DOI and its marketplace pool of qualified Code-enforcement officials. Also allows the permit applicant to use and contract with one of the entities if the local government does not issue applicable building permit decisions or determines that it is unable to complete plan reviews within the required time frames. Requires the applicant to provide the local government with a written certification signed by the plan review that complies with application Building Codes and applicable State and local laws. Directs the local government to create a form for certification. Requires the local government to issue applicable permits for a project within three business days of accepting a completed plan review with certification, and refund or waive all applicable plan review and permit fees upon issuance of the permits. Requires third-party plan reviewers to avoid conflicts of interest in conducting reviews. Provides immunity and releases the local government, its inspection department, and its inspectors from any liabilities, duties, or responsibilities under the Article or in common law arising from plans reviewed and certified by a third party. Bars a local government from delaying or denying the issuance of applicable permits based on the receipt of requested manufacturer specifications or engineering information on an element, component, or fixture related to submitted plans.

Amends GS 143-151.8 to include persons contracting with a local government or a permit applicant to perform third-party plan reviews under new GS 160D-1110.1(c) in the definition of *Code enforcement*.

Amends GS 143-151.12 to require DOI to make its marketplace pool of qualified Code-enforcement officials available when requested by a permit applicant under new GS 160D-1110.1(c).

Amends GS 143-151.13 to allow a licensed architect or licensed engineer who is not employed by the State or a local government to use a standard certificate, which authorizes practice as a qualified Code-enforcement official based on the license held, to perform third-party plans reviewed under GS 160D-1110.1(b) and (c).

Amends GS 160D-403 by requiring local governments to ensure development approval processes run concurrently with other applications or processes from approvals notwithstanding that related development approvals for the project have not yet been obtained.

Amends the act's long title.

Intro. by Brody, B. Jones, Pyrtle, Hardister.

[GS 143, GS 160D](#)

[View summary](#)

[Business and Commerce, Occupational Licensing, Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Development, Land Use and Housing, Building and Construction, Government, State Agencies, Department of Insurance, Local Government](#)

PUBLIC/SENATE BILLS

S 477 (2023-2024) [AMEND BUS. CORP. ACT/BUS. OPP. DISCLOSURES](#). Filed Apr 3 2023, *AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA BUSINESS CORPORATION ACT AND TO ELIMINATE DUPLICATIVE STATE DISCLOSURE REQUIREMENTS FOR BUSINESS OPPORTUNITY SELLERS THAT FILE COMPARABLE DISCLOSURES WITH THE FEDERAL TRADE COMMISSION, AS RECOMMENDED BY THE NORTH CAROLINA BAR ASSOCIATION, AND TO MODIFY THE RIGHT OF A SHAREHOLDER OF A CORPORATION TO INSPECT THE RECORDS OF A SUBSIDIARY ENTITY OF THAT CORPORATION.*

House committee substitute to the 4th edition makes the following changes.

Removes proposed Part VII, added by the previous edition, which amended GS 58-70-90 to include a definition of “Itemized accounting,” amended GS 58-70-11, concerning unfair practices, and amended GS 58-70-155(b) concerning items to be included in authenticated business records to establish the amount and nature of a debt.

Makes conforming organizational changes. Makes changes to the act's long title.

Intro. by Galey, Overcash.

[GS 55](#), [GS 66](#)

[View summary](#)

[Business and Commerce, Corporation and Partnerships, Government, State Agencies, Secretary of State](#)

S 527 (2023-2024) [ABC OMNIBUS 2023. \(NEW\)](#) Filed Apr 3 2023, *AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOL LAWS OF THIS STATE.*

House committee substitute to the 4th edition makes the following changes.

Section 27.

Further amends GS 105-164.27A(a4), which allows a person who purchases qualifying spirituous liquor to apply for a direct pay permit for the purchase, by adding that instead of selling under a direct pay permit a seller may elect to collect and remit the maximum tax on qualifying spirituous liquor on behalf of the purchaser. Provides that when the seller elects to do this, the invoice given to the purchaser that has the proper amount of tax on a retail transaction extinguishes the purchaser's liability for the tax on the transaction.

Intro. by Moffitt, Johnson, Hanig.

[GS 18B](#), [GS 105](#), [GS 143](#)

[View summary](#)

[Alcoholic Beverage Control, Government, Tax, Native Americans](#)

S 615 (2023-2024) [ADOPTION LAW/NOTARY CHANGES/GUARDIANSHIP RTS. \(NEW\)](#) Filed Apr 5 2023, *AN ACT TO ALLOW ADULT ADOPTEES TO BE ADOPTED BY A FORMER STEPPARENT, THE REMOVAL OF CERTAIN REDACTION RESTRICTIONS FROM ADOPTION HOME STUDIES, AND THE EXPANSION OF ACKNOWLEDGMENT OPTIONS FOR AGENCY RELINQUISHMENTS FOR ADOPTION, TO MAKE CLARIFYING CORRECTIONS TO THE NOTARY LAWS, TO UPDATE THE GUARDIANSHIP ACCOUNTING STATUTE TO ALLOW FOR CERTAIN TIMING ELECTIONS AND EXTENSIONS, TO AMEND THE GENERAL STATUTES TO PREVENT THE ABUSE OR MISUSE OF AUTHORITY GRANTED TO AN AGENT IN A POWER OF ATTORNEY, AND TO PROMOTE THE RIGHTS AND INDEPENDENCE OF PERSONS SUBJECT TO THE GUARDIANSHIP PROCESS AND TO IMPROVE JUDICIAL OVERSIGHT AND ACCOUNTABILITY FOR GUARDIANS OF THE PERSON.*

Conference report makes the following changes to the 2nd edition.

Part I.

Specifies that changes to GS 48-1-101 (definitions of State adoption statute), GS 48-1-106 (pertaining to legal effect of adoption decree), and GS 48-5-101 (who must join in the petition) are effective January 1, 2024.

Part II.

Makes organizational changes to GS 48-3-303(c)(12) (pertaining to redactions from preplacement assessments). Specifies that changes to GS 48-3-202(b) and GS 48-3-303(c)(12) are effective January 1, 2024.

Part III.

Specifies that changes to procedures for relinquishment of a minor for adoption under GS 48-3-702 become effective January 1, 2024.

Part IV.

Deletes proposed new GS 7B-302.1 (pertaining to conflicts of interest in juvenile matters) and replaces it with the following.

Amends GS 10B-38 as enacted by SL 2023-57, to authorize (was, require) all notaries to maintain a journal of all notarial acts in accordance with rules adopted by the NC Secretary of State.

Amends GS 10B-134.15(a), as amended by SL 2023-57 to clarify that electronic notaries who perform a remote electronic notarization must enter information about that notarization in an electronic journal notwithstanding GS 10B-38. Effective July 1, 2024.

Part V.

Deletes the proposed changes to GS 7B-602.

Amends GS 35A-1264 (pertaining to annual accounts by guardians of property the guardian received) to require guardian to submit annual reports at the end of a fiscal year term selected by the guardian upon the filing of the initial annual account, or, if made in a subsequent year, with the permission of the clerk. Specifies that the fiscal year term must be at least 11 months but no more than 12 months from the date of the guardian's qualification or appointment. (Currently, requires annual filing within 30 days after the expiration of one year from the date of the guardian's qualification or appointment.) Allows the time for filing the annual account to be extended by the clerk. Makes accounts due within 30 days after the close of the fiscal year selected and annually thereafter. Requires the clerk to carefully review and audit the annual account and if approved, endorse the account and cause it to be recorded. Makes language gender neutral. Makes technical changes. Applies to annual account filings made on or after January 1, 2024.

Part VI.

Amends GS 32C-1-116 (pertaining to jurisdiction of Superior Court over causes of action related to guardianship) to clarify that the court must dismiss a case filed under its enumerated jurisdiction if a motion is submitted by a principal who the court determines is not incapacitated individually and not through an agent. (Currently, law only refers to a motion by the principal.)

Part VII.

Amends the definitions of *incompetent child* and *incompetent adult* in GS 35A-1101 (definitions applicable to incompetence proceedings) to clarify that neither party lacks capacity if, by means of a less restrictive alternative, he or she is able to sufficiently (1) manage his or her affairs and (2) communicate important decisions concerning his or her person, family, and property. Adds definition of *less restrictive alternative* (an arrangement enabling a respondent to manage his or her affairs or to make or communicate important decisions concerning his or her person, property, and family that restricts fewer rights of the respondent than would the adjudication of incompetency and appointment of a guardian. The term includes supported decision making, appropriate and available technological assistance, appointment of a representative payee, and appointment of an agent by the respondent, including appointment under a power of attorney for health care or power of attorney for finances).

Amends GS 35A-1106 (contents of a petition to determine competency) to require the petition to include a statement identifying what less restrictive alternatives have been considered prior to seeking adjudication and why they are insufficient to meet the needs of the respondent. Makes technical changes and terms gender neutral.

Enacts new GS 35A-1117, pertaining to notice of rights of the respondent in proceedings under GS Chapter 35A (Incompetency and Guardianship), requiring that every respondent be given a notice of rights as specified. Sets forth required

language that must be conspicuously set forth to the respondent in a substantially similar way in the notice. Makes conforming changes to GS 35A-1107 (pertaining to right to counsel or guardian ad litem), GS 35A-1108 (issuance of notice), GS 35A-1109 (service of notice and petition), and GS 35A-1217 (appointment of guardian ad litem for incompetent ward) to refer to the notice specified above.

Amends GS 35A-1108 to require the hearing on the petition be held no less than 10 days nor more than 30 days after service of the notice of rights and the petition and initial notice of hearing (was, service of notice of petition only). Amends GS 35A-1109 to require the initial notice of hearing be mailed to the respondent's next of kin and other designated persons.

Amends GS 35A-1116 (pertaining to costs and fees) to allow for costs to be apportioned among the parties in the alternative to be taxed against any party. Removes language in the statute authorizing petitioner's counsel fees to be taxed against a party as costs. Directs the court to tax costs incurred by any party against the respondent if those costs were incurred for the benefit of the respondent, unless doing so would be inequitable. Specifies that if the respondent is indigent, then the costs are waived if not taxed against a party other than respondent. (Currently, refers to costs being assessed against the petitioner.) Makes technical changes.

Amends GS 35A-1201 (purpose of guardian and ward statutes) to specify that (1) for adults, guardianship should always be a last resort and should only be imposed after less restrictive alternatives have been considered and found to be insufficient to meet the adult's needs and (2) filing regular status reports by the guardian on the person's conditions and welfare are encouraged and should be required where appropriate. Amends GS 35A-1207 (motions in the cause) to allow the clerk, on their own motion, to file a motion for modification of the order appointing (a) guardian(s) or consideration of any matter pertaining to the guardianship. (Currently, only any interested person may file such motions.) Amends GS 35A-1214 to give first priority of appointment to an individual or entity nominated under GS 32C-1-108(a) (guardian nominated in a duly executed power of attorney) or GS 32A-22(b) (guardian nominated in a duly executed health care power of attorney). Makes technical changes. Amends GS 35A-1242 (status reports for incompetent wards) to require a person's guardian(s), upon knowledge of the ward's change of residence, to file a notice of change of the ward's address with the court within 30 days. Specifies content for notice.

Applies to petitions filed on or after January 1, 2024.

Makes conforming changes to act's long and short titles.

Intro. by Galey, Barnes, Krawiec.

GS 10B, GS 32C, GS 35A, GS 48

[View summary](#)

Courts/Judiciary, Civil, Family Law, Juvenile Law, Abuse, Neglect and Dependency, Health and Human Services, Social Services, Adult Services

S 749 (2023-2024) **NO PARTISAN ADVANTAGE IN ELECTIONS**. Filed Jun 12 2023, *AN ACT TO REVISE THE STRUCTURES OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS, TO REVISE THE EMERGENCY POWERS OF THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS, TO MAKE VARIOUS CONFORMING CHANGES, TO MAKE CLARIFYING CHANGES TO SENATE BILL 512 OF THE 2023 REGULAR SESSION, AND TO MAKE ADDITIONAL CONFORMING AND CLARIFYING CHANGES TO IMPLEMENT PHOTO IDENTIFICATION FOR VOTING.*

House committee substitute to the 3rd edition makes the following changes.

Part I.

Section 1.1

Further amends GS 163-28 (State Board of Elections [Board] as an independent agency) to specify that the Board must be supported administratively by the Department of Secretary of State. Also requires that the Board exercise its statutory powers, duties, functions, and authority independently from authority of the Secretary of State and removes provisions that specify the board will have all powers and duties conferred upon the heads of principal departments.

Makes additional clarifying changes.

Part II.

Section 2.1

Amends GS 163-19 as follows. Requires that the list of nominees for members of the Board be submitted by the state party chairs by April 1 immediately following each election of the members of the Council of State (previously no deadline was specified). Provides that a person filling a vacancy is to serve the remainder of the unexpired term (was, fill the unexpired term). Requires the list of nominees to fill a vacancy in the State board to be submitted within five business days of the occurrence of the vacancy. Allows the office of chair to be filled by legislative appointment if a chair is not elected within 30 days after taking the prescribed oath (was, within 30 days after new appointees take the prescribed oath) or within 30 days of the occurrence of a vacancy in the office of chair. Amends who is the appointing authority for chair vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs.

Section 2.5

Amends GS 163-27 to require that term of the Board's Executive Director begin May 15 of the year after each even-year election, unless removed for cause (was, after the first meeting held after the appointment to the Board are made, unless removed for cause, until a successor is appointed). Amends who is the appointing authority for Executive Director vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs.

Makes additional organizational, clarifying, and technical changes throughout Part II.

Makes Part II effective July 1, 2024 (was, when the act became law), and specifies that appointments may be made accordingly. Makes conforming changes. Requires the eight Board members appointed under GS 163-19, as amended by this act, to serve until May 1, 2029 (was, 2025); makes those members eligible to serve one additional (was, serve two) full consecutive terms. No longer specifies in Section 2.6 that chairs of the two political parties having the highest number of registered affiliates may submit a list of names to the NCGA under amended GS 163-19. Requires the chair and Executive Director of the State Board to be appointed upon the eight members of the State Board taking the oath of office (was, upon their appointment).

Deletes Section 2.7 concerning the criminal history record check for any prospective Executive Director.

Part IV.

Section 4.1

Amends GS 163-30 (appointments to the county boards of elections) to require that the recommendations for appointment to the board of elections for a county by the State chairs of the two political parties with the highest number of registered affiliates be submitted by April 1 of each odd-numbered year (previously no deadline was specified). Reduces the number of individuals that can be recommended from three to two. Allows the office of chair to be filled by legislative appointment if a chair is not elected within 15 days after the first meeting in July or within 30 days of the occurrence of a vacancy (was, only when a chair is not elected within 15 days after the first meeting in July). Amends who is the appointing authority for chair vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs. Makes additional technical, clarifying, and conforming changes.

Section 4.2

Deletes previous Section 4.2, which included proposed changes to GS 163-35 (concerning the county board of elections director's appointment, compensation, duties, and dismissal) and which would have repealed GS 163-35.1 (concerning the suspension or termination of county director of elections).

Amends GS 163-35 by adding that if the county board of elections is unable to agree on a person to recommend to fill a vacancy for the county director of elections, the State Board Executive Director must designate a qualified person to serve as acting county director until the county board nominates someone.

Section 4.3

Makes technical changes to GS 163-37.1.

Amends GS 143B-969 to also allow the Department of Public Safety to provide the criminal history record check report on prospective appointees for the Board Executive Director to the chair of the Board. Specifies that the same report may be given to the chair or chairs of each standing committee (was, to the the chair or chairs of the standing committee) handling the legislation regarding the appointment of the Executive Director. Makes conforming and clarifying changes.

Deletes the proposed changes to GS 143B-970 concerning criminal record checks for employees of county boards of elections.

Makes organizational changes to Section 4.4 and no longer includes the provision allowing chairs of the two political parties having the highest number of registered affiliates to submit a list of names to the NCGA under amended GS 163-30; no longer requires that the county director of elections be appointed upon appointment of the four members of the county board of elections.

Part V.

Section 5.1

Makes technical changes to GS 163-182.6.

Makes all of Part V effective July 1, 2024 (was, when the act became law).

Part VI.

Adds the following new content.

Sections 6.1-6.4

Requires the following if S 512 (Greater Accountability for Boards/Commissions) becomes law. Requires that the Environmental Management Commission to elect a chair and vice-chair under amended GS 143B-284 no later than 90 days after the date that both members to be appointed by the Commissioner of Agriculture have been initially appointed. Requires the Board of Transportation to elect a chair and vice-chair under amended GS 143B-350 no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate and the Speaker of the House have been initially appointed. Requires the Coastal Resources Commission to elect a chair and vice-chair under amended GS 113A-104 no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate and Speaker of the House and the Commissioner of Insurance have been initially appointed. Requires the North Carolina Railroad Board of Directors to elect a chair under amended GS 124-15 no later than 90 days after the date that the member to be appointed by the State Treasurer has been initially appointed.

Section 6.5

Amends GS 163-230.1 to require that the State Board's rules include a process for a voter without acceptable photocopies of forms of readable identification to complete an alternative affidavit applicable to the three specified exceptions, that includes inability to attach a physical copy of the voter's identification within the returned application and voted ballots (was, with the written request) as a reasonable impediment to compliance with the identification requirement.

Section 6.6

Corrects a statutory cross-reference in GS 20-30.

Section 6.7

Amends GS 163-82.8A to require the county board of elections or the State Board (was, the county board of elections only) to maintain a database that contains the photos of registered voters taken for the purpose of issuing voter photo id cards. Amends GS 163-82.10 to make photos for voter photo identification confidential and specifies that they are not considered public records.

Section 6.8

Allows the \$5 million appropriated in SL 2021-180 for 2021-22 to the State Board for a mobile voting program to also be used by the State Board for any photo identification implementation efforts and to implement the requirements of S 747, Elections Law Changes, if it becomes law. Specifies that the funds remain available until expended.

Part VIII.

Amends the act's effective date provision by adding the following.

Allows the chairs of the two political parties having the highest number of registered affiliates to submit a list of names to the NCGA by March 1, 2024, for appointments to be made effective July 1, 2024. Specifies that if a chair is not elected within 30 days after taking the prescribed oath in 2024 or within 30 days of the occurrence of a vacancy in the office of the chair in 2024, the office of the chair may be filled by legislative appointment under GS 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

Allows the chairs of the two political parties having the highest number of registered voters to submit a list of names to the NCGA by March 1, 2024, for appointments to be made effective July 1, 2024. Specifies that if a chair is not elected within 15 days after the first meeting in July 2024, or within 30 days of the occurrence of a vacancy in 2024, the office of the chair may be filled by legislative appointment as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

Provides that if an Executive Director is not selected by July 15, 2024, or within 30 days of the occurrence of a vacancy in 2024, the position may be filled by legislative appointment as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

Amends the act's long title.

Intro. by Daniel, P. Newton, Hise.

GS 163

[View summary](#)

Environment, Environment/Natural Resources, Government, Elections, General Assembly, State Agencies, Secretary of State, State Board of Elections, State Government, Executive, Local Government, Transportation

LOCAL/HOUSE BILLS

H 5 (2023-2024) **LOCAL CHANGES OMNIBUS. (NEW)** Filed Jan 25 2023, *AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE CITY OF ARCHDALE; TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ASHEBORO AND THE CITY OF HIGH POINT; TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, THE CITY OF BOILING SPRING LAKES, THE TOWN OF FUQUAY-VARINA, AND THE TOWN OF SUMMERFIELD; TO PROHIBIT THE CITY OF BOILING SPRING LAKES AND THE TOWN OF SUMMERFIELD FROM EXERCISING EXTRATERRITORIAL JURISDICTION WITH RESPECT TO CERTAIN DESCRIBED PROPERTY; TO AUTHORIZE THE CITY OF HENDERSONVILLE TO USE PROCEEDS FROM ON-STREET PARKING METERS TO FUND CAPITAL PROJECTS AND PROVIDE THAT REVENUES REALIZED FROM OFF-STREET PARKING FACILITIES MUST BE USED TO PAY BONDS ISSUED TO FINANCE SUCH FACILITIES OR FOR OTHER CAPITAL PROJECTS; TO ALLOW BURKE COUNTY TO USE LOCAL SALES AND USE TAX REVENUE DISTRIBUTED TO THE COUNTY IN A MANNER THAT IS CONSISTENT WITH GENERAL LAW; TO KEEP THE COMMON BOUNDARY BETWEEN FRANKLIN COUNTY AND GRANVILLE COUNTY AS THE CURRENTLY RECOGNIZED COMMON BOUNDARY WHICH IS CONSISTENT WITH THE COUNTY BOUNDARIES ESTABLISHED BY THE 2020 CENSUS GEOGRAPHY; TO CHANGE THE METHOD OF ELECTION IN THE CITY OF HENDERSONVILLE; TO CHANGE THE DATE OF THE NONPARTISAN PRIMARY IN THE VILLAGE OF FLAT ROCK AND THE TOWN OF FLETCHER; TO EXTEND MECKLENBURG COUNTY MEALS TAX SUNSET EXTENSION; TO CLARIFY THE REQUIREMENT FOR THE BUNCOMBE COUNTY BOARD OF EDUCATION TO ESTABLISH ITS ELECTORAL DISTRICTS; AND TO REQUIRE THE BUNCOMBE COUNTY BOARD OF EDUCATION AND ASHEVILLE CITY BOARD OF EDUCATION TO STUDY MERGING THE BUNCOMBE COUNTY SCHOOL ADMINISTRATIVE UNIT AND THE CITY OF ASHEVILLE SCHOOL ADMINISTRATIVE UNIT.*

Conference report makes the following changes to the 3rd edition.

Removes the provision that removed specified property from Clemmons' corporate limits.

Section 1.

Amends GS 160A-58.1 to exempt the City of Archdale from the statute's requirement that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Section 2.

Describes the territory identified by Randolph County Parcel Identification Numbers as added to the corporate limits of the City of Asheboro. Effective June 30, 2024. Specifies that the identified property, as of January 1, 2024, is subject to municipal taxes for taxes imposed for taxable years beginning on or after July 1, 2024.

Section 3.

Removes two parcels, as described, from the corporate limits of the City of Asheville. Provides a savings clause for the validity of any liens of the City of Asheville for outstanding ad valorem taxes or special assessments. Effective June 30, 2024. Deems property in the described territory as of January 1, 2024, no longer subject to municipal taxes for taxable years beginning on or after July 1, 2024.

Section 4.

Removes five parcels, as described, from the corporate limits of the City of Boiling Spring Lakes. Provides a savings clause for the validity of any liens of the City of Boiling Spring Lakes for outstanding ad valorem taxes or special assessments. Deems property in the described territory no longer subject to the extraterritorial powers of any municipality. Effective September 30, 2023.

Section 5.

Amends the effective date of the removal of the specified property from the corporate limits of the Town of Fuquay-Varina so that it is now effective June 30, 2024 (was, 2023). Deems property in the described territory as of January 1, 2024 (was, 2023) no longer subject to municipal taxes for taxable years beginning on or after July 1, 2024 (was, 2023).

Section 6.

Under GS 160A-301(a) cities may use proceeds from parking meters on public streets only to defray the cost of enforcing and administering traffic and parking ordinances and regulations. Under GS 160A-301(b) cities may use proceeds collected from off-street parking facilities to amortize bonds issued to finance such facilities or for any other public purpose. Authorizes the City of Hendersonville to expand the use of proceeds from charging for on-street parking under GS 160A-301(a) to fund any capital projects, in addition to defraying the cost of enforcing and administering traffic and parking ordinances and regulations. Narrows the City of Hendersonville's use of proceeds from charging for off-street parking under GS 160A-301(b), requiring those proceeds only be used to fund capital projects or to amortize bonds issued to finance off-street parking facilities.

Section 7.

Specifies property to be added to the corporate limits of the City of High Point. Specifies that the identified property, is subject to municipal taxes as provided in GS 160A-58.10 (pertaining to taxation of newly annexed territory).

Section 8.

Removes 41 parcels, as described, from the corporate limits of the Town of Summerfield. Provides a savings clause for the validity of any liens of the Town of Summerfield for outstanding ad valorem taxes or special assessments. Effective September 30, 2023. Deems property in the described territory no longer subject to any existing or future joint annexation agreement entered into between the Town of Summerfield and the City of Greensboro and as not subject to the extraterritorial powers of any municipality.

Section 9.

Repeals SL 1983-273 as amended (pertaining to certain sales and use taxes in Burke County); SL 1985-198 (pertaining to continuing contracts for capital outlay applicable to Burke County and the Burke County School Administrative Unit); and SL 1985-326 (uses of certain .5% sales and use taxes in Burke County). Applies to tax proceeds distributed on or after the bill becomes law.

Section 10.

Establishes the legal boundary line between Franklin County and Granville County as depicted by the Census Redistricting Data PL 94-171 TIGER/Line Shapefiles associated with the 2020 federal decennial census, which is consistent with the boundary line used by the counties and reflected in the counties' geographic information systems maps. Specifies that any completed county boundary survey delivered by the North Carolina Geodetic Survey that is not consistent the above described boundary cannot be binding upon Franklin and Granville Counties and must not be used by Franklin or Granville County as a common boundary between the counties. Provides for the appropriate location for filing of public records. Specifies that Franklin County, Granville County, the elected and appointed officials of Franklin and Granville Counties, and employees of Franklin County and Granville County will not incur any liability under any local or general law, ordinance, rule, or regulation for any act or failure to act relating to taxation, school attendance, land use controls, elections, or any other governmental function as it relates to the currently used boundary line between Franklin County and Granville County.

Section 11.

Amends Section 4.2 of the Charter of the City of Hendersonville, as amended, to change the way that the Mayor and City Council are elected from the nonpartisan primary method to the nonpartisan plurality method set forth in GS 163-292.

Sections 12 and 13.

Amends Section 4.1 of the Charter of the Village of Flat Rock as amended and Section 4.1 of the Charter of the Town of Fletcher as amended, as follows. Specifies that primaries for municipal officers (i.e., Village of Flat Rock officers and the Mayor and Town Council of the Town of Fletcher) be held on the date of the county partisan primaries under GS 163-1. Specifies that the filing period is the same as that for county officers elected on a partisan basis. Makes conforming the Charter of the Town of Fletcher to account for new election date. Applies to elections held on or after the act becomes law.

Section 14.

Amends Section 9.1 of SL 1983-908, as amended, as follows. Extends the repeal of Section 7 and Section 9(a)(4)b., the Mecklenburg County prepared food and beverages tax and distribution of a portion of occupancy tax proceeds to specified Mecklenburg County towns, to July 1, 2060.

Section 15.

Repeals Section 6(d) of SL 2023-32 which required the Buncombe County Board of Education to comply with nine specified provisions when establishing or revising electoral districts. Requires instead that the Buncombe County Board of Education comply with state and federal law in establishing or revising electoral districts as required by SL 2023-32.

Amends Section 6(e) of SL 2023-32 Section 6(e) by changing the deadline from February 1, 2024, to June 30, 2024, by which the Buncombe County Board of Education must establish the boundaries of the six electoral districts to be used in the 2024 elections and thereafter.

Sets the filing period for the Buncombe County Board of Education in the 2024 election as noon on the third Friday in July until noon on the first Friday in August. Requires a joint study by the Buncombe County Board of Education and the Asheville City Board of Education on the feasibility of the merger of the Buncombe County School Administrative Unit and the City of Asheville School Administrative Unit. Requires a report to the NCGA standing committees hearing elections matters by February 15, 2025.

Makes conforming title changes.

Intro. by Paré.

[STUDY, UNCODIFIED, Brunswick, Buncombe, Burke, Forsyth, Franklin, Granville, Guilford, Henderson, Mecklenburg, Randolph, Wake](#)

[View summary](#)

[Government, Elections, Tax, Local Government](#)

ACTIONS ON BILLS

PUBLIC BILLS

H 22: CONCEALED GUN PERMIT/CLARIFY DISCHARGE. (NEW)

House: Reptd Fav Com Substitute

House: Re-ref Com On Rules, Calendar, and Operations of the House

H 361: REQUIRE REPORT/PROTECTION & ADVOCACY AGENCY.

Senate: Withdrawn From Cal

Senate: Placed On Cal For 09/13/2023

H 415: STOP ADDICTION FRAUD ETHICS ACT OF 2023.

Senate: Withdrawn From Cal

Senate: Placed On Cal For 09/13/2023

H 432: PRINCIPAL LICENSURE CHANGES.

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Special Message Sent To House

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Cal Pursuant Rule 36(b)

House: Added to Calendar

House: Withdrawn From Cal

House: Placed On Cal For 09/19/2023

H 542: HOA REVISIONS/FORECLOSURE TRUSTEE AUCTIONS. (NEW)

Senate: Amend Adopted A1

Senate: Passed 2nd Reading

Senate: Passed 3rd Reading

Senate: Engrossed

Senate: Special Message Sent To House

House: Special Message Received For Concurrence in S Com Sub

House: Ref To Com On Rules, Calendar, and Operations of the House

H 893: PRIVATE COMMERCIAL BUILDING INSPECTION.

House: Reptd Fav Com Sub 2

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 09/19/2023

House: Placed On Cal For 09/19/2023

S 218: ESTATES & TRUSTS CHANGES.

Senate: Concurred In H Com Sub

Senate: Ordered Enrolled

S 274: STUDY INDEP. OLDER ADULT SVS. (NEW)

Senate: Failed Concur In H Com Sub

Senate: Conf Com Appointed

S 477: AMEND BUS. CORP. ACT/BUS. OPP. DISCLOSURES.

House: Reptd Fav Com Sub 2

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 09/19/2023

House: Placed On Cal For 09/19/2023

S 492: ADULT CORRECTIONS/LAW ENF. CHANGES. (NEW)

Senate: Withdrawn From Com

Senate: Placed On Cal For 09/13/2023

S 527: ABC OMNIBUS 2023. (NEW)

House: Reptd Fav Com Sub 2

House: Re-ref Com On Rules, Calendar, and Operations of the House

S 531: DAM SAFETY LAW CLARIFICATION.

House: Withdrawn From Cal

House: Placed On Cal For 09/19/2023

S 542: DOL OMNIBUS/OTHER CHANGES. (NEW)

Senate: Failed Concur In H Com Sub

Senate: Conf Com Appointed

S 615: ADOPTION LAW/NOTARY CHANGES/GUARDIANSHIP RTS. (NEW)

Senate: Conf Com Reported

House: Conf Com Reported

House: Added to Calendar

Senate: Placed on Today's Calendar

Senate: Conf Report Adopted

House: Withdrawn From Cal

House: Placed On Cal For 09/19/2023

S 678: CLEAN ENERGY/OTHER CHANGES. (NEW)

Senate: Failed Concur In H Com Sub

Senate: Conf Com Appointed

House: Conf Com Appointed

S 749: NO PARTISAN ADVANTAGE IN ELECTIONS.

House: Reptd Fav Com Substitute

House: Cal Pursuant Rule 36(b)

House: Placed On Cal For 09/19/2023

LOCAL BILLS

H 5: LOCAL CHANGES OMNIBUS. (NEW)

Senate: Conferees Changed

Senate: Conf Com Reported

Senate: Held As Material

Senate: Placed On Cal For 09/13/2023

House: Conf Com Reported

House: Ruled Material

House: Cal Pursuant Rule 44(d)

House: Placed On Cal For 09/19/2023

S 132: HIGH POINT ROW ANNEXATION. (NEW)

House: Withdrawn From Cal

House: Placed On Cal For 09/19/2023

S 154: OMNIBUS OCCUPANCY TAX CHANGES. (NEW)

House: Withdrawn From Cal

House: Placed On Cal For 09/19/2023

S 169: LOCAL OMNIBUS CHANGES. (NEW)

Senate: Concurred In H Com Sub

Senate: Ordered Enrolled

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