

The General Assembly

After a number of reconvened sessions that took place following the long session, the 2012 short session convened on May 16 and adjourned on July 3, 2012. The session totaled 29 legislative days.

This chapter provides an overview of the 2012 session, including major legislation enacted. Please note that School of Government (SOG) faculty members and experts are writing summaries of selected legislation of interest to state and local government officials. These summaries are available on the SOG's 2012 legislative summaries website <http://dailybulletin.unc.edu/summaries12/>; the site will be updated as summaries are available.

Overview of the 2012 Regular Session

Article II, Section 11, of the North Carolina Constitution provides for a biennial session of the General Assembly that convenes in every odd-numbered year. Until 1973 the General Assembly held a single regular session, convening in each odd-numbered year, meeting several months, and then adjourning sine die. Prior to 1974, legislative sessions in even-numbered years of the biennium were extra sessions and they were rare and of short duration.

Beginning with the 1973-74 biennium, the General Assembly began holding annual sessions. The General Assembly convenes in January of odd-numbered years. In these "long sessions," which generally run through midsummer, a biennial budget is adopted and any legislative business may be considered. In even-numbered years the General Assembly convenes for a "short session," which generally runs from May through July or August. In the short session the General Assembly considers budget adjustments for the second year of the biennium and generally deals with bills that have passed one house and a limited number of additional noncontroversial matters. Legally the short session is a continuation of the long session.

The adjournment resolution, Res. 2011-12 (S 793), provided that only the following could be considered during the 2012 short session:

- Bills introduced by May 29, 2012, directly affecting the budget.
- Bills amending the North Carolina Constitution.
- Bills introduced in 2011 that passed third reading by the crossover deadline in the house in which the bill was introduced, and that were not unfavorably disposed of by the other house.
- Bills and resolutions introduced by May 23, 2012, implementing the recommendations of various commissions and committees.
- Non-controversial local bills that are introduced by May 30, 2012, and are accompanied by a certification that no public hearing will be required and that the bill is approved for introduction by each member of the relevant house whose district is affected by the bill.
- Bills making a selection, an appointment, or a confirmation of members of state boards and commissions.
- Bills concerning matters authorized by joint resolution passed by a two-thirds majority in each house, and joint resolutions authorizing consideration of these bills.
- Bills introduced by May 30, 2012, affecting state or local pension or retirement systems.
- Resolutions authorized under Senate Rule 40(b) or House Rule 31, primarily relating to deceased persons.

- Bills concerning redistricting.
- Veto overrides.
- Election law bills.
- Bills disapproving administrative rules.
- Adjournment resolution.

The adjournment resolution also authorized the Speaker of the House or the President Pro Tempore of the Senate to allow committees or subcommittees to meet when the General Assembly was not in session to review matters related to the 2011-12 budget, prepare reports, and consider other matters as appropriate.

Statistical Comparison

A total of 459 bills were introduced during the 2012 legislative session, more than 300 fewer filings than during the 2010 short session¹. The number continues the low number of bills filed during the long session and is the lowest number of bills introduced during a short session since 1982. In total, 203 bills were enacted. The session also saw three vetoes and the override of each of those vetoes.

Table 1-1 compares the 2012 session with other odd-year sessions of the past ten years.

Table 1-1. Statistical Comparisons of Recent Even-Year Sessions

	2002	2004	2006	2008	2010	2012
Date convened	May 28	May 10	May 9	May 13	May 12	May 16
Date adjourned	Oct. 4	July 18	July 28	July 18	July 10	July 3
Senate legislative days	69	44	48	40	35	29
House legislative days	77	44	47	40	36	29
Senate bills introduced	368	415	881	597	354	165
House bills introduced	336	466	1,093	733	426	294
Total bills introduced	706	881	1,974	1,330	780	459
Session Laws Enacted	190	203	264	229	227	203
Vetoes	1	1	1	1	0	3

The Legislative Institution

Membership Changes

Following the 2012 legislative session, the House lost one of its most senior members when Representative Brubaker resigned; Allen McNeill has been named as his replacement. Representative Guice resigned in January and Trudi Walend was appointed to his seat. Representative LaRoque resigned in August following a federal indictment on charges of improperly using federal funds and money laundering. Karen Kozel has been named as his replacement.

Post session also saw the deaths of several legislators. Representative Wainwright, who had served 11 terms, passed away in July and Barbara Lee has been named as his replacement. Representative Larry Brown, who had served 4 terms, passed away in August and a replacement has not been named at this time.

¹ According to analysis of statistics compiled by the General Assembly library, available at <http://www.ncleg.net/library/Documents/LegStats1965-2010.pdf>.

In the Senate, Deputy President Pro Tempore, Senator Forrester, passed away, having served for 11 terms. Chris Carney was appointed to fill his seat and Senator Harris Blake was named the new Deputy President Pro Tempore.

Legislation

Several bills included provisions establishing new and amending existing legislative commissions. S.L. 2012-90 (Senate Bill 798), Various Emergency Management Changes, establishes the 12 member Joint Legislative Emergency Management Oversight Committee to examine emergency management in the state and make ongoing recommendations on effective emergency preparedness, management, response, and recovery. S.L. 2012-143 (Senate Bill 820), Clean Energy and Economic Security Act, establishes the 10 member Joint Legislative Commission on Energy Policy to oversee the state's energy policy. S.L. 2012-187 (Senate Bill 810) reestablishes the Joint Legislative Administrative Procedure Oversight Committee, and amends the membership of the North Carolina Mining and Energy Commission.

S.L. 2012-80 (Senate Bill 841), Effective Utilization of PED, requires every bill and resolution proposing that the Program Evaluation Division conduct a study or evaluation to include an impact statement. The impact statement details the number of staff members and the number of hours that will be needed to complete the study as well as a cost estimate. The act also provides that if the PED determines that it will be not able to perform the study or evaluation as a part of its annual work plan, the PED must indicate a timeframe within which the study or evaluation could be completed.

S.L. 2012-193 (House Bill 153), No Public Retirement for Convicted Felons, prohibits the payment of retirement benefits to legislators (among others) who have been convicted of a felony committed while serving in the General Assembly when the conviction is based on conduct directly connected to the member's office.

New Organizational Session

For the first time, the legislative session will begin with an organizational day that will take place a few weeks before the full session begins. This new organizational session was established in S.L. 2012-194 (Senate Bill 847), the general statute technical corrections bill. On January 9, 2013, legislators will hold an organizational session where they will elect officers, adopt rules and conduct other business to help prepare for session (for example, announcing committees and making committee assignments). These are all tasks that are typically performed in the first week or so of session, so the additional session will allow legislators avoid housekeep matters and jump into their work as soon as session starts. After the organizational session adjourns, the legislators will reconvene on January 30 to begin their usual long session.

Major Legislation Enacted in 2012

The 2012 General Assembly enacted a number of significant pieces of legislation, a few of which are listed below. A more detailed discussion of many of these bills, as well as other legislation, can be found on the 2012 legislative summaries website: <http://dailybulletin.unc.edu/summaries12/>.

Annexation

S.L. 2012-11 (House Bill 925), An Act to Require a Vote of the Residents Prior to the Adoption of an Annexation Ordinance Initiated by a Municipality, makes changes to the involuntary annexation process. The act now requires cities to hold a vote before undertaking an involuntary annexation. They city may move forward with the annexation if a majority of votes cast in the referendum are in favor of doing so; is the referendum fails, then the city has to wait three years before attempting to annex the area again.

For more information on this act and other legislation impacting local governments, see <http://dailybulletin.unc.edu/summaries12/category13.html>.

LME Board Appointment Procedure

S.L. 2012-151 (Senate Bill 191), An Act to Make Changes in Governance of Local Management Entities With Respect to the Implementation of Statewide Expansion of the 1915(B)/(C) Medicaid Waiver, makes various changes to Local Management Entity (LME) Board requirements. Among the changes, the act reduces the maximum size of the board, increase term limits, and removes provisions for the method of appointing board members. Finally, the act provides more specifics as to the composition of the board.

For more information on this act and other mental health related legislation, see <http://dailybulletin.unc.edu/summaries12/category16.html>.

Sea-level Rise

S.L. 2012-202 (House Bill 819), An Act to Study and Modify Certain Coastal Management Policies, became law without the Governor's signature. Scaled back from its original, national media attention grabbing version, the act prohibits the Coastal Resources Commission (Commission) and the Division of Coastal Management from defining rates of sea level change for regulatory purposes before July 1, 2016. In the meantime, the Commission's Science Panel is directed to study sea level change data and hypotheses. Among the issues the Commission is directed to study are the economic and environmental costs and benefits of developing, or not developing, sea level regulations and policies.

Sale of a Child

S.L. 2012-153 (Senate Bill 910) creates a new criminal offense for the sale of a child. The act makes it a Class F felony to sell, surrender, or purchase a minor when that person participates in the acceptance, solicitation, offer, payment, or transfer of any compensation for the unlawful physical custody of the child. Offenders are also subject to fines and may be required to register as sex offenders. Minor victims are deemed to be abused and may be placed in the custody of the Department of Social Services or another individual.

For more changes made by this act and more information on children and juvenile legislation, see <http://dailybulletin.unc.edu/summaries12/category02.html>. For more information on criminal law legislation, see <http://dailybulletin.unc.edu/summaries12/category05.html>.

Emergency Management

The General Assembly made widespread changes to the state's emergency management laws during the 2012 session. S.L. 2012-12 (House Bill 843), Modernize NC Emergency Management Act, contains the bulk of the changes. The act consolidates and reorganizes the emergency management statutes. The act also clarifies and standardizes terms used throughout the statutes, including clarifying the difference between the terms "state of emergency," which is issued by either the governor or a local government official, and "disaster declaration," which is issued by the governor based on emergency's severity. The act makes updates and clarifying changes to several areas including to the Division of Emergency Management's authority, expiration date of local states of emergency, and penalties for violations of local emergency restrictions. The act also modifies when local governments can restrict dangerous weapons during a state of emergency.

S.L. 2012-90 (Senate Bill 798), Various Emergency Management Changes, makes several other changes to the emergency management statutes including expanding liability protections for individuals whose property is used for emergency management purposes, establishing the State Emergency Response Team, and creating the 12 member Joint Legislative Emergency Management Oversight Committee.

For more information on these acts and other emergency management legislation, see <http://dailybulletin.unc.edu/summaries12/category09.html>.

New Terrorism Offense

S.L. 2012-38 (House Bill 149), An Act to Create the Criminal Offense of Terrorism, makes it a felony to commit an act of violence (as defined in new article) with the intent of (1) intimidating an identifiable group of the civilian population or the civilian population as a whole, or (2) influencing governmental activities through intimidation. Violations are a separate offense and are punishable as one felony class higher than the underlying act of violence offense. Additionally, property used in the commission of the offense is subject to seizure and forfeiture.

For more information on this act and other criminal law and criminal procedure legislation, see <http://dailybulletin.unc.edu/summaries12/category05.html>.

The Governor's Veto

As of July 16, 2012, Governor Perdue exercised her veto power three times this session, including her second budget veto in a row. Governor Perdue vetoed Senate Bill 416 (Amend Death Penalty Procedures), House Bill 950 (Modify 2011 Appropriations Act), and Senate Bill 820 (Clean Energy and Economic Security Act). Three additional acts became law in 2012 without the Governor's signature.

Budget

Legislators gave their final approval to House Bill 950 (SL 2012-142), Modify 2011 Appropriations Act, on June 21, 2012. The adjustments to the biennium budget set out during the 2011 session included a \$20.2 billion budget. Highlights of the budget include the following: a raise of 1.2% and a 5 bonus leave days for teachers and state employees; an additional \$212.5 million for Medicaid; new restrictions on passing third-graders who do not pass end-of-grade reading tests; and caps the gas tax.

For the second year in a row, Governor Perdue vetoed the budget. The Governor vetoed the act on June 29, 2012. In her veto message, Governor Perdue expressed concern that the budget did not invest enough resources in education. She also listed the General Assembly's lack of funding to compensate victims of the state's forced sterilization program, and failure to invest in jobs proposals, proposals supporting the military and military families, public safety, and other priorities as reasons for her veto. During negotiations between the Governor and legislative leaders, there reportedly was disagreement over \$1 million in funding with Governor Perdue seeking \$76 million for elementary education, \$10 million for pre-K education, \$5 million for pre-K and kindergarten assessments, \$5 million for compensation for eugenics victims, \$3.4 million for probation officers, and \$600,000 for the Help America Vote Act². A compromise was never reached, and with a vote of 74-45 in the House and 31-10 in the Senate, legislators overrode the veto on July 2, 2012.

Racial Justice Act

S.L. 2012-136 (Senate Bill 416), Amend Death Penalty Procedures, makes a number of significant changes to the Racial Justice Act. The most substantial changes involve limits to the scope and duration of where the defendant can look to show that race played a role in the defendant's case. The court can now consider only the defendant's case (previously the scope

² See, *Perdue budget veto brings uncertainty*, News & Observer, June 29, 2012, <http://www.newsobserver.com/2012/06/29/2168204/perdue-vetoes-state-budget.html#storylink=cpy>.

included capital cases throughout the county, prosecutorial district, judicial division, or state) and the review is limited to the time 10 years before the defendant's offense to 2 years after the defendant's death sentence. The act also provides that although statistical evidence of discrimination may be considered, the evidence alone is insufficient.

Governor Perdue vetoed the act on June 29, stating in her veto message that the act "guts the Racial Justice Act and renders it meaningless."³ She also raised her concern that, "it is simply unacceptable for racial prejudice to play a role in the imposition of the death penalty in North Carolina."⁴ The General Assembly overturned her veto on July 2 with a vote of 72-48 in the House and 31-11 in the Senate.

For more information on this act and other criminal law and criminal procedure legislation, see <http://dailybulletin.unc.edu/summaries12/category05.html>.

Fracking

Senate Bill 820, Clean Energy and Economic Security Act, opens the state up to the controversial practice of "fracking," where by pressurized fluid is used to create fractures in the underground rock layer in order to mine oil and natural gas. The act creates the 15 member NC Mining and Energy Commission (Commission) to adopt rules concerning the development of the state's oil, gas, and mining resources. More specifically, the Commission is charged with establishing a program to regulate horizontal drilling and hydraulic fracturing for oil and gas exploration and development. The act requires that fracking rules be adopted by October 1, 2014. Individuals seeking to perform fracking must apply for a permit; permits may not be issued until the General Assembly takes legislative action allowing permits to be issued. The act also establishes the Joint Legislative Commission on Energy Policy that, among other duties, oversees the Commission. The act includes other provisions concerning liability for water contamination, lease terms, surface activities, and real property disclosures.

The act passed the Senate by a vote of 29-19 and passed the House by a vote of 66-43. Governor Perdue vetoed the act on July 1, stating that she supports hydraulic fracturing but that the act needed stronger safeguards tailored to North Carolina's conditions. Her veto message stated that, "this bill does not do enough to ensure that adequate protections for our drinking water, landowners, county and municipal governments, and the health and safety of our families would be in place before any fracking would occur."⁵

On July 2, the eve of adjournment, the Senate was able to override the Governor's veto with a vote of 29-13. The vote was much closer in the House. After hours of debate, the override vote was taken just after 11:00 pm; the override was approved by a vote 72-47, with the one deciding vote in favor of the override cast by accident.

Unfinished Business

Eugenics Compensation

House leaders pledged to fund compensation for victims of the state sponsored sterilization program, which lasted from 1929-1974. The House also gave their approval to House Bill 947, Eugenics Compensation Program. The bill established the Eugenics Asexualization and Sterilization Compensation Program, under which qualified eugenics victims still living on May 16, 2012, would receive \$50,000 in compensation. The act established the Office of Justice for

³ Governor's Objections and Veto Message, Senate Bill 416, <http://www.ncleg.net/sessions/2011/S416Veto/govobjections.pdf>.

⁴ Id.

⁵ Governor's Objections and Veto Message, Senate Bill 820, <http://www.ncleg.net/sessions/2011/S820Veto/govobjections.pdf>.

Sterilization Victims to assist individual in determining program eligibility, filing claims, and advocating for claimants. The House's version of the budget included more than \$11 million to provide \$50,000 eugenics compensation. This funding was not included in the Senate's version of the budget and did not make it into the compromise version of budget; while House Bill 947 made it through the House, it was not voted on by the Senate. With the commitment made to the issue in the House, it is likely that the issue will come up again during the 2013 session.

Video Sweepstakes

Earlier this year, the NC Court of Appeals held that the statute banning internet sweepstakes was an unconstitutionally overbroad regulation of free speech. With internet sweepstakes once again legal, legislators looked to other ways to regulate the industry. House Bill 1180, Video Sweepstakes Entertainment Tax, would have required video sweepstakes establishment owners to be licensed and pay a tax. The bill levied an annual \$2,000 license tax, an annual excise tax of \$1,000 per machine, and a 4% tax on gross receipts. Up to 6% of the proceeds from the license tax and excise tax were allowed to be distributed to local law enforcement. Cities and counties were also authorized to levy a license tax of \$1,000 per location and an excise tax of \$500 per machine.

House Bill 1180 never came up for a vote. Up to this point, the General Assembly's attempts to outlaw video sweepstakes have proven unsuccessful. It appears likely that the General Assembly's focus on the sweepstakes in 2013 will be on regulation and taxation of the operations.

Voter Identification

Legislators did not make further attempts to override Governor Perdue's veto of House Bill 351, "Restore Confidence in Government," which required voters to present photo identification before voting. While there were rumors that an alternative bill would appear during the final days of session, no action was taken on the issue. It seems likely that this issue will be revisited in some form during the 2013 session.

The 2013 Session

The General Assembly is currently scheduled to return for its new one day organizational session on January 9, 2013. Following this session, legislators will return on January 30, 2013, for their usual long session.

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