



NORTH CAROLINA BURGLAR AND FIRE ALARM ASSOCIATION

LEGISLATIVE REPORT

SEPTEMBER 25, 2007

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INTRODUCTION

The first year of the 2007 Session of the North Carolina General Assembly adjourned on August 2, 2007 and was by all accounts an unusual session both for legislators and lobbyists. There were 3,645 bills filed by legislators in the General Assembly with 590 being approved and signed into law by the Governor and one bill vetoed by the Governor. The Legislature enacted several pieces of major legislation, including tougher restrictions for solid waste landfill permits, legislation to promote and develop renewable energy and energy efficiencies, legislation that would allow for registration and voting at one-stop sites, and the Legislature also toughened recent ethics legislation for campaigns, lobbyists, and legislators.

Of course, this Session will primarily be remembered because of the scandals, including the guilty plea of former Speaker Black to bribery charges, the investigation of Representative Wright for campaign filing irregularities, the investigation of Representative McAllister for a campaign loan, the controversy surrounding the Black Caucus regarding its scholarship program, the resignation of Representative Almond for inappropriate conduct, and the scandal surrounding lobbyist Don Beason's loan to Speaker Black of \$500,000. The scandal created by all of these incidents and the constant media attention made legislators and lobbyists jumpy and cautious regarding their roles and responsibilities at the Legislature. With the new Ethics Commission slowly getting started, it was difficult for most to understand the rules and how they might apply to the legislative process. Before the rules from last session could be interpreted, the Legislature passed new ethics legislation, both clarifying some of those rules and enacting new regulations. It is believed by most that the scandals are not over as investigations continue into the actions of Speaker Black, other legislators, and lobbyists on the federal and state levels.

The short session in 2008 will begin on May 13th at 12:00 noon and will be limited in scope to a review of the two-year budget and legislation that is limited by rule. According to the Adjournment Resolution passed by both the House and the Senate, the bills that will be eligible for consideration next year include bills that made the cross-over deadline by either being passed in the House or the Senate, any bills that directly and primarily affect the state budget, and bills amending the Constitution of North Carolina, which would include the bills regarding eminent domain and the marriage bill defining a marriage as between a man and a woman. In addition, bills or resolutions that were created by study commissions, the House Ethics Committee, or other select committees may also be filed during the short session as well as any local bills that are non-controversial. There is also a procedural way to have a bill introduced that is otherwise ineligible; however, it would



require a two-thirds vote in both the House and the Senate before being introduced. Since a study bill was not enacted during the 2007 Session that would authorize various issues to be studied before the short session, the leadership in both the House and the Senate may establish committees and determine the issues to be reviewed.

As mentioned above, the Governor vetoed legislation that would have provided \$40 million in economic incentives for the Goodyear Tire Company in Cumberland County. The Legislature was called back into session several weeks ago to decide whether to overturn the Governor's veto which can only be done with a vote of two-thirds of the legislators in the House and Senate. Initially, it appeared that the Legislature would overturn the Governor's veto, which has never happened in North Carolina before; however, after several days of negotiations, the Governor's Office and the Legislature reached a compromise that will expand economic incentives to other businesses besides the Goodyear plant and will spend up to \$60 million on incentives for large manufacturing companies. We do not expect any other special session to be called prior to the May 13, 2008 start date; however, there is always a possibility that a special session may be called by the Governor.

This final legislative report for the North Carolina Burglar and Fire Alarm Association includes a summary of legislation enacted in 2007 that is of interest to your association and a summary of the state budget. In several weeks, we will also provide a summary of legislation that was not enacted into law and the status of that legislation for the 2008 session. It has been an honor representing the North Carolina Burglar and Fire Alarm Association and I look forward to continuing to work with you during the 2008 session.

LEGISLATION ENACTED

HOUSE BILL 24, Smoking in State Government Buildings/Prohibition. This law prohibits smoking in buildings owned, or leased by state government or occupied by state employees and also allows local governments to regulate smoking in buildings and vehicles. This legislation was recommended by the Justus-Warren Heart Disease and Stroke Prevention Task Force. **Effective: July 8, 2007.**

HOUSE BILL 36, Hazardous Materials Task Force Recommendations. This law was enacted to improve the oversight of hazardous waste facilities as recommended by a task force established by the Governor after the Apex hazardous waste fire. The law provides a variety of changes to the rules regarding hazardous waste facilities that include requiring them to provide security and surveillance at the facility 24 hours per day, 7 days per week to monitor site conditions and to control entry into the site facility. This monitoring may be done by the use of cameras to continuously monitor the site to detect fires, explosions, or other releases of hazardous materials. Another task force will be established to review the State Building Code to ensure that it addresses the needs and safety of citizens with respect to facilities that store, treat, or dispose of hazardous materials. **Effective: June 26, 2007.**

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HOUSE BILL 257, Streamlined Sales Tax Changes. This law modifies a variety of sales tax regulations to comply with the streamlined sales tax agreement between states. The law alters the definition of a bundled transaction and how a bundled transaction will be taxed. A bundled transaction is one that includes two or more distinct identifiable products, one of which is taxable and one of which is exempt from taxation. A bundled transaction does not include the retail sale of a product and the delivery or installation of the product. The law defines how a bundled transaction is taxed and how to be exempted from the taxes. **Effective: October 1, 2007.**

HOUSE BILL 429, Canal Dredging Fee/Brunswick Fire Fees. This law modifies Brunswick County's fire protection fees based on the lot size and the square footage of the heated floor area of buildings. **Effective: January 1, 2008.**

HOUSE BILL 568, Garner, Holly Springs, Rolesville Motor Vehicle Tax. This law allows the Towns of Garner, Holly Springs, Rolesville, and Knightdale to charge a motor vehicle privilege tax of up to \$15 for each vehicle located in the towns. **Effective: July 1, 2007.**

HOUSE BILL 700, Standards for Code-Enforcement Officials. This law clarifies the standards for code enforcement officials and allows the Board to issue one or more standard certificates to each code enforcement official in the following types of code enforcement: (1) building inspector; (2) electrical inspector; (3) mechanical inspector; (4) plumbing inspector; and (5) fire inspector. The holder of a standard certificate may practice code enforcement only within the inspection area in levels described in the certificate issued by the Board. It would be unlawful for any person to practice code enforcement, except as provided by a valid certificate issued to that person by the Board. **Effective: December 1, 2007.**

HOUSE BILL 735, Construction Plan Review. This law decreases the number of state buildings required to be reviewed by the North Carolina Commissioner of Insurance regarding fire safety by changing the criteria from 10,000 square feet to 20,000 square feet. If a building is 20,000 square feet or more, then the plan must be submitted and approved by the Commissioner of Insurance as to the fire safety of the proposed building, including the protection of the property's occupants or contents. **Effective: October 1, 2007.**

HOUSE BILL 973, Mental Health Equitable Coverage. This law was finally enacted after ten years of work on this legislation by Representative Martha Alexander from Mecklenburg County. The law requires health insurance coverage of certain mental illnesses and requires that they be covered similarly to physical illnesses. The mental illnesses covered include bipolar disorder, major depressive disorder, obsessive compulsive disorder, paranoid and other psychotic disorders, schizoaffective disorders, schizophrenia, post-traumatic stress disorder, anorexia nervosa, and bulimia. Health insurers may provide greater insurance but these illnesses are the minimum that must be covered. The law does not include chemical dependency; however, it includes a provision prohibiting discrimination against mentally ill or chemically dependent individuals. **Effective: July**

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1, 2008 and applies to health benefit plans that are issued for delivery or renewed on or after that date.

HOUSE BILL 1181, Small Business Contractor Act. This law provides for contract financing and surety bonds for small businesses that contract with governmental agencies. The purpose of the law is to foster economic development and create jobs by providing this assistance to financially responsible small businesses that are unable to obtain adequate financing and bond assistance. **Effective: January 1, 2008.**

HOUSE BILL 1277, Drivers License Revocation for ABC Violation. This law provides that any person convicted of giving alcoholic beverages to an underage person or helping to purchase alcoholic beverages for an underage person may have his or her driver's license revoked for one year. Those whose licenses are revoked under this new law will be eligible for a limited driving privilege. **Effective: December 1, 2007.**

HOUSE BILL 1338, Raise Project Limits/Electrical/General Contractors. This law raises the project value limits for licensed contractors. Under the new law, a limited licensee may not work on a project in excess of \$100,000 and an intermediate licensee more than \$200,000. In addition, the Board may modify the project value limitations for limited and intermediate licenses no more than once every three years, based on an increase or decrease in the project cost index for electrical projects in the state. **Effective: October 1, 2007.**

HOUSE BILL 1556, Speaker's and President Pro Tempore's Appointments. This legislation appoints persons to various boards and commissions based upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. **Effective: August 2, 2007.**

- Mark H. Hicks of Granville County, Hiram Williams of Pender County, James Kennedy of Forsyth County, and William Rakatansky of Mecklenburg County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2011.
- James T. Driscoll, Jr. of Robeson County and Paul Boney of New Hanover County are appointed to the State Building Commission for terms expiring on June 30, 2010.
- John Wayne Strowd, Jr. of Chatham County and William Winn of Gates County are appointed to the State Fire and Rescue Commission for terms expiring on June 30, 2010.



HOUSE BILL 1702, Conserve Energy/Insulate Hot Water Plumbing. This law permits the North Carolina Building Code to include rules that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated for energy efficiency. In addition, the North Carolina Building Code Council will study the extent to which the water lines should be insulated to achieve greater efficiency. **Effective: January 1, 2008.**

SENATE BILL 211, Electronic Signatures/Public Agencies. This law clarifies the use of electronic signatures by specifically providing that public agencies may use and accept electronic signatures. **Effective: June 27, 2007.**

SENATE BILL 487, Extend Fiscal Report Deadline/BD of Awards. This law extends the reporting deadline for the State and Local Fiscal Modernization Study Commission. This Commission is studying how to revamp our state tax structure and is reviewing whether to recommend taxing services throughout the state. The Commission now must make its report by May 1, 2008. **Effective: July 4, 2007.**

SENATE BILL 514, Deceptive Advertising of Business Location. As originally filed, this law would have prohibited any business from misrepresenting their geographical location in any telephone directory, directory assistance database, internet, or print advertisement. Many businesses were concerned about this broad-based prohibition and spoke to the sponsor of the legislation who then tailored the bill narrowly to address the problem. The approved law states that businesses that supply perishable products are prohibited from misrepresenting their geographical location in telephone directories, directory assistance databases, the internet, and print advertisements. A violation of this provision is an unfair trade practice. **Effective: October 1, 2007 and applies to any telephone directory, directory assistance database, internet website, or print advertisement provided, published, or posted on or after that date.**

SENATE BILL 527, Contracts with Automatic Renewal Clauses. This law requires a person, firm, or corporation that is engaged in business and sells, leases, or offers to sell or lease any products or services pursuant to a contract to disclose any automatic renewal clauses clearly and conspicuously in the contract or the offer. In addition, information on how to cancel the contract or contract offer must also be clearly and conspicuously disclosed. There are no specifications provided in the law about how large the type must be or what kind of disclosure is required; however, the contract should clearly provide information regarding the renewal and how to cancel the same. A business may show that it has complied with this provision if it: (1) has established and implemented written procedures; (2) shows that the only reason for non-compliance is a result of error; and (3) provides a full refund and credit for all amounts billed to the consumer if disclosure was not provided. If this provision is violated by a business, then the automatic renewal clause becomes void and unenforceable. **Effective: October 1, 2007 and applies to contracts entered into on or after that date. This new law will not affect contracts that were in place prior to October 1, 2007.**

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SENATE BILL 556, *Nonresidential Building Code*. This law allows municipalities to adopt ordinances establishing a nonresidential building or structure code to maintain standards of maintenance, sanitation, and safety. An order may require the owner to repair, alter, or improve the nonresidential building to bring it into compliance with the minimum standards established by the Code or to vacate and close the nonresidential building or structure. The law also provides a variety of other rules and regulations necessary to provide notice to the owner of their responsibilities and to provide a framework for the ordinance. **Effective: August 21, 2007.**

SENATE BILL 684, *Spay/Neuter Funding*. This law increases the fee for all rabies vaccination tags by twenty-five cents, with five cents of the fee being used to fund rabies education and prevention programs and twenty cents being credited to the spay/neuter account to fund statewide spay/neuter programs. **Effective: January 1, 2008.**

SENATE BILL 862, *UNC Smoke-Free*. This law allows UNC campuses and the UNC Healthcare System to prohibit smoking on their grounds and facilities. This provision includes all of the colleges and universities in the UNC System. **Effective: July 1, 2007.**

SENATE BILL 925, *Speeding Law Changes*. This law was implemented after a series of articles by the Raleigh News & Observer that highlighted the ways drivers were using the improper equipment charge as a way to avoid a variety of serious speeding violations. This law will continue to allow pleas for improper equipment; however, those pleas will be recorded in the driver's official record as "improper equipment - speedometer" so that District Attorneys and Judges can see how many plea deals the driver has received in the past. A plea of improper equipment or a prayer for judgment continued could not be used for charges of speeding in excess of 25 mph or more over the posted speed limit. **Effective: December 1, 2007 and applies to offenses committed on or after that date.**

SENATE BILL 1026, *Drivers License Issuance/Expiration Dates*. This law provides that drivers' licenses will expire on the person's date of birth and for those at least 18 years of age but less than 54 years of age, the license will be valid for 8 years and for those over 54 years of age, the license will be valid for 5 years. The law also clarifies that for those who are in the United States for a limited duration, their license will expire no later than the expiration of the authorization for the applicant's legal presence in the United States. The Division of Motor Vehicles will have the authority to cancel a license or endorsement if: (1) the licensee was not entitled to the issuance of the license; (2) the licensee failed to give the required or correct information or committed fraud in obtaining the license; or (3) the licensee is no longer authorized under federal law to be legally present in the United States. **Effective: The provision regarding drivers' license renewals is effective January 1, 2007 and the remainder of the law is effective May 23, 2007 and applies to drivers' licenses issued or renewed on or after that date.**

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SENATE BILL 1058, Telephone Records Privacy Protection Act. This law makes it a Class H felony for any person to obtain or sell telephone records of a customer who is a resident of North Carolina without the customer's consent. The law exempts lawfully authorized investigative work by law enforcement agencies, disclosures to the National Center for Missing and Exploited Children, disclosures authorized by state or federal law, disclosures involving an emergency with immediate danger of death or serious physical injury; or disclosures in the ordinary course of business by the telephone service providers themselves. **Effective: December 1, 2007.**

SENATE BILL 1218, Candidate Felony Disclosure. This law requires all candidates to provide information regarding whether they have been convicted of a felony that has not been dismissed, pardoned, or expunged. The information will be available as a public record and must contain the name of the offense, the date of the conviction, the date of restoration of citizenship rights, and the county and state of conviction. If the candidate does not complete the information, then his or her name will not appear on the ballot as a candidate, and it will be a Class I felony to complete the form with information that is untrue. **Effective: January 1, 2008.**

SENATE BILL 1272, Promote Use of Biofuels. This law exempts those individuals who use biodiesel for personal use in their private passenger vehicle from the motor fuel excise tax. **Effective: October 1, 2007.**

SENATE BILL 1517, Prohibit Gift Card Maintenance Fees. This law requires the conspicuous disclosure of any maintenance fees charged for gift cards and prohibits the issuers of gift cards from charging maintenance fees for at least one year after the date of purchase. **Effective: December 1, 2007 and applies to gift cards sold on or after that date.**

SENATE JOINT RESOLUTION 1557, Apologize for Slavery. This joint resolution expressed profound regret by the State of North Carolina for the history of wrongs inflicted upon black citizens by means of slavery, exploitation, and legalized racial segregation. The resolution calls on all citizens to take part in acts of racial reconciliation. **Effective: April 12, 2007.**

NORTH CAROLINA BIENNIUM BUDGET 2007-2008

The majority of the work that was done this session was work on the 2007-2009 budget. Every odd-numbered year the Legislature drafts a two-year budget plan and this year's will begin July 1, 2007 and will go through June 30, 2009. During the short session, legislators and the Governor will review the budget for any modifications that may be needed depending on the state's revenue and spending priorities. During the short session, the budget drafting is much less rigorous and is supposed to be an "adjustment." The budget for North Carolina is over \$20 billion this year and addresses several financial issues that the state was facing.

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The first issue is the cost of Medicaid for the counties. The budget provides that the counties' 5% share of Medicaid costs will be transferred to the state which will relieve all counties, and especially poor rural counties, of the high cost of Medicaid. In exchange for taking over Medicaid, the counties will give up one-half penny of their sales tax revenues to the state. The counties will then have the option to raise their sales tax by one-quarter penny or to raise their land transfer tax, also known as an excise tax, from 0.2% to 0.6%. Counties may raise those taxes only if approved by a voter referendum and may choose one or the other, but not both. This was the issue that held up the budget for so long this year as the North Carolina Association of Realtors and a coalition of other homebuilder organizations and businesses were adamantly opposed to the land transfer tax. It appears that this battle will now be held in each county as voters will determine if they want a land transfer tax, an increased sales tax, or neither one. So far, approximately 16 counties have decided to put a voter referendum on the ballot to try to gain the authority for one or both of these tax options.

The budget also made permanent a temporary sales tax that was first introduced in 2001. Although the temporary sales tax was decreased last year, the one-quarter penny tax will now become permanent which will make the combined state and local sales tax 6.75%. The upper income tax increase that was also implemented in 2001 will expire at the end of the year, which will establish the tax rate for upper income earners at 7.75%.

The budget also creates a North Carolina earned income tax credit, which is similar to the federal system. The gas tax will also be capped at 29.9 cents per gallon instead of the automatic formula that would require the tax to increase or decrease periodically depending on a variety of economic factors. Other noteworthy budget provisions include an increase on the excise tax for tobacco products other than cigarettes, which will help to pay for cancer research at UNC-Chapel Hill, \$100 million in water and sewer bonds, and \$120 million for land preservation. The budget also provides \$300,000 this year and \$7 million next year to expand government subsidized health insurance for children and provides a \$20.5 million increase for mental health programs.

We have provided below a short summary of the relevant budget provisions for your association:

EDUCATION

Fire Protection for UNC-Pembroke. The budget provides \$750,000 to the Pembroke Rural Volunteer Fire Department to purchase a 100-foot aerial fire truck and equipment to ensure adequate fire protection services to the University of North Carolina at Pembroke.



HEALTH AND HUMAN SERVICES

County Medicaid Share. The budget provides \$86.2 million this year and \$271.2 million next year to gradually reduce the county share of Medicaid from 15% of the nonfederal share to 7.5% of the nonfederal share effective July 1, 2008. By July 1, 2009, the state will completely relieve the counties of all Medicaid costs. The budget provides that the state is responsible for the nonfederal share of the costs of medical services provided under the Program and that counties are responsible for the cost of administering the Program. The budget further provides details regarding the exchange of the counties' portions of the local sales and use taxes for the state's agreement to assume the responsibility for the non-administrative costs of Medicaid.

Private Protection Services and Alarms Systems Licensing Boards Pay for Use of State Facilities and Services. The budget requires the Private Protective Services and Alarm Systems Licensing Boards to pay the appropriate state agency for the use of physical facilities and services provided to those boards by the state.

GENERAL GOVERNMENT

Staff Expansion. The budget provides over \$364,000 in each of the next two years for four new positions for State Building Code review, inspection, and enforcement to achieve targeted review times, implement new services, and provide training activities for owner agencies and designers.

Fire Protection Grants-in-Aid Supplement. The budget provides \$300,000 to the Fire Protection Grants-in-Aid program to assist local fire districts that provide fire protection and other services to state-owned facilities.

Biennial Fee Report. The budget directs the Office of the State Budget and Management to report biennially on the fees charged by each state department, bureau, division, board, commission, institute, and agency during the previous two fiscal years. The report will include: the statutory or regulatory authority for each fee; the amount of the fee; when the amount of the fee was last changed; the number of times the fee was collected during the prior fiscal year; and the total receipts from the fee during the prior fiscal year.

Modify State Fire Protection Grant Fund. The budget provides over \$5.6 million this year and over \$5.38 million next year for local fire protection services for state-owned property, including University of North Carolina campuses.

Most State Employees/Salary Increases. The budget authorizes a salary increase of 4% for all permanent full-time state employees, effective July 1, 2007.



Change Corporate Annual Report Fees. The budget increases the fee for filing an annual report with the Secretary of State from \$20 to \$25 and adds a new fee for filing an electronic report of \$18.

Maintain Current Sales Tax Rate. The budget authorizes the continuation of the current sales tax rates and makes those rates permanent. The combined state and local sales tax is now 6.75%.

Earned Income Tax Credit. The budget provides for an earned income tax credit for qualified taxpayers and provides that if the allowable credit exceeds the amount of tax imposed, the person is due a refund. The earned income tax credit will expire for taxable years beginning on or after January 1, 2013.

Reenact Long-Term Care Credit. The budget allows a tax credit of \$350 for each qualified long-term care insurance contract for taxpayers depending upon adjusted gross income. The long-term care tax credit will expire for taxable years beginning on or after January 1, 2013.

Local Option County Taxes. The budget authorizes the levy of a county land transfer tax upon a majority vote in a referendum on instruments conveying interests in real property located in the county, up to a rate of 0.4%, in increments of 0.1%. The budget also authorizes a One-Quarter (1/4) cent County Sales and Use Tax when the majority of those voting in a referendum vote for the levy of the tax. Counties may not levy both taxes but must choose either the land transfer tax or the sales tax.

TRANSPORTATION

Driver License Secure ID and Card Production System. The budget provides over \$1.4 million in each of the next two years for 36 new positions in the Division of Motor Vehicles for the implementation of a new driver license secure ID and card production system. The new system will comply with the U.S. Real ID Act and House Bill 267.

Division of Motor Vehicles License Plate Recall Program. The budget provides over \$282,000 this year and \$99,000 next year to replace old license plates. The Division of Motor Vehicles will develop a schedule for recalling approximately 94,000 of the oldest license plates annually for the next 5 years. The budget also provides \$99,000 in each fiscal year after 2008-2009 to begin a continuous license plate recall program.



RESERVES/DEBT SERVICE/ADJUSTMENTS

Public School Salary Increase. The budget provides for a 5% increase in teacher salaries.

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