



NORTH CAROLINA BURGLAR AND FIRE ALARM ASSOCIATION

2008 Final Legislative Report

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INTRODUCTION

The 2008 short session was truly short this year, beginning on May 13th and ending on July 18th. The session ran more smoothly with Speaker Hackney fully taking the reigns of power in the House and working out his leadership structure. There were no sessions late into the night or into the early hours and most sessions ended by 8:00 or 9:00 p.m. even during the last two weeks. There were 229 bills and 31 joint resolutions approved by the General Assembly in 2008. For the entire 2007-2008 session, there were 4,991 bills filed, the second highest number of filings in a century.

The readjustment of the budget is the primary purpose of the short session. Although budget negotiations took place at record speed, both the House and the Senate came up with budget packages that were acceptable to most Democrat and Republican members. There were no new tax increases and increased funding was provided for mental health and education. Although neither chamber wanted to take up controversial legislation before the election, many controversial issues were discussed, debated, and voted upon. The Senate approved an annexation moratorium that was not taken up by the House and the House approved changes to the eminent domain laws that were not taken up by the Senate. In addition, legislation regarding barring guns from those who have been involuntarily committed, the bullying bill, and bills regarding immigration and other hot button issues were all debated. Both parties tried to maneuver legislation that would assist them this fall in their attempts to gain more seats in the House and Senate. The Republicans hope to gain enough seats to gain the majority in the Senate and have some opportunities since at least 5 senators are either running for higher office or resigning and there are many open seats for the Democrats to defend. The House looks to be much more stable and it is doubtful that the Democrats will lose control of the House and, in fact, it is likely that the Democrats will gain seats to have a more solid majority.

In this final report, we have reviewed all of the legislation that has been approved this session and have provided summaries of the bills that are of interest to your association. In addition, we have provided a summary of the budget changes for the 2008-2009 fiscal year. And, finally, we have also included a select list of legislation that was not enacted during the 2008 session. Since this is the end of a two-year session, any legislation not enacted is no longer pending. The 2009 session that will start January 28, 2009 will start the process over again and all legislation must be filed again before it can be considered.



More than a month after the session ended, for the first time in North Carolina history, the Legislature overrode a veto that Governor Easley signed on House Bill 2167, Towing of Recreational Boats/Exemption. This bill was an unlikely vehicle for this historic event considering the budget issues and controversial topics that come up in the Legislature every year. Although Governor Easley has vetoed other pieces of legislation, this is the first time that the General Assembly and the Governor's Office have not been able to reach some kind of consensus to avoid a vote to override the veto. Under the North Carolina Constitution, both chambers must override a governor's veto by three-fifths of present and voting members. Both the House and Senate overwhelmingly overrode the Governor's veto with very little discussion on the merits of the bill. The legislators argued that without these changes in the law that economic opportunities would be lost in the state due to loss of boat shows, fishing tournaments and other boat-related activities based on the ability of boats to be towed throughout the state and especially the coast. The Governor's Office argued, through the State Highway Patrol, that the new law was unsafe as it would allow boats that were over the width of the driving lane to be towed in North Carolina. The veto override clearly shows that Governor Easley is a lame duck governor who is losing his influence. It will be interesting to see how much the veto is used by the new administration that will be coming into office after the November 4th election.

It has been an honor to represent the **North Carolina Burglar and Fire Alarm Association** during the 2007-2008 legislative session. I look forward to continuing to work with you and your members during the 2009-2010 session to continue your objectives and goals.

If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, you may receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills office at (919) 733-5648. They will need to know if it is a House bill or Senate bill and the bill number. (For example, Senate Bill 8). Copies are also available on the General Assembly's World Wide Web site: <http://www.ncleg.net>.

LEGISLATION ENACTED

HOUSE BILL 738, Insurance Changes. This law makes a variety of changes to the insurance laws in North Carolina and includes a provision that commercial motor vehicles or fleet vehicles will not be required to provide uninsured motorist coverage. The new law also provides a prohibition on free insurance by prohibiting a person to advertise, offer, or provide free insurance for damage, loss, or theft as an inducement to the purchase, sale, or rental of consumer goods or services directly or indirectly connected with the purchase of consumer goods. **Effective: The majority of the provisions become effective on October 1, 2008.**



HOUSE BILL 1230, Nonprofit ABC Law Changes. This law expands the one-time alcohol permit that nonprofit organizations may receive by adding mixed beverages to the items that may be included in the permit. The permit would only be good for a single fundraising event of the organization. **Effective: August 3, 2008.**

HOUSE BILL 2178, Electronic Voting for Nonprofits. This law allows nonprofit corporations to vote electronically to the extent that the corporation and its members have agreed to allow notice to be provided electronically. A nonprofit corporation may agree to conduct a transaction by electronic means through its Articles of Incorporation, bylaws, or by action of its Board of Directors. Requirements that a vote of the members be made by written ballot may be satisfied by a ballot submitted electronically, including electronic mail, provided that such transmission can be submitted with the appropriate information to determine that the transmission was authorized by the member or the member's proxy. **Effective: October 1, 2008.**

HOUSE BILL 2308, CDL/Federal Compliance. This law makes amendments to North Carolina's commercial driver's license laws to comply with federal law. The changes require that certain revocations and other punishments apply not only to a driver who is operating a commercial motor vehicle but also apply if the person was holding a commercial driver's license at the time of the offense. In addition, a person who has tested positive on a drug or alcohol test must be disqualified from operating commercial motor vehicles for a minimum of 30 days and until receipt of proof of successful completion of assessment and treatment by a substance abuse professional. A notation of disqualification must be retained on the record of a person for a period of 3 years following the end of any disqualification. **Effective: December 1, 2008 and applies to offenses committed on or after that date.**

HOUSE BILL 2431, The Studies Act of 2008. This law is the annual studies bill that authorizes the Legislative Research Commission and other legislative standing committees and task forces to study a variety of issues from bills that were not approved during the session and other issues of interest to the Legislature. As you can see, there are over one hundred studies, but very few will actually take place before the next session begins. The following is a list of studies that are authorized to be conducted and the committee or commission that will undertake the study.

- The Legislative Research Commission may study issues relating to reviewing and increasing television access to state government. The Commission may also study television access to local governments.
- The Legislative Research Commission may study improvements in consumer reporting practices, including allowing businesses and other credit reporting entities with fewer than 500 customers or accounts to provide consumer credit reports.
- The Joint Legislative Education Oversight Committee, in consultation with the



Department of Public Instruction, may study the impact of raising the compulsory public school attendance age from 16 years of age to 17 or 18 years of age.

- The Environmental Review Commission, in consultation with Division of Air Quality in the Department of Environment and Natural Resources, may study the costs and benefits of adopting the California motor vehicle emissions standards in North Carolina.
- The Environmental Review Commission may study requiring retailers who own or control more than 10,000 square feet of retail space in the state and who provide customers with plastic bags for carrying purchased items to implement a plastic bag collection program. The program would require recycling and would provide a clearly marked receptacle for collecting plastic bags, and arrange for the pickup, transport, and recycling of the plastic bags collected. The Commission may also study what alternatives are available to using plastic bags.
- The Environmental Review Commission, in consultation with the Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance, may study issues related to a recycling program for florescent lamps.
- The State Ethics Commission, in consultation with the Legislative Ethics Commission, will study the implementation and effectiveness of the State Government Ethics Act. The study will identify:
 - the areas of the ethics and lobbying process in which public input is needed;
 - the need for notice to the public of interpretations of the law;
 - the effectiveness of the ethics and lobbying education process;
 - the volume of requests for advice;
 - the adequacy of staffing to timely meet the needs of the Act;
 - the general perception of the community affected by the Act; and
 - proposed legislative changes in the governmental process and the law needed to promote and continue high ethical behavior by governmental officers and employees.

The Commission will report its findings and recommendations to the Legislative Ethics Commission on or before March 1, 2009.

The North Carolina Building Code Council will reexamine the adoption of several sections of the North Carolina Electrical Code to determine if the sections are necessary and cost-effective: Section 210.12(B), Arc-Fault Circuit-Interrupter Protection; Section 338.10(B)(4)(a), Allowable Ampacities for SE Cables; and Section 406.11, Resistant Receptacles in Dwelling Units. The Council will

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report its findings to the General Assembly on or before January 1, 2009.

HOUSE BILL 2487, Change Format of Drivers Licenses/Under 21. This law allows driver's licenses or special identification cards to be issued in a vertical format for those under the age of 21 that distinguishes them from the horizontal format for easier identification by members of industries that regulate controlled products and are sales-restricted by age and to assist law enforcement officers with enforcing the law. **Effective: October 1, 2008 and applies to driver's licenses and special identification cards issued or renewed on or after that date.**

HOUSE BILL 2542, Clarify Ethics and Lobbying Laws. This law makes a wide variety of technical and a few substantive changes to the ethics and lobbying law that was passed several years ago. Many of the changes are cosmetic in nature and correct terms and references; however, we will only summarize the substantive changes. The first one provides that all requests for advisory opinions from the Ethics Commission and all information provided for that opinion will remain confidential and are not part of the public record. In addition, formal advisory opinions will now be issued within 30 days of issuance instead of once every year.

The law clarifies that compensation for services includes reimbursement for actual travel, subsistence, and administrative expenses. This was a question that many of you had regarding how to report compensation on your principal registration reports. You will now need to include reimbursed expenses, including mileage, hotel, parking, registration fee and other expenses. The law provides that a lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying. This means that when we provide a percentage of the fee that you have paid quarterly for lobbying that you may rely on that statement and may not be punished for inaccurate information. We will continue to provide a percentage of the fee paid that is for actual lobbying work each quarter.

The law also clarifies that, upon any allegation of unethical conduct by a covered person or a legislative employee, the Ethics Commission will immediately notify the covered person or legislative employee subject to the inquiry in writing so that they are aware of the allegation. And finally, the law provides new definitions for open meetings, gatherings of organizations, and public meetings which was one of the more controversial aspects of the original bill. Many groups have struggled with how to deal with receptions and other events both for their organizations and for legislators whom they would like to invite. These provisions provide new requirements for open meetings where legislators can be invited and attend. **Effective: August 15, 2008.**

HOUSE BILL 2788, Speaker's and President Pro Tempore's Appointments. This legislation appoints persons to various boards and commissions based upon the recommendations of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. **Effective: July 17, 2008.**

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- Malcolm I. “Butch” Heyworth of Mecklenburg County and Victor N. Shaw of Union County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on July 1, 2012.
- John Marvin Thompson and Stephen Criscenzo of Wake County are appointed to the State Building Commission for terms expiring on June 30, 2011.
- Garry W. Cooper of Pamlico County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2010, to fill the unexpired term of John Wayne Strowd, Jr.
- Courtney Brown of Iredell County and J. Richard Lee of Wake County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2011.

SENATE BILL 1799, DMV Record Checks and License Changes. This law allows the Division of Motor Vehicles to mail drivers’ licenses to post office boxes if the Division has verified the applicant’s address. This change was necessary because new rules enacted last year that required the Division to send drivers’ licenses only to physical addresses. In addition, criminal record checks will be required for Division of Motor Vehicles employees who are involved in the manufacturer or production of drivers’ licenses and identification cards or who have access to the identity information that appears on drivers’ licenses or identification cards. **Effective: August 8, 2008.**

SENATE BILL 1875, Clarify Auditor Hotline Authority/Secretary. This law is a reaction to the controversy that erupted when the State Auditor investigated allegations of misconduct and conflict of interest by various senators. The previous law allowed the State Auditor to be responsible for receiving reports of improper governmental activities and there was no specific limitation on the Auditor’s jurisdiction. The new law provides that the Auditor is still responsible for receiving reports of allegations of improper government activities; however, the Auditor must now refer cases that allege criminal misconduct to either the State Bureau of Investigation or the district attorney in the county in which the misconduct occurred. Allegations regarding lobbying activities, ethics and campaign finances must be referred to the State Ethics Commission and allegations of violations of election laws must be referred to the State Board of Elections. The law provides that all information related to allegations referred to the State Ethics Commission, including interpretations, advisory opinions, or other information or materials furnished to the Commission must remain confidential and are not public records. The law further provides that the Ethics Commission will be the sole state agency with the authority to determine compliance with or violations of the ethics law and to issue interpretations and advisory opinions. Decisions and advisory opinions by the Commission will be binding on all other state agencies including the Auditor’s Office. **Effective: August 15, 2008 and applies to all information received or collected by the State Auditor concerning ethics violations on or after January 1, 2007.**

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SENATE BILL 1924, Require Carbon Monoxide Detectors. This law requires rental properties to install battery-operated or electrical carbon monoxide detectors in every dwelling unit that has a fossil fuel burning heater or appliance, a fireplace, or an attached garage. The provision was drafted to mirror smoke alarm requirements for rentals and requires landlords to provide new batteries and an operable carbon monoxide monitor at the beginning of the tenancy but then requires tenants to replace batteries during the period of their tenancy. This law was recommended by the North Carolina Child Fatality Task Force. **Effective: The provisions do not become effective until January 1, 2010 and any carbon monoxide detector installed before that date will be deemed to be in compliance.**

SENATE BILL 1925, UNC Non-appropriations Capital Project/Airport Authority. This law authorizes various construction projects for the North Carolina University System and includes funding in the amount of \$16.2 million for the installation of a residential hall fire suppression sprinkler system at the University of North Carolina at Charlotte and funding in the amount of \$948,000 for the replacement of the Cone Residence Hall fire alarm system at the University of North Carolina at Greensboro. **Effective: August 8, 2008.**

FINAL BUDGET

In the short session, the budget provisions are only to modify the previous budget adopted last year based on new projections for income and expenses for the state. Although they are only supposed to be a “tinkering” with the budget, short sessions have become almost identical to the long session in terms of the process and the length of time it takes to draft, amend and negotiate the budget. The process was very condensed this year and therefore very hurried and hectic. There are several items that always seem to increase and must be paid, including state employee pay raises, Medicaid increases and teachers’ bonuses. There is usually little to no money left to provide to the other agencies and non-profits who are seeking more funding. In addition, both the House and the Senate wanted to provide their members with talking points for the upcoming election to show that they are providing tax breaks for citizens and spending tax money appropriately. Although the state requires a balanced budget, the Governor has already announced that because of the economic conditions going into the 4th quarter of 2008, that each agency will need to cut an additional 2% from their budgets to prepare for lower income revenues.

Education

FSU Fire Training Tower. The budget provides \$400,000 to Fayetteville State University’s Fire Science Program for a fire training tower.

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UNC Pembroke Fire Protection Funds. The budget provides \$200,000 to the Pembroke Rural Fire Department to reimburse the Department for the cost incurred in purchasing a 100-foot aerial fire truck to service UNC-Pembroke and to purchase additional equipment for the fire truck.

Natural and Economic Resources

One North Carolina Small Business. The budget provides \$3.5 million to the Department of Commerce for grants under the North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Incentive Programs.

Green Business Fund. The budget provides \$1 million to the NC Green Business Fund for grants to private businesses with less than 100 employees, non-profit organizations, and state agencies to encourage the growth of the state green economy.

General Government

Office of the State Fire Marshall; Training and Inspection Travel. The budget provides \$150,000 for training and travel related to inspection of the state's fire departments.

Fire Protection Grant. The budget provides an additional \$300,000 to assist local fire districts in protecting state-owned facilities.

Reserves/Debt Service/Adjustments

Small Business. The budget extends the tax credit for small business employee health benefits to 2010.

State Funded Compensation Increases. The budget provides for a salary increase to permanent employees of state agencies and departments of the greater of \$1,100 or 2.75%.

Earned Income Tax. The budget allows a 5% credit against the earned income tax, which was increased from 3.5%.

Tax Holiday. The budget creates a sales tax holiday for energy star qualified products including clothes washers, air conditioners, ceiling fans, and other electronic devices. The sales tax holiday will occur on the first Friday of November and last through the weekend.

Small Business Protection Act. The budget includes a new provision by the General Assembly called the Small Business Protection Act which seeks to assist small businesses with the North

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Carolina Department of Revenue. The Act provides protections for small business owners and allows them to avoid assessments under certain circumstances. In addition, if a tax payer receives erroneous advice from the Department, then the tax payer is not liable for any penalty or additional assessment to the extent that the advice was relied upon and the Department provided the advice in writing or the records establish that the Department provided erroneous verbal advice. In addition, the Revenue Laws Study Committee will review a variety of issues regarding the taxation of services necessary to complete the sale of tangible personal property including the distinction between taxable and non-taxable services.

Repeal Gift Tax Law. The budget includes a provision that repeals the gift tax in North Carolina.

Capital

UNC System - Dormitory Fire Sprinklers. The budget authorizes \$10 million for the installation of fire sprinklers in campus dormitories.

LEGISLATION NOT ENACTED

This is not a comprehensive list of the legislation that was not enacted during the 2007/2008 session; however, I wanted to remind you of some of the important legislation that we reported to you. This legislation will have to be re-filed in 2009 to be considered again by the General Assembly.

SENATE BILL 2002, Employers Must Use Federal E-Verified Program.

SENATE BILL 699, Labor/Mandatory Lunch Break.

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