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WEEK IN REVIEW:

Mon (April 6)	Tues (April 7)	Wed (April 8)	Thurs (April 9)	Fri (April 10)	Sat (April 11)
12:00 PM Environment Committee, Room 280		12:00 PM Housing & Neighborhood Development Committee, Room 280	12:00 PM Community Safety Comm., Room 280		10:00 AM Charlotte Fire Dept. Headquarters Grand Opening, 500 Dalton Ave.
2:00 PM City Manager’s Update Mtg., Room CH-14		2:00 PM Budget Workshop, Room 267			
4:00 PM Intergovernmental Relations Comm., Room 280					
5:00 PM Focus Area Plan Retreat, Room 267					

CALENDAR DETAILS:

Monday, April 6

- 12:00 PM Environment Committee Meeting, Room 280
AGENDA: Steele Creek wastewater lift station project; FY16 Focus Area Plan
- 2:00 PM City Manager's Update Meeting, Room Ch-14
- 4:00 PM Intergovernmental Relations Committee Meeting, Room CH-14
AGENDA: Federal update; State update; Trending topics
- 5:00 PM Focus Area Plan Retreat, Room 267

Wednesday, April 8

- 12:00 PM Housing & Neighborhood Development Committee, Room 280
AGENDA: 2015 Housing Trust Fund development recommendations
- 2:00 PM Budget Workshop, Room 267

Thursday, April 9

- 12:00 PM Community Safety Committee Meeting, Room 280
AGENDA: Digital dispatch services; Exclusionary zones; Dance Hall and computerized criminal history access ordinances

Saturday, April 11

- 10:00 AM Charlotte Fire Department Headquarters Grand Opening, 500 Dalton Ave

April and May calendars are attached.



April-May 2015.pdf

INFORMATION:

Community Safety Committee Referral

Staff Resource: Ron Carlee, City Manager, 704-336-2403, rcarlee@charlottenc.gov

The City Manager is referring the following ordinances to the Community Safety Committee for discussion: Computerized Criminal History Access Ordinances for Dance Halls, Computerized Criminal History Access Ordinances for Sexually Oriented Businesses, and the Dance Hall Ordinance. Due to a recent District Court case, an amendment to the Dance Hall Ordinance is being referred to the Committee for review and examination. The next scheduled Committee meeting is April 9 at 12:00 p.m. in Room 280.

April 9 – Stand Up 4 Transportation: National Infrastructure Day

Staff Resources: John Muth, CATS, 704-336-3855, jmuth@charlottenc.gov

CATS, CDOT, EP&M are organizing the local effort for Stand Up 4 Transportation: National Transportation Infrastructure Day on April 9. This is a day of action developed by the American Public Transportation Association to highlight and strongly advocate for the need for a long-term, sustainable, and reliable federal transportation funding bill. Public transit and highway grants funded from the Highway Trust Fund cannot be made without an authorization bill. Congress needs to pass a new surface transportation authorization before Moving Ahead for Progress in the 21st Century (MAP 21) expires on May 31. This bill is not just about public transit, it is crucial to our roads and bridges also.

Council member and the public are invited to attend a media event on April 9, at 11:30 a.m. on The Square at Trade and Tryon. Elected officials, City staff and the business community will speak about the importance of this day and the bill.

April 15 and 16 – Local Officials Information Meetings and Public Meetings for the Upcoming Interstate 485 Improvement Project (Interstate 77 to US 74)

Staff Resource: Tim Gibbs, CDOT, 704-336-3917, tgibbs@charlottenc.gov

NCDOT is proposing to develop a system of express toll lanes along Interstate 485 between Interstate 77 and Independence Boulevard that would be in operation at all times. Motorists willing to pay tolls would be allowed to travel in these lanes. The existing general purpose lanes would remain free. Express toll lanes are being proposed to enhance travel time reliability and corridor mobility. The North Carolina Department of Transportation (NCDOT) has scheduled two meetings for elected officials and staff to discuss the proposed improvement project programmed for Interstate 485 between Interstate 77 and Independence Boulevard (US 74).

The meetings are scheduled as follows:

- Wednesday, April 15, 2015, 1:30 p.m. - 2:30 p.m.
Pineville United Methodist Church
110 S. Polk Street, Pineville
- Thursday, April 16, 2015, 1:30 p.m. - 2:30 p.m.
Pleasant Plains Baptist Church
3316 Pleasant Plains Road, Matthews

NCDOT will also hold two public meetings following the officials' meetings from 4:00 p.m. – 7:00 p.m.

Additional information can be found on the project website: <http://www.ncdot.gov/projects/I-5507/>.

A map highlighting the Interstate 485 project and other proposed express lanes projects in the Charlotte region is attached.



Map.pdf

Charlotte's Tree Canopy: Long-Term Management Strategy Update

Staff Resources: Tim Porter, E&PM, 704-336-5753, tporter@charlottenc.gov

Erin Oliverio, E&PM, 704-432-2925, eoliverio@charlottenc.gov

Charlotte's tree canopy is its most visible and valuable natural asset. A significant number of the large trees in Charlotte's older neighborhoods are reaching the end of their life spans. Many of the aging trees were planted when these neighborhoods were first developed 70-100 years ago. Large mature trees spanning both private and public property account for a substantial portion of the overall tree canopy in these neighborhoods. Recently, storms have caused some large private and public trees to fall, damage property, and cause injuries.

To minimize the risk from falling trees, the Engineering and Property Management Department inspects all trees in the right-of-way. Approximately 158,000 of the City's estimated 180,000 street trees have been inspected by a certified arborist using an industry standard visual assessment method to assess whether a tree is healthy or unsafe. For some trees identified as declining, the arborist uses an enhanced method to further evaluate the tree's condition.

Staff has worked to determine how to better manage Charlotte's urban forest by studying tree damage related to storm events, analyzing current tree inventory data, and reviewing the methods used to inspect trees and collect data. Based on this review and guidance provided in City Council's adopted goal of obtaining 50% tree canopy coverage by 2050, staff has determined the following actions are needed to ensure the long-term vitality, health and safety of our tree canopy.

- Develop a long-term management strategy for Charlotte's tree canopy. This will include additional studies on the canopy. The City plans to partner with the University of North Carolina at Charlotte Laboratory for Remote Sensing and Environmental Change (LRSEC) and apply for a \$15,000 grant offered by the North Carolina Forest Service Urban & Community Forestry Program. The grant will fund a study of two issues related to urban land use and development patterns in Charlotte: the aging tree canopy and the impact/spread of fall cankerworms.
- Reassess tree condition using an enhanced method focusing on trees located in the 2012 inspection areas and older neighborhoods inspected prior to 2008.

Staff believes these actions are needed to help ensure the continued safety of Charlotte citizens, and allow Charlotte's urban forest to provide a high level of long-term social, economic and environmental benefits to this community.

2015 State Legislative Report #8

Staff Resource: Dana Fenton, City Manager's Office, 704-336-2009, dfenton@charlottenc.gov

Attached is the latest State Legislative Report for action taken by the General Assembly as of 6 p.m., Wednesday, April 1. The bill filing deadlines in the House are approaching. As a result, many more bills are being introduced and picked up for monitoring by City staff. All of the bills being monitored are listed on pages 4-8 of the report. Among significant actions taken by House and Senate this week was the adoption of the conference report to SB 20 that stabilizes the motor fuels tax rate for the foreseeable future and prevents significant reductions from taking place in the NC Department of Transportation. Also, City requested legislation to amend the Charlotte Firefighters' Retirement System Act (HB 70), expand the size of the Civil Service Board (HB 143), and authorize the courts to extend temporary injunctions against criminal street gangs (Part XIII of HB 173) have passed the House and been sent to the Senate.



2015 week 8
report.pdf

ATTACHMENTS:

March 2 Intergovernmental Relations Committee Summary



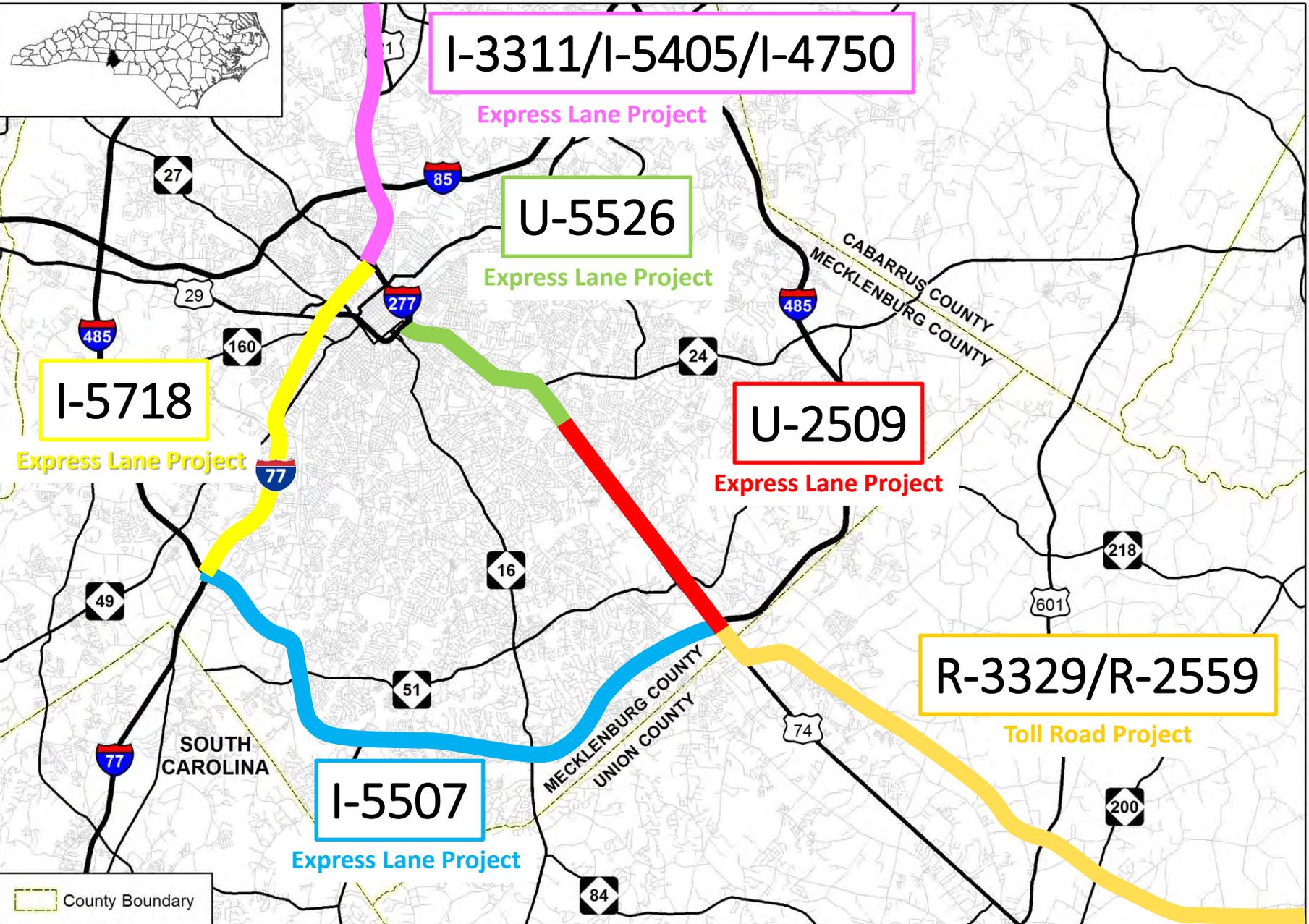
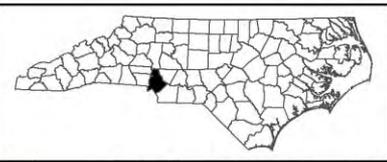
IRC Meeting
Summary w Att 0302

April

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
			1	2 2:30pm ED & Global Competitiveness Committee Mtg., Room CH-14	3 <div style="border: 1px solid black; background-color: #cccccc; padding: 5px; text-align: center;">Good Friday</div>	4
5	6 12:00pm Environment Committee Mtg., Room 280 2:00pm City Manager's Update Meeting, Room CH-14 4:00pm Intergovernmental Relations Committee Mtg., Room 280 5:00pm Focus Area Plan Retreat, Room 267	7	8 12:00pm Housing & Neighborhood Dev. Committee Mtg., Room 280 2:00pm Budget Workshop, Room 267	9 12:00pm Community Safety Committee Mtg., Room 280	10	11 10:00am CFD HQ Grand Opening , 500 Dalton Ave.
12	13 3:00pm Transportation & Planning Committee Mtg., Room 280 5:00pm Council Business Meeting, Room 267	<div style="border: 1px solid black; background-color: #cccccc; padding: 5px;">Optional Council trip to Raleigh</div>		16 12:00pm ED & Global Competitiveness Committee Mtg., Room CH-14	17	18
19	20 5:00pm Zoning Meeting, Room CH-14	21	22 12:00pm Housing & Neighborhood Dev. Committee Mtg., Room 280 5:30pm MTC Meeting, Room 267	23 12:00pm Transportation & Planning Committee Mtg., Room 280	24	25
26	27 12:00pm Governance & Accountability Committee Mtg., Room 280 5:00pm Citizens' Forum/Council Business Meeting, Room 267	28	29	30		
					<div style="border: 2px solid black; padding: 10px; font-size: 24px; font-weight: bold;">2015</div>	

May

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
					1	2
3	<p>3:00pm Intergovernmental Relations Committee Mtg., Room 280</p> <p>5:00pm Council Workshop/Citizens' Forum, Room 267</p> <p>7:00pm Budget Presentation, Meeting Chamber</p>	Optional Council trip to Raleigh		<p>12:00pm ED & Global Competitiveness Committee Mtg., Room CH-14</p>	8	9
10	<p>12:00pm Environment Committee Mtg., Room 280</p> <p>3:00pm Transportation & Planning Committee Mtg., Room 280</p> <p>5:00pm Council Business Meeting, Room 267</p> <p>7:00pm Budget Public Hearing, Meeting Chamber</p>	12	<p>12:00pm Housing & Neighborhood Dev. Committee Mtg., Room 280</p> <p>2:00pm Budget Adjustments, Room 267</p>	<p>12:00pm Community Safety Committee Mtg., Room 280</p>	15	16
17	<p>5:00pm Zoning Meeting, Room CH-14</p>	19	20	<p>12:00pm ED & Global Competitiveness Committee Mtg., Room CH-14</p>	22	23
24	<p>Memorial Day</p>	<p>12:00pm Governance & Accountability Committee Mtg., Room 280</p>	<p>12:00pm Budget Adjustments/Straw Votes, Room 267</p> <p>5:30pm MTC Meeting, Room 267</p>	<p>12:00pm Transportation & Planning Committee Mtg., Room 280</p>	29	30
31					<div style="border: 3px double black; padding: 10px; display: inline-block;"> <h2 style="margin: 0;">2015</h2> </div>	



I-3311/I-5405/I-4750

Express Lane Project

U-5526

Express Lane Project

U-2509

Express Lane Project

I-5718

Express Lane Project

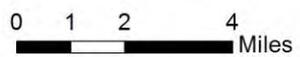
I-5507

Express Lane Project

R-3329/R-2559

Toll Road Project

County Boundary



Express Lanes and Toll Road Projects





**CITY MANAGER'S OFFICE
M E M O R A N D U M**

April 2, 2015

TO: Ron Carlee, City Manager
Ron Kimble, Deputy City Manager

FROM: Dana Fenton, Intergovernmental Relations Manager

SUBJECT: 2015 State Legislative Report #8

Internal Revenue Code Update / Motor Fuels Tax Changes ([SB 20 – Rabon, Rucho and Tillman](#)) conference report was adopted by the House and Senate and signed into law by the Governor. SB 20 reduces the motor fuels tax to 36 cents effective April 1, 2015, and directs it to be lowered further to 35 cents from January 1, 2016 through June 30, 2016 and 34 cents from July 1, 2016 through December 31, 2016. The setting of these rates will preclude significant reductions from occurring in the Highway and Highway Trust Funds if the tax had been allowed to fall to 30 cents per gallon, which would have occurred under the old formula. The intent of the General Assembly is for SB 20 to serve as a bridge to a new long term transportation funding program that members will be working on in the 2015-2016 interim.

Sales Tax Fairness Act ([SB 369 – Brown](#)) and Simple and Fair Formula for Sales Tax Distribution ([SB 608 – Rucho](#)) propose to convert local sales tax revenues to a state source of revenue that will be shared with local governments through State General Fund appropriations. The bills target the 1% Article 39, ½% Article 40 and ½% Article 42 sales taxes

SB 369 will reportedly be amended to correct the inadvertent repeal of current laws regarding the Article 44 Medicaid hold harmless and sharing of revenues between counties and cities. SB 369 phases in sales and use tax changes starting in FY 2016 with full implementation scheduled for FY 2019. SB 369 calls for distributing sales and use tax revenues to counties on a per capita basis. The adjustment factors in effect for each county would be phased out starting in FY 2016.

SB 608 sets a base allocation using FY 2014 sales and use tax collections and distributes the growth in sales tax revenues above the base on a per capita basis. Each county and city would be held harmless at FY 2014 sales and use tax levels. The adjustment factors are repealed and it allows counties to distribute the revenues within their respective counties using either of the existing ad valorem or per capita methods.

Exempt Builder's Inventory ([HB 168 – Hager, Millis, Brody and Collins](#) / [SB 321 – Brown, Tucker and Gunn](#)) excludes from property taxes any increase to the value of improvements made to real property held for sale by a builder for up to five years. The bills broaden the definition of a “builder” by removing the requirement that they be licensed as a general contractor under G.S. 87-1. Based upon updated guidance received from the Mecklenburg County Assessor, the bills will cause a 1.5% decline in tax value resulting in an estimate of revenue loss for the City in FY 2016 of \$5.8 million growing to \$6 million in FY 2017.

Job Creation and Tax Relief Act ([SB 526 – Rucho, Rabon and Tillman](#)) apparently represents the first bill of a second round of tax reform that is intended to reduce personal income taxes, reduce business taxes, and targets discretionary incentive programs to rural counties and transformative industries. SB 526 referred to Senate Finance.

Rental Registration ([HB 530 – Brawley](#) / [SB 442 – Gunn, Ford and Wade](#)) is very similar to the legislation introduced in the last session. SB 442 prohibits mandatory registration of all rental properties in favor of registration of those units that meet certain disorder thresholds, requiring proof of registration to be posted in a conspicuous place, and violations of local ordinances punishable as a criminal offense. SB 442 referred to Senate Rules.

Economic Development / Tax Modifications ([SB 338 – Berger, Brown and Tillman](#)) is the measure introduced by Senate Republicans to reduce corporate taxation, and place higher thresholds for awards made to attract corporations to major market communities like Mecklenburg and Wake counties through the Job Development Investment Grant program. SB 338 referred to Senate Commerce.

SB 338 takes a much different approach to economic development than what is found in the NC **Competes Act** ([HB 117 – S. Martin, Jeter, Collins and Steinburg](#)), the House Republican economic development incentives bill that proposes to continue the existing fuel sales tax cap for passenger air carriers by extending the sunset date from the end of 2015 to January 1, 2020, and make modifications to the Job Development Incentives Grant (JDIG), One NC, and Site Infrastructure Fund programs. HB 117 passed the House and was sent to the Senate where it has been referred to the Finance Committee.

Transportation Network Companies: Three bills have been introduced to address issues raised with the emergence of digital dispatching services for taxi service. Two bills are entitled “Regulate Transportation Network Companies” but are not identical. The first of these, [SB 541 – Rabon](#), addresses liability insurance requirements and background checks for drivers, and permitting from the Department of Motor Vehicles. The second, [SB 567 – Tarte](#), addresses financial responsibilities for operators of the digitally dispatched services. The third bill, [SB 414 – McKissick, Meredith and Rabon](#), also addresses financial responsibilities for operators of the digitally dispatched services but has more language. Bills are being analyzed and evaluated by staff.

Protest Petitions: Zoning Changes / Citizen Input ([HB 201 – Stam, Goodman, Jackson and Fraley](#)) requires a simple majority vote for all zoning decisions and implements an affirmative requirement for written communications regarding the zoning case to be submitted to the

governing body. Passed House and sent to Senate Rules. Before it passed the House, a floor amendment was run to maintain the protest petition by raising the threshold of neighboring property owners required to sign the petition from 15% to 66%, and lowering the required majority from three-fourths to two-thirds. However, the amendment was defeated on a 48-63 vote.

Zoning Changes / Majority Rule ([SB 300 – Wells, Lee and Smith](#)) requires a simple majority vote on all zoning decisions but without the enhanced requirements for submitting citizen comments to the governing body found in HB 201. SB 300 referred to Senate Rules.

Outdoor Advertising: Companion House and Senate measures, ([HB 304 – Hager, Collins, J. Bell and Hanes](#) / [SB 320 – Brown, Rabon and Tarte](#)) to enact further restrictions to local regulation of outdoor advertising were introduced. HB 304 was referred to House Commerce and Job Development with serial referral to House Finance, and SB 320 was referred to Senate Commerce.

Zoning/Design and Aesthetic Controls ([HB 36 – Dollar, Brawley, Jordan and Glazier](#) / [SB 25 – Gunn, Apodaca and Tarte](#)) is identical to legislation from last session that the Senate was ready to consider but never actually voted upon ([2013 HB 150 Edition 4](#)). HB 36/SB 25 would specify when local governments could apply design and aesthetic controls to structures subject to regulation under the NC Residential Code for One- and Two-Family Dwellings. The bills also specify six exemptions from the legislation for structures located in local historic districts, or historic districts on the National Register of Historic Places, local, State or national historic landmarks, and requirements to meet life safety codes, manufactured housing regulations, and conditions of participation in the national flood insurance program. HB 36 was referred to House Local Government and SB 25 to Senate Rules.

As has been discussed frequently over the last two legislative sessions, proposals to limit when local governing bodies can consider building design elements in conditional zoning cases tends to limit the ability of Councilmembers to secure neighborhood support for such projects. In addition, the effective date language states that the bill “applies to ordinances adopted before, on, and after the effective date”. Thus, these bills would appear to impact not only future conditional zoning decisions but those that have already been adopted by the City Council.

City Requested Legislation

Charlotte Firefighters’ Retirement System ([HB 70 – Bishop, Bradford, Alexander, Bryan, Jeter and R. Moore](#) / [SB 137 – Tarte, Ford, Jackson and Waddell](#)) amends the City’s firefighters’ retirement system legislation in accordance with the direction provided the System by the Internal Revenue Service. SB 137 is in Senate Pensions & Retirement and Aging Committee. HB 70 passed House and sent to Senate.

Civil Service Board ([HB 143 – Bishop, Cunningham, Cotham, Bradford, Alexander, Carney, Earle, Jeter and R. Moore](#)) amends the City Charter provisions for the Civil Service Board consistent with the City’s legislative request. Passed House and sent to Senate Rules.

Omnibus Crime Control Bill ([HB 173 – Stam, Faircloth, Glazier and Turner](#)) would make necessary amendments to the NC Street Gang Nuisance Abatement Act to authorize the Courts to extend temporary injunctions for good cause shown against criminal street gang activity. Amendment is contained in Part XIII of the Omnibus Crime Control Bill and is supported by the City of Charlotte, NC League of Municipalities and NC Metropolitan Police Chiefs Association. HB 173 passed House and sent to Senate Rules.

Stormwater Management ([HB 141 – Jeter, Cotham, Cunningham, Bradford, Bryan, Carney, Earle and R. Moore](#)) adds statutory authority for Mecklenburg County municipalities to utilize the County's statutory authority to implement flood reduction techniques that result in improvements to private property. Referred to House Environment and if favorable to House Local Government.

Metropolitan Transit Commission Requested Legislation

Special Assessments for Critical Infrastructure Needs Act ([SB 284 – Hartsell](#)) repeals the sunset date of the Special Assessments for Critical Infrastructure Needs Act. SB 284 is supported by the Metropolitan Transit Commission and the Towns of Apex and Mooresville. The Act allows counties and cities to form districts to finance the construction of public transportation, streets and sidewalks, parking facilities, stormwater facilities, renewable energy and many other types of infrastructure.

Bill Monitoring List consists of measures that the City is monitoring. Inclusion of bills on this list does not necessarily indicate the City has a position of support or opposition.

Fiscal & Administrative

Appropriations:

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Economic Development:

Startups Act / New Market Tax Credit ([HB 17 – R. Brown and Bryan](#))

Omnibus Economic Development Improvements ([HB 89 – Hamilton, R. Moore and Hanes](#))

NC Competes Act ([HB 117 – S. Martin, Jeter, Collins and Steinburg](#))

New Historic Preservation Tax Credit ([HB 152 – Ross, Hardister, Lewis and Glazier](#) / [SB 287 – Hartsell](#))

Modify Film Grant Fund ([HB 171 – Davis, Lewis, Saine and Iler](#) / [SB 193 – Lee and Rabon](#))

Energy Investment Act ([HB 454 – Jeter, Saine, Setzer and Goodman](#) / [SB 447 – B. Jackson, Hartsell and Tarte](#))

Air Carrier Fuel Tax Exemption ([SB 187 – Rabon](#))

Reenact Preservation Rehab Tax Credits ([SB 202 – Lowe](#))

Reenact Film Credit ([SB 204 – Lowe](#))

Increase JDIG Program Funding ([SB 326 – Gunn, Meredith and Apodaca](#))

Economic Development / Tax Modifications ([SB 338 – Berger, Brown and Tillman](#))

Economic Development / Job Catalyst Fund ([SB 340 – Lowe](#))

Economic Development / JDIG Extension ([SB 342 – Lowe](#))

Renewable Energy Safe Harbor ([SB 372 – Rucho, Tillman and Rabon](#))
Local Incentives for Historic Rehabilitation ([SB 472 – Rucho and Brock](#))

Elections:

Study Municipal Elections in Even Years ([HB 402 – Ford](#))
Elections Transparency ([SB 650 – Rabin, Tarte and Sanderson](#))

Eminent Domain:

Eminent Domain ([HB 3 – McGrady](#) / [SB 74 – B. Jackson](#))
DOT Condemnation Changes ([HB 127 – Stam, Jackson and Bryan](#))
DOT Condemnation Changes ([SB 425 – Wells, Krawiec and Daniel](#))

Employee Relations:

Charlotte Firefighters' Retirement System ([HB 70 – Bishop, Bradford, Alexander, Bryan, Jeter and R. Moore](#) / [SB 137 – Tarte, Ford, Jackson and Waddell](#))
Civil Service Board ([HB 143 – Bishop, Cunningham, Cotham, Bradford, Alexander, Carney, Earle, Jeter and R. Moore](#))
Retirement Technical Corrections Act of 2015 ([HB 274 – Gill, Bell, Elmore and Waddell](#))
Retirement Administrative Changes Act of 2015 ([HB 277 – Ross, Gill, Goodman and McNeil](#))
Protect NC Workers Act ([HB 318 – Cleveland, Millis, Whitmire and Conrad](#))
Protect Officers from Retaliation ([HB 419 – Conrad, Avila, Dollar and Cotham](#))
Nondiscrimination in Public Employment ([HB 443 – Luebke, Cotham, Glazier and Willingham](#) / [SB 612 – Van Duyn and Smith-Ingram](#))
Employee Fair Classification Act ([HB 482 – Pendleton, Blust, Szoka and Bishop](#))
Definition of Firefighter ([SB 99 – Meredith, Daniel and Newton](#))
Fair Competition and Employee Classification Act ([SB 576 – Tucker and Stein](#))
Employee Misclassification Reform ([SB 694 – Newton, Lee and Daniel](#))

Ethics:

Conflict of Interests / Certain Relationships ([HB 252 – Glazier, Faircloth, G. Martin and Daughtry](#))
Study Local Government Contract Lobbyists ([SB 664 – Apodaca](#))

Finance:

Revenue Laws Technical Changes ([HB 41 – Howard, Brawley, Lewis and Setzer](#) / [SB 19 – Rabon, Rucho and Tillman](#))
Referendum for Certain Local Debt ([HB 128 – Speciale](#))
Exempt Builders' Inventory ([HB 168 – Hager, Millis, Brody and Collins](#) / [SB 321 – Brown, Tucker and Gunn](#))
Cities / Business Registration ([HB 362 – Faircloth and Brockman](#))
County Sales Tax Flexibility ([HB 518 – Hunter, Saine, Hanes and Setzer](#))
Internal Revenue Code Update / Motor Fuels Tax Changes ([SB 20 – Rabon, Rucho and Tillman](#))
Increase Options for Local Option Sales Tax ([SB 246 – Smith](#))
Sales Tax Fairness Act ([SB 369 – Brown](#))
Job Creation and Tax Relief Act ([SB 526 – Rucho, Rabon and Tillman](#))
Disposition of Minimal Tax Refunds ([SB 566 – Tarte](#))

Simple and Fair Formula for Sales Tax Distribution ([SB 608 – Rucho](#))
Limit Sales Tax Refunds to Nonprofits ([SB 700 – Wells and Rucho](#))

Legal:

Legal Notices / Require Internet Publication ([HB 156 – Avila, Malone, Davis and Harrison](#) / [SB 129 – Sanderson, Apodaca and Hise](#))
NC Religious Freedom Restoration Act ([HB 348 – Schaffer and Bishop](#) / [SB 550 – Daniel, Newton and Soucek](#))
Property Protection Act ([HB 405 – Szoka, Whitmire, Jordan and R. Moore](#) / [SB 433 – Rucho, Tucker and B. Jackson](#))
Land Use Regulatory Changes ([HB 483 – Jordan](#))
Preemption Affirmation Act ([SB 394 – Tarte](#))

Procurement:

Open & Fair Competition / Water & Wastewater ([SB 397 – Sanderson and Rabin](#))

Public Enterprises:

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Public Records:

Law Enforcement Officer Privacy Protection ([HB 477 – Malone, Saine, Faircloth and McNeill](#) / [SB 516 – Tucker](#))
Alarm Registration Info not a Public Record ([HB 508 – S. Martin and Farmer-Butterfield](#))
Public Records – E-Mail Disclosure ([SB 441 – Clark](#))
Law Enforcement Privacy Public Web Sites ([SB 485 – Woodard and McKissick](#))
Public Records / Access for NC Residents Only ([SB 553 – Daniel](#))
State & Local Government Transparency Act ([SB 633 – Brock](#))
Protect Law Enforcement Officer Home Address & Other Information ([SB 699 – McKissick](#))

Regulatory Reform:

Regulatory Reform Act of 2015 ([SB 453 – Wade, Brock and B. Jackson](#))
Local Government Regulatory Reform ([SB 617 – Wade, Brock and B. Jackson](#))

Unemployment Insurance:

Unemployment Insurance Law Changes ([SB 15 – Rucho](#))
Unemployment Insurance Law Changes ([SB 16 – Rucho](#))

Environmental & Planning

Annexation / Extraterritorial Jurisdiction:

Justice for Rural Citizens Act ([HB 51 – Pittman, Speciale and Ford](#))
Charlotte / Annexations ([HB 491 – Jeter](#))

Building Codes:

Building Code Regulatory Reform ([HB 255 – Brody, Riddell, Cotham and Watford](#) / [SB 324 – Brock, McInnis and Clark](#))

Environmental:

Cities/Overgrown Vegetation Notice ([HB 44 – Conrad / SB 53 – Krawiec](#))
Land Application of Biosolids ([HB 61 – Pittman, Ford and Speciale](#))
Stormwater Management ([HB 141 – Jeter, Cotham, Cunningham, Bradford, Bryan, Carney, Earle and R. Moore](#))
Amend Environmental Laws ([HB 157 – McElraft and Catlin](#)) SL 2015-1
Revisions to Outdoor Advertising Laws ([HB 304 – Hager, Collins, J. Bell and Hanes / SB 320 – Brown, Rabon and Tarte](#))
Expand Outdoor Food Service at Public Events ([HB 440 – Setzer / SB 363 – Hartsell](#))
Amend Environmental Laws ([SB 66 – Brock, Cook and Wade](#))
Sedimentation Control / Civil Penalty Reforms ([SB 552 – Daniel](#))

Planning:

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Zoning:

Zoning / Design and Aesthetic Controls ([HB 36 – Dollar, Brawley, Jordan and Glazier / SB 25 – Gunn, Apodaca and Tarte](#))
Zoning Changes / Citizen Input ([HB 201 – Stam, Goodman, Jackson and Fraley](#))
Zoning / Protest Petition Changes ([SB 285 – Woodard, Foushee and McKissick](#))
Zoning Changes / Majority Rule ([SB 300 – Wells, Lee and Smith](#))

Infrastructure

General:

Amend Transportation Laws ([HB 268 – Iler, Torbett, Shepard and Tine](#))

Finance:

Phaseout of Fuel Tax ([HB 203 – Jeter, Dobson, B. Brown and Szoka](#))
Adjust Cap on Turnpike Projects ([SB 188 – Rabon, Meredith and Ford](#))
Special Assessments for Critical Infrastructure Needs Act ([SB 284 – Hartsell](#))
NC Infrastructure Development Act ([SB 500 – Stein](#))
Transportation Funding Bill ([SB 639 – Tarte](#))

Planning:

Study MPO/RPO Oversight ([HB 74 – Floyd](#))
Repeal Map Act ([HB 183 – R. Brown, Conrad, Lambeth and Watford](#))
Map Act Revisions ([SB 364 – Rabon, Meredith and Ford](#))
Repeal Map Act ([SB 373 – Krawiec, Daniel and Wells](#))
Limit Number of Studies MPOs and RPOs ([SB 396 – Tarte](#))
Public Infrastructure Oversight Commission ([SB 689 – Hartsell](#))

Public Safety

General:

Autocycle Definition and Regulation ([HB 7 – Torbett](#))
Insurance Required for Mopeds ([HB 148 – Shepherd, R. Brown, Waddell and Adams](#))
Prohibit Discriminatory Profiling ([HB 193 – R. Moore, Brockman, Farmer-Butterfield and Meyer](#) / [SB 613 – McKissick and Bryant](#))
Highway Safety / Citizens Protection Act ([HB 328 – Warren, B. Brown, Collins and Jordan](#))
Rental Registration ([HB 530 – Brawley](#) / [SB 442 – Gunn, Ford and Wade](#))

Animal Control:

Amend Dangerous Dog Law ([HB 271 – R. Moore, Alexander, Lucas and Tine](#))
Reporting of Animal Incidents ([HB 460 – Warren](#))

Criminal Law:

NC Street Gang Nuisance Abatement Act ([HB 173 – Stam, Faircloth, Glazier and Turner](#))
Strengthen Law Enforcement Access/Domestic Violence Crimes ([HB 449 – R. Moore, Fisher and Alexander](#))
Auto Salvage Dealer Protection Act ([HB 479 – Pittman, Speciale, Ford and Saine](#))
Domestic Violence / Bail & Aggravating Factor ([SB 310 – Daniel and Stein](#))
Enjoin Street Gang / Expires in Three Years ([SB 391 – Tarte](#))
Electronic Pawn and Metals Database ([SB 432 – Randleman](#))

Firearms:

Off-Duty Correctional Officers / Conceal Carry ([SB 78 – Randleman, Daniel and Newton](#))
Handgun Standards for Retired Sworn Law Enforcement Officers ([SB 212 – Tillman](#))
Homeland Security Patriot Act ([SB 708 – Tarte and Rabin](#))

Technology:

Clarify Unmanned Aircraft System Law ([HB 4 – Torbett](#))
Body and Dashboard Cameras / Law Enforcement ([HB 395 – Alexander, Brockman, Floyd and Hanes](#))
911 Fund Distribution ([HB 506 – Boles](#))
Amend/Clarify Back-up PSAP Requirements ([HB 512 – S. Martin, Steinburg, Saine and B. Brown](#))
Protect Law Enforcement and Community Relationships ([HB 537 – Hanes, Alexander, Jeter and Saine](#))
Automatic License Plate Readers ([SB 182 – McKissick, Barefoot and Daniel](#))
Regulate Transportation Network Services ([SB 414 – McKissick, Meredith and Rabon](#))
Regulate Transportation Network Companies ([SB 541 – Rabon](#))
Regulate Transportation Network Companies ([SB 567 – Tarte](#))
Expand Uses of 911 Fee ([SB 571 – Bryant, J. Davis and Foushee](#))
Unmanned Aircraft Systems / No Law Enforcement Officer Surveillance of Private Property ([SB 622 – Krawiec](#))

Intergovernmental Relations Committee

Monday, March 2, 2015 at 3:00 p.m.
Charlotte-Mecklenburg Government Center
Room 280

Committee Members: Ed Driggs, Chair
Claire Fallon, Vice Chair
David Howard
LaWana Mayfield
Kenny Smith

Staff Resource: Ron Kimble

I. Federal Update – Holland & Knight

II. State Update – Dana Fenton

III. Trending Topics

Next Meeting:

- Monday, April 6, 3:00 pm, Room 280

Attachment:

- Legislative Calendar
- 2015 NC General Assembly Bill Drafting/Filing Deadlines

Distribution: Mayor/City Council
Ron Carlee
City Manager's Executive Team
Bob Hagemann
Stephanie Kelly

City of Charlotte 2014-2015 Legislative Calendar

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Crossover Deadline: Thursday, May 7

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- (2) Ratification of amendments to the Constitution of the United States (H).
- (3) Bills introduced on the report of the House Committees on Appropriations, Finance, or Rules, Calendar, and Operations of the House. (H)
- (4) Resolution for consideration of a gubernatorial nomination or appointment that requires confirmation by the General Assembly or the Senate. (S)
- (5) Adjournment resolution (H & S).



Charlotte City Council
**Intergovernmental
Relations Committee**
Meeting Summary for March 2, 2015

COMMITTEE AGENDA TOPICS

- I. **Subject:** **Federal Update – Holland & Knight**
- II. **Subject:** **State Update - Dana Fenton**
- III. **Subject:** **Trending Topics**
- VI. **Subject:** **Next Meeting**
 Action: Monday, April 6 at 4 p.m. in Room 280

COMMITTEE INFORMATION

Present: Council Members Ed Driggs (Chair), Claire Fallon (Vice Chair), LaWana Mayfield, Kenny Smith

Other: Rich Gold – Holland & Knight; Laura Harmon – Planning

Time: 3:00 p.m.

ATTACHMENTS

- Legislative Calendar
- 2015 NC General Assembly Bill Drafting / Filing Deadlines
- State Legislative Update Presentation

Intergovernmental Relations Committee

Meeting Summary for March 2, 2014

Page 2

DISCUSSION HIGHLIGHTS

Committee Discussion:

Committee Chair Councilman Ed Driggs called the meeting to order.

Driggs: Welcome to the Intergovernmental Relations Committee Meeting today. We have three items on our agenda so why don't we jump right in. Dana (Fenton) would you like to say something first?

Fenton: No. Let's go straight to Rich and see what he has to say.

I. Federal Update – Holland & Knight

Gold: We are looking forward to your trip up north next week. We are obviously in the process of getting the agenda finalized and making sure we have the I's dotted and the T's crossed on that. So just to let you know the goal really is to go through with the delegation priority agenda items for you all and your federal items agenda for the year. Both obviously in terms of Street Car and Light Rail funding and making sure we are doing everything we can to get the airport construction started and other odds and ends that will come up along the way.

Fallon: What about the Airport Control Tower?

Fenton: Yes we will definitely be bringing that up next week.

Gold: So this will be the first time there has been some change in delegation per some of the new folks going through this there won't be any hiccups. We look forward to the trip. This is the principal advocacy trip this year for Council members. This is the table setting trip for the federal agenda. You're coming at a time where it will be pretty interesting to see. As you know we have a little back and forth between the House and the Senate and the President over the Home Land Security Bill.

Driggs: Rich? How big a deal would an end for sequestration be for Transportation Funding?

Gold: Well there are two elements to where transportation funding comes from. The Highway Trust Fund is funded to a great extent right now by the gas tax and the remainder comes from general revenue that is transferred over to fill the hole left that the gas tax is no longer filling based on the reduction of vehicle miles traveled and the amount of funding coming into the trust fund from the taxes at the pump. A good chunk of the New Starts Program and Small Starts Program is actually general revenue and so that is subject to discretionary appropriations which of course would be subject to sequestration.

Fenton: What I was going to add is that the Blue Line Extension project a few years ago was

Intergovernmental Relations Committee

Meeting Summary for March 2, 2014

Page 3

subject to sequestration but we have a contract with the Federal Government that they would provide up to I think \$580 million dollars for that project. So what was sequestered a few years ago will actually be appropriated to us or allocated through this project.

Driggs: Rich, how will the change from Senator Hagan to Senator Tillis affect our situation?

Gold: Good question. Typically what happens with Senators they kind of divide up their roles. It will be interesting to see with both Senator Tillis and Senator Burr there now and of the same party and now of the majority how they choose their roles as to who will do what. That is something that will evolve over this session as the process gets going. What is a fact is that we don't have a democratic senator where we can call the House for things so there is some impact from that. I think having Senator Hagan there was very helpful but we will make it work with the current configuration and I'm sure the delegation will be activated and interested in making sure that they keep things moving. Frankly to be quite blunt with you; isn't that the reason for your trip to Washington? We need you all to make clear how important that is.

Fenton: In 2011-2012 Senator Tillis was instrumental in keeping the Blue Line Extension funded in the state budget. My experience with talking with him and others is that he gets it on transit.

Gold: I think at the end of the day the City will get the support they need to get the funding on these projects. We will see an adjustment over the next 6-9 months with the members of delegation figuring out the roles they are willing to play and be helpful on.

Fenton: Well we appreciate everything and we will see you next week. Thanks for everything.

II. State Update – Dana Fenton

Fenton: I have a PowerPoint Presentation here that I would like to share with you (attached). I just wanted to give you some basic information about what has transpired during the session. All the Cities' priorities are moving along.

Smith: Under City priorities I know in our last meeting John made a request on the sex offender group home. I know legislation needs to be introduced before the end of March but is that too late to get on our agenda or is that something that we try to work with these guys on? Not to cloud the rest of our priorities but where I sit I think it is a pretty important issue and fix that we need.

Fenton: I spoke with Mr. Hagemann on Friday and they are working on it and looking at all the possibilities to see if it meets legislation or if there is something else we can do. I would also like for you to know that there may be a second issue and that has to do with the audio visual recording.

Smith: I just want the record to reflect that I am supportive of John's efforts on this. I do think it's an issue that sounds like we are reasonably powerless from conversations I've had and I

Intergovernmental Relations Committee

Meeting Summary for March 2, 2014

Page 4

would like to get help on the state level. I do support it.

Driggs: And this has to do with separating the half way houses for sex offenders?

Smith: Right now it's not based on classification. It's all under one guise and we are not able to tackle it from the zoning perspective and what John is pushing is to get a separation of sex offenders into different classifications.

Driggs: I'm supportive of that too.

Fenton: OK. So the two bills I want you to know about but not worry about are the Justice for Rural Citizens Act (HB 51) and the Land Application of Biosolids (HB 61). I just wanted to let you know about these bills in case they come up. Another bill is the Building Design Elements bill. This is the same thing that we have seen the past couple of years which is that it prohibits requiring building design elements for structures subject to NC Residential Code for one and two family dwellings. This impacts your (Council's) ability to ensure single family and duplex development fits in with neighboring residential properties. It also negates your ability design control of affordable density bonus program.

Driggs: So does that mean that people filing rezoning petitions no longer have to submit architect drawings? They will only have to show where the buildings are on the site?

Harmon: Yes they will be able to have elevations for single family and duplex dwellings but we will not be able to request that or have it as an outstanding issue in any rezoning cases. So we will be limited in being able to influence that.

Smith: So this will not impact attached multi-family whether it is condo or whatever correct?

Harmon: Not as yet

Driggs: So there is nothing to stop the neighbors from testing the appearance of the building?

Harmon: There is nothing to stop them and they could voluntarily put this in their conditional notes but we wouldn't be able to.

Driggs: Wow, Ok. So does this have some legs now?

Fenton: Yes I think it will have some legs.

Driggs: I'm looking to see if the Protest Petition is in here right now. The same for the Condemnation.

Fenton: Nothing at all right now. OK so just a few more things. There is also a section in the bill that reads the act clarifies and restates the intent of existing law and applies to ordinances

Intergovernmental Relations Committee

Meeting Summary for March 2, 2014

Page 5

adopted before, on and after the effective date. Sounds like this thing will go back and reach back to prior zoning decisions.

Driggs: How does that look?

Fenton: I don't know

Driggs: Post construction or just pending construction?

Fenton: Well it could be anything permitted and not completed. It kind of throws a lot of stuff up in the air

Driggs: Wow.

Fenton: Ok so some other Legislation to expect is Governor's Budget, Tax Reform, Transportation, Anti-Discriminatory Profiling, Planning Statute Rewrite and Economic Development.

Driggs: On Tax Reform there are a couple of issues that are kind of kicking around like expanding the base for the sales tax, the capita tax and so on. So what do you think is likely to bundle up?

Fenton: Probably the same thing you've been hearing is the House is still not enamored with doing anything with Tax Reform. So right now we are not hearing much enthusiasm regarding Tax Reform.

Driggs: OK. Do you know how many members are going to Washington?

Fenton: Eight members and Mayor Clodfelter is going as well.

Driggs: OK . Anybody else? (No response) We are adjourned. Thank you very much.

III. Trending Topics

No topics to discuss

Action: Next meeting will take place on Monday, April 6, 2015 at 4 p.m.

Meeting Adjourned at 3:58 p.m. ~jcs



State Legislative Update

Intergovernmental Relations Committee

March 2, 2015

- General Assembly returned to work on January 28
- City's Priorities:
 - Charlotte Firefighters' Retirement System: Rep. Bishop and Rep. Bradford
 - Civil Service Board: Rep. Bishop
 - Stormwater Management: Rep. Jeter
 - Street Gang Nuisance Abatement: NC Metro Police Chiefs Association seeking sponsor
 - Privilege License Tax: Governor's Budget
- MTC Priority:
 - Special Assessments: Sen. Hartsell

- NC Competes Act (HB 117 – S. Martin)
 - House Republicans economic development package
 - Fuel tax cap for passenger air carriers extended to 2020
 - Job Development Investment Grant renamed “Job Growth Reimbursements Opportunities – People Program” and cap doubled to \$45 million
- Justice for Rural Citizens Act (HB 51 – Pittman)
 - Prohibit extraterritorial planning jurisdiction
- Land Application of Biosolids (HB 61 – Pittman)
 - Allow counties to set standards for disposal of biosolids at higher levels than what State requires

- Identical bills:
 - HB 36 (Dollar, Brawley, Jordan, Glazier)
 - SB 25 (Gunn, Apodaca, Tarte)
- Prohibits requiring building design elements for structures subject to NC Residential Code for One- and Two-Family Dwellings:
 - *Impacts Council's ability to ensure single family and duplex development fits in with neighboring residential properties*
 - *Negates design control of affordable density bonus program*

- “The act clarifies and restates the intent of existing law and applies to ordinances adopted before, on, and after the effective date.”
 - *Impacts prior conditional zoning decisions made by Council*
- Exemptions for historic districts and properties, building safety codes, and national flood insurance regulations
- Message Points:
 - Impacts your ability to secure neighborhood support for projects
 - Impacts prior conditional zoning decisions



Other Legislation to Expect

- Governor's Budget
- Tax Reform
- Transportation
- Anti-Discriminatory Profiling
- Planning Statute Rewrite
- Economic Development



Key Dates

Date	Event
March 7-11	National League of Cities, Washington, D.C.
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- Wednesday, March 18
- Activities:
 - Legislative briefings
 - Visiting legislators
 - Mecklenburg Delegation dinner
- Briefing materials will be prepared
- More information will be forthcoming

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 36

Short Title: Zoning/Design and Aesthetic Controls. (Public)

Sponsors: Representatives Dollar, Brawley, Jordan, and Glazier (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Local Government.

February 4, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN A COUNTY OR MUNICIPALITY MAY ENACT ZONING
3 ORDINANCES RELATED TO DESIGN AND AESTHETIC CONTROLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-381 is amended by adding new subsections to read:

6 "(h) Any zoning and development regulation ordinance relating to building design
7 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
8 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
9 under the North Carolina Residential Code for One- and Two- Family Dwellings except under
10 one or more of the following circumstances:

- 11 (1) The structures are located in an area designated as a local historic district
12 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.
- 13 (2) The structures are located in an area designated as a historic district on the
14 National Register of Historic Places.
- 15 (3) The structures are individually designated as local, State, or national historic
16 landmarks.
- 17 (4) The regulations are directly and substantially related to the requirements of
18 applicable safety codes adopted under G.S. 143-138.
- 19 (5) Where the regulations are applied to manufactured housing in a manner
20 consistent with G.S. 160A-383.1 and federal law.
- 21 (6) Where the regulations are adopted as a condition of participation in the
22 National Flood Insurance Program.

23 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
24 zoning district, special use district, conditional use district, or conditional district unless
25 voluntarily consented to by the owners of all the property to which those regulations may be
26 applied as part of and in the course of the process of seeking and obtaining a zoning
27 amendment or a zoning, subdivision, or development approval, nor may any such regulations
28 be applied indirectly as part of a review pursuant to G.S. 160A-383 of any proposed zoning
29 amendment for consistency with an adopted comprehensive plan or other applicable officially
30 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
31 exterior building color; type or style of exterior cladding material; style or materials of roof
32 structures or porches; exterior nonstructural architectural ornamentation; location or
33 architectural styling of windows and doors, including garage doors; the number and types of
34 rooms; and the interior layout of rooms. The phrase "building design elements" does not
35 include any of the following: (i) the height, bulk, orientation, or location of a structure on a



1 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the
2 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted
3 pursuant to this Article governing the permitted uses of land or structures subject to the North
4 Carolina Residential Code for One- and Two- Family Dwellings.

5 (i) Nothing in subsection (h) of this section shall affect the validity or enforceability of
6 private covenants or other contractual agreements among property owners relating to building
7 design elements."

8 **SECTION 2.** G.S. 153A-340 is amended by adding new subsections to read:

9 "(l) Any zoning and development regulation ordinance relating to building design
10 elements adopted under this Part, under Part 2 of this Article, or under any recommendation
11 made under G.S. 160A-452(6)c. may not be applied to any structures subject to regulation
12 under the North Carolina Residential Code for One- and Two- Family Dwellings except under
13 one or more of the following circumstances:

14 (1) The structures are located in an area designated as a local historic district
15 pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.

16 (2) The structures are located in an area designated as a historic district on the
17 National Register of Historic Places.

18 (3) The structures are individually designated as local, State, or national historic
19 landmarks.

20 (4) The regulations are directly and substantially related to the requirements of
21 applicable safety codes adopted under G.S. 143-138.

22 (5) Where the regulations are applied to manufactured housing in a manner
23 consistent with G.S. 153A-341.1 and federal law.

24 (6) Where the regulations are adopted as a condition of participation in the
25 National Flood Insurance Program.

26 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
27 zoning district, special use district, conditional use district, or conditional district unless
28 voluntarily consented to by the owners of all the property to which those regulations may be
29 applied as part of and in the course of the process of seeking and obtaining a zoning
30 amendment or a zoning, subdivision, or development approval, nor may any such regulations
31 be applied indirectly as part of a review pursuant to G.S. 153A-341 of any proposed zoning
32 amendment for consistency with an adopted comprehensive plan or other applicable officially
33 adopted plan. For the purposes of this subsection, the phrase "building design elements" means
34 exterior building color; type or style of exterior cladding material; style or materials of roof
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36 architectural styling of windows and doors, including garage doors; the number and types of
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39 zoning lot; (ii) the use of buffering or screening to minimize visual impacts, to mitigate the
40 impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted
41 pursuant to this Article governing the permitted uses of land or structures subject to the North
42 Carolina Residential Code for One- and Two- Family Dwellings.

43 (m) Nothing in subsection (l) of this section shall affect the validity or enforceability of
44 private covenants or other contractual agreements among property owners relating to building
45 design elements."

46 **SECTION 3.** This act is effective when it becomes law. The act clarifies and
47 restates the intent of existing law and applies to ordinances adopted before, on, and after the
48 effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 51

Short Title: Justice for Rural Citizens Act. (Public)

Sponsors: Representatives Pittman, Speciale, and Ford (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Local Government, if favorable, Finance.

February 5, 2015

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE INJUSTICE OF EXTRATERRITORIAL PLANNING JURISDICTION BY DECLARING THAT NO CITY IN THE STATE MAY HAVE OR EXERCISE PLANNING JURISDICTION OUTSIDE ITS CORPORATE LIMITS.

Whereas, under current State law, any city may exercise planning jurisdiction under Article 19 of Chapter 160A of the General Statutes within a defined area extending not more than one mile beyond its corporate limits; and

Whereas, with the approval of the board of county commissioners with jurisdiction over the area, a city of 10,000 or more but less than 25,000 may exercise planning jurisdiction over an area extending not more than two miles beyond its corporate limits, and a city of 25,000 or more may exercise these powers over an area extending not more than three miles beyond its limits; and

Whereas, the citizens who live in an area over which a city exercises extraterritorial planning jurisdiction are prohibited from voting in municipal elections; and

Whereas, without the ability to vote in city elections to choose the persons who will make planning decisions about the areas in which they live, rural citizens do not have a say in some of the important matters that affect their lives and livelihoods; Now, therefore, The General Assembly of North Carolina enacts:

PART I. EXTRATERRITORIAL PLANNING JURISDICTION PROHIBITED

SECTION 1. G.S. 160A-360 reads as rewritten:

"§ 160A-360. ~~Territorial jurisdiction.~~ Limits on planning powers.

(a) All of the powers granted by this Article may be exercised by any city within its corporate limits. ~~In addition, any city may exercise these powers within a defined area extending not more than one mile beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No city may exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration.~~



1 (a1) Any municipality planning to exercise extraterritorial jurisdiction under this Article
2 shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial
3 jurisdiction, as shown on the county tax records. The notice shall be sent by first class mail to
4 the last addresses listed for affected property owners in the county tax records. The notice shall
5 inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the
6 landowner's right to participate in a public hearing prior to adoption of any ordinance extending
7 the area of extraterritorial jurisdiction, as provided in G.S. 160A-364, and the right of all
8 residents of the area to apply to the board of county commissioners to serve as a representative
9 on the planning board and the board of adjustment, as provided in G.S. 160A-362. The notice
10 shall be mailed at least four weeks prior to the public hearing. The person or persons mailing
11 the notices shall certify to the city council that the notices were sent by first class mail, and the
12 certificate shall be deemed conclusive in the absence of fraud.

13 (b) Any council wishing to exercise extraterritorial jurisdiction under this Article shall
14 adopt, and may amend from time to time, an ordinance specifying the areas to be included
15 based upon existing or projected urban development and areas of critical concern to the city, as
16 evidenced by officially adopted plans for its development. Boundaries shall be defined, to the
17 extent feasible, in terms of geographical features identifiable on the ground. A council may, in
18 its discretion, exclude from its extraterritorial jurisdiction areas lying in another county, areas
19 separated from the city by barriers to urban growth, or areas whose projected development will
20 have minimal impact on the city. The boundaries specified in the ordinance shall at all times be
21 drawn on a map, set forth in a written description, or shown by a combination of these
22 techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for
23 the delineation of the corporate limits, and shall be recorded in the office of the register of
24 deeds of each county in which any portion of the area lies.

25 (c) Where the extraterritorial jurisdiction of two or more cities overlaps, the
26 jurisdictional boundary between them shall be a line connecting the midway points of the
27 overlapping area unless the city councils agree to another boundary line within the overlapping
28 area based upon existing or projected patterns of development.

29 (d) If a city fails to adopt an ordinance specifying the boundaries of its extraterritorial
30 jurisdiction, the county of which it is a part shall be authorized to exercise the powers granted
31 by this Article in any area beyond the city's corporate limits. The county may also, on request
32 of the city council, exercise any or all these powers in any or all areas lying within the city's
33 corporate limits or within the city's specified area of extraterritorial jurisdiction.

34 (e) No city may hereafter extend its extraterritorial powers under this Article into any
35 area for which the county at that time has adopted and is enforcing a zoning ordinance and
36 subdivision regulations and within which it is enforcing the State Building Code. However, the
37 city may do so where the county is not exercising all three of these powers, or when the city
38 and the county have agreed upon the area within which each will exercise the powers conferred
39 by this Article.

40 (f)(b) When a city ~~annexes~~annexes or a new city is incorporated in, or a city extends its
41 jurisdiction to include, ~~in~~ an area that is currently being regulated by the ~~county~~county under
42 this Article or Article 18 of Chapter 153A of the General Statutes, the county regulations and
43 powers of enforcement shall remain in effect until (i) the city has adopted such regulations, or
44 (ii) a period of 60 days has elapsed following the ~~annexation~~annexation or
45 incorporation, whichever is sooner. During this period the city may hold hearings and take any
46 other measures that may be required in order to adopt its regulations for the area.

47 (f1) When a city relinquishes jurisdiction over an area that it is regulating under this
48 Article to a county, the city regulations and powers of enforcement shall remain in effect until
49 (i) the county has adopted this regulation or (ii) a period of 60 days has elapsed following the
50 action by which the city relinquished jurisdiction, whichever is sooner. During this period the

1 county may hold hearings and take other measures that may be required in order to adopt its
2 regulations for the area.

3 (g) ~~When a local government is granted powers by this section subject to the request,~~
4 ~~approval, or agreement of another local government, the request, approval, or agreement shall~~
5 ~~be evidenced by a formally adopted resolution of that government's legislative body. Any such~~
6 ~~request, approval, or agreement can be rescinded upon two years' written notice to the other~~
7 ~~legislative bodies concerned by repealing the resolution. The resolution may be modified at any~~
8 ~~time by mutual agreement of the legislative bodies concerned.~~

9 (h) ~~Nothing in this section shall repeal, modify, or amend any local act which defines~~
10 ~~the boundaries of a city's extraterritorial jurisdiction by metes and bounds or courses and~~
11 ~~distances.~~

12 (i) ~~Whenever a city or county, pursuant to this section, acquires jurisdiction over a~~
13 ~~territory that theretofore has been subject to the jurisdiction of another local government, any~~
14 ~~person who has acquired vested rights under a permit, certificate, or other evidence of~~
15 ~~compliance issued by the local government surrendering jurisdiction may exercise those rights~~
16 ~~as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take~~
17 ~~any action regarding such a permit, certificate, or other evidence of compliance that could have~~
18 ~~been taken by the local government surrendering jurisdiction pursuant to its ordinances and~~
19 ~~regulations. Except as provided in this subsection, any building, structure, or other land use in a~~
20 ~~territory over which a city or county has acquired jurisdiction is subject to the ordinances and~~
21 ~~regulations of the city or county.~~

22 (j) ~~Repealed by Session Laws 1973, c. 669, s. 1.~~

23 (k) ~~As used in this subsection, "bona fide farm purposes" is as described in~~
24 ~~G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an~~
25 ~~identifiable portion of a single tract. Property that is located in the geographic area of a~~
26 ~~municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt~~
27 ~~from exercise of the municipality's extraterritorial jurisdiction under this Article. Property that~~
28 ~~is located in the geographic area of a municipality's extraterritorial jurisdiction and that ceases~~
29 ~~to be used for bona fide farm purposes shall become subject to exercise of the municipality's~~
30 ~~extraterritorial jurisdiction under this Article. For purposes of complying with 44 C.F.R. Part~~
31 ~~60, Subpart A, property that is exempt from the exercise of extraterritorial jurisdiction pursuant~~
32 ~~to this subsection shall be subject to the county's floodplain ordinance or all floodplain~~
33 ~~regulation provisions of the county's unified development ordinance.~~

34 (l) ~~A municipality may provide in its zoning ordinance that an accessory building of a~~
35 ~~"bona fide farm" as defined by G.S. 153A-340(b) has the same exemption from the building~~
36 ~~code as it would have under county zoning as provided by Part 3 of Article 18 of Chapter 153A~~
37 ~~of the General Statutes.~~

38 ~~This subsection applies only to the City of Raleigh and the Towns of Apex, Cary,~~
39 ~~Fuquay Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,~~
40 ~~Wendell, and Zebulon."~~

41 **SECTION 2.** G.S. 160A-361 reads as rewritten:

42 **"§ 160A-361. Planning boards.**

43 (a) Any city may by ordinance create or designate one or more boards or commissions
44 to perform the following duties:

45 (1) ~~Make studies of the area within its jurisdiction and surrounding areas;~~
46 the city's corporate limits;

47"

48 **SECTION 3.** G.S. 160A-362 is repealed.

49 **SECTION 4.** Any provision in a local act that grants a city, town, or village the
50 power to exercise extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the
51 General Statutes is hereby repealed.

1 **SECTION 5.** The relinquishment of jurisdiction over an area that a city is
2 regulating under the authority of extraterritorial planning jurisdiction under Article 19 of
3 Chapter 160A of the General Statutes shall be effective January 1, 2016. However, nothing in
4 this act shall be construed as prohibiting a city from relinquishing jurisdiction over an area
5 prior to January 1, 2016, so long as the city complies with the provisions of Article 19 of
6 Chapter 160A of the General Statutes.

7 **SECTION 6.** Upon relinquishment of the jurisdiction over an area that a city is
8 regulating under the authority of extraterritorial planning jurisdiction under Article 19 of
9 Chapter 160A of the General Statutes:

- 10 (1) The city regulations and powers of enforcement shall remain in effect until
11 (i) the county has adopted the regulation or (ii) a period of 60 days has
12 elapsed following the effective date of this act, whichever is sooner. During
13 this period, the county may hold hearings and take other measures that may
14 be required in order to adopt its regulations for the area.
- 15 (2) Any person who has acquired vested rights under a permit, certificate, or
16 other evidence of compliance issued by the city may exercise those rights as
17 if no change of jurisdiction had occurred. The county acquiring jurisdiction
18 may take any action regarding such a permit, certificate, or other evidence of
19 compliance that could have been taken by the city surrendering jurisdiction
20 pursuant to its ordinances and regulations. Except as provided in this section,
21 any building, structure, or other land use in a territory over which a county
22 has acquired jurisdiction is subject to the ordinances and regulations of the
23 county.
24

25 **PART II. CONFORMING CHANGES**

26 **SECTION 7.** G.S. 113A-208 reads as rewritten:

27 **"§ 113A-208. Regulation of mountain ridge construction by counties and cities.**

28 ...

29 (d) An ordinance adopted under the authority of this section applies to all protected
30 mountain ridges as defined in G.S. 113A-206. A county or city may apply the ordinance to
31 other mountain ridges within its jurisdiction if it finds that this application is reasonably
32 necessary to protect against some or all of the hazards or problems set forth in G.S. 113A-207.
33 ~~Additionally, a city with a population of 50,000 or more may apply the ordinance to other~~
34 ~~mountain ridges within its extraterritorial planning jurisdiction if it finds that this application is~~
35 ~~reasonably necessary to protect against some or all of the hazards or problems set forth in~~
36 ~~G.S. 113A-207.~~

37 "

38 **SECTION 8.** G.S. 122C-3 reads as rewritten:

39 **"§ 122C-3. Definitions.**

40 The following definitions apply in this Chapter:

41 ...

42 (13e) "Extraterritorial jurisdiction" means the boundaries of the area over which
43 the Town of Butner was exercising extraterritorial planning jurisdiction
44 under Article 19 of Chapter 160A of the General Statutes prior to the Town's
45 relinquishment of jurisdiction over the area on or before January 1, 2016.

46 "

47 **SECTION 9.** G.S. 122C-403 reads as rewritten:

48 **"§ 122C-403. Secretary's authority over Camp Butner reservation.**

49 The Secretary shall administer the Camp Butner reservation except (i) those areas within
50 the municipal boundaries of the Town of Butner and (ii) that portion of the Town of Butner's
51 extraterritorial ~~jurisdiction~~ jurisdiction, as defined in G.S. 122C-3(13e), consisting of lands not

1 owned by the State of North Carolina. In performing this duty, the Secretary has the powers
2 listed below. In exercising these powers the Secretary has the same authority and is subject to
3 the same restrictions that the governing body of a city would have and would be subject to if
4 the reservation was a city, unless this section provides to the contrary. The Secretary may:

5"

6 **SECTION 10.** G.S. 122C-405 reads as rewritten:

7 **"§ 122C-405. Procedure applicable to rules.**

8 Rules adopted by the Secretary under this Article shall be adopted in accordance with the
9 procedures for adopting a city ordinance on the same subject, shall be subject to review in the
10 manner provided for a city ordinance adopted on the same subject, and shall be enforceable in
11 accordance with the procedures for enforcing a city ordinance on the same subject. Violation of
12 a rule adopted under this Article is punishable as provided in G.S. 122C-406.

13 Rules adopted under this Article may apply to part or all of the Camp Butner Reservation,
14 except those areas within the municipal boundaries of the Town of Butner and that portion of
15 the Town of Butner's extraterritorial ~~jurisdiction~~ jurisdiction, as defined in G.S. 122C-3(13e),
16 consisting of lands not owned by the State of North Carolina. If a public hearing is required
17 before the adoption of a rule, Advisory the Secretary shall designate one or more employees of
18 the Department to conduct the hearing. The Butner Town Council shall receive at least 14 days'
19 advance written notice of any public hearing with all correspondence concerning such public
20 hearings to be directed to the mayor of the Town of Butner and sent by certified mail, return
21 receipt requested, or equivalent delivery service to Butner Town Hall."

22 **SECTION 11.** G.S. 122C-410 reads as rewritten:

23 **"§ 122C-410. Authority of county or city over Camp Butner Reservation; zoning
24 jurisdiction by Town of Butner over State lands.**

25 (a) A municipality other than the Town of Butner may not annex territory extending
26 into ~~or extend its extraterritorial jurisdiction into~~ the Camp Butner reservation without written
27 approval from the Secretary and the Butner Town Council of each proposed ~~annexation or~~
28 ~~extension~~ annexation. The Town of Butner may not annex territory extending into ~~or extend its~~
29 ~~extraterritorial jurisdiction into~~ those portions of the Camp Butner Reservation owned by the
30 State of North Carolina without written approval from the Secretary of each proposed
31 ~~annexation or extension~~ annexation. The procedures, if any, for withdrawing approval granted
32 by the Secretary to an annexation ~~or extension of extraterritorial jurisdiction~~ shall be stated in
33 the notice of approval.

34 (b) A county ordinance may apply in part or all of the Camp Butner reservation (other
35 than areas within the Town of Butner) if the Secretary gives written approval of the ~~ordinance,~~
36 ~~except that ordinances adopted by a county under Article 18 of Chapter 153A of the General~~
37 ~~Statutes may not apply in the extraterritorial jurisdiction of the Town of Butner without~~
38 ~~approval of the Butner Town Council.~~ ordinance. The Secretary may withdraw approval of a
39 county ordinance by giving written notification, by certified mail, return receipt requested, to
40 the county. A county ordinance ceases to be effective in the Camp Butner reservation 30 days
41 after the county receives the written notice of the withdrawal of approval. This section does not
42 enhance or diminish the authority of a county to enact ordinances applicable to the Town of
43 ~~Butner and its extraterritorial jurisdiction~~ Butner.

44 (c) Notwithstanding any other provision of this Article, no portion of the lands owned
45 by the State as of September 1, 2007, which are located in the ~~extraterritorial jurisdiction or the~~
46 incorporated limits of the Town of Butner shall be subject to any of the powers granted to the
47 Town of Butner pursuant to Article 19 of Chapter 160A of the General Statutes except as to
48 property no longer owned by the State. If any portion of such property owned by the State of
49 North Carolina as of September 1, 2007, is no longer owned by the State, the Town of Butner
50 may exercise all legal authority granted to the Town pursuant to the terms of its charter or by
51 Article 19 of Chapter 160A of the General Statutes and may do so by ordinances adopted prior

1 to the actual date of transfer. Before the State shall dispose of any property inside the
2 incorporated limits of the Town of Butner or any of that property currently under the control of
3 the North Carolina Department of Health and Human Services or the North Carolina
4 Department of Agriculture and Consumer Services within the extraterritorial
5 ~~jurisdiction~~jurisdiction, as defined in G.S. 122C-3(13e), of the Town of Butner, southeast of
6 Old Highway 75, northeast of Central Avenue, southwest of 33rd Street, and northwest of "G"
7 Street, by sale or lease for any use not directly associated with a State function, the Town of
8 Butner shall first be given the right of first refusal to purchase said property at fair market value
9 as determined by the average of the value of said property as determined by a qualified
10 appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner."

11 **SECTION 12.** G.S. 130A-317 reads as rewritten:

12 **"§ 130A-317. Department to provide advice; submission and approval of public water**
13 **system plans.**

14 ...

15 (d) Municipalities, counties, local boards or commissions, water and sewer authorities,
16 or groups of municipalities and counties may establish and administer within their utility
17 service areas their own approval program in lieu of State approval of water system plans
18 required in subsection (c) of this section for construction or alteration of the distribution system
19 of a proposed or existing public water system, subject to the prior certification of the
20 Department. For purposes of this subsection, the service area of a municipality shall include
21 only that area within the corporate limits of the municipality and that area outside a
22 municipality in its extraterritorial jurisdiction where water service is already being provided to
23 the permit applicant by the municipality or connection to the municipal water system is
24 immediately available to the applicant; the service areas of counties and the other entities or
25 groups shall include only those areas where water service is already being provided to the
26 applicant by the permitting authority or connection to the permitting authority's system is
27 immediately available. For purposes of this subsection, the term "extraterritorial jurisdiction"
28 means the boundaries of the area over which a municipality was exercising extraterritorial
29 planning jurisdiction under Article 19 of Chapter 160A of the General Statutes prior to the
30 municipality's relinquishment of jurisdiction over the area on or before January 1, 2016. No
31 later than the 180th day after the receipt of an approval program and statement submitted by
32 any local government, commission, authority, or board, the Department shall certify any local
33 program that meets all of the following conditions:

34"

35 **SECTION 13.** G.S. 136-44.50 reads as rewritten:

36 **"§ 136-44.50. Transportation corridor official map act.**

37 (a) A transportation corridor official map may be adopted or amended by any of the
38 following:

- 39 (1) The governing board of any local government for any thoroughfare included
40 as part of a comprehensive plan for streets and highways adopted pursuant to
41 G.S. 136-66.2 or for any proposed public transportation corridor included in
42 the adopted long-range transportation plan.
- 43 (2) The Board of Transportation, or the governing board of any county, for any
44 portion of the existing or proposed State highway system or for any public
45 transportation corridor, to include rail, that is in the Transportation
46 Improvement Program.
- 47 (3) Regional public transportation authorities created pursuant to Article 26 of
48 Chapter 160A of the General Statutes or regional transportation authorities
49 created pursuant to Article 27 of Chapter 160A of the General Statutes for
50 any portion of the existing or proposed State highway system, or for any

1 proposed public transportation corridor, or adjacent station or parking lot,
 2 included in the adopted long-range transportation plan.

3 (4) The North Carolina Turnpike Authority for any project being studied
 4 pursuant to G.S. 136-89.183.

5 (5) The Wilmington Urban Area Metropolitan Planning Organization for
 6 Department projects R-3300 and U-4751.

7 ~~Before a city adopts a transportation corridor official map that extends beyond the~~
 8 ~~extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances,~~
 9 ~~or adopts an amendment to a transportation corridor official map outside the extraterritorial~~
 10 ~~jurisdiction of its building permit issuance and subdivision control ordinances, the city shall~~
 11 ~~obtain approval from the Board of County Commissioners.~~

12 (a1) No property may be regulated under this Article until:

13 (1) The governing board of the city, the county, the regional transportation
 14 authority, the North Carolina Turnpike Authority, or the Department of
 15 Transportation has held a public hearing in each county affected by the map
 16 on the proposed map or amendment. Notice of the hearing shall be provided:

17 a. By publication at least once a week for four successive weeks prior
 18 to the hearing in a newspaper having general circulation in the
 19 county in which the transportation corridor to be designated is
 20 located.

21 b. By two week written notice to the Secretary of Transportation, the
 22 Chairman of the Board of County Commissioners, and the Mayor of
 23 any city or town through whose corporate ~~or extraterritorial~~
 24 ~~jurisdiction limits~~ the transportation corridor passes.

25 c. By posting copies of the proposed transportation corridor map or
 26 amendment at the courthouse door for at least 21 days prior to the
 27 hearing date. The notice required in sub-subdivision a. above shall
 28 make reference to this posting.

29 d. By first-class mail sent to each property owner affected by the
 30 corridor. The notice shall be sent to the address listed for the owner
 31 in the county tax records.

32 "...."

33 **SECTION 14.** G.S. 136-55.1 reads as rewritten:

34 **"§ 136-55.1. Notice of abandonment.**

35 (a) At least 60 days prior to any action by the Department of Transportation abandoning
 36 a segment of road and removing the same from the State highway system for maintenance,
 37 except roads abandoned on request of the county commissioners under G.S. 136-63, the
 38 Department of Transportation shall notify by registered mail or personal delivery all owners of
 39 property adjoining the section of road to be abandoned whose whereabouts can be ascertained
 40 by due diligence. Said notice shall describe the section of road which is proposed to be
 41 abandoned and shall give the date, place and time of the Department of Transportation meeting
 42 at which the action abandoning said section of road is to be taken.

43 (b) ~~In keeping with its overall zoning scheme and long-range plans regarding the~~
 44 ~~extraterritorial jurisdiction area, a~~ A municipality may keep open and assume responsibility for
 45 maintenance of a road within one mile of its corporate limits once it is abandoned from the
 46 State highway system."

47 **SECTION 15.** G.S. 136-63 reads as rewritten:

48 **"§ 136-63. Change or abandonment of roads.**

49 (a) The board of county commissioners of any county may, on its own motion or on
 50 petition of a group of citizens, request the Board of Transportation to change or abandon any
 51 road in the secondary system when the best interest of the people of the county will be served

1 thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or
2 abandonment, and if in its opinion the public interest demands it, shall make such change or
3 abandonment. If the change or abandonment shall affect a road connecting with any street of a
4 city or town, the change or abandonment shall not be made until the street-governing body of
5 the city or town shall have been duly notified and given opportunity to be heard on the
6 question. Any request by a board of county commissioners or street-governing body of a city
7 refused by the Board of Transportation may be presented again upon the expiration of 12
8 months.

9 (b) ~~In keeping with its overall zoning scheme and long range plans regarding the~~
10 ~~extraterritorial jurisdiction area, a~~ A municipality may keep open and assume responsibility for
11 maintenance of a road within one mile of its corporate limits once it is abandoned from the
12 State highway system."

13 **SECTION 16.** G.S. 136-66.3 reads as rewritten:

14 **"§ 136-66.3. Local government participation in improvements to the State transportation**
15 **system.**

16 (a) Municipal Participation Authorized. – A municipality may, but is not required to,
17 participate in the right-of-way and construction cost of a State transportation improvement
18 approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the
19 ~~municipality or its extraterritorial jurisdiction.~~ municipality.

20"

21 **SECTION 17.** G.S. 143-138 reads as rewritten:

22 **"§ 143-138. North Carolina State Building Code.**

23 ...

24 (e) Effect upon Local Codes. – Except as otherwise provided in this section, the North
25 Carolina State Building Code shall apply throughout the State, from the time of its adoption.
26 Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any
27 political subdivision of the State may adopt a fire prevention code and floodplain management
28 regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for
29 this purpose, unless otherwise specified by the General Assembly, shall be as follows:
30 Municipal jurisdiction shall include all areas within the corporate limits of the ~~municipality and~~
31 ~~extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or a local~~
32 ~~act;~~ municipality; county jurisdiction shall include all other areas of the county. No such code or
33 regulations, other than floodplain management regulations and those permitted by
34 G.S. 160A-436, shall be effective until they have been officially approved by the Building
35 Code Council as providing adequate minimum standards to preserve and protect health and
36 safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations
37 may regulate all types and uses of buildings or structures located in flood hazard areas
38 identified by local, State, and federal agencies, and include provisions governing substantial
39 improvements, substantial damage, cumulative substantial improvements, lowest floor
40 elevation, protection of mechanical and electrical systems, foundation construction, anchorage,
41 acceptable flood resistant materials, and other measures the political subdivision deems
42 necessary considering the characteristics of its flood hazards and vulnerability. In the absence
43 of approval by the Building Code Council, or in the event that approval is withdrawn, local fire
44 prevention codes and regulations shall have no force and effect. Provided any local regulations
45 approved by the local governing body which are found by the Council to be more stringent than
46 the adopted statewide fire prevention code and which are found to regulate only activities and
47 conditions in buildings, structures, and premises that pose dangers of fire, explosion or related
48 hazards, and are not matters in conflict with the State Building Code, shall be approved. Local
49 governments may enforce the fire prevention code of the State Building Code using civil
50 remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of
51 Insurance or other State official with responsibility for enforcement of the Code institutes a

1 civil action pursuant to G.S. 143-139, a local government may not institute a civil action under
2 G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the
3 assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434.

4 A local government may not adopt any ordinance in conflict with the exemption provided
5 by subsection (c1) of this section. No local ordinance or regulation shall be construed to limit
6 the exemption provided by subsection (c1) of this section.

7"

8 **SECTION 18.** G.S. 143-215.1 reads as rewritten:

9 **"§ 143-215.1. Control of sources of water pollution; permits required.**

10 ...

11 (f) Local Permit Programs for Sewer Extension and Reclaimed Water Utilization. –
12 Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of
13 municipalities and counties may establish and administer within their utility service areas their
14 own general permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and
15 (8) above, for construction, operation, alteration, extension, change of proposed or existing
16 sewer system, subject to the prior certification of the Commission. For purposes of this
17 subsection, the service area of a municipality shall include only that area within the corporate
18 limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction
19 where sewer service or a reclaimed water utilization system is already being provided by the
20 municipality to the permit applicant or connection to the municipal sewer system or a reclaimed
21 water utilization system is immediately available to the applicant; the service areas of counties
22 and the other entities or groups shall include only those areas where sewer service or a
23 reclaimed water utilization system is already being provided to the applicant by the permitting
24 authority or connection to the permitting authority's system is immediately available. For
25 purposes of this subsection, the term "extraterritorial jurisdiction" means the boundaries of the
26 area over which a municipality was exercising extraterritorial planning jurisdiction under
27 Article 19 of Chapter 160A of the General Statutes prior to the municipality's relinquishment of
28 jurisdiction over the area on or before January 1, 2016. No later than the 180th day after the
29 receipt of a program and statement submitted by any local government, commission, authority,
30 or board the Commission shall certify any local program that does all of the following:

31"

32 **SECTION 19.** G.S. 143-215.57 reads as rewritten:

33 **"§ 143-215.57. Procedures in issuing permits.**

34 ...

35 (b) In prescribing standards and requirements for the issuance of permits under this Part
36 and in issuing permits, local governments shall proceed as in the case of an ordinance for the
37 better government of the county or city as the case may be. A city may exercise the powers
38 granted in this Part ~~not only within its corporate boundaries but also within the area of its~~
39 ~~extraterritorial zoning jurisdiction boundaries.~~ A county may exercise the powers granted in
40 this Part at any place within the county that is outside the zoning jurisdiction of a city in the
41 county. ~~If a city does not exercise the powers granted in this Part in the city's extraterritorial~~
42 ~~zoning jurisdiction, the county may exercise the powers granted in this Part in the city's~~
43 ~~extraterritorial zoning jurisdiction.~~ The county may regulate territory within the zoning
44 jurisdiction of any city whose governing body, by resolution, agrees to the regulation. The
45 governing body of a city may, upon one year's written notice, withdraw its approval of the
46 county regulations, and those regulations shall have no further effect within the city's
47 jurisdiction.

48"

49 **SECTION 20.** G.S. 153A-317.14 reads as rewritten:

50 **"§ 153A-317.14. Extension of economic development and training districts.**

1 (a) Standards. – A board of commissioners may by resolution annex territory to an
2 economic development and training district upon finding that:

- 3 (1) The conditions, covenants, restrictions, and reservations required by
4 G.S. 153A-317.12(a)(1) that apply to all real property in the district, other
5 than property owned by the federal, State, or local government, also apply or
6 will apply to the property, other than property owned by the federal
7 government, to be annexed.
- 8 (2) One hundred percent (100%) of the owners of real property in the area to be
9 annexed have petitioned for annexation.
- 10 (3) The district, following the annexation, will continue to meet the standards
11 set out in G.S. 153A-317.12(a).
- 12 (4) The reasonably anticipated training needs of the existing companies in the
13 area to be annexed and of new companies that may locate within the
14 expanded area can be met by the skills training facility located in the district.
- 15 (5) The area to be annexed is either contiguous to a lot, parcel, or tract of land in
16 the district or at least 500 acres in the aggregate counting all parcels
17 proposed for annexation. A property shall, for purposes of this section, be
18 deemed to be contiguous notwithstanding that it may be separated from
19 other property by a street, road, highway, right-of-way, or easement.
- 20 (6) ~~If any of the area proposed to be annexed to the district is wholly or partially~~
21 ~~within the extraterritorial jurisdiction of a municipality, then it shall be~~
22 ~~necessary to first obtain the affirmative vote of a majority of the members of~~
23 ~~the governing body of the municipality before the area can be annexed.~~

24"

25 **SECTION 21.** G.S. 160A-58.4 reads as rewritten:

26 **"§ 160A-58.4. Extraterritorial powers.**

27 Satellite corporate limits shall not be considered a part of the city's corporate limits for the
28 purposes of ~~extraterritorial land use regulation pursuant to G.S. 160A-360, or abatement of~~
29 ~~public health nuisances pursuant to G.S. 160A-193. However, a city's power to regulate land~~
30 ~~use pursuant to Chapter 160A, Article 19, or to abate public health nuisances pursuant to~~
31 ~~G.S. 160A-193, G.S. 160A-193~~ shall be the same within satellite corporate limits as within its
32 primary corporate limits."

33 **SECTION 22.** G.S. 160A-176.1 reads as rewritten:

34 **"§ 160A-176.1. Ordinances effective in Atlantic Ocean.**

35 (a) A city may adopt ordinances to regulate and control swimming, surfing and littering
36 in the Atlantic Ocean adjacent to that portion of the city within its ~~boundaries or within its~~
37 ~~extraterritorial jurisdiction; boundaries;~~ provided, however, nothing contained herein shall be
38 construed to permit any city to prohibit altogether swimming and surfing or to make these
39 activities unlawful.

40 (b) This section shall apply only to cities in the counties of Brunswick, Carteret,
41 Currituck, Dare, Hyde, New Hanover, Onslow, and Pender."

42 **SECTION 23.** G.S. 160A-176.2 reads as rewritten:

43 **"§ 160A-176.2. Ordinances effective in Atlantic Ocean.**

44 (a) A city may adopt ordinances to regulate and control swimming, personal watercraft
45 operation, surfing and littering in the Atlantic Ocean and other waterways adjacent to that
46 portion of the city within its ~~boundaries or within its extraterritorial jurisdiction; boundaries;~~
47 provided, however, nothing contained herein shall be construed to permit any city to prohibit
48 altogether swimming or surfing or to make these activities unlawful.

49 (b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Calabash,
50 Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil

1 Hills, Kitty Hawk, Manteo, Nags Head, Oak Island, Ocean Isle Beach, Southern Shores, Sunset
2 Beach, Topsail Beach, and Wrightsville Beach, and the City of Southport only."

3 **SECTION 24.** G.S. 160A-199 reads as rewritten:

4 **"§ 160A-199. Regulation of outdoor advertising.**

5 ...

6 (m) This section does not apply to any ordinance in effect on the effective date of this
7 section. A city may amend an ordinance in effect on the effective date of this section to extend
8 application of the ordinance to off-premises outdoor advertising located in territory acquired by
9 ~~annexation or located in the extraterritorial jurisdiction of the city.~~annexation. A city may
10 repeal or amend an ordinance in effect on the effective date of this section so long as the
11 amendment to the existing ordinance does not reduce the period of amortization in effect on the
12 effective date of this section.

13"

14 **SECTION 25.** G.S. 160A-296 reads as rewritten:

15 **"§ 160A-296. Establishment and control of streets; center and edge lines.**

16 ...

17 (a1) ~~A city with a population of 250,000 or over according to the most recent decennial
18 federal census may also exercise the power granted by subdivision (a)(3) of this section within
19 its extraterritorial planning jurisdiction. Before a city makes improvements under this
20 subsection, it shall enter into a memorandum of understanding with the Department of
21 Transportation to provide for maintenance.~~

22"

23 **SECTION 26.** G.S. 160A-299 reads as rewritten:

24 **"§ 160A-299. Procedure for permanently closing streets and alleys.**

25 ...

26 (d) This section shall apply to any street or public alley within a city ~~or its~~
27 ~~extraterritorial jurisdiction~~ that has been irrevocably dedicated to the public, without regard to
28 whether it has actually been opened. This section also applies to unopened streets or public
29 alleys that are shown on plats but that have not been accepted or maintained by the city,
30 provided that this section shall not abrogate the rights of a dedicator, or those claiming under a
31 dedicator, pursuant to G.S. 136-96.

32"

33 **SECTION 27.** G.S. 160A-340.2 reads as rewritten:

34 **"§ 160A-340.2. Exemptions.**

35 ...

36 (c) The provisions of G.S. 160A-340.1, 160A-340.3, 160A-340.4, 160A-340.5, and
37 160A-340.6 do not apply to a city or joint agency providing communications service as of
38 January 1, 2011, provided the city or joint agency limits the provision of communications
39 service to any one or more of the following:

40 ...

41 (3) The following service areas:

- 42 a. For the joint agency operated by the cities of Davidson and
43 Mooresville, the service area is the combined areas of the city of
44 Cornelius; the town of Troutman; the town of Huntersville; the
45 unincorporated areas of Mecklenburg County north of a line
46 beginning at Highway 16 along the west boundary of the county,
47 extending eastward along Highway 16, continuing east along
48 Interstate 485, and continuing eastward to the eastern boundary of
49 the county along Eastfield Road; and the unincorporated areas of
50 Iredell County south of Interstate 40, excluding the City of
51 Statesville and the extraterritorial jurisdiction of the City of

Statesville. For purposes of this sub-subdivision, the term "extraterritorial jurisdiction" means the boundaries of the area over which the City of Statesville was exercising extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes prior to the City's relinquishment of jurisdiction over the area on or before January 1, 2016.

...."

SECTION 28. G.S. 160A-383.4 reads as rewritten:

"§ 160A-383.4. Local energy efficiency incentives.

(a) Land-Use Development Incentives. – Counties and municipalities, for the purpose of reducing the amount of energy consumption by new development, and thereby promoting the public health, safety, and welfare, may adopt ordinances to grant a density bonus, make adjustments to otherwise applicable development requirements, or provide other incentives to a developer or builder within the county or municipality ~~and its extraterritorial planning jurisdiction~~ if the developer or builder agrees to construct new development or reconstruct existing development in a manner that the county or municipality determines, based on generally recognized standards established for such purposes, makes a significant contribution to the reduction of energy consumption.

(b) Repealed by Session Laws 2009-95, s. 1, effective June 11, 2009."

SECTION 29. G.S. 160A-459 reads as rewritten:

"§ 160A-459. Stormwater control.

...

~~(e) Unless the city requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of a National Pollutant Discharge Elimination System (NPDES) stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3)(1 July 2003 Edition) in its extraterritorial jurisdiction."~~

PART III. EFFECTIVE DATE

SECTION 30. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 31. This act becomes effective January 1, 2016.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 61

Short Title: Local Control/Land Application of Biosolids. (Public)

Sponsors: Representatives Pittman, Ford, and Speciale (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Local Government, if favorable, Environment.

February 10, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE LOCAL SAFEGUARDS FOR THE LAND APPLICATION OF
3 BIOSOLIDS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 143-215.1(d) reads as rewritten:

6 "(d) Applications and Permits for Sewer Systems, Sewer System Extensions and
7 Pretreatment Facilities, Land Application of Waste, and for Wastewater Treatment Facilities
8 Not Discharging to the Surface Waters of the State. –

9 (1) Applications. – All applications for new permits and for renewals of existing
10 permits for sewer systems, sewer system extensions and for disposal
11 systems, and for land application of waste, or treatment works which do not
12 discharge to the surface waters of the State, and all permits or renewals and
13 decisions denying any application for permit or renewal shall be in writing.
14 The Commission shall act on a permit application as quickly as possible.
15 The Commission may conduct any inquiry or investigation it considers
16 necessary before acting on an application and may require an applicant to
17 submit plans, specifications, and other information the Commission
18 considers necessary to evaluate the application.

19 (2) Deemed approved. – If the Commission fails to act on an application for a
20 permit, including a renewal of a permit, within 90 days after the applicant
21 submits all information required by the Commission, the application is
22 considered to be approved.

23 (3) Effective date. – Permits and renewals issued in approving such facilities
24 pursuant to this subsection shall be effective until the date specified therein
25 or until rescinded unless modified or revoked by the Commission.

26 (4) Local comment and conditions for land application of certain wastes. – Prior
27 to acting on a permit application for the land application of bulk residuals
28 resulting from the operation of a wastewater treatment facility, the
29 Commission shall provide notice and an opportunity for comment from the
30 governing board of the county in which the site of the land application of
31 bulk residuals is proposed to be located. If the county operates or contracts
32 with an incinerator permitted under Article 9 of Chapter 130A of the General
33 Statutes, the governing board may by ordinance require that the bulk
34 residuals be incinerated prior to land application. If the county does not
35 operate or contract with a permitted incinerator, then the governing board



1 may by ordinance specify an alternate method of pathogen reduction and
2 vector attraction reduction. In either case, the ordinance shall be attached to
3 the permit, and the Commission shall incorporate the ordinance's
4 requirements into the permit.

5 (5) Public access. – Local governmental units to whom pretreatment program
6 authority has been delegated shall establish, maintain, and provide to the
7 public, upon written request, a list of pretreatment applications received.

8 ~~(2)~~(6) An applicant for a permit to dispose of petroleum contaminated soil by land
9 application shall give written notice that he intends to apply for such a
10 permit to each city and county government having jurisdiction over any part
11 of the land on which disposal is proposed to occur. The Commission shall
12 not accept such a permit application unless it is accompanied by a copy of
13 the notice and evidence that the notice was sent to each such government by
14 certified mail, return receipt requested. The Commission may consider, in
15 determining whether to issue the permit, the comments submitted by local
16 governments."

17 **SECTION 2.** This act becomes effective October 1, 2015, and applies to any land
18 application site for disposal of bulk residuals for which a permit is issued or renewed on or
19 after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 117

Short Title: NC Competes Act. (Public)

Sponsors: Representatives S. Martin, Jeter, Collins, and Steinburg (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Finance, if favorable, Appropriations.

February 27, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA COMPETES ACT.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. JDIG MODIFICATIONS**

6 **SECTION 1.(a)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

7 "**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~
8 ~~biennium~~, period from July 1, 2013, to December 31, 2015, the maximum total liability for
9 grants awarded, including amounts transferred to the Utility Account pursuant to
10 G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars (\$22,500,000) and, for~~
11 ~~the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants~~
12 ~~awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is~~
13 ~~seven million five hundred thousand dollars (\$7,500,000).~~ forty-five million dollars
14 (\$45,000,000). No agreement may be entered into that, when considered together with other
15 existing agreements governing grants awarded during an applicable time period provided in this
16 subsection, could cause the State's potential total annual liability for grants awarded in that time
17 period to exceed the designated maximum amount."

18 **SECTION 1.(b)** The title of Part 2G of Article 10 of Chapter 143B of the General
19 Statutes reads as rewritten:

20 "Part 2G. Job Development Investment Grant Program. Job Growth Reimbursement
21 Opportunities – People Program."

22 **SECTION 1.(c)** G.S. 143B-437.52(b) is repealed.

23 **SECTION 1.(d)** G.S. 143B-437.53(c) reads as rewritten:

24 "(c) Health Insurance. – A business is eligible for a grant under this Part only if the
25 business provides health insurance for all of the applicable full-time employees of the project
26 with respect to which the grant is made. For the purposes of this subsection, an applicable
27 full-time employee is one who earns from the business less than one hundred fifty thousand
28 dollars (\$150,000) in taxable compensation on an annualized basis or three and one-half times
29 the annualized average State wage for all insured private employers in the State employing
30 between 250 and 1,000 employees, whichever is greater. For the purposes of this subsection, a
31 business provides health insurance if it pays at least fifty percent (50%) of the premiums for
32 health care ~~coverage that equals or exceeds the minimum provisions of the basic health care~~
33 ~~plan of coverage recommended by the Small Employer Carrier Committee pursuant to~~
34 ~~G.S. 58-50-125.coverage.~~



1 Each year that a business receives a grant under this Part, the business must provide with
2 the submission required under G.S. 143B-437.58 a certification that the business continues to
3 provide health insurance, as required by this subsection, for all applicable full-time employees
4 of the project with respect to which the grant is made. If the business ceases to provide the
5 required health insurance, the Committee shall amend or terminate the agreement as provided
6 in G.S. 143B-437.59."

7 **SECTION 1.(e)** G.S. 143B-437.57(a) reads as rewritten:

8 "(a) Terms. – Each community economic development agreement shall include at least
9 the following:

10 ...

11 (11) A provision that requires the business to maintain employment levels in this
12 State at the greater of the level of the year immediately preceding the base
13 period employment on the date of the application or the level of employment
14 on the date of the award.

15"

16 **SECTION 1.(f)** G.S. 143B-437.62 reads as rewritten:

17 "**§ 143B-437.62. Expiration.**

18 The authority of the Committee to award new grants expires January 1, ~~2016~~2020."

19 **SECTION 1.(g)** The Revisor of Statutes shall make the conforming statutory
20 changes necessary to the General Statutes to reflect renaming of the Job Development
21 Investment Grant Program to the Job Growth Reimbursement Opportunities – People Program,
22 as provided in this section.

23 **SECTION 1.(h)** This Part is effective when it becomes law.

24 **PART II. ONE NC MODIFICATIONS**

25 **SECTION 2.(a)** The title of Part 2H of Article 10 of Chapter 143B of the General
26 Statutes reads as rewritten:

27 "~~Part 2H. One North Carolina Fund.~~ Job Growth Reimbursement Opportunities – Capital
28 Program."

29 **SECTION 2.(b)** The title of Part 2I of Article 10 of Chapter 143B of the General
30 Statutes reads as rewritten:

31 "~~Part 2I. One North Carolina~~ Job Growth Reimbursement Opportunities – Capital Small
32 Business Program."

33 **SECTION 2.(c)** The Revisor of Statutes shall make the conforming statutory
34 changes necessary to the General Statutes to reflect renaming of the One North Carolina Fund
35 to the Job Growth Reimbursement Opportunities – Capital Program and the renaming of the
36 One North Carolina Small Business Program to the Job Growth Reimbursement Opportunities
37 – Capital Small Business Program, as provided in this section.

38 **SECTION 2.(d)** This Part is effective when it becomes law.

39 **PART III. SITE INFRASTRUCTURE DEVELOPMENT FUND**

40 **SECTION 3.(a)** Of the funds appropriated to the Department of Commerce for the
41 2014-2015 fiscal year, twenty million dollars (\$20,000,000) shall be transferred to the Site
42 Infrastructure Development Fund for uses consistent with G.S. 143B-437.02. The Office of
43 State Budget and Management, in conjunction with the Office of the State Controller and the
44 Department of Commerce, shall transfer the unencumbered cash balance of the Job Catalyst
45 Fund (Budget Code 14600-1912) to the Site Infrastructure Development Fund (Budget Code
46 24600-2583).

47 **SECTION 3.(b)** The tagline of G.S. 143B-437.02 reads as rewritten:

48 "**§ 143B-437.02. Site ~~infrastructure development.~~ Acceleration Fund.**"

49 **SECTION 3.(c)** G.S. 143B-437.02(e) reads as rewritten:

1 "(e) Health Insurance. – A business is eligible for consideration for site development
2 under this section only if the business provides health insurance for all of the full-time
3 employees of the project with respect to which the application is made. For the purposes of this
4 subsection, a business provides health insurance if it pays at least fifty percent (50%) of the
5 premiums for health care coverage that equals or exceeds the minimum provisions of the basic
6 health care plan of coverage recommended by the Small Employer Carrier Committee pursuant
7 to G.S. 58-50-125 coverage.

8 Each year that a contract for site development under this section is in effect, the business
9 must provide the Department of Commerce a certification that the business continues to
10 provide health insurance for all full-time employees of the project governed by the contract. If
11 the business ceases to provide health insurance to all full-time employees of the project,
12 Department shall provide for reimbursement of an appropriate portion of the site development
13 funds provided to the business."

14 **SECTION 3.(d)** The Revisor of Statutes shall make the conforming statutory
15 changes necessary to the General Statutes to reflect renaming of the Site Infrastructure
16 Development Fund to the Site Acceleration Fund, as provided in this section.

17 **SECTION 3.(e)** This Part is effective when it becomes law.

18 19 **PART IV. SINGLE SALES FACTOR MODIFICATION**

20 **SECTION 4.(a)** G.S. 105-130.4(s1) reads as rewritten:

21 "(s1) All apportionable income of a qualified capital intensive corporation shall be
22 apportioned by multiplying the income by the sales factor as determined under subsection (1)
23 of this section. A "qualified capital intensive corporation" is a corporation that satisfies all of the
24 conditions of this subsection. A corporation that is subject to this subsection must list on its
25 return the property, payroll, and sales factors ~~it used in determining whether it is a~~of the
26 qualified capital intensive corporation. ~~If the corporation fails to invest one billion dollars~~
27 ~~(\$1,000,000,000) in private funds within nine years as required by subdivision (2) of this~~
28 ~~subsection, the benefit of this subsection expires and the corporation must apportion income as~~
29 ~~it would otherwise be required to do under this section absent this subsection. If a corporation~~
30 ~~fails to satisfy the conditions of this subsection, the corporation forfeits the benefit of this~~
31 ~~subsection and must apportion income as it would otherwise be required to do absent this~~
32 ~~subsection. A corporation that forfeits the benefit of this subsection is liable for all past taxes~~
33 ~~avoided as a result of the benefit plus interest at the rate established under G.S. 105-241.21,~~
34 ~~computed from the date additional taxes would have been due if the benefit had not been~~
35 ~~allowed. The past taxes and interest are due 30 days after the date the benefit is forfeited; a~~
36 ~~corporation that fails to pay the past taxes and interest by the due date is subject to the penalties~~
37 ~~provided in G.S. 105-236. Notwithstanding G.S. 105-241.8(b)(3), if a corporation forfeits the~~
38 ~~benefit of this subsection, the period for proposing an assessment of any tax due as a result of~~
39 ~~the forfeiture is three years after the date of the discovery of the forfeiture.~~

40 The conditions are:

- 41 (1) ~~The corporation's property factor as a percentage of the sum of the factors in~~
42 ~~the formula set out in subsection (i) of this section, including the doubling of~~
43 ~~the sales factor, exceeds seventy five percent (75%) or the corporation's~~
44 ~~average property factor for the preceding three years as a percentage of the~~
45 ~~average sum of the factors in the formula set out in subsection (i) of this~~
46 ~~section, including the doubling of the sales factors, for the preceding three~~
47 ~~years exceeds seventy five percent (75%).~~
- 48 (2) The Secretary of Commerce makes a written determination that the
49 corporation has invested or is expected to invest at least one billion dollars
50 (\$1,000,000,000) in private funds to construct a facility in this State within
51 nine years after the time that construction begins. For the purposes of this

1 subsection, costs of construction include costs of acquiring and improving
2 land for the facility, costs for renovations or repairs to existing buildings,
3 and costs of equipping or reequipping the facility.

4 (3) The corporation maintains the average number of employees it has at the
5 facility during the first two years after the facility is placed in service for the
6 remainder of time in which the corporation must complete the investment
7 required under subdivision (2) of this subsection.

8 (4) ~~The facility that satisfies the condition of subdivision (2) of this subsection is
9 located in a county that was designated as a development tier one or two area
10 at the time construction of the facility began.~~

11 (5) The corporation satisfies a wage standard at the facility that satisfies the
12 condition of subdivision (2) of this subsection. For the purposes of this
13 subdivision, the wage standard ~~that must be~~ satisfied ~~is the one established~~
14 ~~under G.S. 105-129.83(e) if the corporation pays an average weekly wage~~
15 that is at least equal to the lesser of one hundred ten percent (110%) of the
16 average wage for all insured private employers in the State and ninety
17 percent (90%) of the average wage for all insured private employers in the
18 county.

19 (6) The corporation provides health insurance for all of its full-time employees
20 at the facility that satisfies the condition of subdivision (2) of this subsection.
21 For the purposes of this subdivision, a company provides health insurance if
22 it ~~satisfies the provisions of G.S. 105-129.83(d) pays at least fifty percent~~
23 (50%) of the premiums for health care coverage."

24 **SECTION 4.(b)** Section 4 of S.L. 2009-54 is repealed.

25 **SECTION 4.(c)** Section 6 of S.L. 2009-54 reads as rewritten:

26 "SECTION 6. This act is effective for taxable years beginning on or after January 1, 2010.
27 ~~If no corporation has qualified as a qualified capital intensive corporation under~~
28 ~~G.S. 105-130.4(s1) prior to January 1, 2019, then G.S. 105-130.4(s1) is repealed for taxable~~
29 ~~years beginning on or after January 1, 2019."~~

30 **SECTION 4.(d)** Subsection (c) of this section is effective when it becomes law.
31 The remainder of this Part is effective when it becomes law and applies to corporations
32 receiving a written determination from the Secretary of Commerce on or after that date.
33

34 **PART V. EXTEND SALES TAX REFUND FOR PASSENGER AIR CARRIERS**

35 **SECTION 5.(a)** G.S. 105-164.14A(a)(1) reads as rewritten:

36 "(a) Refund. – The following taxpayers are allowed an annual refund of sales and use
37 taxes paid under this Article:

38 (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund
39 of the sales and use tax paid by it on fuel in excess of two million five
40 hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid
41 does not include a refund allowed to the interstate passenger air carrier under
42 G.S. 105-164.14(a). This subdivision is repealed for purchases made on or
43 after January 1, ~~2016-2020.~~

44 **SECTION 5.(b)** This Part is effective when it becomes law.
45

46 **PART VI. DATACENTER INFRASTRUCTURE ACT**

47 **SECTION 6.(a)** G.S. 105-164.3 reads as rewritten:

48 "**§ 105-164.3. Definitions.**

49 The following definitions apply in this Article:

50 ...

1 (33) Qualifying datacenter. – A datacenter that satisfies each of the following
2 conditions:

3 a. The datacenter meets the wage standard and health insurance
4 requirements of G.S. 143B-437.08A.

5 b. The Secretary of Commerce has made a written determination that at
6 least seventy-five million dollars (\$75,000,000) in private funds has
7 been or will be invested by one or more owners, users, or tenants of
8 the datacenter within five years of the date the owner, user, or tenant
9 of the datacenter makes its first real or tangible property investment
10 in the datacenter on or after January 1, 2012. Investments in real or
11 tangible property in the datacenter made prior to January 1, 2012,
12 may not be included in the investment required by this subdivision.

13 (33a) Purchase price. – The term has the same meaning as the term "sales price"
14 when applied to an item subject to use tax.

15 ~~(33a)~~(33b) Real property contractor. – A person that contracts to perform
16 construction, reconstruction, installation, repair, or any other service with
17 respect to real property and to furnish tangible personal property to be
18 installed or applied to real property in connection with the contract and the
19 labor to install or apply the tangible personal property that becomes part of
20 real property. The term includes a general contractor, a subcontractor, or a
21 builder for purposes of G.S. 105-164.4H.

22 ~~(33b)~~(33c) Related member. – Defined in G.S. 105-130.7A.

23 ~~(33e)~~(33d) Remote sale. – A sale of tangible personal property or digital property
24 ordered by mail, by telephone, via the Internet, or by another similar method,
25 to a purchaser who is in this State at the time the order is remitted, from a
26 retailer who receives the order in another state and delivers the property or
27 causes it to be delivered to a person in this State. It is presumed that a
28 resident of this State who remits an order was in this State at the time the
29 order was remitted.

30"

31 **SECTION 6.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

32 "~~(55a)~~ Sales of electricity for use at a qualifying datacenter and datacenter support
33 equipment to be located and used at the qualifying datacenter. As used in
34 this subdivision, "datacenter support equipment" is property that is
35 capitalized for tax purposes under the Code and is used either:

36 a. For the provision of a service or function included in the business of
37 an owner, user, or tenant of the datacenter.

38 b. For the generation, transformation, transmission, distribution, or
39 management of electricity, including exterior substations, generators,
40 transformers, unit substations, uninterruptible power supply systems,
41 batteries, power distribution units, remote power panels, and other
42 capital equipment used for these purposes.

43 c. For HVAC and mechanical systems, including chillers, cooling
44 towers, air handlers, pumps, and other capital equipment used for
45 these purposes.

46 d. For hardware and software for distributed and mainframe computers
47 and servers, data storage devices, network connectivity equipment,
48 and peripheral components and equipment.

49 e. To provide related computer engineering or computer science
50 research.

1 If the level of investment required by G.S. 105-164.3(33) is not timely
2 made, the exemption provided under this subdivision is forfeited. If the level
3 of investment required by G.S. 105-164.3(33) is timely made but any
4 specific datacenter support equipment is not located and used at the
5 qualifying datacenter, the exemption provided for such datacenter support
6 equipment under this subdivision is forfeited. If the level of investment
7 required by G.S. 105-164.3(33) is timely made but any portion of electricity
8 is not used at the qualifying datacenter, the exemption provided for such
9 electricity under this subdivision is forfeited. A taxpayer that forfeits an
10 exemption under this subdivision is liable for all past taxes avoided as a
11 result of the forfeited exemption, computed from the date the taxes would
12 have been due if the exemption had not been allowed, plus interest at the rate
13 established under G.S. 105-241.21. If the forfeiture is triggered due to the
14 lack of a timely investment required by G.S. 105-164.3(33), interest is
15 computed from the date the taxes would have been due if the exemption had
16 not been allowed. For all other forfeitures, interest is computed from the
17 time as of which the datacenter support equipment or electricity was put to a
18 disqualifying use. The past taxes and interest are due 30 days after the date
19 the exemption is forfeited. A taxpayer that fails to pay the past taxes and
20 interest by the due date is subject to the provisions of G.S. 105-236."

21 **SECTION 6.(c)** This Part becomes effective July 1, 2015, and applies to sales
22 made on or after that date.

23
24 **PART VII. EFFECTIVE DATE**

25 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
26 law.