

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



March 13, 2009

Recently, the news media reported that Senate Leader Marc Basnight told budget subcommittees that all of their meetings must be held in the open and that recommendations of proposed budget cuts cannot be done in closed-door meetings. Years ago, most of the budget meetings were closed to the public and to lobbyists, so interested citizens and lobbyists had to hang out in the “lobby” hoping to get a few minutes with legislators as they came and went to the meetings, or took a bathroom break...which is where the term “lobbyist” originated in Congress.

For several years, the legislature has had a more open door policy on budget committee meetings, and the early meetings like the ones going on now are generally open. Later in the legislative Session, when the final budget negotiations are occurring, there is more of a tendency to eventually close the meetings of budget leaders where the final decisions are made. Only time will tell if the openness of the current budget subcommittee meetings will be continued throughout the budget development and negotiation process.

This past Monday evening, Governor Beverly Perdue delivered the Governor’s State of the State Address to a combined session of the House and Senate members of the North Carolina General Assembly. As anticipated, Governor Perdue focused on the budget, and more particularly the budget shortfall in revenue. The Governor indicated that she would release her proposed budget to the General Assembly early next week. It will no doubt contain significant proposed cuts to numerous state government agencies. The Governor’s budget is a nonbinding recommendation to the General Assembly. All final budget decisions are made by the General Assembly, but they will certainly receive considerable input throughout the entire budgetary process from Governor Perdue about her priorities. Ultimately, the budget bill approved by the General Assembly will go to Governor Perdue for her to decide whether to sign it into law, or to veto it and send it back to the General Assembly.

The House and Senate adjourned on Thursday to reconvene on Monday evening.

BILLS OF INTEREST

HOUSE BILL 515, Require Documentation-Certain Special Plates, would require the Division of Motor Vehicles to verify the qualifications of any person applying for a special vehicle registration

plate that is reserved for members of the military. **Introduced by Representatives Justus, Cleveland, McElraft and Parmon.**

HOUSE BILL 526, Superior Court Judge Elections, would make various changes in the procedure for holding an election for a superior court judgeship after someone has been appointed to fill a vacancy in that judgeship. **Introduced by Representative Wainwright.**

HOUSE BILL 527, Ex-Offender Reentry Study, would establish the Joint Legislative Study Committee on Ex-Offender Reentry, which would consist of 26 persons appointed by the General Assembly to study issues related to reentry into society by persons with criminal records. **Introduced by Representatives Pierce, Bryant, Jones and Ross.**

HOUSE BILL 529, Edgecombe/No Hunting on the Land of Another, is identical to Senate Bill 496 discussed below. **Introduced by Representatives Tolson and Farmer-Butterfield.**

HOUSE BILL 538, Charlotte-Mecklenburg School Board Police, is identical to Senate Bill 270, and would allow the Charlotte-Mecklenburg Board of Education to maintain their campus police agency. **Introduced by Representatives Cotham, Tillis and Mackey.**

HOUSE BILL 546, Lincoln County/911 Fund Uses, is identical to Senate Bill 521 discussed below. **Introduced by Representative Rhyne.**

HOUSE BILL 548, School Violence Prevention Act, is identical to Senate Bill 526 discussed below and would enact a new law to prohibit bullying and harassing behavior in schools. **Introduced by Representatives Glazier, Fisher, Tarleton and Martin.**

HOUSE BILL 551, Davidson/Taking of Foxes, would establish the season for taking foxes with weapons and for trapping in Davidson County. **Introduced by Representative Dockham.**

HOUSE BILL 554, Youth Development Center Fence Funds, would appropriate \$3 million to the Department of Juvenile Justice and Delinquency Prevention for construction of fences around Samarkand Youth Development Center in Dobbs. **Introduced by Representatives Justus and Goforth.**

HOUSE BILL 555, Transparency in Recommendations, is identical to Senate Bill 335 listed below, and would make all records public concerning any communication by a public officer regarding the qualification of an applicant for state employment or appointment. **Introduced by Representative Tillis.**

HOUSE BILL 570, Amend Private Protective Services Act, is identical to Senate Bill 584 discussed below. **Introduced by Representative Gibson.**

HOUSE BILL 608, Require Titles for Scrapped Vehicles, is identical to Senate Bill 545 discussed below. **Introduced by Representative Alexander.**

SENATE BILL 335, Transparency in Recommendations, is identical to House Bill 555 discussed above. **Introduced by Senator Berger.**

SENATE BILL 473, Certified Technicians for Animal Euthanasia, is identical to House Bill 424 and would authorize the Department of Human Services to certify persons that are authorized to order, possess and administer drugs for animal euthanasia. **Introduced by Senator Weinstein.**

SENATE BILL 476, Create Titling Categories-Replica/Street Rod, would establish the criteria for DMV to register motor vehicles in four categories: (1) replica vehicles, (2) street rod vehicles, (3) modified vehicle, or (4) custom-built vehicle. This bill would also require every agent of the DMV License and Theft Bureau to attend an annual in-service training course that details the inspection procedure for inoperable vehicles. The agents would also be required to complete a physical examination of a test vehicle to verify that the agent can determine which vehicles are operable or inoperable based on the uniform training required by this legislation. **Introduced by Senator East.**

SENATE BILL 480, Regulation of Golf Carts in Pikeville, is identical to House Bill 127 and adds the Town of Pikeville to the list of towns that may regulate golf carts. **Introduced by Senator Rouzer.**

SENATE BILL 488, Establish Proportionate Sentence Lengths, would make changes in the length of prison sentences so that the differences between prior record levels would be more proportionate using a set percentage change. **Introduced by Senator Kinnaird.**

SENATE BILL 489, Even Out Prior Criminal Record Points, would change the prior record level point ranges in order to expand the points in prior record level 1 and to even out the remaining ranges. **Introduced by Senator Kinnaird.**

SENATE BILL 490, Adjust B1-E Felony Penalties, would reduce by 3 months the minimum sentences for Class B1 through E felonies and would increase by 3 months the maximum sentences. The period of post-release supervision would be increased from 9 months to 12 months. **Introduced by Senator Kinnaird.**

SENATE BILL 491, Expunge Nonviolent Crimes, would allow persons to apply to have their criminal record expunged in certain limited circumstances. A person could not file for an expungement under this law until at least 10 years after the date of a felony conviction or the last date of any active sentence or period of probation or period of post-release supervision. Expungements granted under this proposed law would only apply to five specific offenses: (1) breaking or entering buildings generally; (2) breaking or entering motor vehicles, aircraft, boats, etc.; (3) possessing stolen goods; (4) obtaining property by false pretenses where the value is less than \$100,000 or; (5) possession of a schedule VI controlled substance. The person requesting the expungement could have no prior offenses other than traffic violations. The record of the expunged offense would be maintained in a confidential file by the Administrative Office of the Courts and could be released to the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission "for certification purposes only." **Introduced by Senator Kinnaird.**

SENATE BILL 496, Ex-Offender Reentry Study, is identical to House Bill 529 discussed above. **Introduced by Senator Jones.**

SENATE BILL 499, [Edgecombe/No Hunting on the Land of Another](#), is identical to House Bill 529, and would prohibit hunting on the property of another person without written permission from that person. This bill would only apply to Edgecombe County. **Introduced by Senator Jenkins.**

SENATE BILL 506, [Holly Springs/911 Fund Uses](#), would allow the Town of Holly Springs to utilize their 911 funds for “other communications equipment” necessary for the 911 System to communicate with emergency services personnel. **Introduced by Senator Stevens.**

SENATE BILL 510, [Expand Interpreting Services](#), would allow judges to authorize the use of a court interpreter in all proceedings where an interpreter would be necessary to assist the court. **Introduced by Senator Clodfelter.**

SENATE BILL 511, [Clarify Status of DWI Treatment Courts](#), would clarify that DWI treatment courts are considered a type of drug treatment court under the Drug Treatment Court Act. **Introduced by Senator Clodfelter.**

SENATE BILL 514, [Magistrates Provide Appointment of Counsel](#), would give magistrates the authority to appoint legal counsel to defendants. **Introduced by Senator Clodfelter.**

SENATE BILL 515, [Prohibit Penning of Wildlife](#), would prohibit the placement of live foxes or coyotes in enclosed areas for the purpose of field trials or the training of dogs. **Introduced by Senator Hunt.**

SENATE BILL 519, [State Health Plan/First Day Coverage](#), would provide coverage under the State Health Plan on the first day of employment as a state employee. **Introduced by Senator Forrester.**

SENATE BILL 521, [Lincoln County/911 Fund Uses](#), is identical to House Bill 546 discussed above and would allow 911 funds in Lincoln County to be used for the lease or purchase of an additional communications tower, a multisite simulcast system, microwave connectivity between the sites and site monitoring and an alarm system, as well as base stations and grounding and lightning protection. **Introduced by Senator Forrester.**

SENATE BILL 525, [Video Game Producer Tax Credit](#), would allow a tax credit for video game producers in North Carolina. **Introduced by Senator Boseman.**

SENATE BILL 526, [School Violence Prevention Act](#), is identical to House Bill 548 discussed above. **Introduced by Senator Boseman.**

SENATE BILL 527, [Amend Second Degree Rape & Sexual Offense](#), would make it unlawful for a person in a position of authority to engage in a sex offense with a victim who is “unduly influenced by the person in a position of authority.” **Introduced by Senator Boseman.**

SENATE BILL 530, [Rockingham Bureau of Investigation](#), would establish the Judicial District 17A (Rockingham County) “Bureau of Forensic Services.” The Bureau of Forensic Services would be under the direction of a board of directors lead by the district attorney and the district attorney would provide the supervision of day-to-day operations. **Introduced by Senator Berger.**

SENATE BILL 545, Require Titles for Scrapped Vehicles, would require that a motor vehicle title be provided by a seller when selling a scrap vehicle to a secondary metals recycler or salvage yard. **Introduced by Senator Graham.**

SENATE BILL 551, Regulate Cost of Nonconsensual Towing, would limit to \$75 the amount that a towing company could charge for towing a motor vehicle from a public or private area if the vehicle is towed without the consent of the vehicle's owner or operator. This legislation would only apply in the city of Asheville. **Introduced by Senator Nesbitt.**

SENATE BILL 557, Remove Restriction/LEO Disability Benefits, would delete the requirement that law enforcement officers must have one year of creditable service in order to qualify for disability retirement benefits under the Local Governmental Employees' Retirement System for injuries incurred in the line of duty. **Introduced by Senator Foriest.**

SENATE BILL 558, Retirement System Cost of Living Adjustments, would provide an increase of not more than one percent (1%) in benefits as a cost-of-living adjustment for retirees of the Teachers and State Employees' Retirement System and the Consolidated Judicial Retirement System. **Introduced by Senator Foriest.**

SENATE BILL 563, Regulation of Golf Carts by Local Governments, is identical to House Bill 320 and would allow all units of local government to regulate golf carts. **Introduced by Senator Davis.**

SENATE BILL 584, Amend Private Protective Services Act, is identical to House Bill 570, and would provide that the Private Protective Services Board would license persons as a "digital forensics examiner" who contracts to conduct an examination of digitally stored data and to recover, image, analyze, or examine the data by using specialized software. The bill specifically provides that law enforcement officers providing the services of a "digital forensics examiner" do not have to be licensed by the Board. **Introduced by Senator Snow.**

SENATE BILL 589, Plan to Eliminate Mandatory Minimum Sentences, would require the North Carolina Sentencing and Policy Advisory Commission to review and evaluate the current structured sentencing system for the purpose of devising a plan to eliminate mandatory minimum criminal sentences. **Introduced by Senator Shaw.**

SENATE BILL 596, Filling Vacancies in Local Offices, would standardize the process for filling vacancies in the local offices of county commissioner, register of deeds, sheriff, and board of education.

Concerning filling vacancies in the Office of Sheriff, currently in some counties the board of county commissioners have sole discretion to appoint the person to fill a vacancy in the Office of Sheriff. In other counties, if the county executive committee of the political party of the previous sheriff makes a recommendation within 30 days, the board of county commissioners must appoint the person recommended by the county executive committee of the previous sheriff's political party.

This legislation would establish a uniform procedure for filling vacancies in the Office of Sheriff for all 100 counties and would provide that the county executive committee of the political party of the outgoing sheriff can submit a list of three or more unranked nominations to the board of county

commissioners within 30 days of the occurrence of the vacancy. If they do so, the board of county commissioners shall appoint one of the persons recommended. If the county executive committee of the political party makes less than three eligible nominations, the board of county commissioners can appoint any person who is eligible to serve in the Office of Sheriff, whether nominated by the political party or not. To be eligible for appointment to a vacancy in the Office of Sheriff, the person must have been eligible to have filed as a candidate of that political party at the most recent election for that office. **Introduced by Senator Clodfelter.**

SENATE BILL 597, Jury Exhibits/Criminal Trials, would allow the presiding trial judge in a criminal case the sole discretion to determine whether jurors may take exhibits introduced into evidence into the jury room. Consent of all parties would not be necessary. **Introduced by Senator Clodfelter.**

SENATE BILL 598, Local Supplementation of Judicial Employees, would authorize local governments to supplement the salaries of judicial department employees, other than elected officials and magistrates. **Introduced by Senator Clodfelter.**

SENATE BILL 601, Superior Court Criminal Case Calendaring, would remove the authority to manage the criminal court calendar from the district attorney and would transfer that authority to the senior resident superior court judge who would be responsible for developing a case docketing plan in consultation with judges, local attorneys, and the district attorney. **Introduced by Senator Clodfelter.**

SENATE BILL 603, Funds for Juvenile Crime Prevention Councils, would appropriate \$500,000 to the Department of Juvenile Justice and Delinquency Prevention for local Juvenile Crime Prevention Councils (JCPC) based on the population of the counties served by the council. **Introduced by Senator Kinnaird.**

BILL STATUS

HOUSE BILL 8, Prohibit Cell Phones in Prison, has been approved by the House and sent to the Senate and referred to the Senate Judiciary II Committee. We have been advised that it is likely that this bill will be amended in the Senate to apply to county jails and other local confinement facilities, in addition to its current application to prisons of the Department of Correction. The current version of the bill would make it a Class A1 misdemeanor for any person to knowingly give or sell a mobile telephone, or component of a mobile telephone to: (1) a person who is in the custody of the Department of Correction or (2) any person who is not an inmate for delivery to an inmate of the Department of Correction.

HOUSE BILL 99, Military Police/Credit for B.L.E.T. Training, was approved by the House Committee on Homeland Security, Military and Veterans Affairs and was re-referred to the House Rules Committee.

HOUSE BILL 320, Regulation of Golf Carts by Local Governments, has been approved by the House Local Government I Committee and has been re-referred to the House Finance Committee.

HOUSE BILL 473, Magistrate Can Carry Gun in Courthouse, was approved by the House Judiciary III Committee and has been re-referred to the House State Government/State Personnel Committee for further consideration.

SENATE BILL 5, Continuing Crossbow Permit/Dealers & Manufacturers, has been approved by the House and Senate and will next be sent to Governor Beverly Perdue for her signature.

If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, copies are available on the General Assembly's World Wide Web site: www.ncleg.net.

You may also receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills office at 919/733-5648. They will need to know if it is a House bill or Senate bill and the bill number. (For example, Senate Bill 8).

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