



Topsail Island Shoreline Protection Commission

Legislative Report
June 28, 2024

North Carolina General Assembly Concludes Session

The North Carolina General Assembly concluded its main work session Thursday June 27 by overriding Governor Roy Cooper's vetoes, placing a constitutional amendment on the November ballot about voting eligibility, and sending numerous bills to the Governor. However, they did not pass a comprehensive budget-adjustment measure for the next year and failed to agree on additional constitutional referendums and several contentious bills.

Key issues that remain unresolved between the House and Senate included disagreements over state employee and teacher raises and funding for private school scholarships. While \$67.5 million was approved for child care centers, nearly \$500 million for K-12 private school scholarships remains unresolved. The General Assembly will reconvene for occasional sessions for the remainder of 2024 to address veto overrides and emergencies.

Republicans succeeded in overriding Governor Cooper's three vetoes (criminal and election law changes; juvenile justice modifications and NCDOT legislative changes), continuing a trend from the previous year. A proposed constitutional amendment clarifying that only U.S. citizens can vote was approved and will be on the ballot in November.

Bipartisan efforts led to the passage of bills combating human trafficking and creating new crimes for sex exploitation and extortion. Negotiators could not finalize a bill requiring sheriffs to comply with federal immigration holds, video lottery terminals, or legalize medical marijuana use. These items could be considered later in 2024 if an agreement is reached between the House and Senate on the measures.

NC Voters to Decide on Citizenship Voting Amendment Amid Election Law Changes and Debates

In November, North Carolina voters will decide on a constitutional amendment clarifying that only citizens can vote. Although state law already requires voters to be citizens, proponents say this amendment will prevent local governments from allowing noncitizens to vote. Critics argue it could fuel anti-immigrant sentiments and is a tactic to boost conservative turnout.

The amendment passed with bipartisan support. Other proposed amendments, including those requiring voter ID for all voting and lowering the income tax cap from 7% to 5%, still need House approval. Additionally, the House approved an amendment to repeal the Jim Crow-era literacy test for voting, though the Senate has yet to consider it.

The Senate passed a bill with various election law changes, such as requiring AI disclosures in political ads, signature verification for mail-in ballots, and checks on death and felony records before certifying elections. This bill awaits House action.

NC Legislature Overrides Governor's Veto on Masks and Campaign Finance Bill Vetoes

bill to enact new penalties for protesters wearing masks and which would alter campaign finance laws to create loopholes around bans on unlimited or anonymous political contributions became law this week when the legislature voted to override the Governor's veto of the legislation. The mask rule changes require medical-grade masks for preventing contagious diseases and are seen as a measure to facilitate the arrest of masked protesters. The new protest laws introduce stricter penalties, including felony charges for repeat offenders blocking roads and potential lawsuits against protest organizers.

Democrats argue that these laws could lead to harassment and target people protecting their health. Governor Cooper's main opposition was due to the campaign finance changes aimed at leveling the playing field for Republican nominee Mark Robinson, who trails in fundraising against Democratic nominee Josh Stein.

The General Assembly adjourned on Thursday, concluding their work for the 2024 short session. The legislature agreed to reconvene once a month until the end of the year to consider certain bills like veto overrides and conference reports. Although the adjournment resolution approved by both chambers provides that the legislature will meet on July 10, July 29-August 1, September 9-11, October 9, November 19-22, and December 11-13, the legislature is not expected to take up bills and have votes in all of these sessions, and may only do so in September and November; but the legislative schedule is still being developed for the rest of the year.

We will prepare a final legislative report that summarizes legislation of interest from the 2024 legislative session; and we will prepare a legislative report if the legislature holds a voting session later this year.

BILL STATUS

House Bill 250, Public Safety/Other Changes, among other things, would allow school boards to use eminent domain for easements, including utility easements necessary to support school facilities on a site. Utility easements is defined as water, sanitary sewer, electric power, broadband, and telecommunications services. The bill was approved by the House and Senate on Thursday and was sent to Governor Cooper for his consideration.

House Bill 385, Various Energy/Env. Changes. Was approved by the Senate, sent to the House and referred to the House Rules Committee. Many of the provisions of this bill were added to and enacted in Senate Bill 607 summarized below. This bill is unlikely to be considered for the remainder of this legislative session.

House Bill 556, Tenancy in Com./E-Notary/Small Claims Changes, was amended in the Senate Judiciary Committee to add various provisions regarding emergency remote notary and small claims courts provisions. The bill includes the following provisions:

1. Concurrent Ownership of Real Property: Codifies common law rules for tenants in common.
2. Emergency Video Notarizations: Extends expiration dates for emergency video notarizations and witnessing to July 1, 2025, to give the North Carolina Secretary of State additional time to complete their rulemaking for the permanent provisions.
3. Notary Public Laws: Amends confidentiality and geolocation requirements.
4. Prohibition on Certain Local Ordinances: Prevents counties and cities from banning landlords from refusing tenants based on the source of income, including federal housing assistance.
5. Litigation Costs in Summary Ejectment: Clarifies authorized litigation costs, and specifies conditions for charging late fees and attorney fees in eviction cases.
6. Electronic Small Claim Judgments: Allows electronic rendering of judgments in small claims and adjusts the appeal period accordingly.

For a more detailed discussion of the relevant provisions:

Preemption of Local Regulations

Section 7 would prohibit counties and cities from enacting, maintaining, or enforcing an ordinance or resolution that prohibits the refusal to lease or rent a housing accommodation to a person because the person's lawful source of income to pay rent includes funding from a federal housing assistance program. The provision could not be interpreted to prevent a county or city from enacting ordinances or resolutions applicable to owners or operators that receive funding or financial incentives from the county or city.

The committee gave the bill a favorable report. The bill was approved by the Senate Rules Committee, approved by the Senate by a vote of 36-6 and was sent to the House for concurrence. The House voted Wednesday to approve the Senate changes to the bill, ratified the bill, and it was sent to Governor Cooper for his consideration.

House Bill 900, Certain CIHS Partners/Regulate Tobacco Prod. The House approved the Senate changes to the bill, it was ratified, and sent to Governor Cooper for his signature. A provision was added to this bill in the Senate Judiciary Committee to create a new regulatory system for the certification of consumable products and vapor products, including the creation of a public directory of these certified products, and provide enforcement mechanisms for violations of this new regulatory system.

House Bill 909, Various Local Provisions I. The House and Senate approved the bill, it was ratified and is now law. As a local bill, it is not subject to review by the Governor.

House Bill 911, Various Local Provisions II. The House and Senate approved the bill, it was ratified and is now law. As a local bill, it is not subject to review by the Governor. This bill contains the Pender County occupancy tax provisions.

House Bill 971, Human Trafficking Changes, was approved by the House, ratified and signed into law by Governor Cooper. **Session Law 2024-26.**

House Bill 984, Removal of Squatters from Private Property, was amended on the House floor Thursday to create an alternative remedy for the expedited removal of unauthorized persons from private property (i.e., squatters) by a law enforcement agency. The bill provides that to request the immediate removal of an unauthorized person from residential property, the property owner or an authorized representative of the property owner must appear before the clerk of superior court in the county where the property is located and complete a sworn affidavit on a form created pursuant to this statute, which will be developed by the Administrative Office of the Courts in conjunction with the NC Association of Chiefs of Police and NC Sheriffs' Association. If the office of the clerk of superior court is closed, the property owner or an authorized representative of the property owner may complete the sworn affidavit before a magistrate in the county where the property is located. The clerk of superior court or the magistrate shall sign the affidavit verifying that the property owner or the authorized representative of the property owner appeared before him or her and swore under oath or affirmation to the information contained therein. The property owner shall pay to the clerk of court or the magistrate a fee of \$25 for completion of the sworn affidavit.

Upon completion of the affidavit before the clerk or the magistrate, the property owner or authorized representative of the property owner shall provide the original affidavit to the law enforcement agency with jurisdiction over where the residential property is located. Within 24 hours after receipt of the affidavit, the law enforcement agency shall remove the unauthorized person from the residential property. If appropriate, the law enforcement agency may arrest any person found in the property for trespass, outstanding warrants, or any other legal cause. The property owner or the authorized representative of the property owner may request that the law enforcement agency stand by to keep the peace while the property owner or authorized representative of the owner changes the locks and removes the personal property of the unauthorized person from the premises to or near the property line.

The bill provides that no law enforcement agency, law enforcement officer, clerk of superior court, or magistrate may be held liable to an unauthorized person or any other person or entity for compliance with or actions taken in furtherance of the provisions of this Article, including for the loss or destruction of or damage to personal property, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing. The property owner or the authorized representative of the property owner is not liable to an unauthorized person or any other person or entity for the loss or destruction of or damage to any personal property that arises out of or in any way relates to the removal of an unauthorized person pursuant to this Article unless the removal was wrongful.

The bill provides that a person may bring a civil cause of action against the affiant for wrongful removal under this Article. A person harmed by a wrongful removal under this Article may be entitled to recover possession of the property and may recover from the affiant actual costs and

damages incurred, statutory damages equal to triple the fair market rent of the residence, a civil penalty of not less than four hundred dollars (\$400.00) nor more than four thousand dollars (\$4,000) as determined by a court, court costs, and reasonable attorney fees. The bill also provides that this Article does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unauthorized person for trespassing, vandalism, theft, or other crimes.

With this amendment, the House approved the bill and sent it to the Senate for consideration. The bill was referred to the Senate Rules Committee, and is unlikely to be considered for the rest of this legislative session.

House Bill 1070, Property Rights and Protections, was amended by the House Judiciary 2 Committee to include the following new provisions:

Part I: Small Claims Appeals

- Begins the small claims appeal period when a judgment is rendered (either signed or electronically by the magistrate), rather than when entered. Effective October 1, 2025.

Part II: Indigency and Summary Ejectment Appeals

- Requires written findings of indigency for small claims appeals.
- Modifies criteria for a plaintiff's motion to dismiss a summary ejectment appeal.
- Requires clerks to disburse rental payments made during an appeal within five days of a request. Effective October 1, 2024.

Part III: Increased Penalty for Property Damage

- Increases the punishment for willful and wanton damage to residential property from a Class 1 misdemeanor to a Class I felony if damages exceed \$500. Effective December 1, 2024.

Part IV: Fraudulent Rental and Sale Prohibition

- Establishes a Class H felony for renting or leasing property without lawful ownership.
- Establishes a Class I felony for advertising property for rent, lease, or sale without legal authority. Effective December 1, 2024.

With these changes, the committee approved the bill and it was referred to the House Appropriations Committee for additional consideration. Since the legislative session has substantially concluded, it is unlikely this bill will move forward this session.

Senate Bill 166, 2024 Bldg. Code Regulatory Reform. A conference committee report was released Thursday that contained a compromise bill negotiated by the House and Senate. The bill includes the following provisions of interest:

- Prohibit certain backflow preventer requirements by public water systems
 - Prohibit duplicative water service shut-off valve requirements in certain residential dwellings
 - Building permit fees for inspection department clarification – provides that all fees collected by a building inspection department for the administration and enforcement of provisions in the inspection department covered by this statute shall be used for to support the administration and operations of the building inspection department and for no other purposes.
 - Residential plan review fee reimbursement - provides that a local government that reviews residential building plans for the purpose of building permit issuance shall perform its initial review concurrently with processes for project development approvals required from other State, federal, and local agencies. If a local government does not perform its initial review within 20 business days of submission of the plans, the local government shall refund to the building permit applicant a portion of their total permit application fee. That portion shall equal ten percent (10%) of the total permit application fee, for each business day in which the local government does not perform its initial review, for a period not to exceed 10 business days.
 - Clarify public safety issues for withholding building permits or certificates of occupancy – provides that for the purposes of this subsection, a "public safety issue" shall not include improvement, installation, placement, repair, or replacement of any of the following:
 - (1) Landscaping around dwellings subject to the North Carolina Residential Code within individual lots.
 - (2) Landscaping within common areas within a subdivision development.
 - (3) Street lighting fixtures within common areas of a subdivision development.
- If a developer has not, at the time of issuance of a certificate of occupancy, completed all required site improvements as set forth in subdivisions (1) through (3) of this subsection, the developer shall submit to the local government a signed affidavit detailing the reasons why the required site improvements are not complete, the expected date of completion and compliance, and a statement promising to complete the required site improvements.
- Prohibit unrestricted right of entry as a condition to development approvals - provides that administrative staff are prohibited from requiring unrestricted written consent from a permit applicant to enter any premises or areas not open to the public as a condition to accepting an application for, or the issuance of, development approvals.
 - Prohibit technical code compliance affidavits – provides that an inspector is prohibited from requiring affidavits attesting that work is in compliance with the North Carolina Residential Code in lieu of conducting inspections required for work subject to the North Carolina Residential Code.
 - Local government curb and gutter design standards - provides that G.S. 160D-804 is amended by adding a new subsection to read - (k) Curb and Gutter Design Standards. – Notwithstanding G.S. 160A-307 and G.S. 160D-916, the regulation shall not limit, or prohibit the use of, curb and gutter design standards adopted by the North Carolina Department of Transportation for

subdivision roads adjacent to, and serving, dwellings subject to the North Carolina Residential Code.

- Municipal pedestrian facility requirements within ETJ for subdivision streets designated as public - provides that G.S. 160D-804(c) is amended by adding a new subdivision to read:

(5) A regulation adopted by a city shall not require a developer to design and construct pedestrian facilities, including sidewalks, within rights-of-way for new streets designated as public and to be submitted to the North Carolina Department of Transportation for review pursuant to G.S. 136-102.6, for small residential subdivisions located in areas subject to municipal planning and development regulation in an extraterritorial jurisdiction established pursuant to G.S. 160D-202, unless the city accepts long-term maintenance responsibilities by written agreement with the North Carolina Department of Transportation prior to construction of pedestrian facilities. For the purposes of this subdivision, "small residential subdivision" means a subdivision development that contains 20 individual lots or less.

- Performance guarantees for subdivisions - provides that a local government shall conduct an inspection of the improvements subject to a performance guarantee within 30 days of a request received from a developer and advise the developer whether the improvements are completed to the required specifications. In the event a local government and developer disagree whether a required improvement is completed to the specifications of a local government, a developer may obtain a certification under seal from a licensed professional engineer that the required improvements have been completed to the specifications of the local government. The bill provides that no performance guarantee may be required for maintenance of any improvement once the improvement is completed to the specification of a local government or upon receipt of a certification under seal from a professional engineer that the required improvements have been completed to the specification of the local government.

- Amends the Residential Code to include three-and four-family dwellings

- Exclude electric vehicle supply equipment (EVSE) load from feeder and service load calculations for dwellings subject to the North Carolina Residential Code

- Local government review of seals of design – provides that administrative staff, code-enforcement officials, or other local government personnel charged with reviewing plans required by this Chapter shall not make administrative decisions on the scope of work covered by architect or engineer seals of designs affixed to work as required by Chapter 83A or Chapter 89C of the General Statutes, the North Carolina State Building Code, or as otherwise required by law. Nothing in this section should be construed to prevent a local government from reviewing plans, drawings, specifications, reports, or other work that requires a seal pursuant to Chapter 83A or Chapter 89C of the General Statutes, the North Carolina State Building Code, or other relevant laws, before an architect or engineer seal is affixed, to ensure compliance with applicable codes, ordinances, or other design standards or requirements.

- Amend NCDEQ fast track sewer certifications – provides that where a professional engineer provides certification that the design meets or exceeds Minimum Design Criteria developed by the Department applicable to the project, the Commission shall perform a review of a new

application for a sewer system extension permit within 45 days of receipt of a complete application. A complete application is defined as an application that includes all the required components described in the application form.

- Registered environmental health specialists defense and liability – provides that all local health departments shall enter into an annual agreement with the Department to provide environmental health services in accordance with Chapter 130A of the General Statutes. The annual agreement shall include a requirement for quality assurance for all environmental health services. The local health department employing or contracting with the registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate at the time of the underlying act or omission giving rise to the judgment or settlement shall pay half of the judgment or settlement. The Department may agree, in its sole discretion, to an alternate arrangement with the local health department wherein the Department pays more than half of the judgment or settlement depending on the individual circumstances of the case. Any registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate employed by or contracted to work for a local health department that has not entered into an annual agreement or fails to abide by the annual agreement, as determined by the Department, as required by subsection (b) of this section shall not be defended by the Attorney General or have their judgement or settlement paid by the Department. The local health department shall be required to pay any judgement against the registered environmental health specialist, registered environmental health specialist intern, or registered environmental health associate or any settlement on their behalf for any act or omission made in the scope and course of enforcing the rules of the Commission for Public Health.

- Clarify the applicability of statutory built-upon area requirements for state and local government stormwater programs and specify that certain artificial turf is not built-upon area

- Prohibit public water and sewer systems from imposing unauthorized conditions and implementing preference systems for allocating service to residential development

- Establish a time limit for review of applications submitted to the Department of Environmental Quality for water distribution systems to construct or alter a public water system

- Reorganize Building Code Council – would reduce the Building Code Council from 17 to 13, and change the make-up of the Council and appointment of members (which were all Governor appointments under existing law) as follows:

- (1) One member appointed by the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in multifamily construction.

- (2) One member appointed by the President Pro Tempore of the Senate who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in structural engineering.

- (3) One member appointed by the Speaker of the House of Representatives who shall hold an unlimited general contractor license under Chapter 87 of the General Statutes and specializes in commercial construction.

- (4) One member appointed by the President Pro Tempore of the Senate who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in electrical engineering.
- (5) One member appointed by the Speaker of the House of Representatives who shall hold a license as an attorney-at-law under Chapter 84 of the General Statutes and specializes in construction law.
- (6) One member appointed by the President Pro Tempore of the Senate who shall hold an unlimited electrical contractor license under Chapter 87 of the General Statutes.
- (7) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold a general contractor license under Chapter 87 of the General Statutes and specializes in the construction of buildings greater than 75 feet in height.
- (8) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold a license as a professional engineer under Chapter 89C of the General Statutes and specializes in mechanical engineering.
- (9) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold an unlimited plumbing and heating contractor license under Chapter 87 of the General Statutes and specializes in plumbing contracting.
- (10) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall hold an unlimited plumbing and heating contractor license under Chapter 87 of the General Statutes and specializes in mechanical contracting.
- (11) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall be a Level III Code-enforcement official employed by a municipality or county.
- (12) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution who shall be a North Carolina certified Level III Fire Code Official.
- (13) One member appointed by the Governor subject to confirmation in accordance with Section 5(8) of Article III of the North Carolina Constitution as a representative of the fuel-gas industry.

The Senate approved this conference report by a vote of 34-10. Initially, the House rejected the conference committee report by a vote of 45-62 after Rep Dean Arp (R-Union), an engineer, spoke against the provision that would remove an architect from the State Building Code Council. Later in the House session, Rep. Arp asked the House to reconsider the vote and said he had commitments to continue working on that provision and attempting to find a compromise. After his comments, the House voted again and approved the conference report by a vote of 77-28. The bill now goes to Governor Cooper for his consideration.

Senate Bill 355, North Carolina Farm Act of 2024. The House and Senate agreed on a compromise version of Senate Bill 355 on Thursday, one that modified the conservation tax credit provision to cap the amount and provide that it sunsets after a few years. The House and Senate approved the bill and sent it to Governor Cooper for his consideration.

Senate Bill 445, Recording of Court-Filed Documents, was approved by the Senate, ratified and sent to Governor Cooper for his consideration.

The bill would do the following:

- Exempt any certified copy of a court-filed document from formatting requirements applicable to paper documents presented to a register of deeds for registration.
- Begin the small claims appeal period when a judgment is rendered.
- Require written findings of indigency in small claims appeals.
- Modify criteria for plaintiff's motion to dismiss summary ejectment appeal.
- Require the clerk to disburse certain payments made during summary ejectment appeal within five days of request.
- Increase punishment for willful and wanton damage to the residential real property of another.
- Prohibit fraudulent rental, lease, or advertisement for sale of residential real property.

With these additions, the House Rules Committee gave the bill a favorable report. The bill was approved by the House, the Senate approved the House changes, the bill was ratified, and sent to Governor Cooper for his consideration.

Senate Bill 607, Regulatory Reform Act of 2024, was released Thursday morning in the House Rules Committee. The bill would amend State laws related to occupational licensing, rulemaking, State and local government, and other miscellaneous regulations, to include:

- Require an additional means of notice to advertise property tax liens in addition to those currently required by law – currently, tax collectors are required to post notices of tax liens in specific locations. County tax collectors must post a notice of a new tax lien at the county courthouse and at least once in a newspaper that circulates in the taxing district. Municipal tax collectors must post a notice of a new tax lien at the city or town hall and at least once in a newspaper that circulates in the taxing district. Currently, advertisements of tax liens must be posted between March 1 and June 30 of each year. Failure to post the notice in accordance with G.S. 105-369(c) does not affect the validity of the tax or the tax lien. Section 22 would require tax collectors to also post a notice of the tax lien in a conspicuous place on the taxed parcel. This section would become effective for taxes imposed for taxable years on or after January 1, 2025.
- Clarify prohibition on counties and cities enacting and enforcing certain ordinances, rules, and regulations related to battery-charged security fences. Currently, counties and cities are prohibited from adopting any ordinance or other rule that does any of the following:
 - * requires a permit, fee, review, or any other kind of approval for a property owner to install a battery-charged security fence (unless that fence is also an alarm-system subject to regulation under G.S. 74D-11(c)).

- * Imposes any installation or operation requirement for battery-charged security fences greater than regulations found in State law.
- * Prohibits the installation of battery-charged security fences in property zoned for nonresidential usage.

Section 22.5 would amend the prohibition to prevent a county or city from enforcing any ordinances or rules adopted before prohibition became law in S.L. 2023-137. It would also clarify that cities are only preempted from adopting battery-charged fence ordinances that bind property that is zoned "exclusively" for nonresidential usage, and change the height requirements for battery-charged security fences from "up to 10 feet" to "exactly 10 feet."

- Reconstruction/removal of on-premises advertising signs. Currently Chapter 160D of the General Statutes contains the procedures cities and counties utilize for development approvals under their planning and development regulations. G.S. 160D-912 authorizes cities and counties to regulate, with limitation, *off-premises* outdoor advertising and require their removal if they are nonconforming. No ordinance can require removal of *off-premises* outdoor advertising unless monetary compensation is paid to the owner of the nonconforming sign. Monetary compensation is the fair market value of the *off-premises* outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal and is determined by certain statutory factors. Payment of monetary compensation for removal of non-conforming *off-premises* outdoor advertising is not required where:

- * The local government and sign owner enter into a relocation agreement.
- * The local government and sign owner enter into an agreement allowing the sign to remain in place for a fixed period.
- * The sign is a public nuisance or is detrimental to the public health or safety.
- * Removal is required for a street or sidewalk project, or public enterprise construction and the sign is relocated.
- * Removal is required under statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

There are no specific provisions in Chapter 160D of the General Statutes that regulate *on-premises* outdoor advertising. Section 23.1 would provide that, notwithstanding any local development regulation to the contrary, a lawfully erected on-premises advertising sign can be relocated or reconstructed within the same parcel if the square footage of the sign does not increase, and the sign complies with local development regulations in place when the sign was erected. Construction on the sign would have to begin within two years of removal. This section would further provide that a local government could not require removal of a lawfully erected nonconforming on-premises advertising sign unless the local government pays monetary compensation to the sign owner. Upon payment of monetary compensation, it would be the local government's responsibility to remove the sign in a timely manner. Monetary compensation would be the sum of the following:

1. The greater of the fair market value of the nonconforming on-premises advertising sign immediately prior to its removal or the diminution in value of the real estate from the sign's removal.

2. The cost of a new on-premises advertising sign that conforms to local development regulations.

This section would be effective when it becomes law and apply to on-premises advertising signs removed on or after October 1, 2021. For any on-premises advertising sign removed on or after October 1, 2021, but prior to the date this section becomes effective, construction work on relocation in accordance with G.S. 160D-912.1(b), as enacted by this section, shall commence within two years of the date this section becomes effective.

- Prohibit public water and sewer systems from imposing unauthorized conditions and implementing preference systems for allocating service to residential development. Currently, cities and counties may adopt zoning and development regulations as authorized under Chapter 160D of the General Statutes, subject to various limitations that include the following:

* G.S. 160D-702(b) prohibits cities and counties from regulating "building design elements" for residential structures, with exceptions for safety regulations, floodplain management regulations, and regulations for structures that are historic sites or manufactured housing. Property owners may voluntarily consent to building design element requirements as part of obtaining a zoning amendment or zoning, subdivision, or development approval.

* G.S. 160D-702(c) prohibits cities and counties from adopting zoning or development regulations that: (1) set a minimum square footage requirement for residential structures; (2) require a parking space to be larger than 9 feet by 20 feet long unless the parking space is designed for handicap, parallel, or diagonal parking; or (3) require additional entrances into a residential subdivision that are not in compliance with the number of entrance requirements for residential subdivisions set forth in the North Carolina Fire Code.

Article 8, Chapter 162A of the General Statutes authorizes local government units to impose system development fees on new development within its territorial jurisdiction to fund certain capital costs attributable to that new development. For purposes of this fee, "local government units" are counties, cities, sanitary districts, water and sewer authorities, metropolitan water districts, metropolitan sewerage districts, metropolitan water and sewerage districts, and county water and sewer districts.

Section 12 would prohibit local government units from requiring an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions would include, without limitation, any of the following:

- Payment of taxes, impact fees or other fees, or contributions to any fund.
- Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).
- Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

- Delay fisheries harvest reporting system by one year - Section 6 of S.L. 2023-137 created a phased in reporting requirement for certain commercial and recreational fish harvests, to be

managed by the Division of Marine Fisheries of the Department of Environmental Quality and the Wildlife Resources Commission. Pursuant to the act, violation of the reporting requirement would be punishable by a verbal warning starting December 1, 2024, punishable by a warning ticket starting December 1, 2025, and punishable by an infraction and \$35 fine starting December 1, 2026. Section 8 would delay the effective dates of the above punishments by one year.

- Amend statutes and rules applicable to dock, pier, and walkway replacement in the coastal area

-

15A NCAC 07J .0210 (Replacement of Existing Structures) currently provides that:

- "Replacement" of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits.
- "Repair" of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits.

Under the rules proposed work is considered "replacement" if:

- It enlarges the existing structure in any dimension.
- In the case of fixed docks and piers, more than 50 percent of the framing and structural components (beams, girders, joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition.

Section 15.1 would:

- Require the Coastal Resources Commission to revise the CAMA rules to provide that for certain fixed docks, piers, or walkways damaged or destroyed by natural elements, fire, or normal deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be considered repair of the structure, and shall not require CAMA permits, without regard to the percentage of framing and structural components required to be rebuilt. At the time a dock, pier, or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired, the width and length of the dock, pier, or walkway structure may be enlarged by not more than five feet or five percent, whichever is less, and the structure may be heightened, without need for a CAMA permit. These changes would not, however, apply to docks and piers: (i) greater than six feet in width; (ii) greater than 800 square feet of platform area; or (iii) that are adjacent to a federal navigation channel.
 - Require local building inspection departments to, not later than 60 days after an inspection of a dock, pier, or catwalk or walkway that has been replaced in the coastal area, notify the Division of Coastal Management of the replacement.
 - Prohibit the North Carolina Residential Building Code from requiring a professional engineer or architect to design or otherwise certify the construction of residential docks, piers, or catwalks or walkways.

- Authorize establishment of a measurement line for dune building projects conducted pursuant to permitted terminal groin construction. Under the rules adopted pursuant to the Coastal Area Management Act the setback for development is typically measured in a landward direction from the vegetation line, which is defined in part as: "The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach,

which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment." The rules, however, authorize the Division of Coastal Management to establish a "measurement line" in cases where a storm causes overwash or a loss of vegetation so that not enough vegetation exists to determine oceanfront setbacks. This line is located by using the most current pre-storm aerial photography to map the pre-storm vegetation line, and then moving it landward a distance equal to the average width of the beach recession caused by the storm. Measurement lines are generally temporary until the vegetation is re-established to the point where it can once again be used for determining oceanfront setbacks but may also be permanently designated by the CRC.

Section 16 would authorize the Coastal Resources Commission to, for the purpose of a dune building and beach planting project, authorize local governments that have received a permit to construct a terminal groin to establish a measurement line that represents the location of the first line of stable and natural vegetation that is covered by the dune building and beach planting project. The measurement line must be: (i) established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo dune building and beach planting project; and (ii) applicable for a period of no less than two years from the completion of the dune building and beach planting project. The CRC would be directed to amend their rules for this purpose (but implement the policy, prior to an amended rule becoming effective, once the provision becomes law. DEQ would be directed to submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. This subsection would become effective on the later of:

- Exclude aquaculture from the definition of "development" for purposes of CAMA and limit the authority of the Marine Fisheries Commission to adopt rules regulating aquaculture equipment. The Coastal Area Management Act (CAMA) requires a person to obtain a permit from the Division of Coastal Management before engaging in development in an area of environmental concern in the 20 coastal counties. The use of land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products is generally excluded from the definition of "development."

Section 16.1(a) would provide that "development" does not include placement of a floating structure used primarily for aquaculture and associated with an active shellfish cultivation lease area or franchise. This section would also clarify that the use of any land for uses related to aquaculture and aquaculture facilities associated with an active shellfish cultivation lease area or franchise is also excluded from the definition of "development." DEQ would be directed to submit to the United States National Oceanic and Atmospheric Administration (NOAA) for approval these proposed changes. This subsection would become effective on the later of:

- * October 1, 2024.

- * The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

The Marine Fisheries Commission (MFC) is generally directed to "adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction."

Section 16.1(b) would provide that the MFC would not have the authority to adopt rules regulating cages, poles, anchoring systems, or any above-water frames or structural supports used to suspend or hold in place equipment or floating structures used for aquaculture.

- Authorize replacement of certain erosion control structures - The Coastal Area Management Act generally prohibits construction of permanent erosion control structures in an ocean shoreline. The applicable statute does, however, authorize the Coastal Resources Commission (CRC) to, among other things: (i) renew a permit for a permanent erosion control structure originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995; and (ii) issue no more than six permits for the construction of a terminal groin.

Section 16.1A would:

- Make several changes to the definition of "terminal groin" to include a structure constructed: (i) where the ocean shoreline converges with Frying Pan Shoals; (ii) to protect the terminus of the island from shoreline erosion "or" inlet migration (existing law provides "and"); (iii) that allows sand moving in the littoral zone to flow "around, over, or through" the structure (existing law provides that sand "flow past").
- Require the CRC to permit replacement of a permanent erosion control structure originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995, consisting of a field of geotextile sand tubes, the field of geotextile sand tubes with rock erosion control structures subject to the following criteria:

The number of rock erosion control structures must be equal to or less than the number of geotextile sand tubes originally permitted.

The structure(s) or field of structures may consist of groins, including T head or lollipop groins, or breakwaters to be approved by the Division of Coastal Management, in its discretion, or by variance from the Coastal Resources Commission.

The structure field may not be enlarged beyond the alongshore dimensions authorized under the original permit, and the aggregate overall length of the rock structures may not exceed the aggregate overall length of the geotextile sand tubes authorized under the original permit.

The plans for the work must be sealed by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes with experience in engineering in the coastal area.

The language provides that such a permanent erosion control structure is not a terminal groin, and subject to requirements for terminal groins elsewhere in the statute.

Would increase the number of permits for the construction of terminal groins the CRC may issue from six to seven. October 1, 2024.

The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

DEQ would be directed to submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. This subsection would become effective on the later of:

- Increase the punishment for property crimes committed against critical infrastructure, including public water supplies, wastewater treatment facilities, and manufacturing facilities, and to make conforming changes to update statutes relating to damage to utilities

In 2023, legislation was enacted to:

- * Update and consolidate statutes that relate to damage to utility property (electric, gas, and telecommunications).
- * Increase penalties for acts of damage to energy facilities.
- * Increase the penalty for trespass to energy facilities, and add a specific prohibition on trespass to wastewater treatment facilities.
- * Increase the penalty for willful injury to wires and other fixtures of telephone, broadband, broadcast, or cable telecommunications.

Section 9 would do the following:

- * Update the current statute governing contamination of a public water system to:
 - Add language prohibiting injury to a public water system.
 - Extend coverage under the statute to wastewater treatment facilities (in addition to public water systems).
 - Provide that violation of the statute is punishable as a Class C felony¹, and a fine of \$250,000.
 - Authorize any person injured by reason of damage to a public water system or wastewater treatment system to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation. Increase the punishment from a Class 1 misdemeanor to a Class C felony.
- * Update a statute included in the Public Utilities Chapter of the General Statutes governing willful injury to property of a public utility to:
 - Increase the punishment from a Class 1 misdemeanor to a Class C felony.
 - Authorize any person injured by reason of damage to property of a public utility to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.
- * Create a new statute making it a Class C felony to knowingly and willfully destroy, injure, or otherwise damage, or attempt to destroy, injure, or otherwise damage, a manufacturing facility. A violation of the statute would also:
 - Be punishable by a fine of \$250,000.
 - Authorize any person injured by reason of damage to a manufacturing facility to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before

or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.

* Exempt punitive damages that can be recovered from a person committing damage to a public water system, wastewater treatment facility, or manufacturing facility from the cap on such damages established under G.S. 1D-25 (three times the amount of compensatory damages or \$250,000, whichever is greater).

This section would become effective December 1, 2024, and apply to offenses committed on or after that date.

The bill was approved by the House and Senate on Wednesday and Thursday respectively, and was sent to the Governor for his consideration.

Senate Bill 640, Amend Occupational Licensing Board Statutes, was amended in the House Rules Committee to, among other things, do the following:

MACHINERY ACT CHANGES

All personal property used to produce income is considered business personal property and is taxable. Any individual or business owning or possessing personal property used or connected with a business or other income producing purpose on January 1 must list the property for taxation during the annual listing period (January 1 – January 31). The bill would exclude from property taxation personal property that was suitable when fully functional to be used by the owner for the production of income or in connection with a business, or both, but due to malfunction or nonfunction has a value not greater than scrap value. The bill would also extend the end of the regular listing period from January 31 to April 15 and eliminate the ability of individuals to request an extension to that same date for good cause shown. It would maintain the current ability of an individual to request an extension to June 1 in those counties that have provided for electronic listing of personal property. The exclusion of malfunctioning or nonfunctioning property becomes effective for taxes imposed for taxable years beginning on or after July 1, 2025.

With these changes, the House approved the bill and sent it to the Senate for consideration. The Senate referred the bill to the Senate Rules Committee for further consideration. Therefore, it was not enacted into law this week, and whether it will be considered later this session is to be determined.

Senate Bill 802, C-PACE Program, was approved by the House, ratified, and sent to the Governor for his consideration.

For more information about legislation described in the legislative reports, feel free to contact us at dferrell@maynardnexsen.com, or at (919) 573-7421. Information is also available on the General Assembly's website: www.ncleg.gov.

Prepared By: David P. Ferrell, Clark Riemer and Chase Horton – TISPC Lobbyists
MAYNARD NEXSEN PC
4141 Parklake Ave, Suite 200
Raleigh, North Carolina 27612

Telephone: (919) 573-7421
dferrell@maynardnexsen.com
www.maynardnexsen.com