

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



June 26, 2009

In spite of many days of early morning and late night meetings, it is certain that the State Budget Bill will not be ready for enactment into law prior to the start of the new fiscal year on July 1st. Since the current budget expires on June 30th, the General Assembly must take some action to keep state government running in the new fiscal year that begins July 1st. Late this week when it became obvious that a new budget could not be enacted this week, the House and Senate each prepared a “continuing resolution” that would keep state government running effective July 1st. The Senate version of the continuing resolution does not have an expiration date and could remain in effect indefinitely, but the House version would expire on July 15, 2009. Early next week, the House and Senate will get together to resolve the two different versions of the continuing resolution and to enact a version so that funding for state government operations does not end next Tuesday.

With the realization that the budget could not be enacted by July 1st, the budget negotiators for both the House and the Senate adjourned their meetings on Thursday for a long weekend with plans to return on Monday. Many of the budget negotiators were overheard saying that they were headed to the beach for some relaxation time with their families and to enjoy a brief weekend break from the pressure of budget negotiations.

Next week is likely to be a short week at the General Assembly because next Friday, July 3rd, is the official State holiday celebrating Independence Day and many legislators have obligations in their home districts over the Independence Day weekend. Therefore, it seems likely that the earliest a state budget could be enacted would be during the week that begins on July 13th. Once a state budget is enacted, it usually takes the General Assembly another two or three weeks to process pending legislation and to adjourn for the Session.

BILL STATUS

HOUSE BILL 9, No Texting While Driving, has been enacted into law. **Effective: December 1, 2009.**

HOUSE BILL 96, Local Government Surplus Property Donations, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 98, License Renewal/Active Military Duty, has been approved by the Senate and returned to the House for consideration of the changes made in the Senate.

HOUSE BILL 121, Regulation of Golf Carts by Local Governments, has been amended by the Senate State and Local Government Committee to provide that local governments may enact ordinances to regulate the operation of golf carts on any public street, road or highway “where the speed limit is 35 miles per hour or less.” It would also prohibit a person less than 16 years of age from operating a golf cart on a public street, road or highway. After being approved by the Senate State and Local Government Committee, this bill was referred to the Senate Finance Committee for further consideration.

HOUSE BILL 206, Affordable Housing for Local Employees, has been enacted into law. This bill will authorize the City of Brevard, the Town of Rosman, Transylvania County and the Transylvania County Board of Education to construct and provide affordable housing for city and county employees and for public school teachers. **Effective: June 23, 2009.**

HOUSE BILL 243, Mental Health/Law Enforcement Custody, was amended in committee to provide that if an involuntary commitment respondent is taken for an initial evaluation and a 24-hour facility is not available or medically appropriate for 7 days after the Custody Order is issued, the physician or psychologist must report these facts to the clerk of court and the involuntary commitment proceedings are terminated. If the respondent still meets the appropriate criteria, there is nothing to prevent the involuntary commitment proceedings from being commenced again.

An earlier version of this legislation had a provision regarding “law enforcement custody” that was troubling, and that provision has been removed from this bill at the request of the North Carolina Sheriffs' Association and with the concurrence of the North Carolina Hospital Association, as well as other interested parties. The North Carolina Sheriffs' Association and the North Carolina Hospital Association have agreed to meet this Fall to work on draft legislation for the 2010 Session of the General Assembly that would clarify the responsibilities of law enforcement officers and hospital personnel concerning “custody” of involuntary commitment respondents, with a goal to clarify the existing law, which all interested parties agree needs clarification.

HOUSE BILL 380, Strengthen Local Emergency Management, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 391, Community Colleges May Offer Safety Driving Course, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 440, The Nicholas Adkins School Bus Safety Act, has been enacted into law. **Effective: December 1, 2009.**

HOUSE BILL 473, Magistrate Can Carry Gun in Courthouse, was approved by the Senate and referred to the House Judiciary III Committee to consider the changes made to the bill in the Senate. As originally introduced, this bill was opposed by the North Carolina Sheriffs' Association. Due to numerous requested changes that were made to the bill, the Association removed its objection to the bill.

HOUSE BILL 631, Wearing of Medals by Public Safety Personnel, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 659, Study Existing Children/Youth Programs, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 686, Modernize Do Not Call Notice Procedures, has been enacted into law. **Effective: October 1, 2009.**

HOUSE BILL 838, Create Exemption/Size-Weight for Sage Haulers, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 885, Targeted Picketing, received preliminary approval from the Senate and is scheduled for further consideration by the Senate next Monday.

HOUSE BILL 1094, Require Documentation-Certain Special Plates, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 1129, Clarify Silver Alert-All Ages, has been enacted into law. **Effective: June 19, 2009.**

HOUSE BILL 1132, Renew Concealed Carry Permit/30 Day Limit, was amended in the Senate and will be returned to the House for consideration of the changes made in the Senate. One Senate amendment added a requirement that at least 45 days prior to the expiration date of a concealed carry handgun permit, the Sheriff of the county where the permit was issued must send a written notice to the permit holder explaining that the permit is about to expire and that includes information about the requirements for renewal of the permit. This notice must be sent by first class mail to the last known address of the permit holder. Failure of the permit holder to actually receive the renewal notice that was sent by the Sheriff does not relieve the permit holder of the requirements to renew their permit prior to its expiration date. The North Carolina Sheriffs' Association was not opposed to this additional requirement on Sheriffs' offices because of the current procedure of the State Bureau of Investigation whereby the SBI sends each Sheriff a list of the concealed carry handgun permit holders that are about to expire within 90 days, along with a set of mailing labels that the Sheriff can use to send a notice to the permit holders. This notice is not required to be a customized letter, and many Sheriffs are already sending these notices using a form notice that does not need to be customized with each individual permit holder's name.

Under current law, the permit holder must apply to renew their permit within 30 days of the permit's expiration. An amendment to this bill will allow permit holders to apply to renew their permit at anytime within the 90 day period prior to the permit's expiration date. If the permit holder applies for renewal within the 90 period prior to the permit's expiration date, if the Sheriff does not have sufficient time to renew or deny the renewal permit application prior to the permit's expiration, then the permit remains valid beyond the expiration date of the permit until the permit holder either receives a renewal permit or is denied a renewal permit by the Sheriff.

An additional change provides that if the permit holder does not apply to renew the permit prior to its expiration date, but does apply to renew the permit within 60 days after the permit expires, the Sheriff may waive the requirement of taking another firearms safety and training course. However, if the permit expires, applying within the 60 day period after the permit expires does not reactivate

the permit and the permit remains expired until the Sheriff renews the permit, if it qualifies for a renewal.

HOUSE BILL 1531, Name Change Banned for Imprisoned Felons, was approved by the House Judiciary III Committee and has been referred to the House Finance Committee.

SENATE BILL 43, Require Boating Safety Education, has been approved by the House and returned to the Senate for the Senate to consider the changes to the bill made in the House.

SENATE BILL 138, Salvia Divinorum Unlawful, has been approved by the House Judiciary III Committee and referred to the House Appropriations Committee for further consideration.

SENATE BILL 256, Clarify Local Government Evacuation Authority, has been enacted into law. **Effective: June 19, 2009.**

SENATE BILL 258, Authorize Voluntary Medical Registry Program, will authorize the Division of Emergency Management to establish a voluntary registry for use by counties and cities to identify functionally and medically fragile persons in need of assistance during a disaster. It will also authorize counties and cities to operate similar registries. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 364, Apex Wheel Locks, has been enacted into law. **Effective: June 23, 2009.**

SENATE BILL 513, Notice of Hearing/Unsupervised Probation, was approved by the House Ways and Means Committee and is scheduled for consideration by the full House next Monday. Currently, when a person on unsupervised probation is being ordered to a hearing for violating their probation, the Department of Community Corrections sends a notice to the probationer by certified mail. Some probationers recognize that certified mail from their probation officer may not be good news, and they refuse to accept service of the certified mail and it is returned by the United States Postal Service as unclaimed. Without giving notice to the probationer, the probation violation hearing cannot be held.

This bill will allow notice of a hearing for a violation of unsupervised probation to be given by personal delivery to the person or by notice via United States mail to the last known address available for the probationer. If the United States mail notice is sent to the probationer, then the probation violation hearing can be held whether or not the probationer attends. And in appropriate cases an Order for Arrest can be issued for the person who is in violation of their unsupervised probation.

SENATE BILL 514, Magistrates Provide Appointment of Counsel, has been approved by the House Ways and Means Committee and referred to the House Judiciary III Committee for further consideration. When this bill was initially introduced, there were concerns that it would affect a criminal defendant's 6th amendment right to counsel and would restrict a law enforcement officer's ability to interrogate defendants in certain circumstances after their appearance before a magistrate. A recent opinion from the Supreme Court of the United States clarified this area of the law, and removed any concern about the impact of this bill on a law enforcement officer's ability to constitutionally question defendants.

SENATE BILL 526, School Violence Prevention Act, is more commonly referred to as the “anti-bullying” legislation that is designed to prevent bullying in schools. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 649, Modify Speed Zone Restrictions, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 652, Prohibit Sale of Novelty Lighters, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 759, Modify DWI Checking Station Requirements, has been approved by the House Ways and Means Committee and referred to the House Judiciary I Committee.

SENATE BILL 1000, Motor Vehicle Size and Weight Law Changes, has been enacted into law. **Effective: December 1, 2009.**

SENATE BILL 1011, Amend Trap Sizes, has been enacted into law. **Effective: October 1, 2009.**

SENATE BILL 1076, Modify Criminal Justice Partnership Program, has been amended to provide that offenders sentenced to community punishment are eligible for the Criminal Justice Partnership Program if the Division of Community Corrections determines that the offender would benefit from participating in the program, based upon the results of a risk assessment.

SENATE BILL 1078, Delay Bond/Probationer Arrested For Felony, has been approved by the House Ways and Means Committee and referred to the House Judiciary I Committee for further consideration.

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).

Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

www.ncsheriffs.org