



## **NORTH CAROLINA SHERIFFS' ASSOCIATION**

### **Weekly Legislative Report**

**March 4, 2005**

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The four month old election for Superintendent of Public Instruction has generated a lot of activity recently at the General Assembly and in the courts. The General Assembly approved Senate Bill 133 to make it clear that voters can cast provisional ballots outside their precinct, but within their county of residence. This bill is retroactively effective to apply to the November, 2004 election. It was signed into law by Governor Mike Easley at 12:14 p.m. on Wednesday, March 2<sup>nd</sup>, shortly before a Wake County judge began a hearing in court to consider a lawsuit challenging the outcome of the election. The presiding judge told the attorneys for both parties to prepare for a March 15<sup>th</sup> hearing on the issue of whether or not the newly passed law can be applied retroactively to the November, 2004 election.

In related activities at the General Assembly, five legislative bills were introduced, as recommended by the Joint Select Committee on Electronic Voting Systems, to address issues raised in the November, 2004 election when Carteret County voting machines lost votes that had been cast. These new bills would: (1) permit all voters to verify their votes on paper; (2) allow the State Board of Elections to standardize purchasing of voting systems across the State; (3) in future elections, allow known voters whose votes were lost to recast their ballots during a two week period after the election; (4) authorize a pilot program to allow one-stop voting to continue through election day; (5) allow absentee votes to be counted earlier; and (6) allow all State and local government employees up to 24 hours of "community service leave" to serve as a precinct official. These bills were co-sponsored by numerous Senators of both political parties.

It will be several weeks before a decision is handed down in Wake County Superior Court on the current case involving the disputed election for Superintendent of Public Instruction. Once that decision is issued, it is likely that it will be appealed to the Supreme Court of North Carolina, which could postpone a final decision for many more weeks or months. Meanwhile, back at the General Assembly, legislative activity will continue to address the problems identified by the Carteret County voting machines that lost the ballots.

The House and Senate adjourned on Thursday and will reconvene next Monday evening in Raleigh. On Tuesday, they will meet in Bath (Beaufort County) to celebrate Bath's 300<sup>th</sup> Anniversary as the first town in North Carolina. In addition, Bath was the site of North Carolina's: first shipyard, first horse-driven grist mill, home of the State's first Chief Justice of the Supreme Court, first public library, and the oldest existing church. Next Wednesday and Thursday they will be back in Session in Raleigh.

## BILLS OF INTEREST

SENATE BILL 227, Public Employee Poll Workers, would allow every state and local government employee in North Carolina up to 24 hours per year of “community service leave” to serve as a precinct official for a County Board of Elections. **Introduced by Senator Kinnaird and referred to the Senate Judiciary I Committee.**

SENATE BILL 229, District Court Judge Retirement Age, would allow a district court judge who reaches the mandatory retirement age of 72 to continue in office until the expiration of the term of office for which the judge was elected or appointed to serve. **Introduced by Senator Swindell and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 302, Transit Drug Testing, would require public transit operators and other employers of persons who operate commercial motor vehicles, and who are subject to federal drug and alcohol testing, to report to DMV any federally required drug and alcohol test that is failed by the driver. It would also disqualify persons who fail the drug and alcohol test from operating a commercial motor vehicle until they have successfully completed treatment. **Introduced by Senator Jenkins and referred to the Senate Judiciary I Committee.**

SENATE BILL 317, District Judge 8-Year Terms, would allow voters to vote on a constitutional amendment changing the term of district court judges from 4 years to 8 years. **Introduced by Senator Clodfelter and referred to the Senate Ways and Means Committee.**

SENATE BILL 320, Jury Fee Waiver Program, would allow jurors to waive payment of the per diem fees they are entitled to for jury service. It would also allow a juror who waives the fee to designate that the fee be used for various services in that district as designated by the Senior Resident Superior Court Judge. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 321, Permanent Jury Exemptions/65 and Older. Currently, a person who is 65 years of age or older who is summoned as a juror can obtain an exemption from serving, but may be summoned to serve as a juror again in the future. This bill would allow a person summoned to serve as a juror who is 65 years of age or older to request either a temporary or permanent exemption from jury service. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 348, North Wilkesboro/Land for Prisons, would allow the Town of North Wilkesboro to acquire real and personal property and convey it to the State for use as a prison. **Introduced by Senator Garwood and referred to the Senate State and Local Government Committee.**

SENATE BILL 353, Supreme Court Rule Making, would allow the Supreme Court of North Carolina to revise the Rules of Civil Procedure, the Rules of Criminal Procedure, and the Rules of Evidence. The changes proposed by the Supreme Court would become effective unless they were amended or vetoed by the General Assembly prior to the effective date of the rule. If enacted into law, this legislation would allow changes to Rule 4 of the Rules of Civil Procedure which governs the Service of Civil Process, which could be amended using this new procedure. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

HOUSE BILL 392, Amend Definition Of Malt Beverage In Alcoholic Beverage Control Law, would amend the definition of “malt beverage” to remove the current requirement that malt beverage (i.e. beer) not contain more than six percent (6%) of alcohol by volume. **Introduced by Representatives LaRoque, Earle, Holliman and Daughtridge and referred to the House Alcoholic Beverage Control Committee.**

HOUSE BILL 394, District 18 Judicial Personnel Funds, would appropriate funding for three new district court judges and supporting staff and two new assistant district attorneys in Prosecutorial District 18, which is Guilford County. **Introduced by Representative Jeffus and referred to the House Appropriations Committee.**

HOUSE BILL 395, Division of Forest Resources/Emergency Response-AB, This bill is identical to Senate Bill 186 summarized in last week’s Weekly Legislative Report. **Introduced by Representatives Williams and Culpepper and referred to the House Rules Committee.**

HOUSE BILL 399, Unified Government, would allow counties with no incorporated municipalities to exercise most municipal functions. This bill would give counties that do not have incorporated municipalities (Currituck County and Hyde County) the same authority that is provided to municipalities under Chapter 160A of the General Statutes. As drafted, it appears that this bill would give the Board of County Commissioners the authority to establish a police department in those two counties. We have spoken with the bill sponsor about amending the bill to delete the authority to establish a police department. **Introduced by Representative Owens and referred to the House Local Government I Committee.**

HOUSE BILL 402, Purchase Military Service/Retirement, would allow certain state and local government employees (who cannot now do so) to purchase federal military service credit. **Introduced by Representatives Glazier and Eddins and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 411, Funds for Clean Syringe Program, would appropriate \$550,000 per year for the Department of Health and Human Services to create three community-based programs for “clean-syringe-safe-syringe exchange programs.” **Introduced by Representative Wright and referred to the House Appropriations Committee.**

HOUSE BILL 421, Convene Session Early, would allow voters to vote on a constitutional amendment to change the starting date of the General Assembly to the first Wednesday in December and to require the General Assembly to conduct an organizational session for up to three days, then adjourn and reconvene seven weeks later. **Introduced by Representative Walend and referred to the House Rules Committee.**

HOUSE BILL 422, Fishing Allowance, would allow residents of Forsyth County to fish in the waters of Triad Park without a fishing license. **Introduced by Representatives Womble, Parmon, Brown and McGee and referred to the House Wildlife Resources Committee.**

HOUSE BILL 423, Habitual Misdemeanor Larceny/Felony, would make it a Class H felony for a person to commit a misdemeanor larceny if they have five or more prior misdemeanor larceny convictions. **Introduced by Representative Moore and referred to the House Judiciary II Committee.**

HOUSE BILL 442, Increase Juror Fees/Court Cost, would increase the fees paid to jurors from \$12 per day (or \$30 per day for more than five days of service) to \$125 per day. This bill would also increase court costs by \$22 to pay for the increased juror fees. **Introduced by Representative Faison and referred to the House Finance Committee.**

HOUSE BILL 447, Law Enforcement Officer Creditable Service/Workers Compensation, would provide creditable service for law enforcement officers in the Local Governmental Employees Retirement System for periods of employer-approved leaves of absence, if the officer is receiving workers' compensation benefits as a result of serious bodily injury incurred in the line of duty as a result of an intentional or unlawful act of another person, and if the law enforcement officer returns to service on or after August 1, 2005. **Introduced by Representatives Glazier and Eddins and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 451, Adoption/Criminal Checks/Prospective Families, would require criminal background checks for any person 18 years of age or older who resides in the household of a prospective adoptive parent. **Introduced by Representatives Glazier, Barnhart and Weiss and referred to the House Judiciary IV Committee.**

HOUSE BILL 459, Person/Caswell Assistant District Attorney Funds, would appropriate funding for a new assistant district attorney in Prosecutorial District 9A (Person and Caswell Counties). **Introduced by Representatives Faison and Wilkens and referred to the House Appropriations Committee.**

HOUSE BILL 462, Presence Required During Open Burning, would require any person conducting an "open burning", whether subject to a permit or not, to be present on the site of the burning until the fire is extinguished. **Introduced by Representative Adams and referred to the House Environment and Natural Resources Committee.**

## **BILL STATUS**

HOUSE BILL 328, Nags Head/Albemarle Use of ATVs, was amended in committee this week to add the City of Albemarle to the section authorizing only law enforcement officers to operate unregistered all-terrain vehicles on highways with speed limits of 35 miles per hour or less and to include the Town of Nags Head in the section authorizing both law enforcement officers and municipal employees to operate unregistered all-terrain vehicles on highways with speed limits of 35 miles per hour or less. This bill was approved by the House Local Government I Committee and re-referred to the House Rules Committee.

HOUSE BILL 345, Winston-Salem Police, was amended to require each company police agency in Winston-Salem to notify the Winston-Salem Police Department of the names of businesses that will receive services from the company police agency, and such notice must be given prior to the agency providing any services. It would also require that company police agencies provide notice within 48 hours of an arrest to the Winston-Salem Police Department of an arrest within the City of Winston-Salem. This bill was approved by the House Local Government II Committee, approved by the full House and sent to the Senate for consideration.

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

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

[www.ncsheriffs.org](http://www.ncsheriffs.org)