



NORTH CAROLINA SHERIFFS' ASSOCIATION

Weekly Legislative Report

May 20, 2005

Both the House and the Senate have an electronic system to allow members to vote on pending legislation. When they are in session, each member while sitting at their desk can press a green button (yes) or a red button (no) when a recorded vote is required. Most votes are recorded as required by the North Carolina Constitution or by the rules of the House and Senate. Under certain circumstances, the first vote is recorded electronically and then the members vote a second time by a voice vote.

When a recorded vote is required, the electronic voting system allows all members to vote simultaneously and then instantly totals and records the vote, and displays each member's vote on a large screen in the Chamber. Under normal circumstances, the 50 Senators are given five seconds to vote electronically and the 120 House members are given 15 seconds to vote electronically.

On Thursday of this week, the House electronic voting machine malfunctioned. Once it was determined that the electronic voting machine was not working, Speaker of the House Jim Black turned to House Principal Clerk Denise Weeks for a verbal roll call of each name of the 120 members of the House. Needless to say, the verbal call of the roll by the Clerk took much longer than the customary 15 seconds allowed for the electronic voting. Recognizing that this process would substantially delay the House's adjournment on Thursday afternoon, Speaker Black asked the House members in opposition to the next bill to stand. He counted 5 members in opposition, subtracted that from the 116 members present and announced the vote result as 111 to 5.

Shortly after these two votes, the General Assembly staff was able to fix the electronic voting system and the votes for the remainder of Thursday's House session were recorded electronically, greatly speeding up the process.

The House and Senate adjourned on Thursday and will reconvene next Monday evening.

BILL STATUS

HOUSE BILL 835, Concealed Carry for Law Enforcement Officers, will allow active law enforcement officers to obtain a concealed carry permit by paying \$45 for an initial application (instead of \$80) and by paying \$40 for a renewal application (instead of \$75). This bill was approved by the House Judiciary II Committee and has been referred to the House Finance Committee for further consideration.

HOUSE BILL 922, Beaufort County Vacancies Filled Under General Law, was amended to add new language that provides that vacancies in the offices of Register of Deeds, Sheriff and County Commissioner in Beaufort County will be filled in accordance with the General Statutes. This bill repeals a local law enacted in 1997 that only applied to Beaufort County.

HOUSE BILL 926, Concealing a Death/Criminal Offense, makes it unlawful to conceal the death of a person or to aid and abet another person in doing so. This bill has been approved by the House and referred to the Senate Judiciary I Committee.

HOUSE BILL 1024, Instant Runoff Voting, directs the State Board of Elections to select up to 10 counties willing to conduct a pilot program during the 2005 and 2006 elections using an instant method of voting. This new type of voting is designed to avoid runoff elections and requires voters to rank the several candidates by the voters order of preference. When the votes are counted in the first round, only first-choice votes are counted. If a top candidate receives a “substantial plurality”, that candidate wins. If no candidate receives a substantial plurality in the first round, the two candidates with the greatest number of first-choice votes advance to the second round of counting. In the second round, each ballot is counted as a vote for whichever of the two final candidates is ranked higher on that ballot. The candidate with the greater number of votes in the second round wins. This bill has been approved by the House and referred to the Senate Judiciary I Committee.

HOUSE BILL 1086, General Assembly Police Jurisdiction. As originally introduced, this bill would have extended the jurisdiction of the General Assembly Police to “any part of the State while they are present in that location during the performance of their official duties.” **At the request of the North Carolina Sheriffs’ Association**, and in cooperation with the General Assembly Police, this bill was amended to: (1) give jurisdiction to the General Assembly Police on the State Legislative Building and grounds, which they have now; (2) within the area of the City of Raleigh surrounded by the inter most right-of-way of Interstate 440 (the inter beltline); and (3) elsewhere in North Carolina while accompanying a member of the General Assembly on official duties or while preparing for or providing security to a session of the General Assembly that is being held at a location other than the main legislative building. This bill as amended was approved by the House Rules Committee and will next be considered by the full House.

HOUSE BILL 1186, Sentence Lengths, which would reduce some prison sentences, was withdrawn from the House agenda and re-referred to the House Judiciary III Committee. **This bill is opposed by the North Carolina Sheriffs’ Association.**

HOUSE BILL 1188, Court-Imposed Post-Release Punishment, is **opposed by the North Carolina Sheriffs’ Association** and has been removed from the agenda in the House and rescheduled for consideration on May 26th.

HOUSE BILL 1211, Study Superior Court Discovery, was introduced at the request of the North Carolina Conference of District Attorneys to make some changes in the open discovery law enacted last year. This bill as originally introduced would have made several changes to the new law, but the bill was amended in the House Judiciary III Committee to convert it into a bill requiring a study

of this issue. The bill has now been sent to the House Rules Committee where all of the study bills are likely to be combined into one large study bill during the last few days of this year's legislative session.

HOUSE BILL 1215, Adjust B1-E Felony Penalties, which would reduce some prison sentences, was withdrawn from the House agenda and re-referred to the House Judiciary III Committee. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1279, Speeding to Elude Arrest, increases the penalty for a violation of this statute if the violation results in a person's death. Provisions in the original version of this bill that required the Attorney General to adopt a pursuit policy that must be followed by all law enforcement agencies was deleted from the bill **at the request of the North Carolina Sheriffs' Association**. This bill has been approved by the House and sent to the Senate for further consideration.

HOUSE BILL 1311, Domestic Violence Victims Empowerment Act, is the bill that, as originally introduced, would have required Sheriffs to issue carry concealed handgun permits to persons with domestic violence orders even if the person was not legally eligible to obtain the permit nor to carry a weapon. The language was amended at the request of the North Carolina Sheriffs' Association and their various legislators to no longer require the Sheriff to issue a permit to persons who are disqualified by law from receiving the permit. This bill has been on the House agenda this week, but consideration of it has been postponed and it is now scheduled for consideration by the full House next Monday. While the North Carolina Sheriffs' Association is not opposed to the bill in its current form, the Association is opposed to a potential amendment to the bill that would add back in the language requiring a Sheriff to issue the permit to an applicant who is otherwise prohibited by law from receiving the permit.

HOUSE BILL 1328, Pardon/Expunction of Record, requires the expunction of a defendant's criminal history records when the defendant receives a pardon of innocence from the Governor. This bill has been approved by the House and sent to the Senate for further consideration.

HOUSE BILL 1401, Concealed Carry By Law Enforcement Officers, as originally introduced would have allowed law enforcement officers in North Carolina, while off-duty, to carry a concealed weapon as long as the officer was not "impaired by alcoholic beverages." The off-duty officers would have been allowed to carry a concealed weapon after consuming alcoholic beverages so long as "the officer was not impaired." **At the request of the North Carolina Sheriffs' Association**, the bill sponsor has agreed to amend this bill to provide that off-duty law enforcement officers can carry a concealed weapon in North Carolina as long as they are not consuming and do not have any unlawful controlled substances or alcoholic beverages remaining in the officer's body. This bill will remove the requirement in the current law that allows off-duty officers to carry concealed handguns only if their employing agency has filed regulations with the Clerk of Superior Court. This bill is currently scheduled to be heard in committee next Tuesday.

HOUSE BILL 1415, Pistol Permit Check With Home County Sheriff, requires the State Bureau of Investigation (SBI) to establish a database that can be used by Sheriffs to record certain information

when a person is denied a pistol purchase permit. The sponsors of this bill have been involved in extension discussions with the North Carolina Sheriffs' Association and the N. C. Department of Justice about this bill. **At the request of the North Carolina Sheriffs' Association**, the bill sponsors agreed that the Sheriff would not be required to enter into the database the reason that the pistol purchase permit was denied, and would only be required to enter sufficient information to identify the applicant, the date of the denial of the permit, and the county in which the permit was denied. This bill as amended was approved by the House Judiciary III Committee and sent to the House Appropriations Committee for an evaluation of the costs to the SBI of establishing this new database.

HOUSE BILL 1504, Law Enforcement Officer Discipline, is the legislation commonly referred to as the "Peace Officer Bill of Rights." It was discussed briefly by the House Judiciary IV Committee on Thursday of this week. Sheriff Dane Mastin, President of the North Carolina Sheriffs' Association, was in attendance to speak against the legislation, but the committee meeting ended before the speakers had the opportunity to speak. We have been advised that this bill is scheduled again for further consideration next week. This bill is **opposed by the North Carolina Sheriffs' Association**.

SENATE BILL 88, Bent Tree Plantation Homeowners' Association Motor Vehicle Regulation, was amended to repeal a previous law that made the motor vehicle laws apply on the streets of the Bent Tree Plantation Homeowners' Association, Inc. in Brunswick County. If this legislation is enacted into law, the motor vehicle laws will no longer apply on the streets owned by that Association. This bill was approved by the Senate State and Local Government Committee.

SENATE BILL 574, Amend Post-Release Supervision Laws, provides that a prisoner who has been reimprisoned before completing a 9-month term of Post-Release Supervision (PRS) may not be released on PRS again. This bill also provides that when a defendant violates a condition of PRS a second or subsequent time and is held in criminal contempt of court, when the defendant serves the sentence in a local confinement facility, the bill specifies that the Department of Correction shall pay the county for the confinement at the standard rate set by law. This bill has been approved by the Senate and sent to the House for further consideration.

SENATE BILL 991, Authorize Judge to Carry Concealed Weapon in Courthouse, would authorize a District Court or Superior Court Judge who has a concealed carry handgun permit to carry a concealed handgun while in a courthouse in the discharge of the judge's official duties. This bill was approved by the Senate and sent to House for further consideration.

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>.

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

www.ncsheriffs.org