



2010 North Carolina Legislation Related to Planning and Development

Richard D. Ducker and David W. Owens

The 2010 session of the North Carolina General Assembly was dominated by the continuing state budget shortfalls. The legislature was faced with reducing expenditures by some \$850 million for the fiscal year. Since this was a short session the agenda was necessarily limited, but the budget discussions assured that few new initiatives, especially those requiring funding, would be addressed.

Zoning and Development Regulation

Video Sweepstakes

As a result of several trial court rulings that video sweepstakes games are not covered by the state's 2006 ban on video poker, these gaming operations rapidly expanded across the state. The General Assembly considered two responses—to ban the games or to allow, regulate, and tax them—and introduced bills in 2010 for both options.

The prohibition route prevailed. S.L. 2010-103 (H 80) creates G.S. 14-306.4 to prohibit the use of electronic machines and devices (any “entertainment display”) for playing sweepstake games (defined as any game in which a player enters and becomes eligible to receive a prize). The law bans the use of electronic machines for real or simulated video poker (and any other card game), bingo, craps, keno, lotto, pot-of-gold, eight liner, and other similar video games. Activity on Indian tribal lands is exempted. The ban is effective December 1, 2010.

Permit Extensions

Because of poor economic conditions over the past year, many development projects have continued to remain on hold and others have gone into foreclosure. Last year the recession prompted the adoption of S.L. 2009-406, which extended most state and local development approvals that were valid at any time between January 1, 2008, and December 31, 2010. This legislation suspended the expiration of permits and approvals throughout this three-year period and included

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sketch plans, preliminary plats, subdivision plats, site-specific and phased development plans, development agreements, development permits (such as zoning permits) and building permits in its coverage.

Given the slowness of the economic recovery, this session the development community sought a further two-year extension of these permits and approvals (so that the time periods for initiating development would not start to run until the end of 2012). Local governments suggested that if any further extensions were allowed, they should be limited to one year and that provisions should be added to deal with issues that have emerged regarding maintenance of sites, performance guarantees, and the like.

On the last day of the legislative session, S.L. 2010-177 (H 683) was adopted. The principal change in the law is an additional one-year extension of development approvals. The previous three-year period within which permits may not expire is now four years—January 1, 2008, to December 31, 2011.

S.L. 2010-177 made several critical additions to the 2009 legislation. Local governments (but not state agencies) may opt out of this additional extension altogether. A city or county may adopt a resolution providing that this new amendment does not apply to a development approval issued by that jurisdiction. The law also now includes three conditions for the additional extension of any development approvals. The holder of the development approval must (1) comply with all rules in effect at the time of original approval, (2) maintain all performance guarantees throughout the extended period, and (3) complete any infrastructure necessary to occupy permitted development.¹

Local Bills

When city and county planning operations were merged in Durham, the county secured authority to allow zoning protest petitions (which are required for cities but not allowed for counties). As originally authorized, the county used the standards for qualifying protests that had been authorized in the city legislation. These provisions, however, had not been updated since the statute on municipal protest petitions was amended in 2005. S.L. 2010-80 (S 1399) was adopted to conform the Durham County protest petition general procedures and definition of qualifying areas to current city standards.

S.L. 2010-62 (S 1435) enhances zoning enforcement options for Winston-Salem. It authorizes the city to summarily abate any violation that continues five days after a notice of violation, with the expense of the action to be paid by the violator. A lien (with the same priority as a tax lien) may be placed on the land to recover the costs if they are not paid. A secondary lien may also be placed on any other property in the city owned by the violator (other than the violator's principal residence). The city can also file a notice of *lis pendens* with the clerk of court upon issuance of a notice of violation. With this filing the notice of violation is thereafter binding on anyone acquiring title to the property.

1. A complete description of this bill and its implications, along with sample opt-out resolutions, is provided in Richard D. Ducker and David W. Owens, "Development Approval Extension Extended," *Planning and Zoning Law Bulletin* No. 18 (Sept. 2010), available at www.sog.unc.edu/pubs/electronicversions/pdfs/pzlb18.pdf.

Bills Not Enacted

In 2009 the Senate approved Senate Bill 117, which would have prohibited use of any moratorium adopted “for the purpose of developing and adopting new or amended ordinances.” This bill was eligible for consideration in 2010 but was not taken up by the House of Representatives.

New limits on the use of eminent domain were also discussed in the 2010 session, but no action was taken. A referendum was proposed to add a constitutional amendment prohibiting the use of eminent domain to acquire land for economic development purposes. This practice is not currently statutorily authorized in North Carolina, but some legislators thought it should be banned by the state constitution to prevent future legislatures from allowing it. The bill calling for a referendum (House Bill 1659) did not pass.

Development Fees

In 2009 the General Assembly adopted an unusual piece of legislation concerning new fees and fee increases applicable to subdivision development. G.S. 160A-4.1 and G.S. 153A-102.1 were enacted to require a city, county, sanitary district, or a water and sewer authority proposing these changes to provide notice of such on its website (if it had one) at least seven days prior to the meeting at which the matter was to first appear on the agenda. Section 11 of S.L. 2010-180 (H 1766, an omnibus environmental bill) amends these two statutes to allow the affected governmental unit to meet this notice requirement in several other ways as well. The new law requires the governmental unit to post notice in two of the following ways: (1) posting the notice on its own website, (2) posting the notice in certain prominent government buildings, (3) e-mailing the notice to a list of interested parties created by the unit, and (4) faxing the notice to a list of interested parties. If the unit does not have a website, it may ask the county to post the notice on the county’s website instead. This legislation applies to administrative fees and fees-in-lieu of dedicating recreation land or providing street improvements that may be required by the land subdivision control ordinance. It apparently also applies to connection, extension, impact, and capital expansion fees associated with providing water and wastewater facilities to new subdivisions.

One local act affecting subdivision fees was enacted. S.L. 2010-29 (H 1687) amends existing local legislation to allow the Town of Caswell Beach to join Holden Beach and Oak Island in imposing a sewer treatment fee and paying those fees to the provider of sewer treatment services.

Planning

Community Planning Programs

There have been various initiatives over the years to encourage and study community planning programs, including a number of legislative studies. These initiatives have included the NC 2000 Project of the early 1980s, the 1991–92 Statewide Comprehensive Planning study committee, the 1993–94 Partnership for Quality Growth study committee, several mountain area study committees in the 1990s, the 2000–2001 Smart Growth Study Commission, and the ongoing Legislative Study Commission on Urban Growth and Infrastructure Issues. The 2010 Studies

Act, S.L. 2010-152 (S 900), extended the urban growth and infrastructure study, with a final report now due upon convening of the 2011 legislative session.

Sustainable Communities

Section 13.5 of the Current Operations and Capital Improvements Appropriations Act, S.L. 2010-31 (S 897), creates G.S. 143B-344.34 to G.S. 143B-344.38 to establish a sustainable communities initiative in the state. The act will address topics such as better transportation choices, provision of equitable and affordable housing, enhanced economic competitiveness, support of existing communities, the coordination of state policies and investments, and support of communities and neighborhoods. The new law creates a thirteen-member Sustainable Communities Task Force to provide oversight for the initiative. The task force will include members from six state agencies (the departments of Commerce, Environment and Natural Resources (DENR), Transportation, Administration, Health and Human Services, and the Housing Finance Agency). The governor appoints one additional member and the speaker of the House and president pro tempore of the Senate each appoint three members. The law specifies the interest areas to be represented by these seven appointees, each of whom is appointed to a four-year term. The interest areas include city government, county government, regional planning organizations, the building industry, the banking industry, a nonprofit organization involved in planning advocacy, and a professional planner who is a member of N.C. chapter of the American Planning Association. The task force is directed to seek funding for sustainable development initiatives, promote regional and interlocal partnerships, provide technical assistance to local governments, recommend state policies, develop a local government sustainable practices scoring system, and improve coordination among state agency efforts related to development and infrastructure and better integrate state, regional, and local efforts.

The law also creates a Sustainable Communities Grant Fund. Grants from this fund are to be used to fund regional, city, and county planning efforts to better integrate housing and transportation decisions and to improve land use and zoning capacities. In June 2010 the federal Department of Housing and Urban Development announced a \$100 million Sustainable Communities Regional Planning Grant program; thus, federal sustainable communities planning grants should soon be available to finance work in this area. The new state fund can be used to provide up to half of the local match required for these and other related federal grants. To be eligible for these grants, the recipient must be part of a regional sustainable development partnership with a defined work plan and memorandum of agreement concerning coordinated planning activities.

Beginning in 2011 the Sustainable Communities Task Force is to report each fall on policy recommendations, growth trends for each metropolitan region of the state, state policies and programs affecting sustainable communities, the task force's funding and grant activities, and related state-funded activities. Staff and administrative support for the task force is to be provided by DENR (and a vacant planning position in the Division of Coastal Management was transferred to the task force for staff support).

The entirety of this law expires on June 30, 2016.

Historic Preservation

Certain historic landmarks enjoy special property tax treatment under North Carolina law. An amount equal to the difference between the taxes that would be due on 50 percent of the value of the property and on 100 percent of the value is deferred for up to three years. The deferred taxes become due and payable when the property loses its classification as a landmark as a result of a disqualifying event. A disqualifying event occurs when there is a change in the ordinance designating it a historic property or a change in the property, other than by fire or other natural disaster, causes the property's historical significance to be lost or substantially impaired. Section 17 of S.L. 2010-95 (S 1177) clarifies that no deferred taxes are due (all liens are extinguished) if the property's historical significance is lost or substantially impaired due to fire or other natural disaster.

Another class of property subject to special tax treatment is land within a historic district held by a nonprofit organized for preservation purposes for use as a future site for a historic structure to be moved to the site from another location. The land is exempt from property taxation altogether if the historic structure is moved to the property within five years from the time the property was originally classified. Section 15 of S.L. 2010-95 clarifies that no deferred taxes are due (all liens are extinguished) if a historic structure is located on the site within the permissible time period.

Section 19 of the studies act, S.L. 2010-152 (S 900), directs the Department of Cultural Resources to study designating the Endor Iron Furnace as a state historic site and to report to the 2011 General Assembly.

Transportation

Mobility Fund

Perhaps the most significant legislative initiative in the field of transportation was a key part of Governor Perdue's platform and is intended to make transportation funding more flexible. Section 28.7 of the 2010 Appropriations Act (S.L. 2010-31, S 897) adds a new G.S. Chapter 136, Article 14A, to establish the North Carolina Mobility Act. The legislation creates a transportation fund made up of appropriations or transfers from other funds that will be used to pay for North Carolina Department of Transportation (NCDOT) projects of statewide or regional significance. It calls for a transfer of \$31 million from the Highway Trust Fund to the Mobility Fund for 2011-12, \$45 million for 2012-13, and \$58 million for 2013-14 and annually thereafter. These amounts are redirected from funds that otherwise would have been transferred from the Highway Trust Fund to the General Fund. Since some of the projects have been programmed for the North Carolina Turnpike Authority, the authority's appropriations from the Highway Trust Fund total \$84 million in 2010-11, \$99 million in 2011-13, and \$112 million in 2013-14 and annually thereafter. Projects to be funded under the act include the widening and improvement of Interstate 85 north of the Yadkin River Bridge, the Triangle Expressway in Wake County, the Monroe Connector/Bypass, the Mid-Currituck Bridge, and the Garden Parkway in Gaston County.

NCDOT is directed to develop project selection criteria and to submit a final report to the Joint Legislative Transportation Oversight Committee by December 15, 2010. NCDOT must also develop and update annually a report to submit to the committee containing a completion schedule for all Mobility Fund projects and an anticipated schedule for future projects.

NCDOT Powers

A department or agency of state government will often sponsor an agency bill to make a series of technical and minor substantive changes to the statutes that will allow the department or agency to function more effectively and efficiently. S.L. 2010-165 (H 1734) represents such a bill with respect to NCDOT.

Several changes affect NCDOT's relationships with local governments. First, G.S. 136-18(38) is amended to authorize NCDOT to enter into agreements with local governments that allow NCDOT to receive funds from these governments to advance the construction schedule of a Transportation Improvement Program (TIP) project as well as to acquire rights-of-way. If such funds are to be reimbursed by NCDOT, the reimbursement must occur during the existing TIP. A second change authorizes NCDOT to locate and acquire rights-of-way for the installation of distributed antenna systems (or DAS, a form of wireless telecommunication facilities), "as permitted by local zoning." Later in the session, however, Section 14 of S.L. 2010-97 (S 1242) (a technical corrections bill) was adopted to delete the language "as permitted by local zoning." The effect of this provision remains unclear since these facilities may arguably still be subject to local zoning. Despite the fact that they may be classified as public utilities because they are heavily regulated and even though NCDOT may enjoy various benefits from having the facilities located within the state's right-of-way, these telecommunication facilities are owned and managed for a profit by private entities and apparently are still subject to zoning.²

Several features of S.L. 2010-165 also help to consolidate the authority of NCDOT and the secretary of transportation. One amends G.S. 143B-348, allowing the secretary or the secretary's designee to promulgate rules and regulations concerning all transportation functions assigned to NCDOT. This legislation continues a trend of consolidating in the office of the secretary of transportation rule-making authority previously assigned by statute to the Board of Transportation. These provisions were recommended by the Joint Legislative Transportation Oversight Committee. Second, the act makes technical changes to G.S. 159-81(1) reflecting the transfer of the North Carolina Turnpike Authority to NCDOT and to G.S. 136-89.189 affecting the length of certain turnpike project leases between the department and the authority.

Other changes include deleting a requirement in G.S. 136-18(40) that NCDOT report each year to both the Joint Legislative Oversight Committee and the Joint Legislative Commission on Seafood and Aquaculture on its progress in expanding public access to coastal waters. The act also rewrites G.S. 136-28.4 to require NCDOT to report annually rather than semiannually to the Joint Legislative Transportation Oversight Committee concerning the utilization of disadvantaged minority-owned and women-owned businesses.

One final series of technical changes eliminates references to a seven-year period concerning the TIP. The changes are designed to give NCDOT more flexibility in establishing programming options.

2. See *Bd. of Supervisors of Fairfax Cnty. v. Washington, D.C., SMSA L.P.*, 258 Va. 558, 522 S.E.2d 876 (1999) (telecommunication facilities within right-of-way of Virginia state highways and roads subject to zoning even where lease agreement with VDOT required telecommunication companies, as a substitute for lease payments, to purchase and install certain equipment for a closed-circuit television system, a highway advisory radio system, and emergency call boxes at various sites, all for the benefit of VDOT).

Pedestrian Safety Improvements on State Streets

S.L. 2010-37 (S 595) is of special interest to municipalities. It reflects the increasing interest of cities in enhancing pedestrian-oriented facilities along major streets and the continuing skepticism of NCDOT about the suitability of such facilities along NCDOT streets and highways inside municipal limits. The act adds G.S. 136-66.3(c4) directing the department to accept and use any funding provided by a city for pedestrian safety improvement projects (e.g., mid-block crosswalks or pedestrian overpasses) to a NCDOT street or highway inside city limits. The city must fund all of the project cost, but NCDOT retains the right to approve the design and oversee the construction or erection of the safety improvement.

Studies

S.L. 2010-152 (S 900), the studies act, authorizes studies the Legislative Research Commission (LRC) and other commissions, task forces, and committees may undertake. Several of these concern transportation. Section 4.5 of the act would allow an LRC committee to study “whether to limit the responsibility of developers for the cost of street or highway construction to the amount necessary to serve the projected traffic generated by a development.” Constitutional limitations probably already limit such responsibility, but the LRC may decide to study recommending more explicit statutory limitations on local government requirements regarding these developer exactions.

In addition, Section 36.1 of the studies act establishes the Railroads Study Commission. The commission must report to the 2011 General Assembly on a variety of passenger and freight rail issues. A related section of the act (Section 30.1) concerns the governor’s Logistics Task Force, which has already been established by Executive Order 30. It authorizes the task force to study combining the Global Transpark Authority, the North Carolina Ports Authority, and the North Carolina Railroad so as to merge the administration of air cargo, rail, and sea transportation infrastructure. The act also allows the task force to study establishing Class I rail service to the Global Transpark and the North Carolina ports.

Section 22 of the studies act affects the Legislative Study Commission on Urban Growth and Infrastructure Issues (discussed above), first organized in 2008. The act directs the commission to submit its final report by the time the 2011 legislative session begins. The state’s transportation infrastructure needs will surely be addressed in this report.

Economic and Community Development

Incentives and Tax Credits

S.L. 2010-147 (H 1973) modifies a variety of state-level economic development incentives with a potpourri of changes. First, it extends the sunset for various tax credits from the end of this year to the end of 2012, including those for “growing businesses” (G.S. 105, Article 3J) and for entities recycling oyster shells (G.S. 105-151.30). Second, it defines environmental disqualifying events that can cause a business to lose such a tax credit and applies that standard to the Growing Business program, the Site Infrastructure Development program (G.S. 143B-437.02), and the Job Maintenance and Capital Development Fund (G.S. 143B-437.012). Third, it establishes a tax credit for the production of certain interactive digital media (G.S. 105, Article 3F). Fourth, it directs that an eco-industrial park meeting certain energy and environmental standards be treated as if it were located in a development tier one area for purposes of various incentive

programs. It also establishes tax credits for both eco-industrial parks and university research facilities. Finally, it makes changes to tax credit features applicable to film and television production companies (G.S. 105-130.47 and G.S. 105-151.29) and raises the amount of the credit for a feature film from \$7.5 million to \$20 million. A separate act, S.L. 2010-89 (H 713), also concerns the calculation of state income taxes for film companies.

S.L. 2010-166 (S 1215) also affects economic development incentives. First, it amends G.S. 105-256(a) to require the secretary of revenue to prepare annually an economic incentives report that includes information on tax credits and refunds, itemized by credit or refund and by taxpayer, for the previous calendar year. The act makes conforming changes to various other statutes to ensure that information already required under other reporting requirements is included in the incentives report. Second, it adds a new G.S. 105-164.14A to define and allow annual economic incentive refunds of sales and use taxes to passenger air carriers, major recycling facilities, businesses in low-tier areas, motorsports racing teams or sanctioning bodies, analytical services businesses, and railroad intermodal facilities. It does the same under G.S. 105-164.14B with respect to air courier services, aircraft manufacturing, bioprocessing, financial services and securities operations, motor vehicle manufacturing, pharmaceutical manufacturing, semiconductor manufacturing, and solar electricity manufacturing. The act sets out certain minimum investment and wage standard requirements businesses or companies must meet to qualify for these refunds. The act also adds G.S. 105-164.29B to direct the secretary of revenue to make information on tax refunds available to a designated city or county official within thirty days after the information is requested.

S.L. 2010-186 (S 778) reflects the tension between economic development incentives and environmental requirements. It adds a new G.S. 113A-12(5) to provide that an environmental document under the State Environmental Policy Act (SEPA) is not required in connection with projects receiving public monies in the form of economic incentive payments. A subsequent act, S.L. 2010-188 (H 1099), provides that the prior act became effective June 1, 2010, but that the exemption does not apply to a project that was the subject of pending litigation or a court order issued prior to that date.

Unemployment

Section 4.7 of S.L. 2010-123 (S 1202) amends Section 10.37 of the appropriations act (S.L. 2010-31, S 897) to address the state's unemployment problems. It authorizes the North Carolina Department of Health and Human Services to spend up to \$20 million to implement a temporary statewide subsidized employment program to create transitional employment opportunities for the chronically underemployed.

Main Street Program

Section 14.6A of the appropriations act (S.L. 2010-31) amends G.S. 143B-472.35, the statute establishing the Main Street Solutions Fund, to make certain critical changes to that program. It provides that funding is now available only to active Main Street communities and designated micropolitan communities in tier two and three counties (the two less-distressed levels of county economic well-being). A *micropolitan* is defined as a geographic entity containing an urban core and having a population of between 10,000 and 50,000. No more than \$200,000 may be awarded to each eligible local government. Two dollars of non-state money must be provided as matching funds for each dollar awarded from the fund. The amendments also have loosened program requirements related to the location of eligible activities; public infrastructure and

historic preservation initiatives located outside of downtown core areas may now be funded. The legislation also expands the scope and nature of the downtown economic development initiatives that may be eligible for funding.

Environment

Uwharrie Regional Resources Commission

The General Assembly began discussion in 2009 about the implications of federal relicensing of Alcoa's Badin hydroelectric project on the Yadkin River. While no direct action was taken on the matter, S.L. 2010-176 (H 972) was enacted to establish a program to "encourage quality growth and development while preserving the natural resources" of the Uwharrie region. The law enacts G.S. 153C-1 to G.S. 153C-4, the Uwharrie Regional Resources Act. The act creates a ten-member Uwharrie Resources Commission to identify and evaluate issues; coordinate local and regional efforts and study new strategies and tools to address those issues; provide a forum for discussion, communication, and education; and make recommendations concerning the use, stewardship, and enhancement of important regional resources. The commission does not have independent planning or regulatory authority. It will be administratively housed within the Department of Commerce.

Water Resource Planning

Several laws were adopted affecting water supply and water quality planning. S.L. 2010-150 (H 1747) amends G.S. 143-355(l) to require that local governments and community water systems plan for future water capacity issues. The plans must address intended actions when 80 percent of the system capacity has been allocated or when seasonal demand exceeds 90 percent of capacity. S.L. 2010-149 (H 1748) requires state agencies and agricultural groups to develop plans for agricultural water infrastructure needs and voluntary conservation practices. S.L. 2010-143 (H 1743) amends G.S. 143-355 to direct the Department of Environment and Natural Resources (DENR) to develop a basinwide hydrologic model for each of the state's seventeen major river basins. S.L. 2010-144 (H 1746) directs DENR to establish a task force to survey information on water and wastewater infrastructure needs, incorporating federal agency information into state planning efforts, and measures for monitoring the financial condition of public water and wastewater systems. S.L. 2010-151 (H 1744) modifies the criteria for water and wastewater grants and loans in several ways. It adds priority points for utilizing an asset management plan for projects with more than 1,000 service connections, for having high-unit-cost projects, for addressing a potential conflict between local plans or implementing plan coordination, and for adopting water conservation measures that are more stringent than the minimum required.

Miscellaneous

The massive oil spill in the Gulf of Mexico prompted the General Assembly to review and update state laws on the subject of oil spills. S.L. 2010-179 (S 836) amends various statutes to clarify that limits on financial liability for cleanup and damages do not apply to spills from offshore oil and gas facilities. The law also enacts G.S. 113A-119.2 to specify the information required to be provided for state review of proposed offshore oil and gas exploration, development, and production facilities. The Coastal Resources Commission and the Department of

Crime Control and Public Safety are directed to review the Gulf of Mexico experience and make recommendations for any further action needed by the state.

S.L. 2010-195 (S 886) creates a rather narrowly targeted program for cleanfields renewable energy demonstration parks. To qualify, a site must have at least 250 contiguous acres, have a brownfields agreement with DENR, include a former manufacturing plant that employed at least 250 workers, plan to attract at least 250 new jobs, and be created to feature clean-energy facilities. If certified as meeting these standards, an on-site biomass renewable energy facility is eligible for triple credits from the Utilities Commission for renewable energy portfolio requirements. S.L. 2010-4 (S 388) allows funding for grants under the federal stimulus program to be used in projects eligible for state income tax credits for renewable energy projects. S.L. 2010-167 (H 1829) extends state income tax credits for renewable energy projects (and adds geothermal equipment to projects eligible for the credit) and creates a credit for commercial-scale renewable energy facilities. The law clarifies local government authority to finance energy programs. It also amends the state income tax credit for donation of conservation lands (G.S. 105-130.34 and G.S. 105-151.12) to clarify that donated property must be accepted for use for a qualifying purpose. S.L. 2010-63 (H 1814) allows Cabarrus County to undertake energy efficiency projects without bidding and lease restrictions. S.L. 2010-57 (S 1114) does the same for Asheville, Carrboro, and Chapel Hill.

The 2010 Studies Act, S.L. 2010-152 (S 900), also authorizes two studies by the Environmental Review Commission. The commission may study cost-sharing for water quality initiatives and the use and storage of reclaimed water.

Jurisdiction

Major revision to the state's annexation laws was heavily debated in the 2009 session of the General Assembly, and a large number of bills on this topic were introduced. A key point of contention in House Bill 524 was whether and under what circumstances residents in areas proposed for annexation would be able to vote on the proposal. The bill also addressed refinements in the definition of which areas are sufficiently developed for urban purposes as to qualify for involuntary annexation. House Bill 524 passed the House in 2009 but did not emerge from a Senate committee in the short session.

Several local bills made specific changes to jurisdictional boundaries. Three laws de-annexed territory from cities. S.L. 2010-26 (S 1135) removed land from Red Oak and Rocky Mount, S.L. 2010-27 (S 1389) removed land from Graham, and S.L. 2010-28 (H 337) removed land from Statesville. S.L. 2010-86 (S 1444) allows Concord and Kannapolis to annex "donut holes" surrounded by city territory and allows Kannapolis to release land to the county. Three laws adjust jurisdictional boundary lines. S.L. 2010-61 (S 1362) does so for Orange and Alamance counties; S.L. 2010-75 (S 1361), for Greensboro and High Point; and S.L. 2010-85 (H 710), for Archer Lodge.

Building Code

Broadband–Smart Grid

Section 2.20 of the studies act (S.L. 2010-152, S 900) allows the LRC to study issues relating to the interoperability of telecommunication and smart-grid applications in homes and business. More specifically, it authorizes the study of state building design standards relative to smart grid and broadband deployments.

Carbon Monoxide Detectors

Legislation adopted in 2008 authorized the North Carolina Building Code Council to amend the building code to require either battery-operated or electric carbon monoxide detectors in certain newly constructed residential units. It also required landlords to install such detectors in certain residential rental units by January 1, 2010. Sections 6(a) and 6(b) of S.L. 2010-97 (S 1242) clarify that this authorization and requirement apply to any dwelling unit having a fossil-fuel-burning heater, appliance, or fireplace or an attached garage.

Pyrotechnic Training and Permitting

In 2009 the General Assembly adopted legislation effective February 1, 2010, providing for the training of persons who handle pyrotechnics in connection with a concert or public display and for the permitting or licensing of display operators. S.L. 2010-22 (S 992) expands the scope of this program and the responsibilities of the commissioner of insurance acting through the state fire marshal to administer the program. The legislation provides not only for licenses for display operators but also for assistant display operators and “proximate audience” display operators and sets forth requirements for “event employees.” The act also addresses license and examination fees, license reciprocity, discipline, and imposition of sanctions for rule violations.

Local Act

One local act, S.L. 2010-30 (H 1953), amends G.S. 153A-357(c)(2) to allow Currituck County to withhold a building permit from any property owner who owes delinquent property taxes, so long as the owner has not protested the assessment or collection of the taxes.

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