



# END OF SESSION BULLETIN

## 2023

# DEAR LEAGUE MEMBERS,

The 2023 legislative long session represented the first year since 2019 when the North Carolina General Assembly's focus turned away from the effects of the global pandemic and back to more traditional policymaking.

As such, for cities and towns, it marked a return to concerns over infringement on land-use authority, the furthering of public safety and investments in economic development – in other words, many core local government functions. That focus occurred even as legislators continued to invest large sums in water, sewer and transportation infrastructure, which remain key legislative goals of cities and towns. More than \$3 billion was put into local infrastructure spending, with \$1.9 billion going to individual earmarks. State aid to municipalities for roads, better known as Powell Bill, increased by 10 percent, with a total allocation of \$170 million for the new fiscal year.

At the same time, NCLM members and staff faced substantial challenges in 2023 to local land-use planning and zoning authority, as a national housing affordability crisis was used to attack that very authority in favor of uniform development rules created in Raleigh. Once again, NCLM members and staff successfully staved off attempts at undermining local land-use planning authority – whether those proposals came in the form of eliminating extraterritorial jurisdiction, abolishing all single family-only zoning, or requiring that accessory dwelling units be allowed in all residential neighborhoods.

The hard work that municipal officials have done over the years, reinforcing the need for local control to their state legislators in order for local economies to thrive, paid off during the legislative battles over these issues. We again effectively made the case that our shared goal of creating a prosperous North Carolina can only come about through the support of unique and diverse communities. By working as one, we can advance all.

We wish to thank each of you for this work, and for your continuing commitment to improve the quality of life in your town or city, as well as supporting policies that improve all cities and towns across the state. Your service to your community and to the North Carolina League of Municipalities is truly remarkable.

Sincerely,

The Officers of the League's Board of Directors.



**William Harris**  
President

Commissioner,  
Fuquay-Varina



**Mark-Anthony Middleton**  
First Vice President

Mayor Pro Tem,  
Durham



**Martha Sue Hall**  
Second Vice President

Mayor Pro Tem,  
Albemarle

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# LEGISLATIVE AND POLICY GOAL ACHIEVEMENTS

- **GOAL: Create an adequate and permanent funding stream for local infrastructure.**

Passage of SL 2023-134, the state budget bill, included over \$3 billion in local infrastructure spending. Among those appropriations are individual earmarks of \$1.9 billion for drinking water and wastewater (Sec. 12.2)

- **GOAL: Expand state transportation funding streams for construction and maintenance for municipal and state-owned secondary roads.**

Passage of SL 2023-134, the state budget bill, expands state Powell Bill funding by 10 percent, to \$170 million in the new fiscal year. (Sec. 41.5) The budget bill also includes \$30 for the Disaster Relief and Mitigation Fund and the Transportation Infrastructure Resiliency Funds. (Sec. 5.9)

- **GOAL: Expand incentives that encourage regionalization of water and sewer, as well as other municipal services, when appropriate.**

Passage of SL 2023-134, the state budget bill, sets aside another \$10 million for the state Viable Utility Reserve in undirected funds for distressed water and sewer utilities, as that program continues to work to address utility systems' deferred maintenance needs, including through regionalization plans.

- **GOAL: Expand incentives and funding for local economic development.**

Passage of SL 2023-134, the state budget bill, provides \$107.8 million to assist in economic development megasite preparedness, helping local communities create sites attractive to new businesses. Another \$10 million from the bill would go to evaluate areas of less than 1,000 acres for industrial sites (Sec. 11.2)

- **GOAL: Provide local revenue options beyond property tax.**

Passage of SL 2023-144 will allow a number of cities to move forward to institute occupancy taxes. The omnibus legislation affects more than one dozen municipalities, and will also extend a sunset provision governing Mecklenburg County's authority to impose a meals tax.

- **GOAL: Expand federal and state resources for affordable housing.**

Passage of SL 2023-134, the state budget bill, provides \$35 million to the Housing Finance Agency for multi-family affordable housing.

- **GOAL: Enhance state systems and resources for local law enforcement officer recruitment, training, and retention.**

Passage of HB 140 Civilian Traffic Investigators allow cities to employ civilian investigators to investigate motor vehicle accidents, freeing up sworn law enforcement officers to meet other public safety needs. Passage of SL 2023-134, the state budget bill (Sec. 18.3) includes additional funding within Criminal Justice Fellows Program and modifications designed to increase the number of graduates.

# DEFENSIVE WINS

A LOOK AT SOME OF THE LEGISLATION THAT NCLM STOPPED OR MITIGATED TO THE BENEFIT OF CITIES AND TOWNS.

- **HB 273 Local Government Budget Process**

As initially filed, this bill would have placed a number of new burdens on cities as they developed and approved annual budgets. The legislation was ultimately amended to reduce some of those, but still would have required municipalities on the state Unit Assistance List to notify property owners by mail of any proposed property tax increases. The legislation did not pass.

- **HB 409/SB 374 Regulation of Accessory Dwelling Units**

This legislation would have nullified existing local rules on accessory dwelling units (ADUs), sometimes called in-law suites, by allowing one on any lot zone for residential single family. In addition, the bill provided few restrictions on size, setbacks or other factors intended to protect neighboring property values. It passed the House but not the Senate.

- **HB 562 Addressing the Workforce Housing Crisis/SB 317 Addressing the Workforce Housing Crisis/HB 537 Workforce Housing Act**

These bills, largely introduced at the behest of the homebuilding industry, would have undermined local zoning and planning regulations in the name of improving housing affordability. NCLM successfully made the case, including in an extensive report examining local efforts to improve housing affordability, that statewide density mandates would have few practical effects and that the legislative proposals did not represent a comprehensive approach needed to address the problem.

- **HB 589/SB 534 Protect Whistleblower LEOs from Retaliation**

This measure was touted as a means to protect law enforcement officers from retaliation for reporting illegality or corruption. As crafted, the legislation could have shielded officers from personnel actions, up to firing, for their own misbehavior by using these whistleblower claims. Based on opposition from NCLM member cities, the legislation received no floor votes.

# DEFENSIVE WINS

A LOOK AT SOME OF THE LEGISLATION THAT NCLM STOPPED OR MITIGATED TO THE BENEFIT OF CITIES AND TOWNS.

- **SB 515 Water and Sewer Affordability Act**

This legislation ultimately passed the Senate, though not the House. Even then, significant changes were adopted at the urging of NCLM. The bill originally limited the amounts that could be charged for water and sewer customers living outside municipal boundaries. As amended, the legislation would require only that a public hearing be required when outside rates were set above 25 percent of inside-user rates.

- **SB 677 Regulation of Short-Term Rentals**

This bill marked the latest attempt to prevent local regulation of short-term rentals, such as Airbnb. With the spate of bad publicity around the industry, the bill did not move.

- **SB 675 Land Use Clarifications and Changes**

Beginning life as a measure that would have eliminated extraterritorial jurisdiction for all cities and towns, municipal officials successfully sought changes while making the case that ETJ remains an effective planning tool, especially in fast-growing areas. Among the changes: the ETJ roll-back only applied to cities in counties with less than 50,000 people, and proposed lot size mandates were eliminated. The modified bill passed the Senate but not the House.



# BILL SUMMARIES

WORKING AS ONE. ADVANCING ALL.

# BILL SUMMARY — OVERVIEW

Over the course of the 2023 session of the North Carolina General Assembly, the League’s Government Affairs Team tracked hundreds of bills that had implications for cities and towns, with many of those having significant effects. The session saw a return of numerous proposals affecting local decision-making, particularly in the area of land-use planning. While a few pieces of legislation may still receive action this year, most of those listed in this summary are unlikely to see any further action in 2023. You will find summaries of bills below, including descriptions of how they could affect governance of cities and towns and some of the political considerations that affected their ultimate outcome. The bill numbers and titles are linked below. The bill links will take you to actual copies of the bill on the General Assembly website. Beside each bill title, there is a designation explaining the status of the bill.

The designations indicate the following:

- **Law:** Passed by the General Assembly and now Session Law, either with the Governor’s signature, with the Governor’s inaction regarding the bill, with an override of his veto, or as a local bill over which the Governor has no say.
- **Passed House:** Passed the House but not voted on by the Senate.
- **Passed Senate:** Passed the Senate but not voted on by the House.
- **In Conference:** Approved by both chambers, but with changes that have not yet been resolved by the two chambers.
- **Not Passed:** Legislation not taken up by either full chamber.

## BILL CATEGORIES



If you do not see a bill summarized that you are interested in, please contact any member of the League’s Government Affairs team.

# TAX & FINANCE

## [HB 15 Study on Eliminating the Grocery Tax](#) (Rep. Moss)—Not Passed

The potential removal of groceries from the local sales tax framework would have carried substantial implications for municipalities, presenting the prospect of diminished revenue derived from sales taxes. During this legislative session, [HB 15](#) was introduced as a study initiative in January; however, it did not advance beyond its initial stage. The elimination of the grocery tax not only raises concerns regarding potential budgetary deficits for local governments, but also holds the capacity to exert downward pressure on state revenues.

## [HB 105 Elderly Prop. Tax Appreciation Exclusion](#) (Reps. Winslow, Loftis, Miller, Penny)—Not Passed

In a bill introduced this February, a new avenue for eligible homeowners to postpone property tax increases on their primary residences was outlined. According to the proposed legislation, homeowners could qualify for this deferral if they meet specific criteria: aged 65 or above, possessing a permanent residence for a consecutive span of five years, and maintaining residence at the property for a minimum of five years. Spouses, provided one is a qualifying owner, would share the deferral privilege, while taxing units would be tasked with recording and carrying forward the deferred taxes. These deferred taxes would only come due if the homeowner ceases to qualify, such as through property sale or demise. [HB 105](#) created the potential to substantially influence local government finances and could introduce challenges in the provision of essential services. House leaders referred the bill to the House Finance Committee where it failed to gain additional momentum.

## [HB 122 Reimburse Late Audit Costs with Sales Tax Rev.](#) (Rep. Warren)—Passed House; [HB 799 Local Government Audits.](#) (Reps. Winslow, Penny, Zenger)—Not Passed; [SB 299 Reimburse Late Audit Costs with Sales Tax Rev.](#) (Sens. Barnes, Johnson)—Law—SL 2023-59 effective various dates

This grouping of bills dealt with a financial issue of concern to state leaders: the timeliness of local government audits. [SB299 Reimburse Late Audit Costs with Sales Tax Rev.](#), which incorporated language similar to HB 122, ultimately became law after both chambers overrode Governor Cooper's veto of the bill. Both the House and Senate overrode the veto in nearly party-line votes. As a result, local governments will now be subject to a sales tax withholding penalty if they submit their annual audits late. The new law does offer a way to potentially prevent this penalty, as it directs the Local Government Commission (LGC), a state board that oversees local finances, to develop an appeal procedure.

State Auditor Beth Wood and State Treasurer Dale Folwell sit on the LGC, and they both promoted the measure throughout the legislative process. After the Governor issued his veto, the pair released a statement urging legislators to override the veto. "When the leadership of governmental units fail to submit timely audits, the state has no insight as to whether they are in financial difficulty. The taxpayers hurt by this lack of transparency are often those on lower and fixed incomes," their statement read.

In his veto message, Cooper explained his reasoning for the veto. "It is important that local governments follow the law on auditing their finances in order to foster accountability and fiscal responsibility. While well intentioned, this legislation as written is likely to punish residents of some of our state's smallest communities. Rather than having state government seize sales taxes that are needed for local government, the North Carolina General Assembly should reconsider this legislation and provide more help for these communities to make sure they do it right rather than impose financial punishment that could make matters worse."

The League echoed Cooper's sentiments in a statement of its own, stressing the unprecedented nature of the sales tax withholding penalty as well as the lack of private-sector auditors who are willing to perform local government audits. As the bill was debated, the League urged legislators to consider alternative measures to assist local governments in achieving on-time audits, rather than the emphasis on punishment in SB 299.

Hearing that concern, some House members instead sought to offer assistance to local governments who are challenged in finding capable private-sector auditors, filing [HB 799 Local Government Audits](#). The proposal would task the State Treasurer with certifying accountants to perform local audits. The task of overseeing these professionals already rested with the Treasurer, and city officials supported this proposal as a more supportive approach to the issue of the timeliness of local audits. Another related provision of HB 799 would require local governments to utilize a bidding process to select an auditor at least every five years.

#### **[HB 200 LGC Toolkit III - AB](#) (Reps. Miller, Penny, Carson Smith)—Not Passed**

Certain municipal administrators would be required to complete six hours of fiscal management education under this bill filed in February. [HB 200](#) would impose an educational requirement on municipal managers or administrators for certain listed circumstances, such as when their employing city is placed on the State Treasurer's Unit Assistance List, or their employing city's annual audit contains a citing of weak or deficient internal controls. The League participated in discussions with key stakeholders and HB 200 remains in a House committee. Furthermore, the fiscal education requirement was amended to remove several instances in which the training would be required and placed in [HB 205 Transparent Governance & Integrity Act. -AB](#). That bill also did not move.

#### **[HB 201 Retirement Admin. Changes Act of 2023 - AB](#) (Rep. Carson Smith)—Law—SL2023-105 effective January 1, 2024**

[HB 201](#) introduces a comprehensive range of changes that directly impact the members of the Local Government Employees' Retirement System (LGERS). These changes encompass a variety of adjustments, including notable provisions such as permitting the death benefit of a retired member to be directed to the deceased member's legal representative when a designated beneficiary is not specified or surviving. Additionally, this bill introduces the option for the initial retirement benefit payment to be electronically deposited instead of issuing a paper check. Moreover, in cases of administrative errors leading to overpayments, the legislation stipulates a method of recovery that involves a reduction of no more than 25% of the monthly benefit until the overpayment is fully recovered.

Originating in February, [HB 201](#) successfully navigated both chambers of the legislature with minimal opposition and ultimately became law in July without the Governor's signature. Notably, the sole amendment to the bill occurred during its consideration in the Senate, which refined the stipulations concerning benefit withholding. This revision mandates that overpayments are subject to a withholding cap of 25% of the monthly benefit, while also establishing a minimum withholding amount of 8.5%. The House concurred with this adjustment.

**HB 259 2023 Appropriations Act. (Reps. Lambeth, Saine and Arp) – Law – SL 2023-134 effective various dates**

Passage of this year’s state budget plan was incredibly contentious, but the \$30 billion state spending plan was finally agreed upon in September and Gov. Roy Cooper allowed to become law without his signature. The budget bill includes over \$3 billion in local infrastructure spending. Among those appropriations are individual earmarks of \$1.9 billion for drinking water and wastewater (Sec. 12.2, pg. 362) and an increase of \$15.5 million for street funding under the Powell Bill (Sec. 41.5) in each year of the two-year budget, bringing the total to \$185.8 million in the second year.

Other major funding items include:

- \$30 million to the Disaster Relief and Mitigation Fund and the Transportation Infrastructure Resiliency Funds. (Sec. 5.9, pg. 55)
- \$107.8 million for industrial megasite readiness and preparation. (Sec. 11.11, pg. 344)
- \$10 million for local governments to evaluate areas of less than 1,000 acres for industrial development sites. (Sec. 11.12, pg. 346)
- \$10 million to local governments for coastal storm damage mitigation. (Money Report, pg. D-67)
- \$30 million for local and state parks and beach access, with another \$12.5 million going to the Parks and Recreation Trust Fund to provide matching grants for park facilities for persons with disabilities. (Money Report – pg. D-97; Sec. 14.4, pg. 398)
- \$17.5 million for trail development programs. (Sec. 14.6, pg. 400)
- \$35 million to the Housing Finance Agency for multi-family affordable housing. (Money Report, pg. F-16)

The legislation also makes changes to the Criminal Justice Fellows Program in an effort to increase the number of graduates available for law enforcement jobs, as well as provides the N.C. Police Chiefs Association with some funding to assist local agencies with employee performance and wellness programs.

While the infrastructure funding and focus on law enforcement recruiting efforts were welcome by cities, a number of last-minute policy provisions were included in the spending plan that could create problems. One of those will subject local governments to oversight by the Joint Legislative Commission on Governmental Affairs, a legislative oversight body traditionally focused on state operations. Another provision would prevent retail plastic bag bans or fees, as well as penalties for retailers due to shopping carts being taken and discarded away from retail sites.

Other policy provisions include:

- Preemption of most Dare County zoning code provisions (practically, the municipal codes) to a specific affordable housing project the county seeks to build. Further, it requires any municipality within a one-mile radius of the proposed development site that has water system capacity to serve that development.
- Pre-emption of most Wake County zoning code provisions (practically, the municipal codes) to any development involving a state-owned institution, including state university properties. Instead, the provision requires state construction entities to consult with the applicable local government on basic development matters.

- A requirement that [ballots contain specific language](#) for bond referendums, potentially posing significant barriers for local borrowing. Specifically, the question on the ballot must note the potential for an increase in property taxes as necessary to pay the principal and interest of the bond, if approved.
- A permanent exemption to the public records law for governmental entities, including local governments, when involving written communication and documents subject to attorney-client privilege. Under previous law, these communications could only be withheld for three years, after which the government had to produce the communication upon request.

A spreadsheet laying out all significant provisions affecting cities and towns can be found [here](#), with the section citations allowing you to find the budget provisions either in the [bill text](#) or what is known as the [money report](#).

### **[HB 270 Death Benefits Parity/Fire & Rescue Increase](#) (Rep. Howard)—Passed House**

This bill would significantly alter death benefits to surviving beneficiaries of LGERS members under certain circumstances. Presently, the Local Government Employees' Retirement System mandates that if a member passes away while in service, having fulfilled a minimum of one year of credible service, their designated beneficiary receives a benefit ranging from \$25,000 to \$50,000. The previous framework assessed variables like salary and months of service to determine this benefit range. A bill introduced in March, known as [HB 270](#), introduces a significant alteration. It proposes the establishment of a fixed lump sum death benefit payment, amounting to \$50,000, to be awarded to the beneficiary of the deceased member.

As the bill progressed, the North Carolina Firefighters' and Rescue Squad Workers' pension plan saw changes added to [HB 270](#). Of note, the monthly member contributions increased for each plan from \$10 to \$15 per month, and the monthly pension payment increased from \$170 to \$175 monthly.

### **[HB 273 Local Government Budget Process](#) (Reps. Winslow and Balkcom)—Not Passed**

HB 273 stalled in House but was heavily amended from introduction and would have placed additional requirements on some cities when developing their annual budgets. The amended version of HB 273 would require cities on the unit assistance list (UAL) to hold a budget hearing, prior to adopting a budget ordinance, that included certain revenue and budgetary information. Additionally, towns on the UAL that are proposing to raise the ad valorem property tax rate would be required to notify by mail all property owners in the jurisdiction. Further, the amended bill would place a similar requirement upon public enterprise funds (including water, sewer, and solid waste utilities) operated by cities on the UAL. However, these utilities would be able to notify customers of rate increases through their normal billing communications rather than a separate mailing.

### **[HB 294 NC Housing Choice Incentive](#) (Reps Alston, G. Brown, and Hardister)—Not Passed**

This bipartisan bill incentivizes local governments to increase density by allowing local governments to access up to \$1,000,000 in grant funding for water, sewer, or transportation projects if they, among other things, designated a certain number of multifamily districts based on their population. The bill is an attempt to address housing shortages across the state amid growing concerns about housing availability and affordability.

### **[HB 301 Modify Film Grant](#) (Reps. Faircloth, Hardister, Lambeth, K. Hall)—Not Passed**

This House bill proposed significant adjustments to the Film and Entertainment Grant Fund. This proposal would allow funds to go to a film production if the production company accumulates qualifying expenses of at least \$1 million for a feature-length film. This threshold stands in contrast to the prior amounts of \$1.5 million for theatrical viewing and \$500,000 for television movies. The amendment also alters grant caps. If at least 75% of filming and related operations transpire in tier one and tier two areas, grants are limited to 35% of qualifying expenses, potentially benefiting struggling cities and towns within the state. For other productions, the grant ceiling would be set at 30% of qualifying expenses. The grant cap for feature-length films would also see a substantial increase, elevating it from \$7 million to \$20 million.

These revisions signify a pronounced shift towards enhanced incentives and support for feature-length film production, likely yielding positive economic impacts for many towns across the state. The bill though had not moved in the House.

### **[HB 451 Noncontiguous Expansion of MSDs](#) (Reps. Hardister, Clemmons)—Passed House**

[HB 451](#) introduced measures that benefit cities by expanding the potential reach of Municipal Service Districts and revenue sources while offering services in exchange. The bill's core objective is to authorize the extension of these districts to encompass areas that are not directly contiguous to the existing service district boundaries.

The proposed changes would provide multiple avenues for this expansion. Notably, the bill allows for the annexation of noncontiguous territories to service districts under certain criteria. The criteria include a requirement that 100% of the real property owners in the area to be annexed petition the city council for annexation. The nearest point of the proposed annexed area must be within 1,000 feet of the district's boundary, and the area should be positioned in a way that enables the district to provide the same services within the annexed area as it does within the existing district. Additionally, if the annexation area is a subdivision, the entire subdivision must be included, and the proposed annexed area, combined with all other satellite areas, must not exceed 10% of the primary boundary of the district.

Not only does the bill provide a much-needed revenue increase, it provides cities with a valuable tool to enhance service provision to better cater to evolving community needs and facilitate comprehensive urban development. [HB 451](#) faced minimal opposition in the House but was not acted on in the Senate.

### **[HB 810 Alternative LEO Special Separation Allowance](#) (Reps. Pyrtle, Cotham, Miller, Moss)—Passed House**

[HB 810](#), receiving unanimous approval in the House, presents a novel approach to retain law enforcement officers in active service for an extended period. The bill introduces an additional choice alongside the conventional special separation allowance, aiming to encourage officers to remain in the workforce for a more extended period. This new option enables officers to continue working beyond the customary retirement age, typically set between 30 and 35 years of service, thereby deferring the receipt of their special separation allowance payments. By offering officers this opportunity to bridge the gap between various retirement income sources and their years of service, the bill effectively supports them while motivating experienced officers to contribute their expertise for a more prolonged duration within their communities. The potential benefits of [HB 810](#) in enhancing law enforcement retention and service continuity await further consideration in the Senate.

### **[SB 92 Expand Circuit Breaker Property Tax Benefit](#) (Sens. Mayfield, Murdock, Salvador)—Not Passed**

[SB 92](#) aimed to enhance the qualifications for homeowners to benefit from the homestead property tax exemption. The proposed expansion of this exemption seeks to provide property tax relief for eligible properties. Currently, a fraction of property taxes is deferred based on the appraised value of a permanent residence. This residence must be both owned and inhabited by a North Carolina resident for a minimum of five years, who is either aged 65 or older, possesses a disability, and maintains an income within a specified threshold.

The proposed changes would allow a homeowner to satisfy the five-year ownership and occupancy prerequisite by considering the previous owner's history, provided a qualifying relationship like marriage links the two parties. Notably, this would enable homeowners to bypass the age and disability prerequisites. The legislation was not acted on. However, it's important to acknowledge that if this bill were to be enacted, it is anticipated to have a substantial impact on local government revenue.

### **[SB 99 Bond Referendum Transparency](#) (Sens. Johnson, Ford, Settle)—Passed Senate**

[SB 99](#), which secured Senate approval in June, introduces language requirements on ballots that could hold significant implications for cities. The proposal necessitates the inclusion of specific information on voting ballots, bond applications, and approval orders pertaining to local bond referendums in North Carolina. These requirements surpass the additional criteria established just last year in [SB 265 Bond Info Transparency/LGC Toolkit II \(SL 2022-53\)](#).

The additional information demanded by [SB 99](#) encompasses the estimated overall cost of the bond, the anticipated property tax escalation to cover the debt, and a notification outlining the potential issuance of further debt without necessitating a vote. Concerns have been raised by the State's bond counsel about the accuracy and dependability of such data. To address these concerns, the League staff and municipalities have collaborated with other organizations to educate lawmakers regarding them.

The inclusion of potentially misleading or erroneous details in the ballot language could potentially discourage the utilization of local general obligation bond authority. This financing method typically secures the most favorable interest rates for local debt, ultimately leading to savings for taxpayers. The adoption of [SB 99](#) could consequently lead to heightened borrowing expenses for essential local projects. After passage in the Senate, the House failed to take up the legislation this session.

### **[SB 154 Omnibus Occupancy Tax Changes](#) (Sen. Hise) - Law - SL 2023-144 effective Immediately**

A number of cities and counties will have the opportunity to institute occupancy taxes following passage of this bill. The omnibus bill effectively consolidated all occupancy tax-related proposals introduced in both the House and Senate during this legislative session, in addition to incorporating a few other measures. Notably, it also extends the sunset provision governing Mecklenburg County's authority to impose a meals tax. Other municipalities affected include: Four Oaks, Clayton, St. James, Jefferson, Lansing, Stallings, Indian Trail and those in Alamance County. Throughout its legislative journey, significant portions of this comprehensive bill received bipartisan support. The legislation helps achieve a key NCLM legislative goal of providing more revenue options for the affected cities and towns.

### **[SB 354 NC TEN](#) (Sens. Sawyer, McInnis, and Woodard)—Not Passed**

Understanding the need to continue to increase and modernize state transportation funding, legislators led by Senator Vickie Sawyer (R-Iredell) convened the NC TEN working group. The group brought together stakeholders from across the state, including League staff. The participants reviewed several potential revenue options. The work of the group led to the introduction of SB 354. The bill would raise an additional \$70 million in annual revenue for transportation projects in the state. It would accomplish this by raising registration fees on electric vehicles and hybrids from \$140.25 to \$180, removing the \$2,000 cap on the highway use tax, and enacting a new fee on ride sharing. It did not pass the Senate.

### **SB 408 Property Tax Modifications (Sens. Mofitt, Hanig, B. Newton)—Passed Senate**

SB 408, which gained Senate approval in May, proposed allowing county commissioners to delay scheduled property revaluations for this year. Such action would impact decisions made by municipalities within those counties. If county commissioners had utilized the authority outlined in the bill this year, it could have had adverse effects on municipal budget planning and potentially decrease revenues for cities and towns within those counties. Moreover, SB 408 would have extended tax exemptions to specific types of income-generating personal property linked to businesses and addresses other matters.

### **SB 581 County and City Sales Tax Exemption (Sens. McInnis, Lazzara, Sawyer)—Not Passed**

This bill called for streamlining operations for local governments by removing the need for a sales tax paperwork procedure they currently follow. Presently, local governments are obligated to pay sales tax upfront on their purchases, even though they are not liable for such taxes. They subsequently seek reimbursement from the state. This bill eliminates this cumbersome procedure by directly exempting local government purchases from sales tax. The exemption would cover items bought by a city for its internal use or acquired by contractors and subcontractors for locally funded projects.

### **SB 635 Orphan Roads (Sens. Sawyer, McInnis, and Lazzara)—Not Passed**

This bill attempted to address the thousands of roads across the state are not constructed to municipal or county standards by developers, leaving maintenance to private citizens. Those living in communities with these orphan roads often petition the local jurisdiction for acceptance into the state road network but are denied because the streets are substandard and the cost to upgrade is prohibitive. SB 635, as introduced, would establish that roads must meet the State Department of Transportation standard for possible inclusion into the State highway network and developers would need to post a bond of 20% of the construction cost to ensure the road meets the standard and transferred into the state system.

### **SB 637 STIP Grant Anticipation Notes (Sens. Sawyer, Newton, and Lazzara)—Not Passed**

This legislation called for changes to how cities could speed beneficial projects under the State Transportation Improvement Program (STIP), which is the main source of funding for transportation infrastructure across the state. The STIP provides a 10-year plan for which projects will be funded and what year funding will be made available. Legislators wanted to provide local governments the ability to bring forward these transportation projects by allowing these units to borrow money to pay for State Transportation Improvement regional impact or division need projects in anticipation of receiving the funds from the State or the federal government. A local government would enter into an expedited agreement with the state in order to receive borrow the funds and begin construction.

### **SB 671 Bifurcate Economic Distress Categorization (Sens. Sawrey, Sawyer, and McInnis)—Not Passed**

SB 671 would have changes some of the ways that the state uses economic tier rankings. The North Carolina Department of Commerce annually ranks the state's 100 counties based on economic well-being and assigns each a tier designation. Currently, the 40 most distressed counties are designated as Tier 1, the next 40 as Tier 2 and the 20 least distressed as Tier 3. Counties, and the municipalities with in them, have complained that the current tier system negatively effects counties with wide wealth disparities. Although the county may have a low tier designation, lower wealth communities within the county are prevented from accessing needed state grants. SB 671 would upend the current system by requiring most state agencies to independently develop criteria designed to achieve each program's objectives under their control. The Department of Commerce would continue to use the current tier system for economic development purposes under the bill.

## LOCAL BILLS

[HB 5 Local Changes Omnibus](#) (Rep. Paré) - In Conference; [HB 245 Raleigh Deannexation](#) (Rep. Ball) - Not Passed; [HB 267 Holly Springs Deannex/Leland Annex Moratorium](#) (Rep. Paré) - Law - SL 2023-100 effective July 13, 2023; [HB 285 Archdale No Satellite Annex. Cap/Zoo Annex.](#) (Reps. Biggs and N. Jackson) - Passed House; [HB 459 Smith Reynolds Airport Deannexation](#) (Reps. Lambeth, Zenger, and K. Hall) - Not Passed; [HB 462 City of Washington/Deannexation of Airport](#) (Rep. Kidwell) - Passed House; [SB 169 Local Omnibus Changes](#) (Sen. Jarvis) - Law - SL 2023-118 effective September 13, 2023; [SB 68/HB 57 Various Local Changes](#) (Sen. Moffitt) - Law - SL 2023-143 effective on various dates

Several local bills were filed in this year's long session aimed at de-annexation, or removing property from municipal jurisdictions, as well as legislation that challenges the planning authority of certain municipalities. [SL 2023-100](#) includes a provision that de-annexes select properties from the Holly Springs corporate limits as well as a provision that suspends the voluntary annexation authority of Leland indefinitely. In both cases, the affected towns opposed the legislative action, which grew out of local tensions over each towns' growth and development practices. [HB 459](#) and [HB 462](#) continues a trend of removing regional airports from municipal limits. Though it was noncontroversial, the bill impacting Raleigh did not pass. SL 2023-118 included clarifications to session law passed last session pertaining to satellite annexation authority in Davidson County. The bill also switched the method of Gastonia city council member elections from at-large district elections to districted ward elections. What began as an innocuous, technical correction bill, was amended late in session to include the Gastonia provision. Gastonia officials are unanimous in their opposition to the change.

The two largest local omnibus bills of the session, [HB 5](#) and [SL 2023-143](#), contain similar bill language with a few notable exceptions. [HB 5](#) originated as a noncontroversial bill aimed at Fuquay-Varina, but ended up implicating a total of 11 municipalities effecting de-annexation, extraterritorial jurisdiction and annexation authority, as well as elections changes. Most notably, the bill would de-annex nearly a thousand acres of property currently within the Town of Summerfield. The property has been the subject of an ongoing dispute between the property owner, a local developer, and the Town which has rejected multiple development proposals, catching the attention and displeasure of legislative leaders. [SL 2023-143](#) did not include the Summerfield provision but carried over provisions from other local bills that impacted Hendersonville, Flat Rock, Fletcher, Archdale, Asheboro, Hookerton, Walstonburg, Laurel Park, and Mills River.

[HB 57/SB 68 Harmony/Love Valley Election Changes](#) (Rep. Balkcom)—Law—SL 2023-98 effective July 13, 2023; [HB 152/SB 59 Even Yr Elections/Maysville & Pollocksville](#) (Rep. Humphrey)—Passed House; [HB 227 Even-Year Elections/Town of Vanceboro](#) (Rep. Tyson)—Law--SL 2023-39 effective July 12, 2023; [HB 264 Partisan Election/Muni./Haywood & Madison Cos](#) (Reps. Pless, Clampitt and Kidwell)—Passed House; [HB 334 Establish At-Large Seat/W-S City Council](#) (Rep. Lambeth)—Passed House; [SB 9 Local Omnibus Changes](#) (Sens. Adcock and Batch)—Law--SL 2023-112 effective August 17, 2023; [SB 198 Even Yr. Election/Mooresville/Graded School Dis](#) (Sen. Sawyer)—Not Passed; [SB 265 Increase Municipal Election Participation Act](#) (Sen. Moffitt)—Law—SL 2024-44 effective June 15, 2023

A few municipalities will see their elections move to even-number years, a trend that began in 2021. Harmony, Love Valley, Vanceboro, Flat Rock, Fletcher, Hendersonville, Laurel Park, Mills River, Columbus, Saluda, Tryon, Bostic, Chimney Rock, Ellenboro, Lake Lure, Ruth, Rutherfordton, and Spindale will see the election date change and have their terms adjusted accordingly. In addition, local bills that did not pass were filed affecting elections and composition of councils in Maysville, Pollocksville, Winston-Salem, and Mooresville.

Legislators used numerous procedural mechanisms to quickly amend and pass SL 2023-112 into law. The bill provides a host of controversial language. One provision changes all municipal elections in Madison County from being conducted on a nonpartisan basis, consistent with most municipalities across the state, to a partisan basis. The Madison County provision originated from [HB 264 Partisan Election/Muni./Haywood & Madison Cos.](#), which passed the House earlier this spring, but was not taken up for consideration by the Senate. It's worth noting that efforts the election changes were not supported by local officials in several cases.

**[HB 470 Greensboro/Winston-Salem Civil Service Board](#) (Reps. Zenger, Hardister, and Kyle Hall)—Passed House; [SB 9 Local Omnibus Changes](#) (Sens. Adcock and Batch)—Law—SL 2023-112**

SL 2023-112 amends the charters of Greensboro and Winston-Salem to establish a Civil Service Board in each municipalities. The boards are charged with establishing labor rulemaking for the employees of both municipalities. Those rules will include employee suspension for the purpose of discipline with or without pay for up to 90 days, or the discharge or reduction in rank or compensation after the employee has had a hearing before the board. The boards will be made up of two members selected by the city council, two members nominated by the employees, and one selected by the board. Cities opposed these measures because they will disrupt the chain of command in police and fire departments, making it more difficult to discipline employees, including police officers accused of excessive use of force. These types of measures have been pushed by police and firefighter unions.

**[SB 86 Asheville Local Option Sales Tax for Transit](#) (Sen. Mayfield)—Not Passed; [SB 204 Hendersonville Local Option Sales Tax](#) (Sen. Moffitt)—Not Passed; [SB 205 Rutherfordton Local Option Sales Tax](#) (Moffitt)—Not Passed**

During this session, a few bills were presented aiming to introduce a local sales tax option. All bills in this category proposed an additional one-quarter percent sales and use tax, alongside existing State or local sales and use taxes mandated by law. Asheville's bill would have directed funding toward enhancing public transportation, while Hendersonville and Rutherfordton's bills focus on funding public safety, economic development, and public facilities. The bills received no action.

**[SB 143 Pinehurst - Limit Commercial Devel. Moratoria](#) (Sen. McInnis)—Passed Senate**

This legislation came in response to commercial development moratoriums initiated by the Village of Pinehurst council as it worked to reach a consensus on plans regulating growth in the community. The measure would end the moratoriums and prevent the village from pausing development in the village for five years. It would also increase the public hearing requirements for future commercial development moratoria in Pinehurst, requiring the Village Council to hold a total of four public hearings.

# ○ GENERAL GOVERNMENT

## [HB 130 Energy Choice/Solar Decommissioning Rqmts](#) (Reps. Arp, Saine, Wray, Miller)—Law—SL 2023-58 effective immediately

The House introduced this bill that was eventually approved by both chambers after some opposition along the way. This bill prevents cities from enacting ordinances that prohibit or effectively prevent stopping individuals or end-users from connecting, modifying, expanding, or reconnecting to an energy service based on the type or source of energy they want to use. This means energy sources like natural gas, renewable gas, hydrogen, etc., for activities like lighting, heating, cooling, operating equipment, and using appliances. The bill also prevents cities from making ordinances that forbid the sale, purchase, or installation of appliances used for cooking, space heating, water heating, or other similar activities. No cities in North Carolina appear to have taken such action, and local authority to take such steps was considered legally questionable under existing law. However, the bill is so-called model legislation that has been considered in many states.

## [HB 140 Civilian Traffic Investigators](#) (Reps Faircloth, Hardister, Lamberth and Ross)—Law—SL 2023-52 effective when it becomes laws; [SB 251 Civilian Traffic Investigators](#) (Sens Lee and Mayfield)—Not Passed; [SB 77 Cities/Civilian Traffic Investigators](#) (Sens Lowe)—Not Passed; [SB 117 Expand Use of Civilian Traffic Investigators](#) (Sens Lee and Mayfield)—Not Passed; [SB 213 Greensboro/Civilian Traffic Investigators](#) (Sen Johnson)—Passed House

The ability for cities to use civilian traffic investigators appeared in a series of bills this session. Some local bills targeted specific cities for creation or expansion of civilian traffic investigators, while others aimed to allow civilian traffic investigators statewide. After much back and forth surrounding the extent of authority for civilian investigators and other details, the legislature passed, and the Governor signed into law, HB 140, now SL-2023-52. NCLM and the NC Association of Police Chiefs support the new law, recognizing that the use of civilian traffic investigators will reduce the workload on police officers.

Pursuant to the new law, cities across the state can employ civilian investigators to respond to traffic accidents that involve property damage only. The North Carolina Justice Academy (NCAJ) will develop statewide training program to be made available to all civilian traffic investigators. Each city must establish minimum standards for employment as an investigator, and each investigator must attend the NCAJ training, as well as complete four weeks of field training with a law enforcement officer who has experiencing with crash investigations.

## [HB 378 Firefighters Criminal History Records Checks](#) (Reps. Blackwell, Saine, Torbett, and Riddell)—Law—SL 2023-104; [SB 381 Fire Invest'n Law/Backgrd. Check Revisions](#) (Sens. Johnson, Sawyer, and Britt)—Not Passed; [SB 326 Firefighter Cancer Ins/Alt Crim Rec Check](#) (Sens. Johnson, Perry, and Barnes)—Passed House

In 2022 the Legislature passed, as part of S.L. 2022-8, a requirement for a criminal history record check for all applicants for paid or volunteer positions with a fire department. Legislators have been grappling with how to address numerous issues that have arisen. Several bills were introduced this session to make the needed changes, ultimately HB 378 passed the House and Senate and was signed by the Governor, becoming S.L. 2023-104. The law allows an alternative statewide criminal history record check for applicants being offered a position with a fire department to be conducted through the North Carolina Department of Public Safety, a third-party vendor, or the clerk of court. These changes provide more flexibility to municipal departments complying with the background check requirements, specifically ensuring that only individuals who will be offered a position in the department will need a criminal background check, instead of all applicants.

### **[HB 445 Open Meeting Changes](#) (Reps Winslow, Watford, Moss, and Cairns)—Not Passed**

Remote meetings were integral to local government operations during state of emergency for the COVID-19 pandemic. This bill expands options for remote meetings by authorizing a public body to hold a remote meeting if a member of the body is unable to attend in person because of a health condition or other unexpected circumstance.

### **[HB 458 Eminent Domain](#) (Reps. Riddell, Hall, Arp, and Tyson)—Not Passed**

The bill would have placed a constitutional amendment on the ballot during the 2024 general election that, if approved by voters, would place limitations on eminent domain. Specifically, the bill would limit the power of eminent domain to public use only. Under current law, entities with eminent domain authority can condemn property for both public use or benefit. The bill also expands who has the condemnation authority to include communication facilities, previously specified telegraphs and telephones, and facilities related to the distribution of natural gas.

### **[HB 551/SB 553 Landlord-Tenant and HOA Changes](#) (Reps Bradford, Hardister, and K. Hall; Sens Perry, Craven, and Moffitt)—Passed House**

This bill preempts local governments from enacting or enforcing ordinances that prohibit owners, or any person with the right to lease or sublease property, from refusing to rent to tenants because of the tenant's source of income. The bill would also require tenants with service animals to obtain written statement from a healthcare professional verifying their disability and need for the service animal. The bill passed the House but had not moved in the Senate.

### **[HB 588/SB 548 Heirs Property Study](#) (Reps K. Hall, White, and Reives; Sens Sawrey and Lowe)—Passed House**

The Heirs Property Act was a top legislative goal of city officials. The bill, as originally introduced, would modify the procedure for partitioning and selling such properties to better balance the interest of all heirs. Once the properties are partitioned and/or sold, the potential rises for them to be occupied again, satisfying a key legislative goal of city officials this session to revitalize vacant and abandoned property and help address local housing needs. The bill was passed out of the House as a study bill, and now directs the Legislative Research Commission to study whether the Uniform Partition of Heirs Property should be enacted.

### **[HB 589 Protect Whistleblower LEOs from Retaliation](#) (Reps. Zenger, Hardister, Brown, and Cotham)—Not Passed; [SB 534 Protect Whistleblower LEOs from Retaliation](#) (Sens. Hanig and Corbin)—Not Passed**

The measure would grant job protections to law enforcement officers when they make a wide variety of whistleblower complaints. The bill is backed by law enforcement unions and would undercut the ability of departments to manage personnel in an effective way to safeguard the public. Specifically, law enforcement officers could not be terminated, disciplined, or otherwise retaliated against for making a report pursuant to a violation regarding; violations of federal, State, city, or county laws, ordinances, or regulations, fraud, misappropriation of State, city, or county government resources, activity that poses a substantial danger to public health and safety, gross mismanagement, including the gross waste of public monies or the gross abuse of authority, and unauthorized use of force.

The League joined other stakeholders in a letter to legislators outlining numerous concerns with the proposal, including the breadth of the prohibitions and the lack of clear definitions. At the heart of those concerns is that officers facing potential disciplinary actions could start a whistleblower complaint designed to thwart an adverse employment decision.

### **[HB 632 Rural Broadband Transformation Act \(Reps. Reives, Crawford, Smith, and Jeffers\)—Not Passed](#)**

Following several sessions where legislators focused on expanding broadband access across the state, this session there was little legislative work on broadband. In 2021, the U.S. Congress passed, and the President signed, the Infrastructure Investment and Jobs Act (P.L. 117-58), which included tens of billions of dollars from broadband infrastructure. The allocation and deployment of these dollars to the individual states will take several years, including the \$1.5 billion slated for North Carolina. House Democrats, under the leadership of Minority Leader Reives, introduced HB 632 as an omnibus broadband bill to provide the minority's preferred framework for both existing and future broadband dollars. Under the proposal the threshold for what constitutes broadband would be increased making more areas of the state eligible. Further, the bill would grant cities authority to install or maintain broadband infrastructure to be leased to a private provider, which would allow municipalities to better assist the private sector to provide high quality service to their citizens. The legislation was not acted on.

### **[HB 633 Shine Like Hailey Parade Safety Act \(Reps. Sossamon and Winslow\)—Passed House; \[SB 731 Shine Like Hailey Parade Safety Act \\(Sen. Bode\\)—Not Passed\]\(#\)](#)**

Following the tragic death of Hailey Brooks at the 2022 Raleigh Christmas Parade, legislators introduced legislation to require permitting for parade operators and participants. As passed by the House, for municipalities with a population of 35,000 or more, a person would be prohibited from conducting a parade unless a permit is obtained from the city. The city must ensure that the police department or fire department inspects each motor vehicle for safety and verifies that the motor vehicle is registered and insured. Further the city must verify that operators of motor vehicles participating are at least 25 years of age and have valid driver's licenses.

### **[HB 867 Crisis Intervention Training LEO Grants \(Sens Cunningham, Pyrtle, Miller, C. Smith\)— Not Passed](#)**

This legislation called for appropriating \$5 million in recurring funds to the Department of Public Safety to provide grants to local governments to fund crisis intervention training. Local governments can be awarded no more than \$50,000 in a calendar year and may use their grant dollars to train law enforcement officers, paramedics, emergency telecommunicators, medical dispatchers, and firefighters.

### **[SB 83 No High Risk Apps/Gov't Networks & Devices \(Sens. Moffitt, Perry, and Hanig\)—Passed Senate](#)**

Following both public and governmental concern about Chinese influence on social media networks, including Tik Tok, legislators introduced legislation to limit state and local government employees' ability to use certain applications on publicly owned devices. Under the bill that passed the Senate, employees of local governments would no longer be able to use certain popular social media platforms such as Tik Tok, Telegram and WeChat, on their employers' networks and devices. Both local and state government employees would be covered by the bill and would be required to adopt a policy that governs the use of its network and of high-risk platforms on devices that are provided to employees.

### **[SB 254 Government Transparency Act of 2023 \(Sens Sanderson, Rabon, and Meyer\)—Not Passed](#)**

This bill is one of several introduced that aimed to increase transparency in government operations. It would make public record of the general description for the reasons of each demotion, transfer, dismissal, suspension, separation, or other change in position classification of a state or local government employee. The list of employees would include water and sewer authorities, public hospitals, sheriffs, boards of education, and register of deeds. Employers would be required to adopt personnel policies that give employees an opportunity to review the general description of any promotion, demotion, transfer, suspension, separation, or dismissal.

### **SB 325 Limit Online Marketplace Regulations (Sens. Perry, Lazzara, Moffitt)—Passed Senate**

This measure, requested by online short-term rental company AirBnB, would preempt certain local regulation of online marketplaces. Specifically, the preemption would apply to platforms that facilitate online activities involving a fee. Under the language of the bill, a city or county could not regulate the operation of these platforms or require them to provide personally identifiable information of users. An exception to the user information condition would exist in the case of a subpoena or court order. After passing the Senate, the language from this bill was picked up for inclusion in the annual regulatory reform bill, [HB 600 Regulatory Reform Act of 2023](#).

### **SB 538 Law Enforcement Investment Act (Sens. Batch, Garrett, and Applewhite)—Not Passed**

This bill is another attempt to increase resources for local law enforcement agencies, many of which are understaffed and under-resourced. Notably, this bill expands the Criminal Justice Fellows Program so that students in all 100 counties are eligible to participate in the program providing they satisfy other program criteria. The program grants a forgivable loan to students who enroll in a North Carolina community college and receive an Associates in Criminal Justice, or another approved field of study, and work in a criminal justice profession in an eligible county in North Carolina for four years. The expansion of the Criminal Justice Fellows program is another tool that local law enforcement officers can leverage to recruit law enforcement officers. This bill also appropriates funding to the Department of Justice and to the North Carolina Justice Academy to provide grants for Crisis Intervention Team training and to create more opportunities for law enforcement agencies to attend in-person and online courses and trainings, respectively.

### **SB 678 Clean Energy/Other Changes (Sens. P. Newton, B. Newton, Craven)—Passed Senate and House (House changes pending in the Senate)**

Relinquishing control of public enterprise systems would be subject to oversight by the Local Government Commission (LGC) under Section 6 of SB 678. The language, added to SB 678 late in the legislative session at the request of the Office of the State Treasurer, would require the LGC to sign off on certain agreements between a public enterprise system, such as a water or electric system, and a private provider. The types of agreements that would trigger this oversight range from concessionaire agreements—where a non-governmental entity bears responsibility for running or maintaining the system—to agreements that would give a non-governmental entity the authority to spend more than half of the system's revenues in a year. The bill now awaits a Senate concurrence vote on whether or not to accept the House's changes to the bill.

Another change made late in the legislative session would prohibit local governments from entering into a nondisclosure agreement to restrict access to public records that are subject to disclosure under the Public Records Act. The amendment also makes public record those contracts where local governments agree to not disclose confidential information, unless it would also be confidential under state law, and requires nondisclosure agreements associated with closed session meetings of public bodies to be included in the meeting minutes.

# PLANNING & LAND USE

## [HB 54 Make North Carolina Home Act of 2023](#) (Rep. Moss)—Not Passed

The bill would require modest changes by state agencies regarding the building code, local development regulations, and residential site selection. First, it required the North Carolina Building Code be printed in English and translated into Spanish. The measure also required the NC Department of Commerce to establish and maintain a public website to track all local planning, zoning, and land-use regulations to aid prospective developers and increase transparency. The bill did not gain any momentum and was not considered.

## [HB 132 Govt. Agencies/Delivery of Permits](#) (Reps. Crutchfield, Bradford, and Tyson)—Passed House

This bill passed by the House would require each executive branch, county and city agency to establish a policy requiring that any permits be delivered to the permittee by either U.S. Mail, electronic mail, or in person, at the discretion of permittee. While this bill may lead to complications for municipalities if it were to become law, the bill specifically states that the bill would not affect the application process for any permit.

## [HB 252 Multijurisdictional Property](#) (Reps. Winslow, Brody, Tyson and Zenger)—Passed House; [SB 365 Development Regulations/Multijurisdiction](#) (Sens. Jarvis, Johnson and Moffitt)—Not Passed

With these bills, legislators sought to clarify how land that lies within the planning and development jurisdiction of more than local government may be regulated. Though the bills are similar, only HB 252 gained enough traction to pass its respective chamber. The bill would authorize a property owner to designate which local government's planning and development regulations apply if no mutual agreement already exists. Further, the property owner would be permitted to enter into agreements with the designated local government, or others, for services such as utilities. As House legislators considered the bill, city officials expressed concerns that the changes would enable incompatible development patterns in communities across the state.

## [HB 332/SB 275 Streamline Comm./Multifam. Bldg. Plan Review](#) (Reps. Zenger, Johnson, Tyson and Potts; Sens. Jarvis, Moffitt and McInnis) - Passed House; [SB 677 Surveyors Right of Entry/Exped. Comm. Bldg.](#) (Sens. Jarvis and McInnis) - Law - SL 2023-142 effective July 1, 2024

Again this session, the House passed a bill that would impose a 21-business day shot clock on local building inspections departments to review and sign off on commercial building plans, with 10 more business days given in cases where the local government sought more information from the applicant. If a local government could not meet the deadlines, the bill would allow applicants to utilize a private, third party or a state-hired inspector to review the project's building plans and give it the go-ahead.

In a bout of legislative maneuvering late in session, a new version of the shot clock bill, referenced above, was introduced in a proposed committee substitute (PCS) for [SB 677 Surveyors Right of Entry/Exped. Comm. Bldg.](#) during a House Rules committee meeting. Section 2 of the session law outlines significant changes to commercial plan review processes which include:

- Requires local inspection departments to offer “pre-submittal meetings” for prospective building permit applicants.
- Imposes a 45-day “shot clock” on local building inspections departments to review and sign off on commercial building plans, with 10 more days given in cases where the local government sought more information from the applicant. A local government may issue a building permit decision within 60 days if a local government issues an at-risk building permit.
- Allows applicants to utilize a private, third party or a state-hired inspector to complete commercial building plan review.

- Establishes a formal process for permitting “at-risk building permits” where applicants have not yet met other local, state, or federal agency requirements, but wishes to begin building foundation or building structure construction. Local governments and inspection departments are discharged and released from any liabilities, duties, and responsibilities imposed by these changes.
- Prohibits local governments from denying a draft erosion and sedimentation control plan based solely upon the applicant’s need to obtain other development approvals for the project.

Bill sponsors have been interested in speeding local building plan review for several years. Throughout the public discussions of HB 332, League representatives sought changes and improvements to make the reforms workable for local officials while addressing the concerns raised by bill sponsors. Changes presented in SL 2023-142 offered a more moderate approach to the reforms.

**[HB 409/SB 374 Regulation of Accessory Dwelling Units](#) (Reps Winslow, Alston, Tyson, and G. Brown; Sens Moffit and Mayfield)—Passed House**

This bill, in effort to increase housing stock, preempts local government authority to regulate Accessory Dwelling Units (ADUs), effectively nullifying many existing local ADU ordinances. In its current form, this bill requires local governments to allow at least one ADU on any single-family parcel in the state that is not subject to HOA covenants. There are few restrictions on the structures themselves and local governments would be precluded from leveraging traditional local controls to ensure housing affordability and safety. Of significant concern for cities is the prospect that ADUs will be built and used and short-term rental properties, further exaggerating the housing crisis that is overwhelming many cities across the state.

**[HB 488/SB 278 Code Council Reorg. and Var. Code Amend](#) (Reps. Brody, D. Hall, Cotham and Riddell; Sens. Jarvis, Moffitt and Perry)—Law—SL 2023-108 effective August 16, 2023**

This omnibus development industry bill saw some opposition from various interest groups. The legislation reorganizes the North Carolina Building Code by separating the Residential Building Code into its own code volume and establishes a new council to govern the residential code, in addition to several changes to the code and other land development regulations.

At the behest of the development community, the bill made changes to the fee structure cities may employ for review of erosion and sedimentation control plans. It limits the fee to no more than \$100 per lot developed for single family lots less than one acre. Additionally, the bill requires the North Carolina Department of Environmental Quality to examine ways to consolidate sedimentation control permits into one universal application. The Legislature also limited municipality’s ability to force connection to water and sewer systems by requiring that the system have capacity available to service the property. Finally, the bill would prohibit requiring payments to a municipality from a landowner for future maintenance of private stormwater control measures. However, local storm water programs can require a stormwater maintenance guarantee of 10% of the project’s original cost, to be held in escrow by the landowner for up to five years.

Other less controversial provisions affecting cities included an amendment to the Residential Building Code to include three-family (triplex) and four-family (quadplex) dwellings (section 9), the prohibition of sheathing inspection requirements for structures subject to the residential code in areas subject to wind speed requirements below 140 mph (section 4), and the prohibition of local governments from requiring local pavement design standards that are more stringent than minimum standards set forth by NCDOT for private roads in new developments. The provision also requires that local governments must accept engineered pavement design standards, even if they do not meet NCDOT minimum standards. The developer must include disclosures to prospective buyers prior to entering into any agreement or any conveyance with any prospective buyer (section 3).

### **[HB 537 Workforce Housing Act](#) (Reps. Zenger, Biggs, Lowery and Fontenot)—Not Passed**

Among the numerous bills filed this session to address the housing crisis, this proposal did not garner enough support to advance through the House. The bill included some preemption by requiring local governments to permit multifamily housing in all business zoning districts and would have prohibited the regulation of building design elements for such housing. The bill included authorization for state and local governments to sell or lease property at less than market value to entities aimed at developing affordable housing, defined in the bill as for household incomes below 80% area median income (AMI). Additionally, the legislation would have established a revolving fund in the North Carolina Housing Finance Agency and appropriated \$35 million in recurring funds for the Workforce Housing Loan Program.

### **[HB 562 Addressing the Workforce Housing Crisis](#) (Reps. Bradford, Zenger, Clemmons)—Not Passed; [SB 317 Addressing the Workforce Housing Crisis](#) (Sens. P. Newton, Moffitt, Lowe)—Not Passed**

The increasing lack of housing available at prices affordable to most people received more attention than ever this legislative session, with this pair of identical bills representing the most wide-ranging proposal offered up. Backed by the NC Home Builders Association, it would establish a statewide mandate to create “workforce housing developments” that would not be subject to local planning and zoning regulations. It was proposed as a solution to improve housing affordability. In response, local officials from around the state expressed many concerns, pointing out that the legislation did not represent the kind of comprehensive solution that would truly make housing more affordable. The force of their objections prevented the bills from receiving a committee hearing or vote.

The proposal would have created these workforce housing developments by setting aside a percentage of them for buyers making less than the average median income (AMI). Specifically, 20 percent of the development would be designated as workforce housing, with half of that, or 10 percent of the total, sold to owner-occupants making up to 80 percent of the federally published area median income (AMI). The remainder of the 20 percent of the designated workforce housing would have gone to owner-occupants earning up to 100 percent AMI. Those owner-income limitations would last for one year under the proposal, at which time the income limitations would be lifted.

The measure also proposed a shot clock for preliminary site plan review, requiring a decision on workforce housing projects within 60 days of the application. Local governments would have also been compelled to provide water and sewer hookups without fees, unless the system was at capacity, or the existing infrastructure was more than 3 miles away. In a bipartisan showing, nearly two-thirds of the state Senate signed up as a primary sponsor or co-sponsor for the bill.

### **[HB 893 Private Commercial Building Inspection](#) (Reps. Brody, B. Jones, Pyrtle and Hardister) - Passed House**

Privatization of building inspections, as contained in HB 893, would represent a major policy change for North Carolina. Under the bill, developers and contractors would have the option of choosing a private building inspector for commercial projects. Local government inspections departments would be released from all liability and would only be responsible for issuing a final certificate of occupancy. In a significant change from the original version, Section 4 of the bill includes provisions from HB 332/SB 275 Streamline Comm./Multifam. Bldg. Plan Review., which would impose a 21-business day “shot clock” on local building inspections departments to review and sign off on commercial building plans, with 10 more business days given in cases where the local government sought more information from the applicant. Applicants would also be authorized to utilize a private, third party or a state-hired inspector to review and sign off on the project’s building plans. Concerns expressed by legislators during public discussion mirrored those of city officials, including the potential for compromises to public safety and a lack of transparency and legal accountability on the part of the private inspectors. The bill passed the House and crossed over to the Senate where it did not advance.

**[SB 290 Short Term Rentals](#) (Sen. Sawyer)—Not Passed; [SB 667 Regulation of Short-Term Rentals](#) (Sens. Moffitt and Hanig)—Not Passed**

While receiving much less attention than in previous sessions, a couple of bills addressing short-term rentals, such as Airbnb, were filed this year. SB 290 considered a narrow issue related to short-term rentals, unrelated to local regulation of the use. The bill would reinforce local authority to enforce occupancy limits for vacation rental properties, ensuring that local governments can enforce ordinances related to the maximum occupancy of these properties. It also would place further obligations on landlords and realtors who rent vacation properties, requiring them to accurately represent the number of bedrooms and bathrooms and to not rent to tenants that would exceed the maximum number of persons allowed in that property.

Senators also filed SB 667, which would broadly prohibit municipalities from regulating short-term rentals in their communities and classify short-term rentals as a residential use. The bill would allow cities the option to require operators to obtain a permit that may limit the number of occupants and occupant vehicles. The bill also provides that the short-term rental operator, or an authorized agent, must be within a 50-mile radius of the unit while it is being occupied.

**[SB 515 Water and Sewer Affordability Act](#) (Sens. Sawyer, Perry, Lazzara)—Passed Senate**

As filed, SB 515 appeared to cap the ability of local officials to set water rates for outside customers. However, following negotiations between League staff and the bill sponsors, an updated version passed the Senate that would instead simply mandate a local governing board to hold a public hearing when setting outside rates. Specifically, the public hearing would have been required only if the governing board was proposing to increase water or sewer rates on out-of-city customers more than 25 percent above those paid by customers within city limits. In those circumstances, the board would be required to “explain how the rates, fees, and charges for customers outside its boundaries were determined.”

**[SB 549 Development Moratoria/Transportation Projects](#) (Sen. Sawyer)—Passed Senate**

This bill would affect local government’s role in transportation-related development moratoria. Local governments have existing authority to place temporary moratorium on development under certain circumstances. Moratoriums must be reasonable in duration and may not extend beyond the time needed to address the condition warranting its imposition. For transportation projects, the timeline needed for project planning, acquisition of property, and actual construction can extend for years. While transportation-related moratoria are implemented at the local level, the need for them comes from the NC Department of Transportation. Senate Bill 549 would provide that where a local government renews or extends a development moratorium to address DOT projects, instead of the information currently required, the moratorium ordinance shall provide current information on the status of the DOT projects and include any available timeline for completion.

### **SB 675 Land Use Clarification and Changes (Sens. Lee, Craven, Galey) – Passed Senate**

City officials activated in a significant way upon the filing of SB 675, which in its original form would have eliminated all municipal extra-territorial jurisdiction (ETJ) in the state. Cities and towns utilize ETJ authority to apply their planning and zoning codes in areas immediately adjacent to town limits. Therefore, ETJ authority represents an essential growth management tool for cities, which objected forcefully to this proposal.

The voice of municipal officials proved effective, and the bill received numerous modifications as it moved through the Senate. One of the first modifications limited the ETJ roll-back to cities in counties of less than 50,000 in population. Another modification removed several other problematic land-use provisions that had been included in early drafts of the bill. Those provisions would have mandated minimum lot size standards of five homes per acre for residential zoning districts and loosened open space requirements for residential development.

Despite the lessened impact, the version of SB 675 that passed the Senate still affected all cities with ETJs to some degree. In addition to eliminating the authority for those cities in low-population counties, it would freeze in place all current ETJ boundaries (Section 3.2(a)). And for those cities with local acts regarding ETJ authority, those local acts would be repealed under the proposal (Section 3.1(w)).

### **SB 712/HB 320 Create Bldg Code Permit Tech. Cert (Sen. Jarvis; Reps. von Haefen and Brody)—Not Passed**

This measure sought to establish a State Building Code Permit Technician certificate program consisting of education, professional development, and a certification exam. Permit Technicians are common among Inspections Departments across the state, often with the responsibility to process building permits and calculate fees. Legislators remain interested in standardizing building permit processes, and this bill aimed at the furtherance of that goal.

# ENVIRONMENT & UTILITIES

## [HB 177 DEQ Omnibus-AB](#) (Reps. Hall and Iler)—Passed House

This bill makes several changes to programs and operations of the North Carolina Department of Environmental Quality (DEQ). Of specific interest to municipalities were two provisions that would codify the Local Assistance for Stormwater Infrastructure Investments (LASHII) fund and make changes to the Viable Utility Reserve (VUR) grant program.

The 2021 Appropriation Act (S.L. 2021-180) directed DEQ to establish LASHII to provide grants to improve or create infrastructure for controlling stormwater quantity and quality. HB 177 would codify the program as an account within the Water Infrastructure Fund. Separately, HB 177 would remove the current three-year cap on emergency VUR grants. VUR emergency grants are available to cover operating deficits for public utilities owned and operated by local governments.

## [HB 266 Local Governments/System Development Fees](#) (Rep. Baker)—Not Passed; [SB 163 Local Governments/System Development Fees](#) (Sen. Lowe)—Not Passed

The proposals put forward in HB 266 and SB 163 would allow local governments to exempt affordable housing parcels from system development fees, used to help fund water and wastewater capital projects. The sponsors believe this exemption would reduce the costs to developers and spur more development. However, regardless of the purpose of a development, the local government must have the resources available to deploy appropriate water and sewer infrastructure. The measures did not receive any action.

## [HB 511 Enhance Urban Stormwater Management](#) (Reps. Loftis, Blackwell, and Brown)—Not Passed

The General Assembly, over the last decade, has placed limits on local governments' ability to require private property owners to install new or increased stormwater controls for preexisting development or redevelopment. HB 511 would limit the existing prohibition to cover only "small scale residential development," allowing local governments to require better stormwater controls when an area is redeveloped. This proposal would provide municipalities the needed authority to ensure the redevelopment of a property includes adequate stormwater controls to limit runoff and flooding risks.

## [HB 571 Discharge of Highly Treated Wastewater](#) (Reps. Arp, Brody, Hall, and Crutchfield)—Not Passed; [HB 259 2023 Appropriations Act \(Section 12.9\)](#) (Reps. Lambeth, Saine, and Arp) - Law - SL 2023-134

The federal Clean Water Act requires that any discharge into a regulated waterway must obtain a National Pollution Discharge Elimination System (NPDES) permit, which are administered by the North Carolina Department of Environmental Quality (DEQ). This legislation directs DEQ to permit the discharge of highly treated wastewater into low flow or no flow waterways. It also places requirements on what constitutes high treated and limitations on the quantity of the discharge. The original bill did not pass but was incorporated into a state budget bill provision.

## [HB 579 Sedimentation Act & Other Env'l. Changes](#) (Reps. Brody, Saine, Zenger, and Jackson)—Passed House

HB 579 would prohibit approved local program requirements from exceeding the requirements for stormwater discharges from construction activities set forth under state law. Additionally, it would require approved local programs to issue a NCG01 permit, in lieu of a land disturbance permit or other permit or certification. A local program would be authorized to charge a fee for the issuance of a NCG01 permit. The

bill provides a fee option to the applicant either calculated based on the number of acres disturbed or no more than \$100.00 per single family lot that is less than one acre, including such a lot that is part of a larger common plan of development.

The implications of this bill would be far reaching, as it would eliminate erosion and sedimentation control (ESC) plan approvals by state and local programs. There are 55 cities and counties that currently have locally delegated ESC programs. Local programs processed roughly 5800 plan approvals last year, while the state processed only about 3500. To implement the NCGO1 construction stormwater permit mandate, the state would need to update NCGO1 to meet federal requirements if ESC programs were eliminated. This would lead to more complexity compared to the current process and likely additional requirements that are currently avoided because of the state and delegated programs.

Finally, the bill's fee cap will lead to a substantial reduction in revenue for state and local programs. With the elimination of local authority beyond the NCGO1 permits and reduction in fee, many local authorities will close their doors. When this occurs, the time to process permits by a reduced state workforce will dramatically increase the time to process permits. This legislation did pass the House, but has not moved in the Senate.

**[HB 600 Regulatory Reform Act of 2023](#) (Reps. Riddell, Zenger, Brody, and Chesser) - Law - SL 2023-137;**

**[SB 686 Regulatory Reform Act of 2023](#) (Sens. Sanderson, Johnson, and Woodard) - Not Passed**

The perennial regulatory reform bill is a magnet for a broad cross section policy from legislators. This omnibus bill moved between committees in various forms. Municipal leaders raised concerns about various provisions that have been included at different times, but have been amended or removed. These included policy changes to vegetative buffers and stormwater programs, among others. Provisions included in the bill that will impact cities include:

1. Eliminating the requirement that a property owner treat all stormwater from preexisting development or redevelopment activities to exceed allowable density under the applicable water supply watershed rules; and require that the property owner treat the increase in stormwater resulting from the net increase in built upon areas, to exceed allowable density under the applicable water supply watershed rules.
2. Making changes to stormwater rules including removing DOT rights-of-way from surface calculations, changes when additional controls are needed during redevelopment, and taking existing controls into account when determining stormwater fees.
3. Prohibiting the sale of offsets from municipal nutrient banks.
4. Lowering design daily flow rate from 120 gallons per bedroom to 75 gallons providing for more paper capacity and ability to allow more development.
5. Prohibiting local government zoning and development regulations from requiring additional entrances into a residential subdivision.
6. Prohibiting local governments from regulating online marketplaces.
7. A last-minute insertion to require public water systems to provide water service to charter schools upon request, unless the water system does not have capacity or is under a service moratorium.

**[HB 628 Amend On-Site Wastewater/Environment Statutes](#) (Reps. Brody, Dahle, Jackson, and Cairns)—Law  
—SL 2023-90**

S.L. 2023-90 limits municipal authority to compel connections to water or sewer. Specifically, a city cannot require connection if there is inadequate wastewater capacity or if the cost of connection exceeds the cost of installing an on-site wastewater system. Further, a city cannot require a property owner to connect to a city's water system if adequate water pressure cannot be achieved using the same piping size as the meter provides to the owner's premises.

**[HB 864 PFAS Pollution and Polluter Liability](#) (Reps. Davis and Iler)—Not Passed**

This bill would require the state to establish maximum containment levels for PFAS compounds. Further, HB 864 would require manufacturers of PFAS who pollute local water supplies to reimburse affected systems for the costs incurred to remediate PFAS contamination. The bill received a hearing during the Short Session but did not advance further. Thousands of rate payers across Southeast North Carolina were impacted by PFAS contamination in the Cape Fear River and surrounding areas. This bill was an important step by Legislators in recognizing that those responsible for the pollution should be held financially responsible for clean-up, and water systems and rate payers should be repaid the expenses incurred already. However, it was not passed out of its originating chamber.

**[SB 166 Backflow Preventers/Local Auth](#) (Sens. Krawiec, Jarvis, and Lowe)—Passed Senate**

SB 166 as originally introduced would have had catastrophic consequences on the finances of local water and sewer systems. The bill would have required cities to incur the potentially large cost of all newly adopted state and federal rules for customers who previously connected or obtained approval to connect to the water system. As the bill progressed through the Senate, improvements were made to limit but not completely eliminate the negative implications. The provision as passed by the Senate allows for local governments to require installation of backflow preventers only when there is a severe hazard determination or for certain retrofits of customer's plumbing. Backflow preventers are essential components of water and wastewater systems that ensure chemicals and other unhealthy matter does not contaminate the water supply. Limitations on municipalities' ability to require property owners to pay for backflow preventers will increase costs on other ratepayers or raise the chance of contamination.

**[SB 350 Safe Drinking Water Act](#) (Sens. Meyer and Smith)—Not Passed; [HB 610 Safe Drinking Water Act](#) (Reps. Clemmons, Reives, Cervania, and Prather)—Not Passed**

Federal and state lawmakers have grappled with how to adequately respond to the number of cases of perfluorinated substances. North Carolina continues to deal with the effects of the Chemours GenX spill that effected numerous communities along the Cape Fear River. SB 350 would require the Committee for Public Health to undertake rulemaking to establish maximum containment levels (MCLs) under the North Carolina Clean Water Act for potential unhealth chemicals. The bill specifically requires MCLs for PFAS, PFOA, PFOS, chromium-6, and 1,4-Dioxane. The U.S. Environmental Protection Agency has begun work on federal MCLs for several PFAS chemicals and it is unlikely the General Assembly will look to establish state level rules prior to the federal rules being finalized.

**[SB 673 Wastewater Regulatory Relief Act](#) (Sens. P. Newton, Sawrey, Lazzara)—Law—SL 2023-55 effective June 15, 2023**

In a close to unanimous vote, state legislators passed policies in SB 673 that granted local governments much needed authority to manage their water systems in the face of growth and regionalization. With Governor Cooper’s signature making the bill law, local water systems now have more flexibility on wastewater capacity and system development fees. The bill, supported by city officials, contained two important updates to the state’s public enterprise laws. The first modified state rules for calculating a system’s capacity to treat wastewater. When utilized, these new calculations will allow plants to accept more wastewater flow than under current rules, helping fast-growing areas of the state accommodate growth while at the same time planning for future needed wastewater upgrades. The second provision was a system development fee (SDF) statutory change negotiated by the League, NC Association of County Commissioners, and the NC Home Builders Association. The changes to that statute enabled regional water system partnerships by providing additional assurances that charging SDFs in those circumstances was legal.

**[SB 684 Stormwater Program Revisions](#) (Sens. Lee, Jarvis, and Perry)—Not Passed**

This bill would have placed shot clocks on the approval of stormwater permits by the North Carolina Department of Environmental Quality (DEQ) and allow applicants to choose who will review stormwater permits, including local governments with their jurisdiction. These “delegated” local government programs would follow the same time restrictions for review and issuance of those stormwater permits as the bill applied to DEQ. Frustration has grown with DEQ about delays for stormwater permits that have lengthened the timeline to complete various infrastructure projects. DEQ has argued for years that the delays are directly attributable to their level of state funding and inability to hire and retain staff. This legislation represented an agreement between legislators and DEQ. In exchange for expedited review of permits and shot clocks, SB 684 would increase several fees paid by permit applicants and uses the proceeds to bolster DEQ’s budget to allow the agency to hire additional staff to process applications.



# APPENDIX I

NCLM Government Affairs Team

WORKING AS ONE. ADVANCING ALL.

# NCLM GOVERNMENT AFFAIRS TEAM

The League's Government Affairs Team embodies the organization's ideal of "Working as one. Advancing all." We are working on your behalf to ensure that the concerns of all of North Carolina's cities and towns are represented at the North Carolina General Assembly, and wherever public policy affects the state's municipalities. If you have any questions, please do not hesitate to contact any team member.

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