



# End of Session Bulletin

## 2019 Legislative Long Session

Content current as of August 31, 2019

## Fellow Municipal Officials of North Carolina,

The 2019 long session of the North Carolina General Assembly kicked off with new dynamics — the Republican supermajority had broken in the preceding election, giving fresh negotiating power to the minority party and insulation to Gov. Roy Cooper’s vetoes. Bills that might have had a fast track before experienced a more critical process this time, and perhaps the biggest-ticket item of all — the state budget, which Governor Cooper vetoed and returned to the legislature — remained frozen in disagreement as of this writing.

But amid the change of pace were results, including the 150+ bills Governor Cooper received from the General Assembly and signed into law. The overall stream of bills considered this session included numerous items of interest to cities and towns, some favorable and some of which prompted calls to action to tamp down undesirable components. While the League’s Public & Government Affairs team held it down at the Legislative Building, League-member officials from across the state too engaged in effective advocacy. At this point, together, we’ve navigated the 2019 session to a good end, with tremendous thanks to the attention exercised by our municipal leaders.

Beginning on page 10 of this document, you will find descriptions of bills affecting municipalities and the outcome of each.

Prior to the long session, which began in January, cities and towns across North Carolina collectively set their advocacy priorities at a conference held at the Raleigh Convention Center, centering ultimately on better policy for public infrastructure, fiscal health and economic growth, and municipal authority.

A push for broadband expansion from local governments across the state informed numerous bills for change, including the FIBER NC Act that lawmakers continue to regard with an extraordinary number of sponsors and co-sponsors. The League’s legislative push focused on giving local governments the clear authority to build broadband infrastructure they could lease to provider operators, a way of making feasible the kind of reliable service and new opportunities that so many underserved or connection-lacking areas of North Carolina need.

Many of you communicated hometown-specific ideas directly to your legislators at the League’s Town & State Dinner, which was held as the session was throttling up. Bringing together municipal and state leaders for fellowship and bread-breaking, hundreds attended, sparking positive conversations and a spirit for working together. “Cities and towns play a vital role in providing core services to millions of North Carolinians and I appreciate the great work that our local elected officials do every day,” Senate leader Phil Berger, a highlight speaker at the dinner, said to his social media following shortly after.

This kind of teamwork further coalesced with the launch of the League’s new branding, with a modernized logo and spirited tagline — Working as one. Advancing all. With the help of award-winning branding professionals, League staffers and members shaped and delivered this new brand that really just restates clearly what we’ve been doing all along as a diverse collective of cities and towns, rural, suburban and urban. To learn more about the rebranding, you can visit [nclm.org/media/nclm-brand](https://nclm.org/media/nclm-brand).

As of this writing, the 2019 legislative session is still in motion, the budget stalemate

holds and a number of bills — though a dwindling amount — remain in play. But consensus measures in that budget, which still have a strong chance of becoming law, will benefit cities and towns with spending on transportation, water and sewer, parks and other programs. And the League has already enjoyed successes in stopping or mitigating harmful bills affecting tree ordinances, local control of short-term rentals, land use and control of alcohol sales. We know your community expertise and good dialogue with legislative delegates has been an important factor in outcomes to date, with a legislature that has given a good ear to cities and towns.

We know you'll stay engaged — by reading the weekly League Bulletin and other timely communications, including calls to action. We thank our Public and Government Affairs Team and the leadership of League Executive Director Paul Meyer for the great outcomes this year. They and the League's wider staff are here to help you, so please don't hesitate to contact them with any questions or to discuss any issues of concern to your hometown. (Contact information for team members can be found on page 66.) We again thank you for your engagement and advocacy this session. It's helped millions and millions of people.

Sincerely,

The Officers of the League's Board of Directors



NCLM President, William Pitt  
Council Member, Washington



NCLM First Vice President, Jennifer Robinson  
Council Member, Cary



NCLM Second Vice President, Karen Alexander  
Council Member, Salisbury



NCLM Immediate Past President, Michael Lazzara  
Mayor Pro Tem, Jacksonville

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Please note: this document’s content is current as of Aug. 31, 2019. An addendum to the 2019 End of Session Bulletin will be published after the official adjournment of the 2019 legislative session.

# Legislative Session in Context

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It has been said many times that each legislative session takes on its own character. The 2019 session certainly did, and a good bit of it was defined by the new dynamic of a governor of one party with veto power and a legislative majority of the opposing party that no longer enjoyed enough votes to automatically override that governor's veto.

In newspaper headlines and on the local TV news, this dynamic played out in big public disagreements on major policy fronts, most importantly leading to an impasse regarding the state budget and Gov. Roy Cooper's attempts to force passage of Medicaid expansion.

But subtler, less-noticed changes also came into play. With the possibility of a veto around any legislative corner, compromise and negotiation suddenly became more fashionable.

For the League, what this meant was that several years of hard and painstaking work to improve our political positioning and influence could pay off in new ways, ones that didn't just have to involve clear wins and losses.

Where likely losses – legislation that would have harmed cities and towns in obvious and significant ways – might have occurred in the past, instead League staff was able to negotiate changes on a number of bills making them much more manageable.

## LEGISLATIVE WINS

But there were also some clear wins for cities and towns, and lots of them.

Legislation that would have mandated a new post-employment benefit for firefighters – at significant cost to municipalities and outside of the pension system – was turned into a study at the urging of the League, a move that also met a key goal approved by League members back in November.

Another defensive win for cities and towns came when bills calling for the privatization of the ABC system and consolidation of local boards were turned aside in favor of modest reforms affecting sales and discouraging the creation of new ABC boards.

Legislation that would have decriminalized all local ordinances at a future date was, for the most part, turned into a study of the issue.

And a last-minute effort to undermine local regulation of short-term rentals, such as Airbnb, was stopped.

Although the budget bill became mired in the struggle between legislative and gubernatorial priorities, many consensus measures included in the legislation and likely to eventually become law stood to benefit cities and towns.

As agreed to by the House and Senate, the bill extends the Historic Preservation Tax Credit program, scheduled to expire at the end of the year, for four more years, and would make changes to the state's film grant program to make more projects eligible for the grants. Transportation-related city priorities include Powell Bill funding increasing in the second year of the biennium budget, as well as increases in the Strategic Transportation Investments Program (STIP) and State Maintenance Assistance Program (SMAP).

Putting \$94.1 million more toward the Hurricane Florence Disaster Recovery Fund and redirecting another \$17 million there will also benefit communities recovering from the devastating storms last fall. Meanwhile, the creation of a Viable Utility Reserve, with an

initial appropriation of \$9 million in recurring money, represents a substantial step in the ongoing conversation about how to address struggling rural water and sewer systems.

Finally, the budget plan contains \$37.7 million for specific projects in 116 municipalities.

## COMPROMISES

As for those earlier-mentioned moments of compromise, negotiations with the N.C. Homebuilders Association and N.C. Bar Association resulted in substantial changes to land-use legislation. On a wide-ranging land-use bill, negotiated changes helped cities keep flexibility regarding how they address surrounding property owner concerns when working with developers on large mixed-use developments. The League also worked with the Homebuilders Association on compromise legislation regarding development performance guarantees.

While legislation affecting billboard relocation received plenty of publicity, the League and others negotiated to ensure that the bill, sought by the industry, was kept narrow and focused on those billboards condemned due to new construction. And the bill was eventually vetoed by Gov. Roy Cooper.

By just about any measure, the 2019 legislation session showed that cities and towns are at the table when it comes to issues that affect them. We now have strong champions among legislators, Democratic and Republican, willing to speak up on our behalf, as they know that they will have your support back home for doing so. And we have a staff that can capably and effectively employ grassroots, communications and lobbying tools to make our advocacy case. Doing all of these, they and you helped make this legislative session a successful one for cities and towns.



*We recognize that what works in one town or city is not always going to work for another. In fact, that is why, as an organization, we so often emphasize the importance of local authority and local autonomy. The idea that cookie-cutter solutions created in Raleigh or Washington are going to help solve the unique challenges in the diverse cities and towns that make up North Carolina is simply not realistic.*

**- NCLM Executive Director Paul Meyer**

# Municipal-Related Legislation in the News

## **SB 367 CLARIFY PROPERTY OWNER'S RIGHTS**

This bill revisited a subject that drew the ire of municipal officials in 2014, placing limitations on local tree ordinances. In this instance, SB 367 would have prevented future tree ordinances without the express authorization of the General Assembly and would have required existing ordinances to be amended in a way that could have allow clear-cutting for development. The legislation cleared one Senate committee and was subsequently amended to focus solely on new ordinances, but after pushback from League members, the legislation failed to move any further in the Senate.



## **SB 290 ABC REGULATORY REFORM BILL**

Changes to North Carolina's system of alcohol sales were on the minds of legislators in 2019, and a number of bills were filed to make those changes. SB 290 was the primary piece of legislation that ultimately passed. While bills were filed and even debated in committee that would have forced mergers of local ABC boards or even completely privatized the system of liquor sales, consensus was found around much more modest changes. As it relates to municipalities, SB 290 would require that any future jurisdiction that approves liquor sales enter into an agreement with an existing local ABC board to consolidate operations, essentially capping the number of local boards at their current level.

## **SB 118 PED/SAFEKEEPER HEALTH CARE COST RECOV. PRACT.**

This bill would appear to have little to do with municipalities, and as it cleared the Senate, it did not. But once in the House, the legislation became the vehicle for efforts to undermine local regulation of Airbnb and other short-term rentals, as the original bill language was removed and replaced in unofficial versions never voted on. That there were no votes as the bill appeared in House committees was largely a reflection of strong objections from cities and towns, hoteliers and legislators supporting their concerns.

## **HB 431 FIBER NC ACT**

After major advocacy efforts by the League and allied groups over several months, the FIBER NC Act was filed promising to open more pathways to public-private partnerships to bring better and faster internet connections to more North Carolinians. The bill passed a first hurdle, clearing the House State & Local Government Committee and remains eligible for the 2020 session. Nonetheless, major telecommunications companies expressed opposition at the committee hearing and have been actively working to defeat the bill. Legislators did approve SB 310, better enabling electric cooperatives to utilize their infrastructure, as well as accept grants, to further broadband access.

## **HB 399 HISTORIC PRESERVATION ACT OF 2019**

With the state Historic Preservation Tax Credit set to expire at the end of the year, House members lined up behind this bill to extend the credit another four years. The extension was ultimately included in the state budget bill, but the House went ahead and moved forward this legislation as a budget impasse loomed. The Senate still had not taken it up as of this writing. The tax credit is seen as crucial to many redevelopment projects across the state.

## **HB 645 REVISIONS TO OUTDOOR ADVERTISING LAWS**

Approved by the General Assembly after significant changes were negotiated by the League and others, this legislation would allow limited relocations of billboards when condemned for road and other forms of public construction. The bill comes two years after legislation that would have substantially undermined local control of billboards was defeated on the House floor. Even with the changes, Gov. Roy Cooper vetoed the bill while citing concerns about local control and vegetation removal.

# Action Alert



**Here are four bills that may require action from you over the next coming months:**

## **SB 584 CRIMINAL LAW REFORM**

To avoid a moratorium on criminal penalties for future ordinances, all municipalities with populations over 1,000 must report to the legislature by Nov. 1 a listing of their ordinances carrying criminal penalties.

## **HB 217 DIT CHANGES - AB**

This bill will require local governments to report cybersecurity incidents — generally defined as those creating harms to systems, threats to information or information systems, or those violating laws and security or privacy policies — to the State Department of Information Technology.

## **SB 478 (SL 2019-167)**

Clarifies that the clerk of a unit of local government must submit to the Secretary of State by September 1 of each year as required a report stating the number of appointments made to various local advisory boards by gender.

## **HB 646 ID Approval/Flex Muni One-Stop (SL 2019-22)**

This new law extends the deadline to November for submitting local government employee IDs to the State Board of Elections.

# **BILL SUMMARIES**

Bills tracked by the Public and Government  
Affairs Team throughout the 2019 Long Session

# Bill Summary – Overview

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Over the course of the 2019 session of the North Carolina General Assembly, the League’s Public and Government Affairs Team tracked some 335 bills that had implications for cities and towns, with 81 of those deemed to be of “critical” or “high” importance. You will find summaries of many of those 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.

Because of the ongoing budget impasse between the General Assembly and Gov. Roy Cooper (as of this writing, the governor’s veto of the state budget bill stood, and legislative leaders had not mustered enough votes to override that veto), some uncertainty remains around some of these bills, as legislators could return to act on them. Nevertheless, most legislative action for this session is believed to have concluded at the end of August. The League will produce an addendum to this End of Session Bulletin, as warranted, to explain any final legislation.

With that uncertainty, we have included a number of designations beside each bill and title to explain their status. The designations indicate the following:

- **Law:** Passed by the General Assembly and now Session Law, either with the Governor’s signature, 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.
- **Ratified:** Passed by the General Assembly but not yet acted upon by the Governor (as August 30, 2019).
- **Vetoed:** Bills vetoed by the Governor, with that veto not overridden by the General Assembly.
- **In Conference Committee:** Both the House and Senate have approved different versions of the bill, and are now negotiating through differences for a final bill.
- **Awaiting Concurrence:** A legislative chamber has approved a version of the bill and is awaiting for the other chamber to agree to that version; should they not, it will typically end up before a conference committee.
- **Passed House:** Passed the House but not voted on by the Senate.
- **Passed Senate:** Passed the Senate but not voted on by the House.
- **Not Passed:** Legislation not taken up by either full chamber.

The bills below are divided into five general categories: Tax & Finance, Local Bills, General Government, Planning & Land Use, and Environment and Utilities. If you do not see a bill summarized that you are interested in, please contact any member of the League’s Public and Government Affairs team or visit the League’s bill tracking site. A number of these bills address advocacy goals chosen by cities and towns as their top legislative priorities for 2019. For a full list of Municipal Advocacy Goals, see Appendix II.



## Tax & Finance/Budget

### **[HB 60/SB 56 Revenue Laws Technical Changes](#) (Reps. Howard, Setzer and Szoka; Sens. Tillman, Hise and Newton) – Law – SL 2019-6 effective various dates**

A revenue laws technical changes bill is typically filed annually, and 2019 was no different. As has frequently been the case, SB 56 was a largely technical bill making conforming changes, correcting references, and updating tax-related statutes. One provision of note to local governments codifies the directive issued by the N.C. Department of Revenue after the U.S. Supreme Court's decision in *South Dakota v. Wayfair*, so that it is now statutorily required for online sellers to collect and remit N.C. state and local sales tax, provided that the seller had gross sales of \$100,000 or 200 or more separate transactions in N.C. in the previous year.



Jacksonville Mayor Pro Tem Michael Lazzara talks with NCLM staff ahead of the Advocacy Goals Conference

### **[HB 111 Supplemental Appropriations Act](#) (Rep. Lambeth) – Passed House; [HB 961 Ensuring Authorization of Federal Funds](#) (Reps. K. Hall, Arp, Saine and Hardister) – Law – SL 2019-192 effective July 1, 2019; [HB 966 2019 Appropriations Act](#) (Reps. L. Johnson, Lambeth, Saine and McGrady) – Vetoed; [SB 103 2019 Appropriations Act](#) (Sens. B Jackson, Brown and Harrington) – Not Passed; [SB 109 2019 Appropriations Act](#) (Sens. Harrington, B. Jackson and Brown) – Not Passed**

Multiple bills were filed dealing with the State budget and related items, but what ultimately became the vehicle for the budget was HB 966. After the House and Senate each passed their own version, they ultimately agreed on a compromise budget that each chamber gave final approval to on June 27. The next day that budget was vetoed by the Governor, and as of mid-August neither chamber of the General Assembly had attempted to override that veto. The compromise version of HB 966 includes many provisions that would be positive for N.C. municipalities. They are all detailed in [this chart](#) which tracks the various 2019 budget proposals over time. Among the highlights are additional local sales tax revenue from “marketplace facilitators,” extension of the state historic tax credit, and disaster recovery funds. However, none of these provisions will become law until and unless the Governor’s veto of HB 966 is overridden or the two chambers and the Governor work out a separate agreement that includes them. The primary budget-related action since late June was the passage of HB 961, which ensured that the appropriations necessary to keep certain federal funds coming to the state were made.

### **[HB 118 First Responders Act of 2019](#) (Reps. Warren, Corbin, D. Hall, Potts) – Passed House**

HB 118 would direct the Department of Transportation to study the needs of law enforcement, emergency medical and emergency management personnel, and firefighters to improve access within the interstate system for the benefit of public safety and

report its findings no later than March 1, 2022. As originally filed, it also included an income tax deduction for an unpaid member of a volunteer fire department (if meeting certain training requirements) and a property tax exclusion for the surviving spouse of an emergency personnel officer who was killed in the line of duty and not remarried; those provisions were removed from the bill. The bill has passed the House, but not been considered by the Senate.

**[HB 131/SB 71 Repeal Map Act](#) (Reps. Conrad, Lambeth, Potts and Torbett; Sens. Lowe, Krawiec and Gallimore) – Law – SL 2019-35 effective June 21, 2019.**

Between these two companion bills, legislators moved HB 131 and repealed the Transportation Corridor Official Map Act, which previously authorized the Department of Transportation, local government, and transportation authorities to adopt maps for future transportation projects and place restrictions on properties within mapped corridors. The bill also repealed corresponding authority allowing cities to designate their own road corridor maps within their jurisdiction and enforce any land use restrictions associated with those designations.

**[HB 159/SB 396 State Search and Rescue Funding](#) (Rep. Davis; Sen. Sanderson) – Not Passed**

Both HB 159 and SB 396 would have appropriated \$2.3 million to support the State Search and Rescue Program in each year of biennium (Fiscal Year 2019-20 and FY20-21). These funds are used in partnership with units of local government to supplement local funds for equipment and other items. Though neither of the bills passed their respective chambers, the budget eventually approved by both chambers of the General Assembly included \$2 million for State Search and Rescue in FY19-20 and \$1 million for the program in FY20-21.

**[HB 206 Various Transportation Changes](#) (Rep. Torbett) – Law – SL 2019-199 effective various dates**

HB 206 encompasses a variety of changes to transportation laws in N.C. Perhaps of most importance to municipalities is Section 5, which gives the N.C. Department of Transportation the authority to enter into public-private partnerships allowing a private partner to lease broadband infrastructure built by the agency. Local governments have been advocating for similar authority. Another section of HB 206 would enact a new Airport Improvement Program that would allocate funding to eligible airports based on a biennial economic impact study. The bill passed both chambers of the General Assembly and, as of Aug. 15, 2019, it had been presented to the Governor but he had yet to take action on it.

**[HB 214 Retirement Technical Corrections Act of 2019.-AB](#) (Reps. C. Smith, Gill, McNeill) – Not Passed; [HB 188 Retirement Administrative Changes 2019.-AB](#) (Reps. Ross, McNeill) – Not Passed; [HB 180 State Benefits/ Pension Revisions.-AB](#) (Reps. Goodwin, McNeill) – Not Passed; [SB 488 Realistic Evaluation of Actuarial liabilities](#) (Sens. B. Jackson, Wells, Chaudhuri) – Passed Senate; [SB 408 Pension Benefit Revisions](#) (Sens. Krawiec, Hise, Wells) – Passed Senate; [SB 379 Retiree Amendments](#) (Sens. Wells, Johnson) – Passed Senate; [SB 403 State and Local Government Pension/PED Study](#) (Sen. Steinburg) – Not Passed**

The Treasurer's Office's requested a variety of bills be filed on their behalf that would make technical, administrative, and other changes to statutes governing state-administered

pension systems. HB 214 included the Treasurer's Office's suggested technical changes to the retirement systems, including a provision that would clarify that the required contribution base benefit cap ("pension spiking") report is not a public record; these technical changes were also included in SB 488. HB 188 would make administrative changes to the state pension systems to promote financial accountability, integrity, and recovery of assets, including changes to credible service purchase provisions; these changes were also included in SB 379. While mainly focused on substantive changes to the State Health Plan, HB 180 and SB 408 would make some changes to the retirement system, including allowing the Treasurer's Office to require an employing agency pay a portion of a return to work overpayment if the employer partially caused the overpayment.

Lastly, while not requested by the Treasurer's Office, SB 403 would direct the legislature's internal investigative staff to study the retirement benefits offered by both the state pension system and the Local Government Employees Retirement System, with a focus on needed reforms to that system. The bill requests that the study include factors that may impede the future success of the system, with recommendations on any needed reforms, and names The N.C. League of Municipalities as one entity the investigators must consult for the study.

### **HB 229 Repeal Municipal Charter Schools (Reps. Alexander, Autry, Martin, Hawkins) - Not Passed**

Addressing a key NCLM priority advocacy goal, HB 229 would repeal all existing laws related to the authority given to four Mecklenburg County municipalities to operate their own charter schools. The bill would also repeal existing authority granted to all municipalities statewide to fund public schools.

### **HB 233 State Auditor/Local Finance Officer Amends (Reps. Riddell, Cleveland, Floyd, and Barnes) - Law - SL 2019-19 effective various dates**



The gallery view of the N.C. House of Representatives during a floor session

Much of HB 233 deals with issues related to the Office of the State Auditor that do not directly impact municipal governments. The final section, however, makes changes and clarifications regarding the finance officer duties of local governments. It clarifies who must appoint a local finance officer and makes clear that a local government may contract with an outside entity such as a certified public accountant or a COG for finance operations. It also gives the Local Government Commission expanded authority to adopt rules establishing minimum qualifications for finance officers, require training of local finance officers, and require a local government to contract with an outside entity to fulfill its financial duties.

**[HB 278 Study Parity for First Responders](#) (Reps. Saine, Hardister, Lewis, Setzer) – Passed House; [SB 179 Parity for First Responders](#) (Sens. B. Jackson, Britt, McInnis) – Not Passed**

As filed, both HB 278 and SB 179 would have mandated municipalities provide and pay for a new retirement benefit for firefighters, called a “special separation allowance.” However, HB 278 was converted to a study bill prior to approval by the House. League members [adopted a policy goal](#) to oppose this benefit unless funding is provided. When HB 278 was heard by the House Pensions and Retirement Committee, committee members sought and received assurances from the bill sponsor, Rep. Jason Saine, that the proposal would not move forward without a state funding mechanism.

The League noted that consideration of this unfunded mandate comes as municipalities are being required to make substantial contribution rate increases to the Local Government Employees Retirement system (the pension system to which firefighters belong) and therefore new retirement benefits should not be mandated without funding. The League also referenced [an analysis](#) of HB 278 developed by legislative staff prior to the committee meeting, noting that cities and towns already have the authority in law to offer the special separation allowance benefit if they choose - municipalities have the authority to set compensation, provide retirement incentives, or offer any other supplemental benefits. The Department of the State Treasurer also voiced concerns about the design of the benefit creating unfunded liabilities for local governments, since it would establish a new other post-employment benefit (OPEB) that is not funded in a fiscally responsible or actuarially sound manner, noting it could negatively impact local government bond ratings. The study in HB 278 is awaiting consideration by the Senate.

**[HB 396 Municipal Local Option Sales Tax](#) (Rep. Montgomery) – Not Passed**

In recent years, municipalities in N.C. have consistently selected additional locally-controlled municipal revenue sources as one of their [advocacy goals](#). HB 396 would have achieved that goal by giving municipalities the authority to conduct a referendum on a 1/4-cent municipal sales tax, and to levy such a tax if approved by a majority of voters. The proceeds from that tax could only be spent on public infrastructure and public facilities, affordable housing, economic development, and police, fire, and rescue services. The bill was not heard in 2019.

**[HB 399 Historic Preservation Act of 2019](#) (Reps. Ross, Bell, Warren and Adams) – Passed House**

This bill would extend the state Historic Preservation Tax Credit, scheduled to expire at the end of the year, through 2024, and also provide an additional 5 percent credit for projects in declared disaster areas and counties designated as Tier 1 and Tier 2 based on economic indicators. The legislation moved quickly through the House Commerce Committee early in the session, but stalled for a while as the Senate also include the extension in a separate bill, SB 622 Tax Reduction Act of 2019. Inclusion of the measure in the Senate bill signaled that the chamber would not block the extension, as it had in 2014. Provisions of SB 622 were ultimately included in the budget, but as a gubernatorial veto of the budget appeared more likely, the House decided to again move the separate historic preservation legislation, and it cleared that chamber in June. That movement came as the [N.C. Mayors Association and N.C. Metropolitan Mayors Coalition approved a joint resolution and sent joint letters](#) urging legislators to approve the extension and not allow it to become entangled in budget negotiations. The extension would achieve a key League advocacy goal.

**[HB 492 Simplify Builder Inventory Exclusion](#) (Reps. Brody, Howard, B. Turner) - Law - SL 2019-123, effective for taxes imposed for taxable years beginning on or after July 1, 2019**

In response to concerns raised by the League and other local interest groups, the final version of HB 492 dropped an objectionable provision from its filed version that would have extended an existing homebuilder property tax exclusion from three years to five years, forcing local taxpayers to further subsidize homebuilders and their home inventory. That now-unmodified exclusion allows builders who own real property held for sale to exclude from property tax calculations the increase in value of the property attributable to subdivision of the land or residential construction on the land. In the end, the final version of HB 492 simply eliminated an annual filing requirement that builders must currently make to take advantage of this exclusion.

**[HB 520 Firefighters Fighting Cancer Act](#) (Reps. Lewis, Bell, Saine, Murphy) - Passed House; [HB 573 Give WC for PTSD in First Responders](#) (Reps. Shepard, Torbett, Saine) - Not Passed; [HB 622 Provide WC for PTSD in First Responders](#) (Reps. Grange, Saine, R. Turner, Dobson) - Passed House; [HB 991 First Responders/WC Benefits Duration](#) (Rep. Wray) - Not Passed**

There were a variety of bills filed in the House related to workers' compensation benefits for certain public safety employees. HB 520 would create a presumption that certain cancers are occupational diseases covered by the Workers' Compensation Act for firefighters employed by units of local government, changing the structure of current workers' compensation laws for only firefighters employed by local governments. Current law requires the employee to prove that he or she has a condition which arose due to employment and that their condition is not an ordinary disease of life to which the general public is equally exposed. The bill would require that the local government has the burden of proving by a preponderance of competent evidence that the condition was caused by some means other than the firefighter's occupation. The bill awaits consideration by the Senate.

Both HB 622 and HB 573 would add Post Traumatic Stress Disorder (PTSD) in first responders to the enumerated occupational diseases covered under the NC Workers' Compensation Act, meaning that it would clearly be a compensable occupational disease that arises out of employment. The two bills set differing standards as to what the first responder employee would have to prove to be eligible for workers' compensation for PTSD.

**[HB 569 One NC Funding for Small Businesses](#) (Reps. K. Hall, Ross, and Dobson) - Not Passed**

HB 569 would appropriate \$5 million to the One North Carolina Small Business Account for specific incentive and matching fund programs within the account. It would also appropriate \$5 million to a newly-created Community Innovation Fund that would award competitive grants to rural, small-, and medium-sized communities to assist in the transition to a knowledge- and innovation-based economy. The bill did not receive a hearing.

## **[HB 666 DOT/Restore funds to SMAP](#) (Reps. Insko, Lofton, Russell, Willingham) – Not Passed**

HB 666 would restore the funds to the State Maintenance Assistance Program (SMAP), achieving an NCLM advocacy goal of increased funding for public transportation and transit. The funds from SMAP support the operating expenses of urban transit systems on fixed route services. The funds allocated in this bill would return the funding levels to 2017 levels, and they were inserted into the state budget bill.

## **[HB 676/SB 622 Tax Reduction Act of 2019](#) (Reps. Howard, Setzer and Szoka; Sens. Tillman, Hise and Newton) – Passed Senate**

While the Senate version of this bill progressed further than its House counterpart, the provisions included in both of them progressed furthest in the ultimately vetoed State budget (HB 966). These bills make up the finance items in the budget, and they include changes to the personal income, corporate income, and corporate franchise taxes. Of perhaps most importance to municipalities are provisions to ensure that third-party online sellers are collecting and remitting state and local sales tax, a change that legislative staff estimates will increase local sales tax revenues by \$60 million annually statewide. Another section of these bills (and HB 966) partially achieves a [Municipal Advocacy Goal](#) by extending the sunset on the state historic tax credit through Jan. 1, 2024, and it also includes changes that should make it easier for local governments to access data on third-party rentals in their jurisdictions. Though these provisions passed both chambers as part of the State budget, they are not yet law as long as the Governor’s veto of HB 966 is not overridden or a compromise is reached.



Bolton Clerk and NCLM Board Member Jackie Hampton at a League gathering

## **[HB 748 Block Vehicle Regis. for Unpaid Parking Fines](#) (Rep. Terry) – Not Passed**

HB 748 would authorize the Division of Motor Vehicles to refuse the vehicle registration or issuance of a certificate of title to any individual who has not paid municipal parking violation fines or penalties. The municipality would be required to notify the Division when this is the case and when any such fines or penalties have been addressed. The bill did not receive a hearing.

## **[HB 751 Reenact Film Credit](#) (Reps. Autry, Saine, Carney and Butler) – Not Passed;**

## **[SB 57 Reenact Film Credit](#) (Reps. Lowe, Nickel and Peterson) – Not Passed**

Both of these bills would restore the state film and television production tax credit eliminated under 2014 legislation and ultimately replaced with a capped grant program. The House bill would have extended the tax credit indefinitely, while the Senate bill would have restored and then extended the tax credit through 2023. Neither bill saw movement in either chamber.

**[HB 852 Historic School Preservation Act](#) (Reps. Adams, Beasley, Warren and Presnell) – Not Passed**

This legislation, seeking to build on the state Historic Preservation Tax Credit, would establish a bonus credit of 5 percent for historic school buildings that, once rehabilitated, remain in use for an educational purpose.

**[HB 862 Purchase Option/Advanced Law Enforcement Cert](#) (Reps. Lambeth, K. Hall, Wray) – Not Passed; **[SB 85 LEO Retirement & Higher Ed Enhancement Act](#) (Sen. Steinburg) – Not Passed; **[SB 129 Advanced Cert. Service Purchase Option/LEOs](#) (Sen. Steinburg) – Not Passed******

All three bills would allow law enforcement officers to purchase varying amounts of creditable service in the Local Government Employees Retirement System if they have at least five years of membership in the retirement system and hold an Advanced Law Enforcement Certificate. These certificates are issued by the Criminal Justice Education and Training Standards Commission. None of these bills were taken up for consideration.

**[HB 873 System Development Fee/Clarify Time of Charge](#) (Reps. Arp, Boles, McNeill) – Passed House**

In response to concerns resulting from the new system development fee law enacted in 2017, HB 873 proposed rewriting a portion of that law to require a deliberate decision by the local governing board adopting a fee to choose the point in time at which the fee shall be collected. Additionally, as originally filed, it modified other timeframes for imposition and collection of these fees and implemented more procedural requirements for local governments to follow when proposing a fee. The League participated in numerous stakeholder discussions on this bill as it moved through the House, voicing concerns about unintended consequences of the proposal on current practices across the state.

**[HB 945 Augment Disabled Veteran Property Tax Benefit](#) (Reps. Majeed, Grange, Martin, and Alexander) – Not Passed; **[SB 416 Recruit/Retain Vol. Firefighters](#) (Sens. Daniel, T. Alexander, and Britt) – Not Passed****

Both HB 945 and SB 416 deal, at least in part, with providing property tax exemptions for certain classes of property owners. HB 945 would expand the property tax exclusion for disabled veterans by increasing the exclusion for veterans who are 100 percent disabled to the greater of \$55,000 or 50 percent of



The NCLM Board of Directors at work in 2019

the property's appraised value. Legislative staff estimated that this would decrease local property tax revenue by roughly \$14 million annually in its first year, with that number expected to increase in future years. SB 416 aims to incentivize service as a volunteer firefighter, with the property tax portion of the bill providing a 25 percent exemption for active volunteer firefighters with at least five years of service. It also would waive hunting and fishing license fees for volunteer firefighters. Neither bill received a hearing in 2019.

### **HB 959 Exempt Cemetery Property (Reps. Strickland, Saine, and K. Hall) - Not Passed**

HB 959 would make changes to the statutes governing property tax exemptions for property set apart for burial purposes. Under HB 959, the owner of such property that no longer qualifies as burial property would forfeit the tax exemption and be subject to past taxes and interest. The bill did not receive a hearing.

### **SB 371 Pre-Regulatory Landfill Moratorium (Sen. Wells) - Not Passed**

Among other changes, SB 371 lowered the amount of the solid waste excise tax from \$2/ton to \$1/ton, and then changed the formula for how those funds are distributed. In the reworked formula, the bill doubled the percentage of tax receipts currently allocated to local governments to 75% of collected funds. SB 371 bill never received a hearing.

### **SB 597 Create an Additional 5 Tier System (Sens. Edwards, Gunn) - Not Passed**

The current ranking of development tiers in N.C. is divided into three categories. The top 40 counties are ranked in tier one, the next 40 in tier two, and the final 20 in tier three. SB 597 would have created an additional ranking of "enterprise tiers" which would have consisted of five categories of 20 counties each. The bill did not receive a hearing.

### **SB 603 Study of Localities on Unit Assistance Lists (Sens. D. Davis, Steinburg, and Britt) - Not Passed**

SB 603 would have required the Department of State Treasurer to study county and municipal governments on the Unit Assistance List prepared by the Department, and report to the General Assembly any recommendations determined by the study. Specific issues to be considered included commonly occurring issues, such as operations of local utilities and internal control challenges. The bill did not receive a hearing.

### **SB 650 Simplifying NC Local Sales Tax Distribution (Sens. Brown, Hise) - Not Passed**

Proposals for the reallocation of local sales tax have been brought forward in several recent legislative sessions. Provisions from some of those proposals were included in this year's SB 650. The bill would have changed the state distribution of local sales taxes to counties from a 75 percent point of destination-25 percent per capita breakdown to a 50-50 split between the two methods. It also would have made several more administrative changes to the local sales tax distribution, including eliminating adjustment factors in Article 40, updating the distribution of the revenue from local sales taxes on food, and phasing out the annual distribution of a statutorily defined amount of money to 79 counties around the state. The bill did not receive a hearing in 2019 and was not ultimately included in any other pieces of legislation.

## Local Bills

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**[HB 4 Claremont Deannexation](#)** (Rep. Setzer) – Law – SL 2019-93 effective June 30, 2019

**[HB 84/SB 63 City of Kannapolis/Annexation](#)** (Reps. Howard and Warren /Sen. Ford) – Law – SL 2019-12 effective various dates

**[HB 170 Various Satellite Annexations](#)** (Reps. McNeill and Hurley) – Law – SL 2019-103 effective various dates

**[HB 171 China Grove Satellite Annexations](#)** (Reps. Warren, Pittman and Howard) – Not Passed

**[HB 181/SB 84 Walkertown Zoning Authorizations](#)** (Rep. Conrad/Sen. Krawiec) – Law – SL 2019-61 – effective June 27, 2019

**[HB 204 Town of Beaufort/Annexation](#)** (Rep. McElraft) – Law – SL 2019-95 effective June 30, 2019

**[HB 285 City of Sanford/Town of Beaufort/Vol Annex](#)** (Rep. Sauls) – Law – SL 2019-105 effective July 10, 2019

**[HB 286 Fayetteville ETJ & Annexation of Shaw Heights](#)** (Reps. Floyd, Richardson and Lucas) – Not Passed

**[HB 322 City of Conover/Donut Annexations](#)** (Rep. Adams) – Not Passed

**[HB 392 Town of Clemmons/Deannexation](#)** (Rep. Zachary) – Not Passed

**[SB 80 China Grove Satellite Annexation](#)** (Sen. Ford) – Law – SL 2019-58 effective date June 26, 2019

**[SB 194 West Jefferson/Saluda Satellite Annexations](#)** (Sen. Ballard) – Law – SL 2019-160 effective various dates

**[SB 201 Town of Bolton/Deannexation](#)** (Sen. Britt) – Passed Senate

**[SB 205 Village of Clemmons/Deannexation](#)** (Sen. Krawiec) – Not Passed

**[SB 264 Lee Cty Municipalities/Voluntary Annexations](#)** (Sen. Burgin) – Not Passed

**[SB 270 Durham/Clemmons Deannexation](#)** (Sens. McKissick and Woodard) – Passed Senate

As in most legislative sessions, a number of non-controversial local annexation measures were filed this year, with several passing with the blessing of local officials. That was not the case, though, with three bills – one affecting the Town of Bolton and two others the Village of Clemmons, as local officials objected to each. In the case of the Bolton legislation, SB 201, the legislation was ultimately approved by the Senate, but only after one of two areas to be de-annexed were dropped from the bill. It had not moved in

the House (as of this writing). HB 392 Town of Clemmons/Deannexation and a similar bill in the Senate, SB 205 Village of Clemmons/Deannexation, both sought to remove property from the corporate limits of Clemmons, as a developer wanted changes that town officials and some local residents opposed. The Senate bill never received a committee hearing in that chamber. The House bill, meanwhile, failed before the State and Local



Winston-Salem Council Member Denise Adams discussing legislative goals

Government Committee on a tie vote. But late in the session, an effort was made to revive the legislation in the House by putting the provisions into a Senate bill involving a non-controversial deannexation in the City of Durham. The House Rules Committee approved that version of the Senate bill, but then later dropped the Clemmons-related provisions after the bill was pulled from the House floor.

**[HB 7 Graham County Occupancy Tax](#) (Rep. Corbin) – Passed House**

**[HB 17 Local Option Meals Tax/Brunswick Co. Munis](#) (Reps. Iler and Butler) – Passed House**

**[HB 68 Albemarle City Local Option Sales Tax](#) (Reps. Sasser and Goodman) – Not Passed**

**[HB 92 Mooresville Local Option Sales Tax](#) (Rep. Fraley) – Not Passed**

**[HB 112 Roanoke Rapids Local Option Sales Tax](#) (Rep. Wray) – Passed House**

**[HB 260 Scotland Neck Meals Tax](#) (Rep. Wray) – Not Passed**

**[HB 316 Meal Tax for Rockingham Speedway](#) (Rep. Goodman) – Not Passed**

**[HB 326 Hendersonville Local Option Sales Tax](#) (Rep. McGrady) – Not Passed**

**[HB 458 Henderson Meals Tax](#) (Rep. Garrison) – Not Passed**

**[HB 497 Hickory Local Option Sales Tax](#) (Rep. Adams) – Not Passed**

**[HB 528 Indian Trail/Stallings Occupancy Tax Auth](#) (Reps. Arp and Horn) – Passed House**

**[SB 256 Cornelius Local Option Sales Tax](#) (Sen. Marcus) – Not Passed**

### **SB 257 Pineville Local Option Sales Tax (Sen. Marcus) – Not Passed**

### **SB 282 Modify Cumberland Prepared Food Tax (Sen. Clark) – Not Passed**

While a number of local occupancy tax, meals tax and local-option sales tax bills were filed, none moved through both chambers even as several passed the House. There appeared to be no appetite in the Senate for such tax legislation, as three such bills filed in that chamber never came to a floor vote and House bills that came to the Senate were not acted on. Nonetheless, HB 112 Roanoke Rapids Local Option Sales Tax was significant in that it represented a local-option sales tax measure that sailed through the House in an overwhelming and bipartisan 95-18 vote.

### **HB 115 Even-Yr. Elections/Town of Biltmore Forest (Rep. Turner) – Passed House**

This bill would move the elections for the Town of Biltmore Forest to even-numbered years, beginning in 2020. To accomplish this move, the bill eliminates the 2019 election and extends to 2020 the terms of those council members that would otherwise have expired in 2019.

### **HB 336 Extend Suspension of Spencer Mountain (Rep. Torbett) – Law – SL 2019-29 effective various dates**

As the Town of Eureka in Wayne County saw substantial issues related to the continued operation of its sewer system, and town finances as a result, the General Assembly stepped in to temporarily suspend its charter and turn over operations to the Local Government Commission. They did so by amending this legislation that extends the suspension of the charter of the Town of Spencer Mountain. The move gives the LGC control of town operations and finances through 2024. Because of the significant financial and operational issues, the LGC had already planned to step in and assume control minus the charter suspension. The move comes as legislators increasingly are recognizing that other towns – faced with population and manufacturing base loss over several decades – are seeing similar operational issues with aging utilities. Several pieces of legislation called for the creation of a Utility Viability Fund and the budget bill, HB 966, designated \$9 million in recurring money for the fund.

### **SB 229 Elections/Cities in More Than One County (Sen. Ballard) – Not Passed**

This legislation would allow local officials in six counties – Alleghany, Ashe, Caldwell, Surry, Watauga and Wilkes – to enter into an interlocal agreement to spell out the terms under which one county would administer the municipal elections for a city that lies in more than one county. The bill would require approval of that agreement by the State Board of Elections, and allows the agreements to last for a maximum of two years.

### **SB 289 Town of Red Springs/ETJ Authority (Sen. Britt) – Not Passed**

The bill would have eliminated the Town of Red Springs' extraterritorial jurisdiction, removing its zoning and land-use planning authority in that area. The bill never received a committee hearing.

### **SB 363 Funds to Restore the Town of Princeville (Sen. Fitch) – Not Passed**

This bill would have appropriated \$5 million in nonrecurring money for the Town of Princeville to demolish, repair, renovate or repurpose town property that was damaged as a result of flooding and other natural disasters. The bill was not approved, but the state budget bill (with the outcome of Gov. Roy Cooper’s veto of that legislation still uncertain as of this writing) did include \$1.4 million for the town for flood damage reduction measures, and carry-forward of the same amount from an unused appropriation from the previous year.

# General Government

**[HB 29 Standing Up for Rape Victims Act of 2019](#) (Reps. Boles, Belk, C. Smith, Richardson) – Not Passed; [SB 46 Standing Up for Rape Victims Act of 2019](#) (Sens. Daniel, Britt, McKissick) – Not Passed**

HB 29 and SB 46 are nearly identical bills with the intention to address the expediency in which sexual assault kits are tested and the protocol for statewide testing of kits. The bill requires collecting agencies to notify law enforcement agencies within 24 hours after collecting a DNA kit. Law enforcement agencies are required to take custody of a kit within seven days of receiving the notification. Reported kits will be sent to the Crime Lab and unreported kits go to the Department of Public Safety. Law enforcement would also be required to notify the Crime Lab if any arrests or convictions are made from matches within the index. S46 contained an appropriation of \$3 million to assist with testing untested kits and \$800 million for the creation of six full-time forensic scientist positions.

**[HB 67 Road Barrier Provision](#) (Reps. McNeill, Shepard, Goodman, R. Turner) – Law – SL 2019-84 effective December 1, 2019; [HB 917 Emergency Declaration/Clarify Rd Closure](#) (Rep. Horn) – Law – SL 2019-89, effective upon becoming law**

In response to incidents that occurred in the aftermath of Hurricane Florence, HB 67 expanded the authorization of the Department of Transportation to close roads due to hazardous conditions. The law also further prohibited removing or driving around barriers in place for such conditions, creating a Class 1 misdemeanor for persons guilty of driving on roads that have been closed, removing barriers, or destroying road closure notices. Importantly, the bill exempted law enforcement officers and first responders from these prohibitions, if those officers were acting in the course of their official duties. HB 917 enlarged the authority of cities and counties to close roads within emergency areas during a declared state of emergency. Cities and counties that close roads must report the closures to the Department of Transportation as soon as possible.



Salisbury Council Member and NCLM 2nd VP Karen Alexander

**[HB 77 Electric Standup Scooters](#) (Reps. Torbett, Presnell, Iler, Shepard) – Passed House;**

**[SB 373 Electric Standup Scooters](#) (Sens. Woodard, Krawiec) – Not Passed; [SB 620 Electric Standup Scooters](#) (Sens. McKissick, Newton) – Not Passed**

As recommended by an interim legislative committee, the filed version of HB 77 established a statutory definition of an electronic standup scooter and exempted them

from vehicle registration requirements. SB 373 mirrored this portion of the House bill, as did a provision in SB 553 Regulatory Reform Act of 2019 (fourth, fifth, and sixth editions). But the filed version of HB 77 went further and included other language not supported by cities that was removed in a later edition of the bill. That language allowed scooter use on roads, sidewalks, and bike paths, and allowed scooters to be parked on sidewalks so long as they did not impede pedestrian traffic. While the later version of the bill removed that objectionable language, it still would make any ordinance adopted by a municipality that conflicted with the bill null and void. This version of HB 77 awaits Senate action.

Interest in comprehensive electric scooter regulation continued in the Senate, with the filed version of SB 620 laying out an extensive regulatory framework for state and local regulation. The initial version of this bill addressed rules governing scooter use, including insurance requirements for electric scooter companies and sharing of trip data generated by users of commercial electric scooter services with the local government, among numerous other areas of regulation. However, after its first committee hearing, legislators pulled back most of that language, leaving the same definition as in HB 77, SB 373, and some versions of SB 553, and directing the Legislative Research Commission to study the regulation of scooters. The Commission's examination would include: the current laws that affected the operation of electronic scooter and businesses, the extent of local regulatory authority and data sharing, and any legislative changes to regulate the operation of scooters and scooter share businesses. SB 620 would need both Senate and House sign-off to advance to the Governor's desk.

#### **[HB 87 License Plate Reader Systems in State ROWs](#) (Reps. Faircloth, Torbett, McNeill, Ross) - Not Passed**

HB 87 would authorize the Department of Transportation to enter into encroachment agreements with counties, municipalities, and other governmental entities for the installation of automatic license plate reader systems in state rights-of-way. A provision of the bill directs the equipment to be removed if any public utility is affected. The bill states that the systems installed cannot be utilized for the purposes of enforcing traffic violations such as speeding or other infractions.

#### **[HB 91/SB 87 ABC Laws Modernization/PED Study](#) (Reps. McGrady, Boles, Horn, Willingham and Sens. Waddell, Wells) - Not Passed; [HB 378/SB 290 ABC Regulatory Reform Bill](#) (Reps. McGrady, Hardister, Fisher, B. Turner; Sens. Gunn, Blue, Harrington) - Law - SL 2019-182 effective various dates; [HB 536/SB 592 Omnibus Regulatory Reform](#) (Reps. McGrady, Boles, Fisher, Hardister; Sen. Gunn) - Not Passed; [HB 971 Modern Licensure Model for Alcohol Control](#) (Reps. McGrady, Saine, Hardister, Harrison) - Not Passed; [SB 11 ABC Regulation and Reform](#) (Senator Wells) - Law - SL 2019-49 effective on various dates**

In the aftermath of a study by the Legislature's Program Evaluation Division examining the state ABC liquor distribution and sales system, a number of bills were filed that would have made significant changes to the system, including some proposals to completely privatize sales. With significant legislative opposition to abandoning the current control system, only two bills were approved, SB 290 and SB 11. Of concern to municipalities, SB 290 had provisions rolled into it which would bar any municipalities that approved alcohol sales in the future from forming their own local ABC board, instead forcing them to merge operations into an existing local board. The provision would essentially act as a cap on new local ABC boards. However, proposals to force mergers of existing boards

were dropped from other bills earlier in the session, even as those bills ultimately did not pass. SB 11 made various changes to strengthen permitting enforcement, increase fines and penalties for violations of ABC Laws, but also revised the criteria for determining if locations are suitable for ABC permits. Several factors that the state ABC Commission uses to determine site suitability were dropped under the legislation.

**[HB 100 Required Training Police Telecommunicators](#) (Reps. Faircloth, Torbett, C. Smith, Speciale) - Not passed**

HB 100 would require all telecommunicators employed with municipal police departments to meet the requirements established by the North Carolina Sheriff's Education and Training Commission. If enacted, this bill would become effective in July of 2021.

**[HB 135 Enjoin Sanctuary Ordinances](#) (Reps. Cleveland, Presnell, Speciale, Brody) - Not Passed; [SB 341 Government Immigration Compliance](#) (Sens. Sanderson, Britt) - Not Passed; [HB 370 Require Cooperation with ICE Detainers](#) (Reps. D. Hall, Jones, Saine, C. Smith) - Vetoed**

Current law prohibits cities and counties from having in effect any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws. HB 135 would have authorized any person to bring an action for injunctive relief against a county or city enacting a sanctuary ordinance. The bill would have allocated \$3,000 to the N.C. League of Municipalities and \$2,000 to the N.C. Association of County Commissioners for educating local governments about the new law. SB 341 would change what documents law enforcement can use to assist in determining identity. It would also create a cause of action in superior court for a citizen of a city, county, or law enforcement agency for declaratory and injunctive relief if the court finds the entity is in violation of the law. Penalties imposed would be up to \$10,000 a day for each day a local government was found to be out of compliance with the court order. It would also allow individuals to file a statement with the Attorney General's office if they believe a city, county, or law enforcement agency is not in compliance with state law relating to immigration and require the Attorney General to investigate, and the SBI if requested by the Attorney General, to investigate. After an investigation, if a city or county is found to be in violation of the law, it would lose its state allocation of transportation and other state-shared revenues for a 12-month period. If the entity did not comply within 60 days, the sanction would be extended another 12-month period. The same investigation and sanction would apply to local school administrative units and UNC Constituent Institutions. HB 370 requires that confinement facilities comply with detainers and warrants from Immigration and Customs Enforcement (ICE). The bill also authorizes the removal of a sheriff or officer from office for failure to comply with ICE detainers. Confinement facilities would submit reports annually to the Joint Legislative Oversight Committee on Justice and Public Safety regarding compliance with ICE detainers. Gov. Roy Cooper vetoed the bill in late August.

## **HB 206 Various Transportation Changes (Reps. Torbett) - Law - SL 2019-199, various effective dates**

This omnibus agency bill for the N.C. Department of Transportation (NCDOT) addressed two areas of top concern for municipalities. From the outset, the bill established a program to fund improvements at large publicly-owned commercial airports. Qualifying airports must have more than 10,000 passenger boardings during the previous two calendar years, though the program capped the amount of awards that may be given to the three largest airports in the state. In addition to the new commercial airport funding program, legislators added a provision late in the legislative session that authorized NCDOT to enter into public-private broadband partnerships. In these partnerships, the agency would lease broadband infrastructure it built along interstates to a private internet service provider. Though the language of the bill differed from HB 431 FIBER NC Act, the policy it implemented was identical to that sought by local governments in HB 431.

## **HB 217 DIT Changes - AB (Reps. Saine, Jones, K. Hall) - Law - SL 2019-200 effective various dates**

This sweeping agency bill for the N.C. Department of Information Technology (DIT) contained many positive updates to state cybersecurity, information technology procurement and emergency management laws, plus one surprise provision that eliminated free cable service to public buildings. Among its many provisions, the bill took steps to assist local governments during cybersecurity crises, defining terms and requiring municipalities and counties to report significant incidents to DIT. Information shared with DIT during these incidents was protected under this bill from public disclosure, pursuant to the state's public records law. The bill also allowed local governments to use multiple-award schedule contracts when procuring information technology.



NCLM Executive Director Paul Meyer at a Board of Directors meeting in Wilmington

With respect to emergency management, the measure contained over a dozen provisions that updated laws regarding the 911 Board and its work, as requested by the 911 Board. The Board's requests included a provision that directed all public safety answering points (PSAPs) to make upgrades to accept emergency calls via text message by July 1, 2020. Importantly for cities not yet participating in a 911 system, the bill required all local governments to do so. And related to the operation of PSAPs, the bill contained training requirements for police telecommunicators, as requested by the N.C. Association of Chiefs of Police.

Finally, the conference report for the bill—developed without public input and unable to be amended after it was released—contained an unexpected provision that removed from law a requirement for cable providers to supply each government building with a free cable connection. The requirement was placed into law previously when the legislature shifted from a system of local cable franchises to a state franchise, and it was intended as partial compensation to local governments for the privilege of operating in the state, including use of the public’s right of way for laying service lines.

**[HB 224 Assault w/ Firearm on LEO/Increase Punishment](#) (Reps. Moore, Hastings, C. Smith, Barnes) - Law - SL 2019-116 effective December 1, 2019; [HB 425 Increase and Expand Assault on/Resist of LEO](#) (Reps. Faircloth, McNeill, Ross, Boles) - Passed House; [HB 283 Conner’s Law](#) (Reps. Jones, Bell, Moore, Hastings) - Passed House; [SB 306 Conner’s Law](#) (Sens. Britt, McInnis) - Not Passed; [SB 20 Emergency Worker Protection Act](#) (Sens. Britt, Ballard, McInnis) - Passed Senate**

There were a large number of bills filed to address harm caused to emergency personnel while performing their jobs. HB 224 is the only one so far to become law; it increases criminal punishments for assaults committed against law enforcement officers, probation officers, parole officers, national guardsman, and detention facility employees. HB 425 would make similar increases and also make it a criminal offense to resist, delay, or obstruct an officer, and cause injury; HB 425 is still awaiting consideration by the Senate.

HB 283 and SB 20 would similarly increase criminal punishments for assaults committed against law enforcement officers, but would also include other emergency response personnel, including firefighters. Additionally, HB 283 would increase the line of duty death benefit for emergency personnel when the death was found to be caused by murder or an intentional harmful act of another person and would be retroactive to July 1, 2016. HB 283 has passed the House and is awaiting final consideration by the Senate; SB 20 has passed the Senate and is awaiting consideration by the House.

**[HB 348 Protect City Employees From Retaliation](#) (Reps. Grange, Conrad, Hanig, Richardson) - Passed House**

As originally filed, the bill would have created additional legal protections for municipal law enforcement officers from retaliation. The N.C. Association of Chiefs of Police and the League of Municipalities had noted those new protections could limit a law enforcement agency’s ability to discharge a problem officer due to fear of increased litigation. The bill changed when it passed the House to instead require cities and towns that do not have an anti-retaliation policy to adopt one. HB 348 is now eligible for consideration in the Senate.

**[HB 381 School Construction & Broadband Investm’t Act](#) (Reps. Arp, Saine, Conrad) - Not Passed; [HB 398 Growing GREAT-Rural Broadband Funding](#) (Reps. Arp, Szoka, Saine, Barnes) - Not Passed; [SB 308 Save the Internet Act](#) (Sens. Chaudhuri, Woodard) - Not Passed; [SB 627 Expand GREAT Grant Program](#) (Sens. deViere, Woodard, Foushee) - Not Passed**

Legislators from both parties filed numerous bills this session intended to beef up the state’s nascent broadband infrastructure grant program, called the Growing Rural



NCLM Board members tackle challenges together at a meeting in Wilmington

Economies with Access to Technology (GREAT) program. GREAT went into effect last year to boost rural broadband opportunities, though it did not consider municipalities to be eligible parties for funds. While none of these bills individually advanced, budget writers increased the program's appropriation in the state budget by \$5 million, for a total of \$15 million annually, and made the funding permanent. The appropriations contained in HB 381 and HB 398 were in the same amount as in the budget, though these bills pulled the funds from a different state capital funding source. Further, HB 398 would have made various changes to the grant program's design, such as requiring wireless providers applying for grants to submit proof that the proposed

area could be served using wireless technology. SB 627, meanwhile, would have made a more favorable change in the GREAT program for cities by opening up eligibility to all local governments, if they were partnering with a private internet service provider. SB 308 took a different approach to the GREAT program than the other three bills. It would triple the program's current funding to \$30 million annually, with an additional \$5 million allocated to that fund specifically to address the "homework gap" by providing students without home internet access wireless hotspots and devices.

### **HB 387/SB 310 Electric Co-Op Rural Broadband Services (Reps. Arp, Szoka, Lewis, Hunter; Sens. Brown, Newton, Woodard) – Law – SL 2019-17 effective May 30, 2019**

These twin bills, which cleared away statutory hurdles and allowed subsidiaries of the state's electric cooperative corporations to provide broadband services, passed their respective chambers with overwhelming support. Changes made in the bill included, among other items, language to allow easements held by electric cooperatives to be used for the purpose of supplying telecommunications and broadband, in addition to supplying electricity. During debate on these bills, committee members praised the cooperatives for offering a solution to a critical economic development issue facing the state—a lack of broadband availability in rural areas. The concept advanced by the cooperatives was similar to the public-private partnership model that would be authorized by the League-supported HB 431 FIBER NC Act. Ultimately, SB 310 was the bill that advanced all the way through the legislative process to become law.

### **HB 431 FIBER NC Act (Reps. Dobson, Lewis, Szoka, Corbin) – Not Passed**

Cities and towns HB 431 as one of their top legislative priorities of 2019. Broadly, the bill would authorize local governments to build broadband infrastructure and lease those assets to one or more private internet service providers. These arrangements would give unserved or underserved communities a path toward reliable, fast internet. In its filed version as well as a later version considered by legislators, the bill included the

procedures a local government must follow to advertise the opportunity for leasing this infrastructure, as well as substantial public steps the local government must take prior to leasing. Those additional steps were designed to protect local taxpayers. Further, the bill removed restrictive leasing language to allow for long-term leases of this infrastructure.

Importantly, the bill contained limitations on local authority. First, it would not allow local governments to operate internet networks as retail service providers. Then, the second version of the bill would not allow thirty of the counties in the state—and the cities within them—to exercise this authority at all. The second of these limitations followed extensive

discussions with representatives of the major telecommunications companies, the League, the N.C. Association of County Commissioners, and the primary bill sponsors. That limitation was included in an attempt to address concerns expressed throughout those discussions by the telecommunications companies. Though ultimately opposed by the those companies and the groups to which they belong, such as the NC Chamber, the bill enjoyed large bipartisan legislative support. Seventy of the 120 House members signed on as sponsors of the bill, and it received bipartisan support in one House committee vote. HB 431 remains eligible for consideration in the 2020 Short Session, and it must receive additional House hearings before moving to the Senate.



N.C. House Speaker Tim Moore in the House chambers.

### **HB 447 Attractive Nuisances (Reps. Zachary, Dixon, Goodwin, Pittman) – Passed House**

HB 447 limits the liability for bodily injury or death of a child trespasser, in certain conditions. The bill states that the landowner, such as a local government, is not liable for creating conditions along certain bodies of water, including water supply reservoirs, unless that landowner makes the body of water attractive to a child trespasser.

### **HB 557/SB 504 Municipal Omnibus Bill (Reps. Ross, Adcock; Sens. McKissick, T. Alexander) – Passed House**

Introduced in each chamber by the co-chairs of the Municipal Caucus, this bill sought numerous changes to eight distinct areas of the law, all designed to cut red tape and increase the efficiency of government operations. Significantly, the bill included items related to two NCLM advocacy goals. The first would extend the notification a county must give the municipalities within it when the county commission switched the method it used to distribute sales tax among the municipalities, from two months prior to the new fiscal year to five months prior. The extension would allow affected municipalities more

time to account for the different funding level in their budgeting processes. The second item would increase affordable housing by expanding the eligible groups of people who may receive housing assistance from municipalities. Other measures in the bill included ones that eliminated a match requirement for municipalities in the most economically distressed counties when applying for grants from the Parks and Recreation Trust Fund; allowed municipalities to annex NCDOT right-of-way; allowed local governments to cease tax collection efforts of unpaid taxes after ten years; ensured finance officers were not personally liable if a vendor failed to follow required notifications for automatic contract renewals; reduced public hearing requirements for certain expenditures made within a municipal service district; and corrected the system development fee law to ensure that fee revenues may be spent on debt for certain capital expenses. The bill moved through the House process this session and remains eligible for consideration by the Senate in the Short Session.

**[HB 615 NC Consumer Fireworks Safety Act](#) (Reps. Szoka, Brody, Hardister, Wray) - Not Passed; **[SB 566 NC Consumer Fireworks Safety Act](#)** (Sens. Gunn, Sawyer) - Not Passed**

Both bills would permit cities and counties to allow the sale and use of consumer fireworks, and would levy a 5% excise tax on the sale of those items. Twenty five percent of the revenue would go to a newly created Firefighters' Education Fund and the remainder would go to the General Fund. The House bill received some committee discussion, but neither chamber has taken any action on either bill.

**[HB 629 Law Enforcement Mutual Aid](#) (Reps. McNeill, C. Smith) - Law - SL 2019-130 effective July 19, 2019**

This legislation expands current mutual aid statutes to authorize mutual aid agreements between North Carolina law enforcement agencies and out-of-state law enforcement agencies.

**[HB 633 Strengthen Criminal Gang Laws](#) (Reps. Davis, Faircloth, McNeill, Richardson) - Awaiting Concurrence**

HB 633 would revise the Criminal Gang Nuisance Abatement Act and the Criminal Gang Suppression Act. Among other things, it amends who may be a defendant in a nuisance action to include a criminal gang and any criminal gang member who associates with other gang members; and amends what action the court may take upon finding a public nuisance to allow the court to order any person not to associate with other persons associated with a criminal gang and to divest themselves of any involvement or interest, direct or indirect, in a criminal gang. It also makes changes to conform with recent "Raise the Age modifications."

**[HB 646 ID Approval/Flex Muni One-Stop](#) (Rep. Lewis, Hawkins, Hardister and Russell) - Law - SL 2019-22 effective June 3, 2019**

Much of HB 646 is focused on clarifying voter identification rules to ensure that more university IDs would qualify for requirements in the wake of voter approval of the new requirements last fall. Of interest to municipalities is language that will give county boards



Mark-Anthony Middleton of Durham Council and NCLM Board Member

of elections additional flexibility in devising their plans for early voting in odd-year elections. The majority of contests in odd-year elections are for municipal offices.

**[HB 688 ENOUGH/Gaming Machines](#) (Reps. Hurley, McNeill, Brisson, Conrad) - Not Passed; [HB 749 Limit Machines/Devices](#) (Rep. Terry) - Not Passed; [HB 929 Gaming Commission](#) (Warren, Hardister, Saine, Hunter) - Not Passed; [HB 1011 Felonious Gaming Machines](#) (Bell, Hardister, Humphrey, Saine) - Not Passed**

These bills alternately sought to either place harsher penalties and improve enforcement related to video gambling, or create regimes of regulation making clear that they were legal. HB 929, among other things, would create a

nine-member Gaming Commission that would be housed in the Department of Commerce. The primary purpose of the commission would be to regulate and oversee all aspects of gaming within the state. The bill also directs the commission to study the feasibility of sports betting, steeplechases, and video lottery terminals within the state. Ultimately, HB 929 became the only bill to even see committee consideration and did not receive a floor vote.

#### **[HB 784 Traffic-Control Training Program](#) (Reps. Brody, McNeill) - Not Passed**

HB 784 increases the minimum age for traffic-control officers to 21 years of age. Current law allows them to be employed at 18 years of age. The bill directs the North Carolina Community College System to develop a training program for traffic-control officers. The course will include four-hours of classroom training and four-hours of roadside training. The bill also requires that an indemnity policy be non-cancelable during the authorization period.

#### **[HB 869 Design-Build Clarifications](#) (Reps. Arp, Jarvis, Hunter) - Passed House**

This bill updated various aspects of the design-build and design-bridge-build contracting methods available to state and local governments. It included, among other modifications, more details regarding the types of expenses that a governmental unit may compensate in a design-bridge-build contract; a prohibition on governmental units requiring a design builder to provide the costs of subcontractor work when responding to requests for qualifications; additional authority for a local government to include multiple project phases in one contract, as well as guaranteed maximum prices; and changes to the selection process for design-build-bridge contracts.

#### **[HB 871 Fair Contracts](#) (Reps. Arp, Stevens, Reives, Floyd) - Law - SL 2019-92 effective August 1, 2019; [SB 569 Fair Contracts](#) (Sen. Newton) - Not Passed**

Interest groups representing designers such as engineers, architects, land surveyors, geologists, and soil scientists backed this measure, which significantly shifted the

allocation of legal risk in contracts with design professionals. These interest groups requested the changes in this bill because insurers would not offer them insurance products for certain legal risks they ordinarily assume in these contracts. The measure, which advanced as HB 871, improved significantly from the filed version, which would have eliminated the longstanding practice of local governments to require indemnification and “duty to defend” clauses in these contracts. Instead, the final negotiated version of the bill maintained prior law regarding indemnification, though it narrowed the exposure for designers by adding a requirement that they or their subcontractors be a “proximate cause” of economic damages before they would assume that legal exposure. In another significant change to prior law, this bill disallowed “duty to defend” clauses in contracts with designers. Other changes were included in the bill, and the League urges all local governments to carefully examine the new law and update contract terms accordingly to minimize their own legal exposure. Notably, this new law applied not only to new contracts made after the date it became law, but also to any change orders or other amendments to contracts that existed before the law took effect.



A row of House lawmakers in the chambers

### **[HB 897 Annual Review/Broadband Service Competitive](#) (Reps. Queen, Rogers, Sasser, Yarborough) - Not Passed**

This bill aimed to give a state regulatory body, the N.C. Utilities Commission, responsibility for annually determining whether broadband service provided by public utilities was sufficiently competitive, with reports of that finding given to various legislative entities and committees. The bill did not receive a hearing, and an attempt to add its language to a different N.C. Utilities Commission bill late in the legislative session was ruled out of order.

### **[HB 916 Citizens Review Board/Law Enforcement](#) (Rep. McNeill) - Not Passed**

HB 916 outlines, in significant detail, the procedures a city must follow if it establishes a citizens review board. It would grant authority to an established board to advise city leaders, make findings and recommendations on disciplinary action of a law enforcement officer alleged to have committed misconduct, and recommend changes in law enforcement policy. However, the bill expressly denies boards the authority to subpoena or review appeals of decisions of the city manager or governing board. It also allows any person involved in a hearing before the board to be represented by an attorney at the hearing. HB 916 was not taken up for consideration.

**HB 1010/SB 584 Criminal Law Reform (Reps. Riddell, Morey; Sens. Wells, Daniels) - Law - SL 2019-198, various effective dates**

As part of the efforts of the Criminal Law Recodification Working Group, this proposal continued an initiative ultimately designed to decriminalize many state and local offenses. As originally filed, HB 1010 and SB 584 would have decriminalized all local ordinances passed after December 1, 2019. However, after much negotiation with the League and other local government interests, legislators voted to allow local governments to retain criminal enforcement of their local codes, with one major caveat: if the local government was a city over 1,000 in population, or a county over 20,000 in population, it would need to submit a report that lists of all of its ordinances that were punishable by a criminal penalty. If the General Assembly does not receive this report by Nov. 1, 2019, then any local ordinances enacted between January 1, 2020, and January 1, 2022 would only be punishable by civil enforcement actions such as fines. The legislature instituted the reporting requirement last year, and hundreds of local governments already complied. Those local governments, therefore, do not have to submit updated reports as a result of this new law. Finally, the new law directed the General Statutes Commission to recommend to the legislature which of the local offenses listed in those reports should remain criminally enforceable. The Commission's recommendations are due May 1, 2020. Legislators chose to advance this proposal as SB 584 and approved it nearly unanimously.



Packed affair: The 2019 Town & State Dinner in Raleigh

**SB 29 Move Over Law/Increase Penalties/Amber Lights (Sens. Britt, McInnis) - Law - SL 2019-157 effective December 1, 2019**

SB 29 increases the penalty for those who cause serious injury or death for violating the State's Move Over Law and makes it unlawful for any vehicle to use a flashing or strobing amber-colored light unless certain conditions apply.

**[SB 148 Public Records/Release of LEO Recordings](#) (Sen. D. Davis) - Law - SL 2019-48 effective June 26, 2019; [HB 791 Law Enforcement Agency Recordings](#) (Reps. Faircloth, Ross, McNeill) - Not Passed; [SB 619 Law Enforcement Agency Recordings](#) (Sens. McKissick, Britt) - Not Passed; [HB 706 Body-Worn Camera Recordings](#) (Reps. Brockman, Quick, Alexander, Hawkins) - Not Passed; [SB 263 Law Enforcement Recordings/Winston-Salem](#) (Sens. Lowe, Krawiec) - Not Passed**

Many bills were filed this session that would make changes to the existing laws governing the release and disclosure of law enforcement recordings such as body-worn or dashboard camera video. The only bill that received consideration was SB 148, which adds two new factors to the list of purposes a law enforcement agency (LEA) may release a law enforcement recording: 1) suspect identification or apprehension, and 2) locating a missing or abducted person. While neither received consideration this session, HB 791 and SB 619 would achieve a statewide goal of cities and towns by allowing release or disclosure to the city manager, city council, or citizen review board if there is a confidentiality agreement and it is done in closed session. SB 263 would have made similar changes to HB 791/SB 619, but was a local bill that would apply only to Winston-Salem. HB 706 would have made major changes to existing laws, requiring all LEAs in counties that serve a population of over 200,000 to wear body-worn cameras and allowing those LEAs to disclose the recording to any person; it was not heard for consideration.

**[SB 474 Clean Up Obsolete Boards](#) (Sen. Wells) - Passed Senate**

The bill would have abolished numerous state boards and commissions, including the Charlotte Douglas International Airport Commission, leaving control and oversight of the airport to the Charlotte City Council. City Council control has been in effect anyway since a 2014 court ruling. After passing the Senate, the bill has not been acted on by the House.

**[SB 478 Modify Appointment Reporting](#) (Sen. Sawyer) - Law - SL 2019-167 effective July 26, 2019**

Among other provisions, clarifies that the clerk of a unit of local government must submit to the Secretary of State, by Sept. 1 each year, a required report stating the number of appointments made to various local advisory boards by gender.

**[SB 645 Local Gov'ts/Broadband Service Infrastructure](#) (Sens. Burgin, T. Alexander) - Not Passed**

Similar to HB 431 FIBER NC Act, a top priority bill sought by NCLM, SB 645 authorized local governments to build broadband infrastructure and lease those assets to one or more non-governmental entities. However, this bill departed from the FIBER NC Act by placing two significant limitations on a local government's exercise of this authority: a requirement that any private partner leasing this infrastructure must provide up to 50% of the total project costs, and a requirement for a voter referendum before any lease arrangement may be undertaken. SB 645 did not receive a hearing.

# Planning & Land Use

## **[HB 3/SB 27 Eminent Domain](#) (Reps. D. Hall, Lewis, Goodman, McGrady; Sens. B. Jackson, Britt, Sanderson) - Passed House**

In a continuation of a House-led effort from the past several legislative biennia, HB 3 sought to place on the ballot a state constitutional amendment that would prevent condemnation of property except for a public use. Additionally, it would direct payment of just compensation in all condemnation cases, and it would grant a constitutional right to trial by jury at the request of any party to a condemnation case. Cities utilize condemnation for multiple public uses, including building infrastructure such as roads and water/wastewater lines. The Senate did not take up either bill, repeating its approach to this bill in previous legislative sessions.

**[HB 31/ SB 99 Allow Durham Pub. Schools to Provide Housing](#) (Reps. Black, Morey, Reives, Hawkins; Sens. McKissick, Woodard) - Passed House; [HB 59/SB 83 Winston-Salem/Real Property Conveyances](#) (Reps. Conrad, Montgomery; Sens. Krawiec, Lowe) - Passed House; [HB 191 Housing Recovery/Restore Greensboro Funds](#) (Reps. Clemmons, Quick, Hardister, Faircloth) - Not Passed; [HB 375/ SB 8 Authorize Teacher-Gov't Emp'ee Housing/Bertie](#) (Rep. Goodwin; Sen. Smith) - Passed House**



NCLM Executive Director Paul Meyer (L) with Senate leader Phil Berger (R)

Legislators in both chambers and both parties put forward local bills intended to create additional affordable housing in the affected jurisdictions, though the House was the only chamber to take up any of those bills. City officials prioritized additional affordable housing this session, and this grouping of local bills would accomplish that goal in several ways. Several of the bills aimed to boost affordable housing options for certain public employees, such as teachers. Meanwhile, HB 59/SB 83 allowed the City of Winston-

Salem to convey city-owned property for the purpose of creating additional affordable housing, excluding property acquired by the City by eminent domain. Builders often cite the high cost of land, particularly in large cities, as a barrier to the creation of affordable housing, and this proposal addressed that concern. Finally, HB 191 appropriated \$1 million to the City of Greensboro to assist the City in managing the repair or demolition of homes damaged by a 2018 tornado.

**[HB 448/SB 422 Planning/Development Changes](#) (Reps. Stevens, Zachary; Sens. McKissick, Newton) - Not Passed; **[HB 722/SB 355 Land-Use Regulatory Changes](#)** (Reps. D. Hall, Bell, Conrad, Richardson; Sens. Bishop, Newton, Searcy) - Law - SL 2019-111, effective various dates**

Two sweeping land use proposals that had each been proposed for multiple prior legislative sessions combined into one large bill this session, SB 355. Each proposal constituted its own distinct part of the bill. Part I, requested by the N.C. Home Builders Association, made significant changes to the process of resolving and litigating land use disputes. The League worked as a key member of a negotiation group to minimize the negative

ramifications of this 'Home Builders' wish-list proposal, which also modified the state's "permit choice" and statutory vested rights laws. Meanwhile, Part II, developed by a committee of the N.C. Bar Association that included local government perspectives, reorganized and substantially rewrote portions of existing planning statutes into a newly-codified statutory section, 160D. Because the General Statutes Commission must comb through any modifications to this set of statutes to ensure that no existing law is left out, Part II of the bill will not become effective until January 1, 2021. The unusually long gap in time before the effective date will also allow local officials to receive training on how to implement the new statutes, which were not intended to represent major policy shifts from current law.

**[HB 532 DNCR Add New Trails & Various Changes](#) (Reps. Blackwell, Setzer, McGrady, Dobson) - Law - SL 2019-20 effective June 3, 2019; **[SB 610 Authorize Northern Peaks Trail](#)** (Sen. Ballard) - Law - SL 2019-74 effective July 1, 2019**

A pair of bills created new state parks that enhanced existing and planned municipal trails in the western part of the state, in addition to clarifying the authority of all cities with regard to state park lands in their jurisdiction. HB 532 added the Overmountain Victory National Historic Trail and the Wilderness Gateway Trail to the State parks system, while SB 610 added to the system the Northern Peaks State Trail, which originates in downtown Boone. The bill then directed the Division of Parks and Recreation to study the feasibility of connecting the Town of Valdese, the City of Hickory, the Overmountain Victory State Trail, and natural areas located within Burke and Catawba counties. Importantly, this bill also clarified that for any state parks trails that crossed property controlled by non-state owners such as municipalities, the rules and policies of that other agency govern the use of the property under their own control. Finally, HB 532 transferred the responsibility to assist local governments with their local recreational programming from the N.C. Department of Environmental Quality to the N.C. Department of Natural and Cultural Resources.



Members of the Morrisville Town Council at CityVision 2019

**HB 549/ SB 456 Matching Funds for Affordable Housing (Reps. Beasley, Hardister. Sen. Blue) - Not Passed; HB 564 Create House Select Committee on Homelessness (Reps. Torbett, Pittman) - Not Passed; HB 708 LRC Study-Affordable Housing (Reps. Holley, Hardister, Autry, Setzer) - Passed House; SB 316 Affordable Housing (Sens. Wells, Krawiec, Edwards) - Law - SL 2019-144, effective July 19, 2019; HB 786 Emergency Management Changes (Reps. Jones, Bell, Szoka, Hunter) - Not Passed;**

**SB 629 Funding for Housing Trust Fund (Sens. deViere, Peterson, Garrett) - Not Passed**

Legislators from both parties submitted numerous statewide proposals on the topic of affordable housing, though only one, SB 316, passed into law. That bill directed cities with a population above 90,000 to submit a report to the legislature by October 1, 2019, regarding their local strategies and activities to increase affordable housing in that city, with a particular focus on actions that would limit the cost of privately-developed housing, provide subsidies and preserve existing moderate-income housing. The other statewide housing bills proposed in this grouping would further the NCLM priority advocacy goal of increasing the supply of affordable housing. One set of bills, which included HB 549/SB 456 and HB 629, would increase housing appropriations to agencies that build affordable housing projects, like the N.C. Housing Finance Agency. Another set of bills, which included HB 564 and HB 708, directed interim studies of topics related to increasing the supply of affordable housing. Finally, HB 786 focused on housing needs in areas affected by recent hurricanes, providing flexibility for disaster recovery funds to be used for affordable rental and owner-occupied housing, as well as removing restrictions on disaster recovery funds allocated for housing needs.

**HB 645/SB 534 Revisions to Outdoor Advertising Laws (Reps. Saine, Dixon, Jones, Wray; Sens. Edwards, Brown, Nickel) - Vetoed**

As Originally filed this bill was an omnibus industry bill that contained dozens of changes requested by the N.C. Outdoor Advertising Association. In part due to extensive negotiation with the League and cities across the state the final proposal mostly focused on new rules that applied when a sign must be moved due to a condemnation action, such as during a road-widening project. Now the bill would allow sign owners to relocate those signs in lieu of accepting just compensation, so long as the sign owner complied with numerous new restrictions, such as a limit on relocations to two miles of the condemned sign's original location. The League requested that geographic limitation, along with the elimination of some language originally proposed that could have led to more generous compensation paid to sign owners when billboards were not relocated. Gov. Roy Cooper vetoed the bill in late August, and as of this writing, the General Assembly had not attempted an override of the veto.

**HB 675 2019 Building Code Regulatory Reform (Reps. Brody, Riddell, Hardister, Richardson) - Law - SL 2019-174, various effective dates**

This year's omnibus building industry bill made numerous changes to local and state building permitting and inspection processes. The League negotiated changes to remove the bill's most serious impacts to local governments, including a change related to the turnaround time for local officials to review residential building plans. As originally written, the bill would have given local governments only two days to complete these reviews; the League-negotiated change lengthened that timeframe to 15 days. Otherwise, a local

government may not review residential building plans sealed by a licensed engineer or architect, unless otherwise required by state law. The League also secured removal of a problematic provision included in the original bill related to installation of backflow prevention devices on irrigation lines. Other notable provisions affecting cities that remained in the final bill included one that prohibited cities from requiring a minimum square footage for residential structures, and another that prohibited cities from requiring developers to bury power lines under specifically-listed circumstances. Finally, yet another provision continued until October 1, 2021 a requirement for cities to report instances where building inspectors find more than 15 building code violations in one inspection.

### **HB 730 Trash Collection/Multifamily Residential (Reps. Szoka, Corbin, Howard, Richardson) - Passed House**

A request by a “trash valet” service company prompted HB 730, which would allow placement of certain waste and recycling collection containers in the hallways of apartment buildings, if certain conditions were met. As it was debated in the House, the bill underwent significant revisions. The version that passed that chamber ultimately included two sets of conditions under which apartment residents could leave their refuse containers outside their units: one for enclosed hallways, and another for open-air hallways. Though this version of the bill directed a statewide rulemaking by the Building Code Council to implement the provisions of the bill, it did authorize local government



Municipal officials from across North Carolina vote on NCLM issues

code enforcement officials to approve alternative containers and storage arrangements, if they provided an equivalent level of safety.

code enforcement officials to approve alternative containers and storage arrangements, if they provided an equivalent level of safety.

### **HB 858 Interior Design Profession Act (Reps. Riddell, Saine, Beasley, Ross) - Not Passed**

In a repeat from the previous legislative biennium, HB 858 was introduced to establish a new state registration and certification program for interior designers. These professionals create plans for the use of interior space of buildings, including

### **HB 1012 Safety Updates for Rental Properties (Reps. Beasley, Belk) - Not Passed**

placement of nonstructural elements such as furniture, fixtures and equipment, design of internal circulation or room movement patterns, design of the location of internal exit requirements, and compliance with interior life-safety factors and other state laws. The bill, which received one House committee hearing, would also grant registered interior designers permission to submit to local building inspection departments sealed plans for interior design elements of buildings.

This proposal stemmed from a high-profile media expose of squalid living conditions in a Charlotte apartment complex. In response to those media reports, HB 1012 added to

existing code enforcement statutes the hazard of fungal growth that may result in medical ailments. Further, it authorized local governments to conduct testing to detect such mold in housing units. To assist in that effort, it appropriated \$90,000 in one-time funds for local governments to use in testing for such fungal growth. The proposal explicitly allowed local governments to pass ordinances that set out a process by which a tenant would notify a landlord of the presence of fungal growth, and it detailed the period of time in which a landlord must take remedial steps in response to that notification. Finally, it directed rulemaking by the Commission on Public Health to establish statewide parameters and guidelines for exposure to such fungal growth.



Former House Speaker Harold Brubaker at CityVision 2019

### **[SB 208 Limit Local Restrictions/Noncommercial Signs](#) (Sens. McInnis, Daniel, Hise) - Passed Senate**

SB 208 initially would have removed all local size restrictions on political signs posted on private property. But after hearing concerns from legislators and interest groups, the version of SB 208 that passed the Senate scaled back this language. Instead, while the bill lifted limitations on the size of noncommercial signs—including political signs—it still did not allow those signs to exceed 64 square feet in size or six feet in height and only if they were placed on private property or outside of any State or municipal right-of-way.

### **[SB 313 Perf. Guar. to Streamline Afford. Housing](#) (Sens. Wells, Krawiec, Woodard) - Law - SL 2019-79, effective July 4, 2019, and applied to performance guarantees issued on or after that date**

The League and the N.C. Home Builders Association negotiated this compromise bill, which rewrote the law authorizing local governments to require land developers and builders to provide financial guarantees to ensure completion of development-related improvements such as roads, curb and gutter, and water/wastewater lines. Importantly for cities, the new law explicitly stated that the amount of the guarantee may be determined by the local government. The bill exempted stormwater and erosion/sedimentation guarantees from the procedures otherwise applicable to these financial guarantees. And to guide local governments further, the bill also created new processes to standardize calculation of the guarantees, as well as renewal or extension of guarantees, among other changes.

### **[SB 315 North Carolina Farm Act of 2019](#) (Sens. B. Jackson, Sanderson, Johnson) - Awaiting Concurrence**

SB 315 is a large package of various agricultural related reforms. The majority of legislative discussions focused on a proposal to regulate hemp production and sale in the State

through the implementation of a state hemp program. Debates and controversy centered around whether to define non-psychoactive smokable hemp as marijuana due to law enforcement and prosecutorial concerns as to whether probable cause searches and prosecution for marijuana possession would be hindered if smokable hemp was legal. The most recent version of the bill includes a provision to make smokable hemp illegal effective May 1, 2020. The bill also contains a provision to allow signs that advertise bona fide farms to be placed within 660 feet of the nearest edge of interstate or state primary highways, subject to certain conditions, and would also create a process by which landowners whose land is burdened by a utility easement (including easements for water and wastewater systems) can petition for termination of the easement.

### **SB 553 Regulatory Reform Act of 2019 (Sens. Sanderson, Wells) - In Conference Committee**

SB 553 was this Session's large package of regulatory reforms that would place into law numerous unrelated provisions. While at the writing of this Bulletin it is still awaiting final approval from the Senate, the conference report that emerged as an agreement between both chambers included the following provisions of interest to municipalities:

- An increase in the dollar threshold for contracts that are exempted from the public officer or public employee conflict-of interest-prohibitions that limit benefits from contracts of their public agency.
- A provision that affects waste accumulation as it relates to the Fire Prevention Code, requiring the Building Code Council to amend the Fire Prevention Code to allow doorstep garbage and recycling containers under specific conditions.
- Authorization of a city or county to establish a process to permit temporary event venues.
- Clarifications of landfill life-of-site franchise requirements to allow for "substantial compliance."
- Provisions to address the financial viability of certain water and wastewater utilities based on their infrastructure need, including creating a new grant program entitled the "Viability Utility Reserve Fund" - which appeared in multiple other bills this Session
- A study of the methods used to determine the fair market value of outdoor advertising signs as it relates to property tax purposes.
- A prohibition of cities from requiring masonry curtain walls or masonry skirting from being installed on manufactured homes located on land leased to the homeowner.
- A Division of Emergency Management study of the needs of law enforcement and first responders to improve access to the interstate system.
- The addition of aquaculture to an existing list of uses — such as general farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife, etc. — that are allowable in flood hazard areas.

Other provisions of interest that appeared in previous versions of SB 553 but were not ultimately included in the final reform package include provisions that define "electronic standup scooter" and a study electronic recycling of TVs and computers. A provision that was ultimately removed from the bill after opposition from the League and other interested parties would have changed the N.C. Coastal Resources Commission's existing

authority to approve land-use plans with local government requirements that are more restrictive than state guidelines by prohibiting that approval as it relates to docks, piers, and bulkheads.

### **[SB 367 Clarify Property Owners' Rights \(Sens. McInnis, Krawiec, B. Jackson\) - Not Passed](#)**

SB 367, a proposal that prohibited cities and counties from regulating removal of trees on private property, proved to be one of the most controversial measures filed this legislative session. It was also quickly “withdrawn” by the bill sponsor after tremendous backlash from local officials across the state, and it did not advance through the legislative process after its first hearing. Problematically for cities, the bill stated that no general police powers could be cited by a city or county as their authority for regulating tree removal on private property. Further, the bill stated that even when the General Assembly allowed a city or county to regulate tree removal on private property, the local ordinance must include a provision granting private property owners the right to remove trees that interfered with a construction or renovation project, so long as they replaced that tree with a sapling of the same or similar type. The bill also ensnared prior local acts that authorized local tree regulations, earning opposition from those communities as well.



(L-R) Past NCLM President Michael Lazzara welcomes 2019 President William Pitt at CityVision

### **[SB 406 Limit Conditional Zoning \(Sens. McInnis, Gunn\) - Not Passed](#)**

This measure limited the discretion of local government officials when making conditional or special use zoning decisions, only allowing conditions that would otherwise be able to be imposed upon other similarly-situated parcels in the same zoning classification. The bill did not receive a hearing.

### **[SB 483 Vacation Rental Act Changes \(Sen. McInnis\) - Law - SL 2019-73, effective July 1, 2019; \[SB 118 PED/Safekeeper Health Care Cost Recov. Pract. \\(Unpublished proposed committee substitute\\) \\(Sens. B. Jackson, Krawiec, Ballard\\) - Passed Senate\]\(#\)](#)**

The topic of local regulation of short-term rentals (such as AirBnB) surfaced in June in a series of legislative actions. First, the legislature enacted the relatively non-controversial SB 483, which clarified that properties covered under the state’s Vacation Rental Act were only subject to a city’s or county’s rental inspection program. Second, House committees engaged in several public debates of the issue, considering language that would severely preempt local authority to regulated short-term rentals. However, due to backlash from local officials as well as many House members in both parties, no committee ever took a vote on the proposals, and therefore, no public version of the proposals was available.

Due to the potential negative effects of short-term rentals on neighboring properties and property values, local officials employ numerous types of regulations on this property use. Those regulations include property registration requirements, limits on the length of time and the frequency with which those properties may be occupied by non-residents, and parking requirements. Most proposals debated in the House this session would have removed the authority of local governments to regulate property in these ways. Those proposals also classified short-term rentals as a residential property use, as opposed to a commercial use. Later versions of these proposals added an interim legislative study of the topic. When allowed to make public comment, the League spoke in opposition to the ideas presented, along with hotel and lodging interests. Combined with committee members' concerns, in each discussion, this opposition caused proponents to pull their proposals from consideration before a vote was taken, with promises to try to reach compromise.

### **SB 571 Local Governments/Unsafe Buildings (Sen. Perry) - Not Passed**

This proposal – opposed by city officials – rolled back several reasons for which a municipal code enforcement official may consider a building or structure unsafe. Reasons listed in the bill included that the building “is likely to cause or contribute to blight, disease, vagrancy, or danger to children,” or “has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance,” such as gang activities. The bill also put in place a 60-day time period under which a building owner must take corrective action, though it allowed municipal officials to grant another 60-day extension to complete work to bring the building into compliance. After hearing from city officials that the bill would limit their authority to address blighted areas, legislators did not advance the bill.

# Environment & Utilities

## **[HB 258 Expand Eligibility for Utility Account](#) (Reps Boles and McNeil) – Passed House; [SB 158 Expand Eligibility for Utility Account](#) (Sen. McInnis) – Not Passed**

Filed as companion bills, HB 258 and SB 158 would extend eligibility to more counties for the Utility Account program, a component of the Jobs Development & Investment Grant (JDIG) economic incentive program. Funds in the Utility Account are awarded as grants to local governments in qualifying rural areas for infrastructure projects such as water and sewer, broadband, and transportation. HB 258 passed the House with some changes as to how the eligibility is expanding and is awaiting consideration by the Senate. SB 158 was not taken up for consideration in the Senate.

## **[HB 479 ERC Studies/Scope](#) (Rep. Dixon) – Passed House; [HB 759 Electronics Recycling Amendments](#) (Rep. McGrady) – Not Passed; [HB 789 Amend Recycling Rqmts. for Computers & TVs](#) (Reps. K. Hall, Saine, Strickland, Jones) – Not Passed**



(L) Asheboro City Attorney Jeff Sugg  
(R) Roanoke Rapids Mayor Pro Tem and NCLM Board's Carl Ferebee

As in previous Sessions, there were many bills to address or study the issue of electronic recycling, such as computers and televisions. However, the only bill to receive action by either chamber was HB 479, which directs various legislative studies by the Environmental Review Commission (ERC), including a study of ways to optimize and modernize the state's recycling requirements for discarded computer equipment and televisions. Aspects to consider in the study include current market dynamics, disposal of cathode ray tube televisions, other disposal options for electronics materials, and the impact of market conditions on local governments and other effected entities. The ERC was to report its findings to the 2021 Regular Session of the General Assembly. HB 479 also included an ERC study of the history of expenditures, revenues, disbursements, and work generated from solid waste disposal tax. HB 479 passed the House, but has not yet been considered by the Senate.

The House also included an electronics recycling study identical to HB 479 in the version of [SB 553 Regulatory Reform Act of 2019](#) that passed their chamber. However, the final agreed-to conference report for SB 553 did not include the electronic recycling study provisions.

## **[HB 495 No Municipal Reg/Off-Site Wastewater Systems](#) (Rep. McElraft) – Law – SL 2019-131 effective July 19, 2019**

This legislation states that a municipality cannot prohibit or regulate off-site wastewater systems if the system “meets the specific conditions of the approval” that are regulated

by the Department of Health and Human Service under rules adopted by the Commission for Public Health.

### **[HB 522 Study Outside Water Rates \(Rep. Szoka\) - Not Passed](#)**

This bill would have required a legislative study of how municipalities set water and wastewater utility rates, with a specific focus on disparities in rates charged to utility customers within municipal jurisdiction versus those outside that jurisdiction, directing a report to the N.C. General Assembly by May 1, 2020. HB 522 was not taken up for consideration by a committee.

### **[HB 560 Ban PFAS in Fire Retardant Foam \(Reps. Harrison, Faircloth, Hardister, McGrady\) - Not Passed; SB 655 Ban PFAS in Fire Retardant Foam \(Sens. Garrett, Robinson, deViere\) - Not Passed](#)**

In response to the presence of certain perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals) found in drinking water supplies being tied to the use of fire-retardant foams, HB 560 and SB 655 would ban certain fire-retardant foams containing certain PFAS from use for training purposes and from manufacturing and distribution in North Carolina. The bills were not considered by their respective chambers.



Former NCLM President Bob Matheny (L) and Scott Mooneyham, Director of Political Communications and Coordination (R)

### **[HB 758 MSD Expansion and Governance/DACS Study \(Rep. McGrady\) - Law - SL 2019-127 effective July 19, 2019](#)**

This legislation requires expansion of a metropolitan sewerage district in certain limited circumstances and upon the N.C. Environmental Management Commission finding that the inclusion of the new territory would not adversely affect customer service in the district and would preserve and promote the public health and welfare of the district.

### **[HB 812 Nutrient Offset Amendments \(Reps. White, Bell, McGrady, Jones\) - Law - SL 2019-86 effective July 8, 2019](#)**

HB 812 allows wastewater dischargers some additional flexibility in the location of their nutrient offset credits when they are under nutrient reduction requirements because they discharge to an impaired water that is under a “nutrient management strategy.” Doing so, it allows for credit from projects located outside the immediate hydrologic area, so long as those projects are downstream of the wastewater discharge and upstream of the impaired water body that is identified for a clean-up. There are “nutrient management strategies” for the Neuse River Basin, the Tar-Pamlico River Basin, the Falls Lake Watershed, and the Jordan Lake Watershed.

## **[HB 823 NC Managing Environmental Waste Act of 2019](#) (Reps. Warren, McGrady, Harrison, Grange) – Passed House**

This bill would reallocate 5 percent of the solid waste tax revenues received by local governments to cities and counties that provide plastics recycling within their jurisdictions. It directs these funds to be used only for plastics recycling and single-use plastics reduction programs, including purchasing alternative packaging to single-use plastics by the local government's own food service programs. Additionally, among other provisions, it would direct an interim legislative study of single-use plastics. HB 823 passed the House and has not been considered by the Senate.

## **[HB 824 Wastewater Grant Amendments](#) (Rep. Yarborough) – Passed House**

Would modify the criteria for state-funded water and wastewater grant programs to give greater priority to projects designed to improve the water quality of impaired public water supplies serving more than 500,000 customers. It would also add an additional consideration for awards from these grant funds that takes into account whether the project benefits a water supply used by a neighboring unit of local government that has higher wealth indicators than the applicant. The bill is written so specifically that it would give priority of the existing, limited funds to the South Granville Water and Sewer Authority (SGWASA). HB 824 passed the House, but has not been considered by the Senate. However, the same provisions ultimately appeared in and will become law with the likely passage of [SB 553 Regulatory Reform Act of 2019](#).

## **[SB 68 Relocation Water/Sewer Line Costs](#) (Sen. Brown) – Law – SL 2019-197 effective August 14, 2019**

In a boost to cities between 25,000-100,000 in population, SB 68 reduced the amounts those cities must pay when a state road project required relocation of municipal-owned utility lines, such as water/wastewater lines. The League supported this bill, which passed

each chamber nearly unanimously. The initial proposal reduced the costs cities between 50,000-100,000 in population must pay from 100% to 50% of the costs. House members later amended the bill to additionally reduce the costs for smaller cities. With that additional change, cities between 25,000-50,000 went from paying half of the relocation expenses in these situations to one-quarter.

## **[SB 70 Erosion & Sedimentation Program/PED](#) (Sens. Foushee, Waddell) – Not Passed**

SB 70 would implement multiple recommendations made by the legislature's Program Evaluation Division in a recent study of state and local erosion and sedimentation programs. First, it requires a study led by the N.C. Department of Environmental Quality (DEQ) of the adequacy and oversight of delegated local erosion and sedimentation



NCLM Executive Director Paul Meyer updates board members



N.C. Attorney General Josh Stein discusses the opioid crisis at CityVision 2019

control programs, directing state rule revisions of the program, depending on the study's findings. In addition to including other data compilation and reporting requirements for DEQ, it would require review of local delegated programs by the N.C. Sedimentation Commission at least every five years, allow a local government or groups of local governments to contract with a licensed professional engineer or landscape architect to conduct local erosion and sedimentation inspections, and raise the minimum fee the state and local programs must charge for their erosion and sedimentation inspections. SB 70 was not taken up for consideration by a committee.

**SB 320 Regional Water Systems and State Grants (Sen. J. Alexander) - Vetoed; HB 414 Regional Water Systems and State Grants (Rep. Barnes) - Not Passed**

These two bills would add a new condition in order to disburse water and wastewater grants made to local governments that are applying for a grant for a regionalization project. That new condition requires a written agreement (or waiver of the right to establish

a written agreement) from each party participating in the regional water system that is applying for a grant. Those agreements must contain details about the current rates for wholesale purchase of water or wastewater treatment from the grant applicant, as well as any anticipated increases in the 30-year planning horizon. The bills would also create a dispute resolution process for local governments prior to execution of the written agreement. The legislation was later amended to make it only applicable to Kerr Lake Regional Water System. The Senate version passed both chambers and received a veto from the Governor. In his veto message, Gov. Roy Cooper stated that state law shouldn't be used to "seek an unfair advantage in negotiations" and highlighted the importance of local governments resolving difference between themselves to ensure fair access to resources.

**SB 356 Surplus Property Proceeds to Parks and Water (Sens. Wells and Brown) - In Conference Committee**

This bill would place portions of the proceeds from the sale of various pieces of state property in the downtown Raleigh area into the Clean Water Management Trust Fund and the Parks and Recreation Trust Fund, funds which benefit municipalities through investments into local water and sewer systems and parks. Differences between House and Senate versions were being debated as of this writing.

**SB 381 Reconstitute/Clarify Boards and Commissions (Sens. Wells, Woodard, Edwards) - Law - SL 2019-32 effective July 1, 2019**

This legislation reconstitutes several boards, including the Clean Water Management Trust Fund (CWMTF) and the Parks & Recreation Trust Fund, which had been held unconstitutional by the N.C. Supreme Court. To comport with that court ruling, legislators

agreed to change the method by which members are appointed to each board. Additionally, it changes to the CWMTF statutes making various programmatic changes including:

- allowing CWMTF to receive money from hazard mitigation funds from FEMA and other agencies;
- adding floodplain and wetland restoration and protection to the list of permitted purposes for which CWMTF grants may be made; and
- directing the CWMTF Board of Trustees to consider several new criteria when evaluating grant applications, including a project's ability to address the objectives of the state's basinwide integrated water management plans, the value of preserving water supply capacity by preventing sedimentation and nutrient pollution, the rate and likelihood of land use changes in the project's area, and whether the project is part of a comprehensive land use plan developed by the state or local governments.

### **SB 434 Merger of Certain Sewerage Districts (Sen. Sanderson) - Not Passed**

This bill describes the conditions under which the state would merge several metropolitan sewerage districts into one larger district in the same county, at the request of those districts. It sets the circumstances for such a merger so specifically that it would likely apply in only one place in North Carolina.

### **SB 536 Water/Wastewater Public Enterprise Reform (Sen. Newton) - Not Passed; HB 570 Water/Wastewater Public Enterprise Reform (Reps. McGrady, Hanig) - Not Passed**

SB 536 and HB 570 were the result of a yearlong legislative study committee charged with looking at a variety of issues related to rates of public enterprise utilities. Focus eventually narrowed to the [more-than \\$17 billion of water and sewer infrastructure needs statewide](#) and the continued financial viability of certain water and wastewater utilities based on their infrastructure needs.

The language found in SB 536 and HB 570 would address water and wastewater utility viability in a number of ways, including creating a new grant program, administered by the State Water Infrastructure Authority, called the "Viable Utility Reserve Fund." As originally filed, the fund included a \$1 monthly surcharge to be paid by every wastewater and water customer of a public water or wastewater utility, but it was later determined that the surcharge was not the best method of funding, and the surcharge was removed when the bill language moved in other bills.

In creating the new grant program, the language directs the type of water and wastewater system projects it can fund, including



Senate leader Phil Berger at NCLM's Town & State Dinner

assistance for physical interconnection of systems; rehabilitation of existing infrastructure; decentralization; and the study rates, asset inventory, merger and regionalization options. In their discussions about system challenges, legislators noted the changing demographics of North Carolina, less federal funding of utilities, and an inability in some areas to charge ratepayers what is needed to keep the system in good condition. Also discussed was the fact that merger, consolidation and regionalization are often impracticable because a utility in good financial standing will not burden its existing ratepayers by merging with a struggling utility. Legislators also recognized that there should be a structure in place to give viability grants to utilities to get them back to a baseline where merger, regionalization or a sale of the system could be possible, but without mandating such measures.

While SB 536 and HB 570 were never fully considered by either chamber, provisions from the bills — related to the creation of the “Viable Utility Reserve” grant program, defining a distressed water or waste water system, the Local Government Commission’s development of criteria to assess public water and waste water systems, the study of subbasin transfers, the study of the feasibility of authorizing historical charters for units of local government, and others — were included in [the vetoed budget](#) agreed to by the two chambers. The provisions were also added by the Senate to a version of HB 777 and will likely pass with the approval of the conference report for [SB 553 Regulatory Reform Act of 2019](#). As of the writing of this Bulletin, the conference report for SB 553 is awaiting final approval from the Senate. The vetoed budget would have appropriated \$9 million in annual recurring funding for the grant program and the Governor’s proposed budget included a \$800 million bond package aimed at utility resilience and viability.

# **APPENDIX I**

All Bills Mentioned in Bulletin

# All Bills Mentioned in Bulletin

| BILL NO.      | TITLE  | STATUS       | BULLETIN SECTION         |
|---------------|--|--------------|--------------------------|
| HB 966        | 2019 Appropriations Act                      | Vetoed       | Tax & Finance/<br>Budget |
| SB 103        | 2019 Appropriations Act                      | Not Passed   | Tax & Finance/<br>Budget |
| SB 109        | 2019 Appropriations Act                      | Not Passed   | Tax & Finance/<br>Budget |
| HB 675        | 2019 Building Code Regulatory Reform         | Law          | Planning & Land Use      |
| HB 91/SB 87   | ABC Laws Modernization/PED Study             | Not Passed   | General Government       |
| HB 536/SB 592 | ABC Omnibus Regulatory Reform                | Not Passed   | General Government       |
| SB 11         | ABC Regulation and Reform                    | Law          | General Government       |
| SB 129        | Advanced Cert. Service Purchase Option/LEOs  | Not Passed   | Tax & Finance/<br>Budget |
| SB 316        | Affordable Housing                           | Law          | Planning & Land Use      |
| HB 68         | Albemarle City Local Option Sales Tax        | Not Passed   | Local                    |
| HB 31/SB 99   | Allow Durham Pub. Schools to Provide Housing | Passed House | Planning and Land Use    |
| HB 789        | Amend Recycling Rqmts. for Computers & TVs   | Not Passed   | Environment & Utilities  |
| HB 897        | Annual Review/Broadband Service Competitive  | Not Passed   | Environment & Utilities  |

|               |   |               |                          |
|---------------|---|---------------|--------------------------|
| HB 224        | Assault w/ Firearm on LEO/Increase Punishment | Law           | General Government       |
| HB 447        | Attractive Nuisances                          | Passed House  | General Government       |
| HB 945        | Augment Disabled Veteran Property Tax Benefit | Not Passed    | Tax & Finance/<br>Budget |
| SB 610        | Authorize Northern Peaks Trail                | Law           | Planning & Land Use      |
| HB 375/SB 8   | Authorize Teacher-Gov't Emp'ee Housing/Bertie | Passed House  | Planning & Land Use      |
| HB 560/SB 655 | Ban PFAS in Fire Retardant Foam               | Not Passed    | Environment & Utilities  |
| HB 748        | Block Vehicle Regis. for Unpaid Parking Fines | Not Passed    | Tax & Finance/<br>Budget |
| HB 706        | Body-Worn Camera Recordings                   | Not Passed    | General Government       |
| SB 80         | China Grove Satellite Annexation              | Law           | Local                    |
| HB 171        | China Grove Satellite Annexations             | Not Passed    | Local                    |
| HB 916        | Citizens Review Board/Law Enforcement         | Not Passed    | General Government       |
| HB 322        | City of Conover/Donut Annexations             | Not Passed    | Local                    |
| HB 84/SB 63   | City of Kannapolis/Annexation                 | Law           | Local                    |
| HB 285        | City of Sanford/Town of Beaufort/Vol Annex    | Law           | Local                    |
| HB 4          | Claremont Deannexation                        | Law           | Local                    |
| SB 367        | Clarify Property Owners' Rights               | Not Passed    | Planning & Land Use      |
| SB 474        | Clean Up Obsolete Boards                      | Passed Senate | General Government       |
| HB 283/SB 306 | Conner's Law                                  | Passed House  | General Government       |
| SB 256        | Cornelius Local Option Sales Tax              | Not Passed    | Local                    |

|                |   |               |                          |
|----------------|---|---------------|--------------------------|
| SB 597         | Create an Additional 5 Tier System            | Not Passed    | Tax & Finance/<br>Budget |
| HB 564         | Create House Select Committee on Homelessness | Not Passed    | Planning & Land Use      |
| HB 1010/SB 584 | Criminal Law Reform                           | Law           | General Government       |
| HB 869         | Design-Build Clarifications                   | Passed House  | General Government       |
| HB 217         | DIT Changes.-AB                               | Law           | General Government       |
| HB 532         | DNCR Add New Trails & Various Changes         | Law           | Planning & Land Use      |
| HB 666         | DOT/Restore funds to SMAP                     | Not Passed    | Tax & Finance/<br>Budget |
| SB 270         | Durham Deannexation                           | Not Passed    | Local                    |
| SB 229         | Elections/Cities in More Than One County      | Not Passed    | Local                    |
| HB 387/SB 310  | Electric Co-Op Rural Broadband Services       | Law           | Environment & Utilities  |
| HB 77          | Electric Standup Scooters                     | Passed House  | General Government       |
| SB 373         | Electric Standup Scooters                     | Not Passed    | General Government       |
| SB 620         | Electric Standup Scooters                     | Not Passed    | General Government       |
| HB 759         | Electronics Recycling Amendments              | Not Passed    | Environment & Utilities  |
| HB 917         | Emergency Declaration/Clarify Rd Closure      | Law           | General Government       |
| HB 786         | Emergency Management Changes                  | Not Passed    | Planning & Land Use      |
| SB 20          | Emergency Worker Protection Act               | Passed Senate | General Government       |
| HB 3/SB 27     | Eminent Domain                                | Passed House  | Planning & Land Use      |
| HB 135         | Enjoin Sanctuary Ordinances                   | Not Passed    | General Government       |
| HB 688         | ENOUGH/Gaming Machines                        | Not Passed    | General Government       |

|               |  |              |                           |
|---------------|--|--------------|---------------------------|
| HB 479        | ERC Studies/Scope                              | Passed House | Environment & Utilities   |
| SB 70         | Erosion & Sedimentation Program/PED            | Not Passed   | Environment & Utilities   |
| HB 115        | Even-Yr. Elections/<br>Town of Biltmore Forest | Passed House | Local                     |
| HB 959        | Exempt Cemetery Property                       | Not Passed   | Tax & Finance/<br>Budget  |
| HB 258/SB 158 | Expand Eligibility for Utility Account         | Passed House | Environment & Utilities   |
| SB 627        | Expand GREAT Grant Program                     | Not Passed   | Environment & Utilities   |
| HB 336        | Extend Suspension of Spencer Mountain          | Law          | Local                     |
| HB 871        | Fair Contracts                                 | Law          | Planning & Land Use       |
| SB 569        | Fair Contracts                                 | Not Passed   | Planning & Land Use       |
| HB 286        | Fayetteville ETJ & Annexation of Shaw Heights  | Not Passed   | Local                     |
| HB 1011       | Felonious Gaming Machines                      | Not Passed   | General Government        |
| HB 431        | FIBER NC Act                                   | Not Passed   | Environment & Utilities   |
| HB 520        | Firefighters Fighting Cancer Act               | Passed House | Tax & Finance /<br>Budget |
| HB 118        | First Responders Act of 2019                   | Passed House | Tax & Finance             |
| HB 991        | First Responders/<br>WC Benefits Duration      | Not Passed   | Tax & Finance/<br>Budget  |
| SB 629        | Funding for Housing Trust Fund                 | Law          | Planning & Land Use       |
| SB 363        | Funds to Restore Town of Princeville           | Not Passed   | Local                     |
| HB 929        | Gaming Commission                              | Not Passed   | General Government        |
| HB 573        | Give WC for PTSD in First Responders           | Not Passed   | Tax & Finance             |
| SB 341        | Government Immigration Compliance              | Not Passed   | General Government        |

|               |  |              |                          |
|---------------|--|--------------|--------------------------|
| HB 7          | Graham County Occupancy Tax                      | Passed House | Local                    |
| HB 398        | Growing GREAT-Rural Broadband Funding            | Not Passed   | Environment & Utilities  |
| HB 458        | Henderson Meals Tax                              | Not Passed   | Local                    |
| HB 326        | Hendersonville Local Option Sales Tax            | Not Passed   | Local                    |
| HB 497        | Hickory Local Option Sales Tax                   | Not Passed   | Local                    |
| HB 399        | Historic Preservation Act of 2019                | Passed House | Tax & Finance/<br>Budget |
| HB 852        | Historic School Preservation Act                 | Not Passed   | Tax & Finance/<br>Budget |
| HB 191        | Housing Recovery/<br>Restore Greensboro Funds    | Not Passed   | Planning and Land Use    |
| HB 646        | ID Approval/Flex Muni One-Stop                   | Law          | General Government       |
| HB 425        | Increase and Expand Assault on/Resist of LEO     | Passed House | General Government       |
| HB 528        | Indian Trail/Stallings Occupancy Tax Auth        | Passed House | Local                    |
| HB 858        | Interior Design Profession Act                   | Not Passed   | Planning & Land Use      |
| HB 722/SB 355 | Land-Use Regulatory Changes                      | Law          | Planning & Land Use      |
| HB 791        | Law Enforcement Agency Recordings                | Not Passed   | General Government       |
| SB 619        | Law Enforcement Agency Recordings                | Not Passed   | General Government       |
| HB 629        | Law Enforcement Mutual Aid                       | Law          | General Government       |
| SB 263        | Law Enforcement Recordings/<br>Winston-Salem     | Not Passed   | General Government       |
| SB 264        | Lee Cty Municipalities/<br>Voluntary Annexations | Not Passed   | Local                    |

|               |   |               |                         |
|---------------|---|---------------|-------------------------|
| SB 85         | LEO Retirement & Higher Ed Enhancement Act      | Not Passed    | Tax & Finance / Budget  |
| HB 87         | License Plate Reader Systems in State ROWs      | Not Passed    | General Government      |
| SB 406        | Limit Conditional Zoning                        | Not Passed    | Planning & Land Use     |
| SB 208        | Limit Local Restrictions/ Noncommercial Signs   | Passed Senate | Planning & Land Use     |
| HB 749        | Limit Machines/ Devices                         | Not Passed    | General Government      |
| SB 571        | Local Governments/ Unsafe Buildings             | Not Passed    | Planning & Land Use     |
| SB 645        | Local Gov'ts/ Broadband Service Infrastructure  | Not Passed    | Environment & Utilities |
| HB 17         | Local Option Meals Tax/Brunswick Co. Munis      | Not Passed    | Local                   |
| HB 708        | LRC Study - Affordable Housing                  | Passed House  | Planning & Land Use     |
| HB 549/SB 456 | Matching Funds for Affordable Housing           | Not Passed    | Planning & Land Use     |
| HB 316        | Meals Tax for Rockingham Speedway               | Not Passed    | Local                   |
| SB 434        | Merger of Certain Sewerage Districts            | Not Passed    | Environment & Utilities |
| HB 971        | Modern Licensure Model for Alcohol Control      | Not Passed    | General Government      |
| SB 478        | Modify Appointment Reporting                    | Law           | General Government      |
| SB 282        | Modify Cumberland Prepared Food Tax             | Not Passed    | Local                   |
| HB 92         | Mooresville Local Option Sales Tax              | Not Passed    | Local                   |
| SB 29         | Move Over Law/ Increase Penalties/ Amber Lights | Law           | General Government      |

|               |   |                      |                           |
|---------------|---|----------------------|---------------------------|
| HB 758        | MSD Expansion and Governance/DACS Study         | Law                  | Environment & Utilities   |
| HB 396        | Municipal Local Option Sales Tax                | Not Passed           | Tax & finance/<br>Budget  |
| HB 557/SB 504 | Municipal Omnibus Bill                          | Passed House         | General Government        |
| HB 615        | NC Consumer Fireworks Safety Act                | Not Passed           | General Government        |
| SB 566        | NC Consumer Fireworks Safety Act                | Not Passed           | General Government        |
| HB 823        | NC Managing Environmental Waste Act of 2019     | Passed House         | Environment & Utilities   |
| HB 495        | No Municipal Reg/Off-Site Wastewater Systems    | Law                  | Environment & Utilities   |
| SB 315        | North Carolina Farm Act of 2019                 | Awaiting Concurrence | Planning & Land Use       |
| HB 812        | Nutrient Offset Amendments                      | Law                  | Environment & Utilities   |
| HB 569        | One NC Funding for Small Businesses             | Not Passed           | Tax & Finance/<br>Budget  |
| SB 179        | Parity for First Responders                     | Not Passed           | Tax & Finance/<br>Budget  |
| SB 118        | PED/Safekeeper Health Care Cost Recov. Practice | Passed Senate        | Planning & Land Use       |
| SB 408        | Pensions Benefits Revision                      | Passed Senate        | Tax & Finance /<br>Budget |
| SB 313        | Perf. Guar. to Streamline Afford. Housing       | Law                  | Planning & Land Use       |
| SB 257        | Pineville Local Option Sales Tax                | Not Passed           | Local                     |
| HB 448/SB 422 | Planning/Development Changes                    | Not Passed           | Planning & Land Use       |
| SB 371        | Pre-Regulatory Landfill Moratorium              | Not Passed           | Tax & Finance/<br>Budget  |
| HB 348        | Protect City Employees From Retaliation         | Passed House         | General Government        |

|               |   |                         |                           |
|---------------|---|-------------------------|---------------------------|
| HB 622        | Provide WC for PTSD in First Responders           | Passed House            | Tax & Finance             |
| SB 148        | Public Records/<br>Release of LEO Recordings      | Law                     | General Government        |
| HB 862        | Purchase Option/<br>Advanced Law Enforcement Cert | Not Passed              | Tax & Finance/<br>Budget  |
| SB 488        | Realistic Evaluation of Actuarial Liabilities     | Passed Senate           | Tax & Finance/<br>Budget  |
| SB 381        | Reconstitute/<br>Clarify Boards and Commissions   | Law                     | Environment & Utilities   |
| SB 416        | Recruit/Retain Vol. Firefighters                  | Not Passed              | Tax & Finance /<br>Budget |
| HB 751        | Reenact Film Credit                               | Not Passed              | Tax & Finance/<br>Budget  |
| SB 57         | Reenact Film Credit                               | Not Passed              | Tax & Finance/<br>Budget  |
| HB 414/SB 320 | Regional Water Systems and State Grants           | Vetoed                  | Environment & Utilities   |
| SB 553        | Regulatory Reform Act of 2019                     | In Conference Committee | Planning & Land Use       |
| SB 68         | Relocation of Water/<br>Sewer Line Costs          | Law                     | Environment & Utilities   |
| HB 131/SB 71  | Repeal Map Act                                    | Law                     |                           |
| HB 229        | Repeal Municipal Charter Schools                  | Not Passed              | Tax & Finance/<br>Budget  |
| HB 370        | Require Cooperation with ICE Detainers            | Vetoed                  | General Government        |
| HB 100        | Required Training Police Telecommunicators        | Not Passed              | General Government        |
| SB 379        | Retiree Amendments                                | Passed Senate           | Tax & Finance/<br>Budget  |
| HB 188        | Retirement Administrative Changes 2019.-AB        | Not Passed              | Tax & Finance             |

|               |  |              |                            |
|---------------|--|--------------|----------------------------|
| HB 214        | Retirement Technical Corrections Act of 2019.-AB | Not Passed   | Tax & Finance/<br>Budget   |
| HB 60/SB 56   | Revenue Laws Technical Changes                   | Law          | Tax & Finance              |
| HB 645/SB 534 | Revisions to Outdoor Advertising Laws            | Vetoed       | Planning & Land Use        |
| HB 67         | Road Barrier Prohibition                         | Law          | General Government         |
| HB 112        | Roanoke Rapids Local Option Sales Tax            | Passed House | Local                      |
| HB 1012       | Safety Updates for Rental Properties             | Not Passed   | Planning & Land Use        |
| SB 308        | Save the Internet Act                            | Not Passed   | Environment &<br>Utilities |
| HB 381        | School Construction & Broadband Investm't Act    | Not Passed   | Environment &<br>Utilities |
| HB 260        | Scotland Neck Meals Tax                          | Not Passed   | Local                      |
| HB 492        | Simplify Builder Inventory Exclusion             | Law          | Tax & Finance/<br>Budget   |
| SB 650        | Simplifying NC Local Sales Tax Distribution      | Not Passed   | Tax & Finance/<br>Budget   |
| HB 29         | Standing Up for Rape Victims Act of 2019         | Not Passed   | General Government         |
| SB 46         | Standing Up for Rape Victims Act of 2019         | Not Passed   | General Government         |
| SB 403        | State and Local Government Pension/PED Study     | Not Passed   | Tax & Finance /<br>Budget  |
| HB 233        | State Auditor/Local Finance Officer Amends       | Law          | Tax & Finance/<br>Budget   |
| HB 180        | State Benefits/<br>Pension Revisions.-<br>AB     | Not Passed   | Tax & Finance              |
| HB 159/SB 396 | State Search and Rescue Funding                  | Not Passed   | Tax & Finance/<br>Budget   |

|               |   |                         |                         |
|---------------|---|-------------------------|-------------------------|
| HB 633        | Strengthen Criminal Gang Laws                 | Awaiting Concurrence    | General Government      |
| SB 603        | Study of Localities on Unit Assistance Lists  | Not Passed              | Tax & Finance / Budget  |
| HB 522        | Study Outside Water Rates                     | Not Passed              | Environment & Utilities |
| HB 278        | Study Parity for First Responders             | Passed House            | Tax & Finance           |
| HB 111        | Supplemental Appropriations Act               | Passed House            | Tax & Finance           |
| SB 356        | Surplus Property Proceeds to Parks and Water  | In Conference Committee | Environment & Utilities |
| HB 873        | System Development Fee/Clarify Time of Charge | Passed House            | Tax & Finance/Budget    |
| HB 676/SB 622 | Tax Reduction Act of 2019                     | Passed Senate           | Tax & Finance / Budget  |
| HB 204        | Town of Beaufort/Annexation                   | Law                     | Local                   |
| SB 201        | Town of Bolton/Deannexation                   | Passed Senate           | Local                   |
| SB 289        | Town of Red Springs/ETJ Authority             | Not Passed              | Local                   |
| HB 784        | Traffic-Control Training Program              | Not Passed              | General Government      |
| HB 730        | Trash Collection/Multifamily Residential      | Passed House            | Planning & Land Use     |
| SB 483        | Vacation Rental Act Changes                   | Law                     | Planning & Land Use     |
| HB 777        | Various Retirement Chngs/Wastewater Reform    | Ratified                | Environment & Utilities |
| HB 170        | Various Satellite Annexations                 | Law                     | Local                   |
| HB 206        | Various Transportation Changes                | Law                     | Tax & Finance/Budget    |

|               |  |              |                            |
|---------------|--|--------------|----------------------------|
| HB 392        | Village of Clemmons/<br>Deannexation               | Not Passed   | Local                      |
| SB 205        | Village of Clemmons/<br>Deannexation               | Not Passed   | Local                      |
| HB 181        | Walkertown Zoning<br>Authorizations                | Law          | Local                      |
| HB 824        | Wastewater Grant<br>Amendments                     | Passed House | Environment &<br>Utilities |
| HB 570/SB 536 | Water/Wastewater<br>Public Enterprise<br>Reform    | Not Passed   | Environment &<br>Utilities |
| SB 194        | West Jefferson/<br>Saluda Satellite<br>Annexations | Law          | Local                      |
| HB 59/SB 83   | Winston-Salem/<br>Real Property<br>Conveyances     | Passed House | Planning and Land<br>Use   |

# **APPENDIX II**

Municipal Advocacy Goals



# Municipal Advocacy Goals

## PUBLIC INFRASTRUCTURE

- Seek legislation granting local governments the authority to build broadband infrastructure and to partner with private internet service providers using long-term infrastructure leases.
- Seek legislation to ensure that the amount of Powell Bill funds appropriated by the state are sustained and distributions to municipalities are increased and grow over time.
- Seek legislation to boost funding availability for public transit and transportation programs.
- Seek legislation to provide additional grant funding to municipalities for equipment and facility needs for public safety (fire, police, EMS).
- Support measures, such as additional funding, to enhance cities' ability to meet federal and state stormwater control mandates.

## FISCAL HEALTH AND ECONOMIC GROWTH

- Seek legislation that provides additional tools and financial resources for addressing the affordable housing crisis.
- Seek legislation to alter the current statutes governing distribution of local sales taxes by requiring a one-year delay in implementation when a county or the legislature changes its method of distributing sales tax revenue.
- Seek legislation to provide municipalities with authority for additional locally controlled revenue options and flexibility in the use of those options, including – but not limited to – city-only sales tax, city occupancy taxes, prepared meals taxes, and impact fees for transportation.
- Seek legislation that supports adequate, fair school funding between state and county in all school systems across the state by repealing municipal authority to fund schools.
- Support legislation which defends the fiscal integrity of the Local Government Employees' Retirement System and its defined benefit structure, promotes reasonable pension reforms that are prospective in nature, and meets the needs of local employees, employers, and retirees.
- Support legislation that will provide sufficient funding at the state level for incentive

programs such as a competitive film incentive program, state historic preservation tax credits, and the Main Street Solutions fund necessary to grow jobs and the economy.

- Only support legislation providing additional post-employment benefits to public employees that includes a funding mechanism to fully support the cost and liability of the benefit and support the study of existing post-employment benefits, such as special separation allowance programs, to ensure that the liability of providing the benefit isn't solely borne by the last employer.
- Support legislation to revise the current methods of determining economic needs that are used by the state to allocate funds so that additional areas of the state in need may benefit from increased economic development, jobs, and see more entrepreneurial innovation.
- Support a system of spirituous liquor sales that maintains a local referendum about the decision to sell, preserves local control over the location and density of outlets, and preserves the local revenue stream.

## **MUNICIPAL AUTHORITY**

- Oppose legislation that shifts to taxpayers the costs of overseeing development and completing development-initiated infrastructure.
- Oppose legislation that interferes with local management or ownership of local assets.
- Seek changes to the law governing the disclosure and release of law enforcement recordings to clarify that disclosure to a municipal manager is allowed and to allow disclosure to a city or town council or citizen review board in a closed session and under confidentiality agreements.

# **APPENDIX III**

NCLM Public and Government Affairs Team

# NCLM Public and Government Affairs Team

The League's Public and Government Affairs Team embodies the organization's ideal of, "Working as one. Advancing all." We are working on your behalf to make sure that the concerns of all North Carolina cities and towns are represented at the General Assembly, before state agencies during regulatory process, and wherever policies are considered that affect the state's municipalities. If you have any questions, please do not hesitate to contact any team member.

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