

The General Assembly

The 2008 session of the General Assembly lasted ten weeks. The 2008 General Assembly convened on May 13 and adjourned on July 18, continuing the trend of the last few short sessions of truly keeping the session short. This chapter provides an overview of the 2008 session, including an analysis of the length of the session and number of bills introduced, discussion of major legislation enacted, and explanation of bills enacted that impact the legislative institution.

Overview of the 2008 Regular Session

Article II, section 11, of the North Carolina Constitution provides for a biennial session of the General Assembly that convenes in every odd-numbered year. Until 1973 the General Assembly held a single regular session, convening in each odd-numbered year, meeting several months, and then adjourning *sine die*. Prior to 1974, legislative sessions in even-numbered years of the biennium were extra sessions (the North Carolina Constitution authorizes the governor or a three-fifths majority of both houses to call such a session), and they were rare and of short duration.

Beginning with the 1973–74 biennium, the General Assembly began holding annual sessions. The General Assembly convenes in January of odd-numbered years. In these “long sessions,” which generally run through midsummer, a biennial budget is adopted and any legislative business may be considered. In even-numbered years the General Assembly convenes for a “short session,” which generally runs from May through July or August. In the short session the General Assembly considers budget adjustments for the second year of the biennium and generally deals with bills that have passed one house and a limited number of additional noncontroversial matters. Legally the short session is a continuation of the long session.

The 2008 short session convened on May 13 and adjourned July 18. The length of the session as compared to other recent short sessions is shown in Table 1–1.

The 2007 adjournment resolution, Res. 2007–68 (S 1573), as amended by Res. 2007–70 (S 1575), provided that only the following could be considered during the 2008 short session:

- bills introduced by May 27, 2008, directly affecting the budget;
- bills amending the North Carolina Constitution;
- bills introduced in 2007 that passed third reading by May 24, 2007, in the house in which the bill was introduced and that were not unfavorably disposed of by the other house;
- bills and resolutions introduced by May 21, 2008, implementing the recommendations of various commissions and committees;
- noncontroversial local bills that are introduced by May 28, 2008, and are accompanied by a certification that no public hearing will be required and that the bill is approved for introduction by each member of the relevant house whose district is affected by the bill;
- bills making a selection, an appointment, or a confirmation of members of state boards and commissions;
- bills concerning matters authorized by joint resolution passed during the 2008 session by a two-thirds majority in each house and joint resolutions authorizing consideration of these bills;
- bills introduced by May 28, 2008, affecting state or local pension or retirement systems.
- Resolutions authorized under Senate Rule 40(b) or House Rule 31, primarily relating to deceased persons;
- adjournment resolution;
- bills disapproving administrative rules.

Table 1–1. Length of Legislative Sessions

Year	1998	2000	2002	2004	2006	2008
Date Convened	May 11	May 8	May 28	May 10	May 9	May 13
Date Adjourned	Oct. 29	July 13	Oct. 4	July 18	July 28	July 18
Senate Legislative Days	101	40	69	44	48	40
House Legislative Days	100	40	77	44	47	40

Table 1–2. Statistical Analysis of Legislative Short Sessions

Year	1998	2000	2002	2004	2006	2008
Bills & Resolutions Introduced	1,036	760	706	881	1,974	1,330
Senate	516	383	368	415	881	597
House	520	377	336	466	1,093	733
Session Laws Enacted	229	191	190	203	264	229
Public Laws	135	118	80	116	172	145
Local Laws	94	73	110	87	92	84
Bills Vetoed	0	0	1	1	1	1

In the 2008 regular session 1,331 bills were introduced, which is actually fewer than the 1,974 introduced in the 2006 session. The General Assembly enacted 229 session laws and thirty-one joint resolutions in 2008. Table 1–2 compares the number of introductions and enactments in 2008 with those of the previous five short sessions. A total of 4,993 bills were filed during the 2007–08 biennium; this is an increase over the 2005–06 biennium total of 4,961 bills filed.

Major Legislation Enacted in 2008

Among the major items of legislation enacted in the 2008 regular session are the following. These acts are explained in more detail in the chapter indicated; however, several of these acts are discussed in more than the chapter indicated.

Budget Modifications

S.L. 2008-107 (H 2436) and S.L. 2008-34 (H 2437, Continuing Budget) modify the 2008–09 state budget, approve state employee raises, borrow for capital improvements, and reduce taxes by creating new tax exemptions, refunds, and credits (Chapter 2, “The State Budget”).

Abandoned Manufactured Homes

S.L. 2008-136 (H 1134) establishes a program through which counties can be reimbursed for the costs of removing and disposing of abandoned manufactured homes. Counties that choose to implement a program for the disposal of abandoned manufactured homes must develop a written plan as part of its solid waste management plan and establish a plan for the disposal of the homes (Chapter 4, “Community Planning, Land Development, and Related Topics”).

Home Foreclosures

S.L. 2008-226 (H 2623) establishes the Emergency Program to Reduce Home Foreclosures Act and State Home Foreclosure Prevention Project to provide assistance to homeowners facing foreclosure. S.L. 2008-228 (H 2463) requires mortgage services to be licensed and regulated under the same provisions as mortgage brokers (Chapter 5, “Courts and Civil Procedures” and Chapter 7, “Economic and Community Development”).

Sex Offenders

S.L. 2008-117 (H 933) establishes the Jessica Lunsford Act for North Carolina, increasing the punishment of, and restrictions on, sex offenders. The act also makes changes related to the sex offender registry. S.L. 2008-220 (S 1736) makes a number of changes to statutes concerning the sexual exploitation of minors and restricts the internet activities of sex offenders (Chapter 6, "Criminal Law and Procedure").

Gangs

S.L. 2008-214 (H 274) creates the Street Gang Suppression Act. The act establishes new offenses and enhances criminal penalties for individuals involved in gang related activities. S.L. 2008-56 (S 1358) addresses gang prevention and intervention (Chapter 6, "Criminal Law and Procedure").

Education of Military Children

S.L. 2008-185 (S 1541) enacts the Interstate Compact on Educational Opportunities of Military Children, removing barriers faced by military children when they change schools due to a parent's assignment or deployment. The compact addresses issues including education records and enrollment, placement and attendance, and graduation (Chapter 9, "Elementary and Secondary Education").

Drought

S.L. 2008-143 (H 2499) comes about as a result of the extreme drought conditions experienced across the state in 2007 and 2008. The act gives the state more authority to deal with water shortages in the event of a drought. Specific issues addressed in the act include: water conservation measures, water shortage emergency powers, water system efficiency, and gray water use (Chapter 11, "Environment and Natural Resources").

Smoking in State Vehicles

S.L. 2008-149 (S 1681) extends the smoking ban to state vehicles and allows local governments to also ban smoking in local government vehicles (Chapter 12, "Health").

Disabled Veterans Homestead Exclusion

S.L. 2008-107 provides some property tax relief to disabled veterans by establishing the disabled veterans homestead exclusion for honorably discharged veterans with permanent and total disabilities. The exclusion is equal to the first \$45,000 of the property's appraised value (Chapter 15, "Local Taxes and Tax Collection").

Purchase and Possession of Firearms

S.L. 2008-210 (S 2081) amends North Carolina's involuntary commitment statutes to require the clerk of superior court to report to the National Instant Criminal Background Check System any person acquitted by reason of insanity, found mentally incompetent to proceed to trial, or committed for inpatient or outpatient mental health treatment. The act also provides a process for the removal of a mental commitment bar to the purchase, possession, or transfer of a firearm (Chapter 16, "Mental Health").

Driver's License Format

S.L. 2008-217 (H 2487) requires the Division of Motor Vehicles to issue driver's licenses in a vertical format to drivers under the age of twenty-one to assist those selling age restricted products (Chapter 18, "Motor Vehicles").

Retirement Community Program

S.L. 2008-188 (S 1627) establishes the North Carolina Certified Retirement Community Program, which includes in its purposes assisting communities in marketing themselves as retirement friendly. A pilot program will be implemented in the City of Lumberton (Chapter 22, "Senior Citizens").

Probation

S.L. 2008-129 (H 1003) and S.L. 2008-107 include several provisions that address shortcomings in the state's probation system, including establishing new reporting requirements and requiring a study on parole and probation officer compensation. S.L. 2008-129 amends the law concerning felony sentencing to include as an aggravating factor a violation of conditions of probation, or of a condition of parole or post-release supervision. The act also amends the law concerning revocation for probation violations to allow the court to extend or modify probation after the expiration of the period of probation when specified conditions are met (Chapter 23, "Sentencing, Corrections, Prisons, and Jails").

Public Duty Doctrine

S.L. 2008-170 (H 1113) clarifies when the state may assert the public duty doctrine as an affirmative defense to a tort claim action. With exceptions, the act provides that the state may assert the affirmative public duty doctrine defense only against a claim of action arising from a law enforcement officer's negligent failure to protect the claimant from the actions of another or an act of God, or where a state employee negligently failed to perform a health or safety inspection required by law that resulted in the injury to the claimant (Chapter 25, "State Government Ethics and Lobbying").

Small Business Protection

S.L. 2008-107 creates the Small Business Protection Act, providing several protections for owners of small business concerning sales tax provisions. These protections include requiring the Department of Revenue to document verbal advice given to certain taxpayers and requiring the Department to waive the penalties and additional assessments for a taxpayer reasonably relying on the erroneous verbal advice (Chapter 26, “State Taxation”).

Governor’s Veto

As in 2007, Governor Michael F. Easley only vetoed one bill in 2008, H 2167 (S.L. 2008-229), Towing of Recreational Boats/Exemption. For the first time in the General Assembly’s history, the veto was overridden.

The act allows boats and boat trailers less than 120 inches wide to be towed without a permit. Boats and boat trailers up to 114 inches wide may travel on any road at any time, day or night, and any day of the week, while boats and boat trailers 114 to 120 inches wide may be towed any day of the week, including weekends and holidays, from sunup to sundown. The act also requires that boats and boat trailers more than 102 inches wide, but less than 120 inches wide, be equipped with at least two operable amber lights on the wider point of the boat and boat trailer so that the dimensions are clearly marked and visible. The Department of Transportation is required to issue annual overwidth permits for boats or boat trailers whose outside width is 120 inches or more, allowing the boat or boat trailer to be towed only during daylight hours.

The bill was ratified on July 17, 2008. The governor vetoed the bill on August 17, 2008, stating in his veto message that the bill put families at risk on the highways and would result in serious injury or death. Governor Easley referred to the “60,000 miles of narrow two lane roads that cannot accommodate the 9-1/2 foot width” and “roughly 1,000 bridges 18-foot wide or less, which would require a 9-1/2 foot boat to cross the center line”

The General Assembly reconvened to consider the veto on August 27, 2008. In a session lasting just over an hour, members of both chambers voted to override the veto, with a vote of 95–8 in the House of Representatives (House) and 39–0 in the Senate. More information on S.L. 2008-229 can be found in Chapter 17, “Miscellaneous” and Chapter 18, “Motor Vehicles.”

The Legislative Institution

Ethics and Lobbying

A number of changes were made to the State Government Ethics Act, the Legislative Ethics Act, and lobbying laws. S.L. 2008-215 (S 1875) clarifies the roles of the State Auditor’s Office and the State Ethics Commission, giving the commission authority over allegations of violations of G.S. Chapter 138A (State Government Ethics Act), Article 14 of G.S. Chapter 120 (General Assembly), and G.S. Chapter 120C (Lobbying).

S.L. 2008-213 (H 2542) makes a number of technical and clarifying changes. Changes made by the act include: clarifying that documents submitted in connection with requests for advisory opinions, information obtained by the Secretary of State as part of a systematic review of lobbying reports, and records obtained by the Secretary or Commission from other entities in the course of an investigation are confidential. Several changes were also made to reporting requirements, including excluding from reporting any scholarships that are paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly or a legislator is a member. Changes were also made to conflict of interest provisions including clarifying that a legislator employed or retained by a local government may take legislative action on behalf of the local government if the legislator is the only member of the house elected from the local government’s district. A more thorough discussion of these changes and others, including changes concerning lobbying by judicial officials, allegations of misconduct, the gift ban, and statements of economic interest can be found in Chapter 25, “State Government Ethics and Lobbying.”

General Assembly Police Powers

Under G.S. 120-32.2 the jurisdiction of the General Assembly police is limited to (1) Raleigh and unincorporated parts of Wake County surrounded by I-440 and (2) any part of the state while accompanying a General Assembly member who is conducting or traveling to or from official duties or while preparing or providing security to a session of either or both houses of the General Assembly or related official events. S.L. 2008-145 (S 1957) expands jurisdiction to include any part of the state while performing advance work and providing security for the protection of legislative members, staff, and the public for any General Assembly committee, commission meeting, or state, regional, or national meetings of legislative bodies or organizations representing legislative bodies and while accompanying a member of the General Assembly to or from these events. S.L. 2008-145 also allocates \$25,000 of the General Assembly’s funds for fiscal year 2008–09 to conduct the Southern Legislative Conference that will be held in Winston-Salem in 2009.

Program Evaluation Division

The General Assembly's Program Evaluation Division (PED) was established in 2007 to assist the General Assembly in overseeing governmental functions by providing information for evaluating whether public services are being delivered in an effective and efficient manner. S.L. 2008-196 (S 1652) made several changes to clarify the confidentiality of the division's documents. First, G.S. 120-36.13(a) was amended to clarify that the PED's annual work plan includes any enacted legislation that directs the PED to conduct a study or an evaluation and clarifies that any document prepared by a legislative employee under the PED work plan pursuant to a request under G.S. 120-131.1(a1) becomes available to the public only as provided in G.S. 120-131 (regarding documents produced by legislative employees). Under current law all PED employees are legislative employees.

Second, G.S. 120-131.1 is amended regarding confidentiality requirements for requests from legislative employees for assistance in preparing fiscal notes *and evaluation reports*. The act clarifies that when a legislative employee of PED requests assistance from an agency employee in preparing an evaluation report, the requested information, any accompanying materials, and documents prepared in response to the request are not public records and are confidential.

Third, G.S. 120-36.12 was amended to authorize PED to receive reports alleging improper activities or matters of public concern as listed in G.S. 126-84. The individual making the report may remain anonymous, and any reports that are received are not public records and only become available to the public as provided in G.S. 120-131.

Finally, G.S. 126-85(c) was amended to provide the same protections to a state employee making a report to PED as those afforded to state employees reporting allegations of improper government activity to the State Auditor.

Joint Legislative Elections Oversight Commission

S.L. 2008-150 (S 1263) enacts a new Article 12P in G.S. Chapter 120. This new article establishes the eighteen-member Joint Legislative Elections Oversight Commission to examine and recommend improvements to state elections administration and campaign finance regulation. The commission consists of nine members from the House and nine members from the Senate. In order to make recommendations, the commission is required to study the State Board of Elections' and county boards of elections' budgets, programs, and policies, examine election statutes and court decisions, study other states' initiatives in order to provide commentary and to recommend the implementation of similar initiatives, and study any other necessary election matters. This act is discussed in its entirety in Chapter 8, "Elections."

Membership Changes

In the Senate, Bob Rucho was appointed to replace Robert Pittenger, who resigned to run for lieutenant governor. In the House, Kelly M. Alexander Jr. was appointed to replace W. Pete Cunningham, who resigned. The House also underwent a historical membership change with the appointment of Sandra Spaulding Hughes following the expulsion of Thomas E. Wright.

Expulsion of Representative Thomas E. Wright. On May 15, 2007, the State Board of Elections conducted a hearing to consider allegations and evidence of alleged violations of campaign finance regulations and other possible criminal wrongdoing by Wright. After the hearing, the State Board of Elections referred the matter to the Wake County District Attorney to consider criminal charges against Wright. On December 10, 2007, the Wake County Grand Jury indicted Wright on five felony charges of obtaining property by false pretenses and one felony charge of obstruction of justice. On May 21, 2007, Speaker of the House Joe Hackney requested that the Legislative Ethics Committee investigate alleged violations by Wright of the Legislative Ethics Act or the criminal law, or both. On December 12, 2007, the Legislative Ethics Committee concluded that under the Legislative Ethics Act, as it existed at the time, the committee's jurisdiction under law in place at the time did not reach the matters alleged in the indictments. The committee also found that, if true, the acts alleged were unethical and warranted action. The committee referred the matters contained in the Wake County criminal files to the House for further action as deemed appropriate under Article II, section 20, of the North Carolina Constitution.

On December 13, 2007, Speaker Hackney established the *House Select Committee to Investigate Alleged Misconduct and Other Matters Included in Indictments Against Representative Thomas E. Wright* (select committee). The select committee was made up of the six House members of the Legislative Ethics Committee and was led by Chairman Representative Rick Glazier and Vice-Chair Representative Paul Stam. The select committee was charged with investigating the matters in the criminal indictments against Wright as well as other allegations of unethical or unlawful conduct that were outside the jurisdiction of the Legislative Ethics Committee.

The select committee met several times to adopt rules, conduct a probable cause hearing, hear and rule on motions, and approve witnesses and authorize subpoenas. On March 3 through March 6, 2008, the

committee held an evidentiary hearing and heard testimony from several witnesses. The select committee unanimously found six counts against Wright, which are summarized as follows:¹

- Count 1: Wright improperly and unethically solicited Torlen L. Wade, who was the Acting Director of the North Carolina Department of Health and Human Services Office of Research, Demonstrations, and Rural Health Development, to write a fraudulent letter stating that his office was endorsing The Community's Health Foundation's (Foundation) project to convert a building into Foundation offices, health center offices, and a history museum and committing \$150,000 in funding for the project. Wright and Wade knew that the Office of Rural Health would not make such a grant and that Wright would use the letter in seeking funding for the Foundation from other sources.
- Count 3 and Count 4: Wright converted money intended to be a charitable contribution to the Foundation to his own personal use. Wright wrote letters on the Foundation's letterhead to representatives of AstraZeneca Pharmaceuticals LP and Anheuser-Busch Companies, Inc., requesting as the Foundation's president, a donation to the Foundation that would be used by the Foundation for various health related purposes in New Hanover County and for the acquisition and development of a building for use as a museum. Wright deposited checks from AstraZeneca Pharmaceuticals and Anheuser-Busch in the amounts of \$2,400 and \$5,000 into his personal account rather than into the Foundation's account.
- Count 5: Wright converted money intended to be a charitable contribution to the Foundation, to his personal use. Wright wrote an invoice on the Foundation's letterhead to a representative of AT&T Corporation as a solicitation of a charitable contribution to the Foundation, and when a representative of AT&T sent a check made out to the Foundation for \$1,500, Wright deposited that check into his personal account rather than into the Foundation's account.
- Count 7: Wright intentionally failed to disclose approximately \$180,000 in contributions received by his campaign between January 1, 2000, and January 31, 2007.
- Count 8: Wright engaged in a pattern of conduct unbecoming and unfitting a member of the House by improperly, fraudulently, deceptively, and unethically soliciting a false document from a state agency and soliciting corporations for donations to a

1. The complete counts can be found in the Select Committee's report to the House of Representatives at: www.ncleg.net/documentsites/committees/HouseEthicsWright/Homepage/index.html.

charitable corporation and by converting money contributed to the Foundation for his own personal use.

The committee failed to find Count 2, and Count 6 was not considered at the hearing.²

Based on its findings, the select committee unanimously recommended that Wright be expelled from the House.³ On March 11, 2008, Speaker Hackney asked Governor Easley to call a special session. Pursuant to a proclamation issued by Governor Easley on March 11, 2008, the General Assembly convened in an extra session on March 20, 2008, in order for the House to (1) judge the qualifications of Representative Thomas Wright to continue to serve the 18th House District and/or (2) within its inherent power to discipline its members, to impose any sanctions against Wright. The special session lasted only one day, during which the House passed a resolution finding that the allegations in counts 1, 3, 4, 5, 7, and 8, as summarized above, were true. Wright was expelled for unethical and unlawful conduct unbecoming and unfitting a member of the House. The last House member to be expelled was Rep. Josiah Turner in 1880 for disorderly conduct.

On April 8, 2008, Wright was convicted of three felony counts of obtaining property by false pretenses while being acquitted of one fraud count.⁴ Wright was sentenced to seventy to ninety-five months in prison. On August 27, 2008, Wright was found guilty of obstruction of justice for failing to report campaign contributions and was sentenced to six to eight months in prison, to be served concurrently with his other term.

The 2009 Session

The next regular session of the General Assembly will convene at noon on January 28, 2009. Members of that General Assembly were elected in the November 4, 2008, elections.

Christine B. Wunsche

2. The select committee failed to find the count alleging that Wright, knowing that the letter was false, submitted the letter written by Wade to the Coastal Federal Bank as a factor to be considered in loaning \$150,000 to the Community's Health Foundation and the bank then made the loan, while in part, relying on the letter. The select committee also dismissed the count alleging that Wright improperly converted to his own use almost \$10,000, which was loaned by the South East Community Credit Union to the Foundation.

3. The select committee's entire report to the House of Representatives can be found on the General Assembly's website at www.ncleg.net/documentsites/committees/HouseEthicsWright/Homepage/index.html.

4. Wright was acquitted of converting to his own use \$1,500 that AT&T intended for the Foundation.