

Local Government Legislative Update

Part 2: September 9, 2014

Purchasing and Contracting

Ethics

Emergency Management

Public Records

Open Meetings

Privilege License Tax

Occupancy Tax

Property Tax

School Employment Law

Community and Economic Development

UNC SCHOOL OF GOVERNMENT

Local Government Legislative Update

Norma Houston
Purchasing and Contracting;
Ethics; Emergency Management

Frayda Bluestein
Public Records and
Open Meetings

Chris McLaughlin
Privilege License Tax;
Occupancy Tax; Property Tax

Bob Joyce
School Employment Law

Tyler Mulligan
Community and Economic
Development

UNC SCHOOL OF GOVERNMENT

Materials

UNC SCHOOL OF GOVERNMENT LEGISLATIVE REPORTING SERVICE

Home » Legislative Summaries for 2014

Subscriber Login

Email

Password

Already an LRS/Daily Bulletin subscriber? Login above with your email address and School of Government password. (If you forgot, or need to reset your password, click [here](#).)

Not yet an LRS/Daily Bulletin subscriber? Click [here](#) to find more information and subscribe to

Legislative Summaries for 2014

Each year, School of Government faculty and professional staff members produce summaries of legislation of interest to local and state government officials. These summaries appear in a variety of formats; for your convenience, these summaries have all been collected and can be found below according to subject matter. A number of bills affect several subject matters and may be found in more than one document. To further investigate bills referred to in these summaries, explore the [North Carolina General Assembly Web site](#). To access summaries of legislation published from 1955-2008, please visit [North Carolina Legislation](#).

Economic and Community Development

Blog post

- [NC Local Governments, Meet Your New State Partner for Economic Development](#)

Ethics and Lobbying

Blog post

- [File or Get Fined: New Penalties for Violating MPO/RPO Ethics Disclosure Requirements](#)

Local Government and Local Finance

Blog post


- [File or Get Fined: New Penalties for Violating MPO/RPO Ethics Disclosure Requirements](#)

Summaries posted online:

<https://lrs.sog.unc.edu/lrs/legsumms/2014>

De-coding The Slides

- | | | |
|---------------------------------------|---|---|
| S 123 | } | • Senate Bill 123 |
| H 456 | | • House Bill 456 |
| S.L. 2014-___;
S 123 | } | • Senate Bill 123 was ratified by the General Assembly but is not yet law |
| S.L. 2014-789;
H 456 | | • House Bill 456 was enacted and became S.L. 2014-789 |
| G.S. 99-111
(S.L. 2014-789; H 456) | } | • The changes in S.L. 2014-789 included either the addition of a new statute or an amendment to an existing statute (N.C. General Statute 99-111) |




Norma Houston
houston@sog.unc.edu

**PUBLIC
PURCHASING &
CONTRACTING**


**LOCAL
GOVERNMENT
ETHICS**

**EMERGENCY
MANAGEMENT**



Norma Houston
houston@sog.unc.edu

**PUBLIC
PURCHASING
AND CONTRACTING**



2014 Session Highlights



E-Verify Contracting
Prohibition Changes



Prequalification
Requirements



Mini-Brooks Act
Changes



Renewable Energy
Long-Term Leases



E-VERIFY



E-Verify Contracting Prohibition Changes

- **Cities and Counties** - Limits E-Verify to purchase and construction contracts in the formal bidding range **ONLY**
- Other local governments – no change
- Goes into effect 10/1/2014

S.L. 2014-____; H 369
sent to the Governor (8/15)



E-Verify – 2013

	City	County	Other Local Gov't	State Agency
Construction - Formal	✓	✓	✓	✓
Construction - Informal	✓	✓		✓
Purchase - Formal	✓	✓	✓	✓
Purchase - Informal	✓	✓		✓
Design Services (Mini-Brooks)	✓	✓		✓
All Other (Service, etc.)	✓	✓		✓



E-Verify – 2014

	City	County	Other Local Gov't	State Agency
Construction - Formal	✓	✓	✓	✓
Construction - Informal				✓
Purchase - Formal	✓	✓	✓	✓
Purchase - Informal				✓
Design Services (Mini-Brooks)				✓
All Other (Service, etc.)				✓



Updated E-Verify FAQ's

<http://www.ncpurchasing.unc.edu>

The screenshot shows the UNC School of Government website. The sidebar on the left lists various resources under 'Local Government Purchasing and Contracting', including Links, Organizations and Coalitions, Bid Law Overview, Forms, Legislative Updates, Listserv, Publications, Public Building Construction Methods, M/WBE Resources, Statutes, and Tools. The main content area features 'Legislative Updates' with a section for 'Current Legislative Update - 2014 Short Session' and 'Previous Legislative Updates'. A document titled 'Understanding North Carolina's E-Verify Contracting Prohibition' is overlaid on the page, dated August 25, 2014, and authored by Norma Houston, UNC School of Government. The document includes a note about its revision and mentions the 2013 session of the North Carolina General Assembly.



E-Verify Happy Dance



PREQUALIFICATION REQUIREMENTS



What is Prequalification?

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2014-42
HOUSE BILL 1043

services under Article 5D of this Chapter, G.S. 143-128.1A, G.S. 143-128.1B, G.S. 143-128.1C, or the selection of the construction manager at risk under G.S. 143-128.1.

(f) For purposes of this section, the following definitions shall apply:

(1) Governmental entity. – As defined in G.S. 143-128.1B(a)(6).

(2) Prequalification. – A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work."

SECTION 2. G.S. 143-128.1 reads as rewritten:

"§ 143-128.1. **Construction management at risk contracts.**

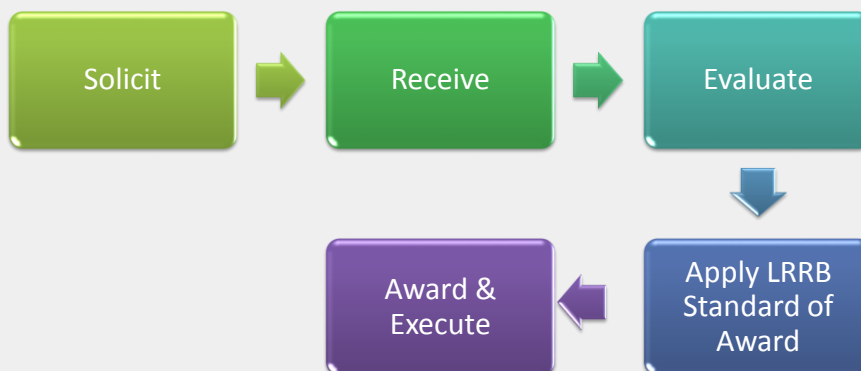
(a) For purposes of this section and G.S. 143-64.31:

S.L. 2014-42; H 1043

(new) G.S. 143-135.8(f)(2)



Bidding Process



Bidding Process with Prequalification



Prequalification Requirements

- Limited to projects using single-prime, separate-prime, or dual-bidding methods
- Prohibited for any contract subject to Mini-Brooks Act (including alternative delivery methods)
- *Prior to advertising*, must adopt objective prequalification policy that applies to all construction contracts
- *Prior to advertising*, must adopt assessment tool and criteria (including scoring) for specific project
- Effective October 1, 2014, and applies to contracts awarded on or after that date

Impact on Bidders

Denied Prequalification:



Bid must be rejected as nonresponsive

Successfully Protest Prequalification Denial:



Must be allowed to submit bid



MINI-BROOKS ACT CHANGES



During RFQ Process:

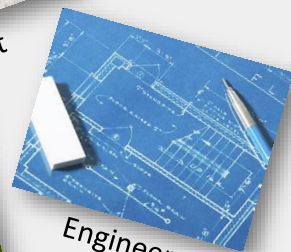
- **CANNOT** solicit or consider work product or designs
- **CAN** solicit and consider *prior* completed work
- **CAN** discuss concepts and approaches to project
- Eff. October 1, 2014



Architect



Surveyor



Engineer

S.L. 2014-42; H 1043



RENEWABLE ENERGY LONG-TERM LEASES



Long Term Renewable Energy Facility Leases

- 25-year leases of government property (not treated as sale of property)
- Siting and operation of renewable energy facility:
 - Generation capacity of 10+ MW
 - Generates electric power or useful, measurable combined heat and power
 - Solar thermal facility
 - *Not* hydroelectric facility

S.L. 2014-____; S 734



Norma Houston
houston@sog.unc.edu



LOCAL GOVERNMENT ETHICS



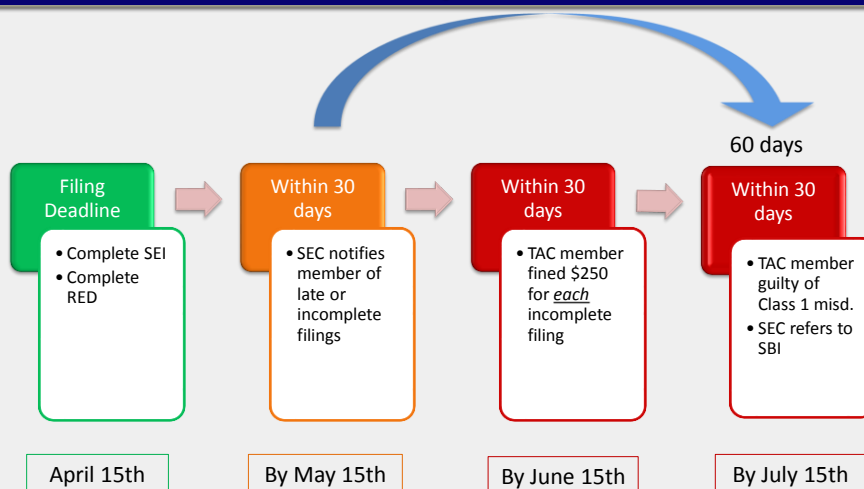
MPO/RPO Filing Penalties

- TAC members must file SEI and RED:
 - Upon initial appointment
 - Annually by April 15th
- New penalties for late or incomplete filing:
 - 30 days late - \$250 fine for *each* form
 - 60 days late – Class 1 misd.
- Eff. October 1, 2014

S.L. 2014-58; H 1025



Timeline of Consequences





Norma Houston
houston@sog.unc.edu

EMERGENCY MANAGEMENT



2014 Legislative Highlights

1. State Operations

- USAR
- Hazmat Fees
- EOC Hotline Calls

2. Safety and Security

- Fracking Nondisclosure
- Dam Safety
- Public School Security
- Back-up PSAP

3. Individuals

- Good Samaritan Immunity
- Firefighter/EMS Criminal History Checks
- Detention Officers

AGENDA



STATE OPERATIONS



State USAR Program

- State Urban Search and Rescue Program established
- Contracts with local USAR response teams capable of 24-hour dispatch from DEM
- Contracts may provide for:
 - Equipment loans and replacement
 - Cost reimbursement
 - Training
- Local employees do not become state employees

S.L. 2014-27; H 698

USAR Team Advisory Committee

- DPS Secretary adopts rules for program
- Consults with Advisory Committee on rules and program administration
- Committee Chair:
DEM Director (or deputy director)
- Committee Members:
 - USAR Regional Contract Response Teams
 - State Fire Marshall
 - Highway Patrol
 - National Guard
 - Assoc. of Fire Chiefs
 - Assoc. of Rescue and EMS
 - State Firemen's Assoc.
 - Emergency Management Assoc.



Hazmat/EOC Hotline

Hazmat Fees

S.L. 2014-100, §16B.3; S 744

- New Article 6 of Chapter 166A
- Sets annual fees for EPCRA hazardous chemicals (\$50.00 each) and extremely hazardous substances (\$90.00 each)
- Fees support hazardous materials database, regional hazmat response programs, and grants to counties for hazmat planning/training
- Increases number of regional hazmat teams from 6 to 7

EOC Hotline Calls

S.L. 2014-_____, §6(c); S 729

- DEM must record all calls to 24-hour Emergency Operations hotline
- Recordings must be kept for one year



SAFETY & SECURITY



Fracking Nondisclosure

- Fracking methods and process kept confidential if meet definition of “trade secret”
- Includes information on hydraulic fracturing fluid
- *May* be disclosed to state or federal agencies
- **Must** be disclosed to DEM
- **Must** be disclosed to health care providers or fire chiefs in emergency situations
- Unauthorized disclosure is a Class 1 misd.

S.L. 2014-4; S 786

Dam Safety/School Security

Dam Safety

S.L. 2014-____; H369

- Owners of high-hazard and intermediate hazard dams must develop emergency action plans
- Plans must include risk assessment, response, notification, and downstream inundation map
- Plans go to DEM, DENR, regional state offices, local EM officials
- Public security information not subject to public inspection

School Security

S.L. 2014-____, §6.(c); S729

- All public schools must give schematic diagrams and emergency access to KNOX® boxes to local law enforcement
- Must also give schematic diagrams and emergency response information to DEM
- Diagrams exempted from public records act



911 Back-Up PSAP

- PSAPs must comply with all requirements of Article 6, Chapter 64A to receive monthly 911 funds allocation
- Back-up PSAPs established and defined
- PSAPs may use 911 funds to equip back-up PSAPs
- PSAPs must have plan and means for 911 call-taking if primary PSAP is down (alternative facility construction not required)

S.L. 2014-66; S 797



INDIVIDUALS



Changes Affecting Individuals

■ Good Samaritan Immunity

S.L. 2014-___; S 734

- Immunity granted if not *expecting* to receive compensation

■ Firefighter/EMS Criminal History Check

S.L. 2014-27; H 698

- Criminal history checks authorized for *current* members of fire and EMS department

■ Detention Officers on School Property

S.L. 2014-___; H 369

- Detention officers employed by and authorized by Sheriff to carry firearms may do so on public school property

Questions?



Evaluation: https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcqbwwC61

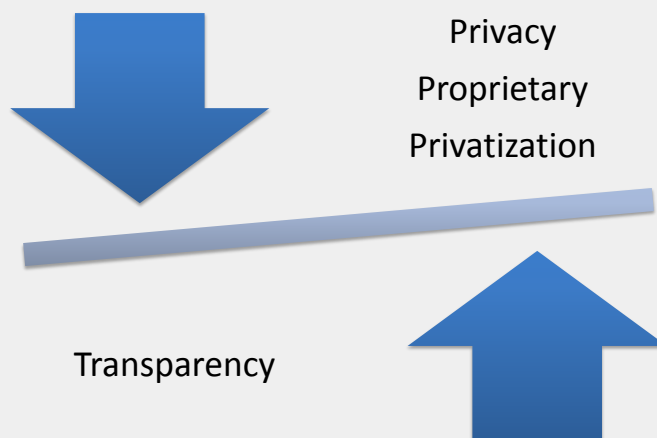


Frayda Bluestein
Bluestein@sog.unc.edu



PUBLIC RECORDS & OPEN MEETINGS

Public Records and Open Meetings



Policy Questions

- When should private information in government hands be protected from general public access?
- What private business/proprietary information should be protected from general public access?
- Should private entities carrying out a governmental function be subject to transparency laws?

2014 Legislation Business Information

- Mining Commission Rules
 - Trade Secrets protected
 - State Geologist (or designee) custodian, review, and inter-agency access responsibilities
 - Sanctions for unlawful release
 - Appeal Rights for release or withholding
 - Attorney fees for prevailing party, to be paid by the business (not the state)

S.L. 2014-4, § 8; S 786



2014 Legislation Business Information/Privatization

- Economic Development: Non-profit entity to contract with Commerce
- Subject to public records, open meetings, and ethics laws
- Limited access to business information when prospects use the non-profit and don't request incentives, don't receive incentives, or decide not to expand or locate in North Carolina

S.L. 2014-18; H 1031; S.L. 2014-114, § 56.1; H 1133



2014 Legislation Privatization

- Charter Schools -private nonprofits
- New law explicitly makes them subject to public records and open meetings laws.
- Information about employees who report directly to the charter school board are governed by the personnel privacy statutes in Chapter 115C
- Does not apply to other employees of the nonprofit

S.L. 2014-101 § 5; S 793

Legislation May Create New Questions

- Is it a public agency?
- If yes, then transparency, and possibly other requirements apply by operation of law.



- Is it a private entity?
- If yes, then only those transparency rules required by legislation apply.

2014 Legislation

Public Proprietary Information

- New exception protects “research data, records, or information of a proprietary nature, produced or collected by or for state institutions of higher learning in the conduct of commercial, scientific, or technical research, where the data, records or information has not been patented, published, or copyrighted.”

[S.L. 2014-115, § 49.2; H 1133](#)

Privacy: Personal Information

- Mug Shots – proposed restriction on businesses that charge to remove from websites (did not pass)
 - [S 493](#), [S 744](#), [S 594](#).
- Personal information about law enforcement personnel – process for requesting removal from public websites (did not pass)
 - [S 78](#)

Miscellaneous New Exceptions

- Base closing and realignment information and meetings
 - [S.L. 2014-79; S 614](#)
- State Board of Education tests
 - [S.L. 2014-115, § 49.2; H 1133](#)
- Local school building schematic designs and emergency plans
 - [S.L. 2014-100, § 8.20; S 744](#)
- Complaints about agricultural operations
 - [S.L. 2014-103, § 1\(a\); H 366](#)

Questions?



Evaluation: https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcqbwwC61



Chris McLaughlin
mclaughlin@sog.unc.edu

PROPERTY TAXES

PRIVILEGE LICENSE TAXES

OCCUPANCY TAXES

Property Taxes

- Fracking!
- S.L. 2014-4
- How to value and tax energy rights?
- Cap on property tax revenue increases?



Property Taxes

- Registered Motor Vehicles
- Tag & Tax Together went live Sept. 2013
- Collection Rates:
 - All Property Taxes: 97%
 - RMV Taxes: 86%



Property Taxes

- Monthly RMV Taxes 2012-13:
 - \$47 Million
- Avg RMV Taxes First 2 Months of Tag & Tax:
 - \$33 Million
- “Sticker Shock” delaying tag renewals?



Property Taxes

- Monthly RMV Tax Collection March-May 2014:
 - \$65 Million
- >\$200 Million increase in annually?!?!



Privilege License Taxes

- S.L. 2014-3, Section 12
- All local PLTs eliminated as of July 2015
- No increases in city PLTs for 2014
- “Physically located” in city to tax in 2014



Privilege License Taxes

- Questions remain . . .
- What does it mean to be “physically located” in a city?
- PLT years that begin before July 2015?



Occupancy Taxes

- S.L. 2014-3, Section 8
- U.S. Open in Pinehurst
- Rental of private residence:
 - Taxable if either
 - Rented for 15 days or more during the year
 - Listed with a real estate agent/broker



Questions?



Evaluation: https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcqbwwC61



Bob Joyce
joyce@sog.unc.edu



SCHOOL EMPLOYMENT LAW

School Employees



School Employees

At will

Contract

Teachers and tenure



Teachers and Tenure



Teachers and Tenure

How it was

- Probationary teachers
 - one-year contracts for four years
 - very limited process in non-renewal
- Tenured teachers
 - 15 grounds for dismissal
 - due process in dismissal



Teachers and Tenure

How the 2013 legislature changed it

- After 8/1/13, no teacher gets tenure
- Teachers with tenure 8/1/13 keep it till 2018*
- Other teachers are on one-year contracts
- 25% of tenured teachers offered four-year contracts and more money, giving up tenure
- Beginning 2018, all tenure goes away

S.L. 2013-360; S 402



Teachers and Tenure

What the courts said

- May 2014: superior court struck the 25% provision
- June 2014: superior court stuck all changes as they affect teachers who already had tenure
- Appeals are pending



Teachers and Tenure

What the legislature said in response in 2014

- Nothing

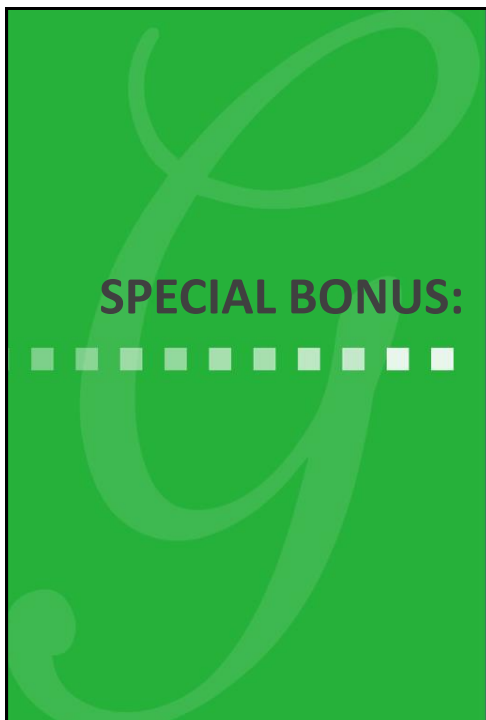


Teacher and Tenure

What the law is right now

- Teachers who got tenure before 8/1/13 retain tenure
- Teachers who were in line for tenure at 8/1/13 may or may be eligible
- Teachers hired after 8/1/13 will never get tenure
- The 25% provision is probably dead





SPECIAL BONUS:

**AN UNDERNOTICED
ELECTIONS LAW
CHANGE**

Elections Law

Big changes in 2013

- Photo ID at polls (starting in 2016)
- End of same-day register and vote
- Shortening of early voting period
- End of straight-ticket voting
- Mail-in absentee ballot request changes
- End of public financing for judicial races

S.L. 2013-381; H 589

Elections Law

Undernoticed change in 2013

- Referendums may be held only at the same time as another primary or election

Further change in 2014

- And only at a primary or elections when all the necessary precincts would otherwise be open

S.L. 2014-111; S 403



Elections Law

What it means for counties

- In effect, counties can have referendums only in even-numbered years.



Questions?



Evaluation: https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcqbwwC61



Tyler Mulligan
mulligan@sog.unc.edu



**COMMUNITY &
ECONOMIC
DEVELOPMENT**

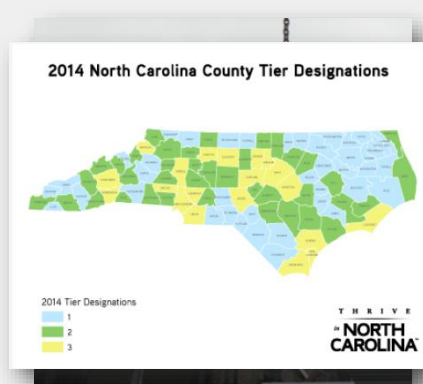
Your New State Partner in Economic Development

- NC Dept of Commerce to contract with nonprofit entity
- Economic development recruiting and marketing functions of Commerce
- Appetite for private (and local government?) funding
- Controversy ... and controls
- S.L. 2014-18; H 1031



Rural Economic Development Division at Dept of Commerce

- Loans and grants to productively reuse or demolish buildings
- Local Governments in Tier 1, Tier 2, or "rural census tract" in Tier 3 area



Open Government and Economic Development

- Public Records
 - S.L. 2014-115, § 56.1, H 1133
 - Modifies G.S. 132-6(d)
 - ADDS: Release records if “knows or should know” that company has decided not to locate
- Open Meetings
 - S.L. 2014-79, S 614
 - Modifies G.S. 143-318.11(a)(4)
 - ORIGINAL: matters relating to location or expansion of businesses
 - ADDS: military installation closure or realignment



Left on the Cutting Room Floor?

- Film Production
- Historic Preservation
- Supplement for State Discretionary Incentives
- Crowd-funding



Questions?



Evaluation: https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcbwvC61

Legislative Reporting Service What Do We Do?

- Summarize
 - Filed bills
 - Amendments
 - Committee substitutes
 - Conference reports



Legislative Reporting Service

What Can You Do?

Subscriber Tools

- > The Daily Bulletin
- > **My Bills**
- > **My Monitors**
- > My Monitors
- > Today's Bills: House
- > Today's Bills: Senate
- > All Bills
- > Actions on Bills
- > Session Laws
- > Bill Categories
- > Statutes/Counties
- > SOG Resources
- > Announcements

- My Monitors: Save up to 6 customized searches; Scan bills throughout the session
- My Bills: Keep track of bills of interest to you; File them in up to 4 personal folders

subscriber@email.com **My Bills**

> My Preferences
> Contact us
> Log out

Folder 1: Animals

5 bills tracked

Bill #	Bill short title	Filing date	Last Action	L.A. date	View	Com.	F1
H1131	CLAY COUNTY OPOSSUM EXCLUSION/WILDLIFE LAWS.	May 20 2014	Ch. SL 2014-7 (House Action)	Jun 12 2014	Summ.		X
H956	REGULATE OWNERSHIP OF AGGRESSIVE DOG BREEDS.	Apr 16 2013	Ref To Com On Rules, Calendar, and Operations of the House (House Action)	Apr 18 2013	Summ.		X
H930	DOG BREEDING STD'S./LAW ENFORCEMENT TOOLS.	Apr 11 2013	Ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Judiciary II. If fav, re-ref to Finance (Senate Action)	May 13 2013	Summ.		X
S626	RECODIFY ANIMAL SHELTER LAW.	Apr 2 2013	Ch. SL 2013-377 (Senate Action)	Jul 29 2013	Summ.	3	X
H379	AMEND VETERINARY PRACTICE ACT/FEE'S.	Mar 20 2013	Ch. SL 2014-63 (House Action)	Jul 7 2014	Summ.	1	X

LRS Biennium Search

Select a biennium:
2013-2014 Session

Legislative Reporting Service

New Feature: Session Laws

UNC SCHOOL OF GOVERNMENT

About the School | Courses and Resources | Library | MPA | Publications

UNC SCHOOL OF GOVERNMENT LEGISLATIVE REPORTING SERVICE

Subscriber Tools

- > The Daily Bulletin
- > My Bills
- > My Bills: Summaries
- > My Monitors
- > Today's Bills: House
- > Today's Bills: Senate
- > All Bills
- > Actions on Bills
- > **Session Laws**
- > Bill Categories
- > Statutes/Counties
- > SOG Resources
- > Announcements

Session Laws

50 bills match selection

Year: 2014 Apply

Seq.	Bill #	Bill short title	Filing date	Sponsors	View
SL 2014-1	S294	ALLOW USE OF DOT STORMWATER BMPs (NEW).	Mar 13 2013	Parmon.	Summ.
SL 2014-2	H688	AMEND CONTINUING ED REQ'S/CERT. WELL K'ORS.	Apr 9 2013	Hardister, Mills, Tine, Jeter.	Summ.
SL 2014-5	H230	CLARIFY READ TO ACHIEVE/SCHOOL PERFORMANCE GRADES (NEW).	Mar 5 2013	Malone, Martin, Brody, Samuelson.	Summ.
SL 2014-8	H292	MORATORIUM/LAWSUITS FOR SCH. FUNDS (NEW).	Mar 12 2013	Brody, Fisher, Insko, Warren.	Summ.
SL 2014-9	S355	TECH CORRECTION/GASTON, NASH, UNION LOCAL ACT.	Mar 19 2013	Rabon.	Summ.

Feb 20

Instant Bill Locator

Search


UNC SCHOOL OF GOVERNMENT

Legislative Reporting Service



- Subscription information
 - <https://lrs.sog.unc.edu/>
- Questions?
 - Christine Wunsche, LRS Director
 - 919.733.2484 (Raleigh)
 - 919.962-9180 (Chapel Hill)
 - wunsche@sog.unc.edu
- Follow LRS on Twitter for NCGA updates

@sog_lrs





Evaluation

Please take a moment to complete our short evaluation. Your feedback is invaluable.

Evaluation:

https://unc.az1.qualtrics.com/SE/?SID=SV_1zzLvBgcqbvwC61

