

Memorandum

TO: Brian Francis, Mecklenburg County Manager's Office

FROM: The Troutman Sanders Team

DATE: August 26, 2013

RE: 2013 Long Session – Adjournment Report

Overview

On Friday, July 26, the 2013 long session adjourned after 104 legislative days. Governor McCrory had thirty days to act on the legislation before him, which set August 25 as his deadline. On August 23, McCrory signed the final 34 bills and allowed one bill ([H 522](#)) to become law without his signature. Earlier this month, the Governor vetoed two bills ([H 392](#) and [H 786](#)). The legislature will reconvene for a veto session on September 3, which we expect to last two days. There is also the possibility a special session on economic development and energy, two of Governor McCrory's agenda items he feels were not adequately addressed. The General Assembly will reconvene on May 14, 2014 for the short session. The [adjournment resolution](#) defines the legislation that is eligible for consideration during that session, which includes bills that met the long session "crossover deadline" and recommendations from interim committees.

Legislative Agenda Items

These are the items approved by the Board of Commissioners on January 28.

- 1) Remove the sunset on the Domestic Violence Fatality Review team and adjust the composition of the team. [H 456](#) is now Session Law 2013-70.

- 2) Make uniform the penalties for various locally collected taxes. This agenda item was not ready to be considered this session.

- 3) Broaden the permitted uses of stormwater fees. [H 573](#) remains in Senate Finance, and is eligible during the short session. We understand that there are a few Senators concerned about expanding the authority of local governments on this issue, but we will work to address their concerns during the interim.

4) Support legislation to enact the policies of the Board related to revaluation. [S 159](#) is now SL 2013-326. [H 200](#) remains in Senate Rules.

5) Protect Mecklenburg County's ability to implement the MeckLINK MCO.

In January, MeckLINK was authorized by a [special bulletin](#) from Secretary Wos to continue operation under the 1915 b/c waiver.

Late in the session, Rep. Nelson Dollar added a provision into [S 208](#) that would remove MeckLINK's exemption to operate as a department of the County. We successfully secured an extension of the deadline for that transition until January 1, 2014 and S 208 is now law as SL 2013-85. After much due diligence by county staff, it was discovered that more time was needed to successfully transition MeckLINK. We worked with Rep. Dollar and were successful in securing an additional extension until April 1, 2014 in Section 4.12 of the budget technical corrections bill, SL 2013-363([H 112](#)).

6) Remove members of the MPO and RPO from the state ethics regime. [S 411](#) is now SL 2013-156.

7) 250th Anniversary Resolution. [H 508](#) was adopted by the House on May 21.

Session Laws

The bills listed below have been ratified, enrolled and signed by the Governor.

[SL 2013-2](#) (H 4) – Rep. Julia Howard (R- Davie) - An Act to Address the Unemployment Insurance Debt and to Focus North Carolina's Unemployment Insurance Program on Putting Claimants Back to Work

[SL 2013-4](#) (H 5) – Rep. Nelson Dollar (R-Wake) - An Act Requiring the Department of Health and Human Services to Provide Temporary, Short-Term Financial Assistance to (1) Group Homes Serving Residents Determined not to be Eligible for Medicaid-Covered Personal Care Services as a Result of Changes to Eligibility Criteria that Became Effective on January 1, 2013, and (2) Special Care Units Serving Residents Who Qualify for Medicaid-Covered Personal Care Services on or After January 1, 2013

[SL 2013-26](#) (H 193) – Rep. Ruth Samuelson (R-Mecklenburg) - An Act to Expand the Permissible Uses of the Local Mecklenburg County and City of Charlotte Local Taxes. *This bill authorizes the City of Charlotte to utilize a portion of the occupancy tax and the prepared food and beverage tax on upgrades to Panther's stadium and other venues.*

[SL 2013-82](#) (H 480) – Rep. Chris Millis (R- Onslow) - An Act to Provide Regulatory Certainty for North Carolina by Requiring the Development of Minimum Design Criteria for Stormwater

Permits to Guide the Department of Environment and Natural Resources in Permit Issuance and to Reform the Permitting Process to Allow a Fast-Track Permitting Process for Applications Certified by a Qualified Professional to be in Compliance with the Minimum Design Criteria

[SL 2013-118](#) (H 120) – Rep. Mike Hager (R-Burke) - An Act to Require Approval from the North Carolina Building Code Council Before a Unit of Local Government May Require Building Inspections in Addition to Those Required by the Building Code; to Specify the Frequency and Effective Dates of Code Updates; and to Exempt Cable Television Equipment Installation from Building Code Requirements

[SL 2013-141](#) (H 765) – Rep. Jimmy Dixon (R- Duplin) - An Act to Clarify and Codify Jury Instructions for a Budget Dispute Between Board of Education and Board of County Commissioners

[SL 2013-183](#) (H 817) – Rep. William Brawley (R- Mecklenburg) - An Act to Strengthen the Economy Through Strategic Transportation Investments

[SL 2013-185](#) (H 664) – Rep. Mike Hager (R-Burke) - An Act to Facilitate the Deployment of Mobile Broadband and Other Enhanced Wireless Communications Services by Streamlining the Processes Used by State Agencies and Local Governments to Approve the Placement of Wireless Facilities in Their Jurisdictions

[SL 2013-200](#) (H 248) - Rep. Debra Conrad (R- Forsyth) - An Act to Require Disclosure on the Ballot that Authorization of Indebtedness Includes Interest and that Taxes May be Levied to Repay the Indebtedness

[SL 2013-225](#) (H 343) – Rep. Rena Turner (R-Iredell) - An Act to Eliminate Arbitration Caps in District Court, to Make Clarifications to Court Fees, to Amend the Motion Fee Exemption, to Require Counties and Municipalities to Advance Fees, to Provide Priority for the Payment of Criminal Costs and Fees, and to Remove the Sunset on Changes to Certain Fees Collected by Register of Deeds

[SL 2013-259](#) (S 490) – Sen. Rick Gunn (R- Alamance) - An Act to Exclude Custom Software from Property Tax

[SL 2013-267](#) (H 110) – Rep. Ken Goodman (D- Hoke) - An Act to Provide for Fair and Open Competition in Governmental Construction Contracts and to Prohibit Requirements for Certain Terms in Government Contracts

[SL 2013-272](#) (S 81) – Sen. Bob Rucho (R-Mecklenburg) - An Act to Create the Charlotte Douglas International Airport Authority

[SL 2013-308](#) (H 635) – Rep. Donny Lambeth (R-Forsyth) - An Act to (1) Allow a Clerk or Assistant or Deputy Clerk of Superior Court or a Magistrate to Issue by Facsimile or Electronic Mail Transmission an Involuntary Inpatient Commitment Custody Order to a Petitioning Physician, Eligible Psychologist, or Designee at a Twenty-Four-Hour Facility When the Respondent is Already Physically Present at the Twenty-Four-Hour Facility, (2) Establish Protocols for the Training of Physicians, Eligible Psychologists, or Designees, and (3) Direct the Secretary of the Department of Health and Human Services to Review and Revise the Rules Designating Facilities for the Custody and Treatment of Involuntary Clients

[SL 2013-317](#) (H 186) – Rep. Charles Jeter (R-Mecklenburg) - An Act Authorizing the Towns of Cornelius, Davidson, Huntersville, Mooresville, and Troutman to Enforce Municipal Noise Ordinances and State Statutes Pertaining to Theft and Vandalism on the Waters of Lake Norman

[SL 2013-331](#) (H 646) – Rep. Rick Catlin (R-New Hanover) - An Act to Prohibit a County or City from Enforcing Any Ordinance that Regulates the Trimming or Removal of Trees on Property Owned or Operated by a Public Airport Authority

[SL 2013-340](#) (S 372) – Sen. Jim Davis (R-Cherokee) - An Act to Require Notice and an Opportunity for Comment from County Boards When Permits for Land Application of Waste Within that County are Issued by the Environmental Management Commission; to Increase the Threshold for Department of Transportation Informal Bid Procedures and Clarify that the Department's Policy Concerning Participation by Disadvantaged Minority-Owned and Women-Owned Businesses Apply to Contracts Let Using Those Procedures; and to Study State Payments in Lieu of Taxes of Public Lands

[SL 2013-366](#) (S 353) – Sen. Kathy Harrington (R-Gaston) - An Act to Modify Certain Laws Pertaining to Abortion, to Limit Abortion Coverage Under Health Insurance Plans Offered Under a Health Benefit Exchange Operating in North Carolina or Offered by a County or Municipality, to Prohibit a Person from Performing or Attempting to Perform an Abortion When the Sex of the Unborn Child is a Significant Factor in Seeking the Abortion, to Direct the Department of Health and Human Services to Amend Rules and Conduct a Study Pertaining to Clinics Certified by the Department of Health and Human Services to be Suitable Facilities for the Performance of Abortions, to Amend the Women's Right to Know Act, and to Increase Penalties for Unsafe Movements by Drivers that Threaten the Property and Safety of Motorcyclists

[SL 2013-371](#) (S 103) – Sen. Fletcher Hartsell (R-Cabarrus) - An Act to Amend the Authority Counties and Cities Have to Use Special Assessments to Address Critical Infrastructure Needs

[SL 2013-372](#) (S 305) – Sen. Jerry Tillman (R-Randolph) - An Act to Improve the Public/Private Partnership by Which the Division of Motor Vehicles Issues Motor Vehicle Titles and Registrations

[SL 2013-381](#) (H 589) – Rep. Harry Warren (R-Rowan) – An Act to Restore Confidence in Government by Establishing the Voter Information Verification Act to Promote the Electoral Process Through Education and Increased Registration of Voters and by Requiring Voters to Provide Photo Identification Before Voting to Protect the Right of Each Registered Voter to Cast a Secure Vote with Reasonable Security Measures that Confirm Voter Identity as Accurately as Possible Without Restriction, and to Further Reform the Election Laws

[SL 2013-382](#) (H 834) – Rep. Jeff Collins (R-Nash) - An Act Enhancing the Effectiveness and Efficiency of State Government by Modernizing the State's System of Human Resources Management and by Providing Flexibility for Executive Branch Reorganization and Restructuring and to Improve Transparency in the Cost of Health Care Provided by Hospitals and Ambulatory Surgical Facilities; to Terminate Set-Off Debt Collection by Certain State Agencies Providing Health Care to the Public; to Make It Unlawful for Health Care Providers to Charge for Procedures or Components of Procedures that Were not Provided or Supplied; to Provide for Fair Health Care Facility Billing and Collections Practices; and to Provide that Hospitals Receiving Medicaid Reimbursements Participate in the North Carolina Health Information Exchange Network

[SL 2013-387](#) (S 321) – Sen. Jim Davis (R-Cherokee) - An Act to Cap Reimbursement by Counties, to Make Additional Provisions Relating to Payment for Medical Services Provided to Inmates in County Jails, to Allow Counties to Utilize Medicaid for Eligible Prisoners, to Provide that Vacancies in the Office of District Court Judge Shall be Filled by Appointment of the Governor, and to Create a Private Right of Action Against Notaries Who Violate the Notary Public Act

[SL 2013-389](#) (S 368) – Sen. Stan Bingham (R-Rockingham) – An Act to Provide for a Ten-Dollar Co-Pay for Prescription Medication Dispensed in a County Jail, to Provide the Pistol Permit Fee to be an Application Fee, and to Make It a Felony to Escape from a County Facility When Charged with and Being Held for a Felony

[SL 2013-397](#) (S 553) – Sen. Ralph Hise (R- Madison) - An Act to Establish Grievance and Appeal Procedures for Local Management Entity/Managed Care Organization (LME/MCO) Medicaid Enrollees; to Require the Department of Health and Human Services to Establish a Supportive Housing Program for Individuals Transitioning from Institutional Settings to Integrated Community-Based Settings, to Clarify How Funds Appropriated to the Department of Health and Human Services for the Establishment and Operation of this Program Shall be Used, and to Create a Community Living Housing Fund Within the Housing Finance Agency to Integrate Individuals with Disabilities into Community-Based Supported Housing; and to Modify Allocation of State's Share in Hospital Provider Assessment Tax

[SL 2013-401](#) (H 857) – Rep. Dean Arp (R-Union) – An Act Authorizing Public Contracts to Utilize the Design-Build Method or Public-Private Partnership Construction Contracts

[SL 2013-402](#) (H 552) – Rep. Pat McElraft (R-Carteret) – An Act to Provide a Procedure to Remove an Area from a County Service District

[SL 2013-408](#) (H 135) – Rep. Ruth Samuelson (R-Mecklenburg) - An Act to Make Adjustments to the Fee Schedule for Permits for Sanitary Landfills and Transfer Stations to Reflect Extension of the Duration of These Permits as Directed by S.L. 2012-187, as Recommended by the Environmental Review Commission

[SL 2013-410](#) (H 92) – Rep. John Blust (R-Guilford) – General Statutes Technical Corrections 2013. This bill is usually a strictly technical bill, but this year it is not. Among other substantive changes, Section 29 amends the public notice procedure to remove the reference to a “daily” newspaper.

[SL 2013-413](#) (H 74) – Rep. Tom Murry (R-Wake) – Regulatory Reform Act of 2013. This bill became a significant point of contention between the House and Senate at the end of session, but it passed despite the conflict. There are a number of provisions of interest to Mecklenburg in this bill including:

- Section 3 – Requires the Rules Review Commission to review rules every 10 years and eliminate those that are unnecessary.
- Section 5a – Requires a county to bring an enforcement action within 10 years of the violation.
- Section 5c – Prohibits a county from restricting a contractor to provisions that are not applied to all employers in the county.
- Section 6a – Requires equal zoning treatment for fraternities and sororities.
- Section 8 – Outdoor advertising changes – **Governor McCrory issued an [executive order addressing these changes](#).**
- Section 10.1.(b) – Prohibits transportation impact mitigation ordinances
- Section 10.2 – Temporarily limits the ability of a local government to enact environmental rules or regulations more stringent than the state or federal government. This is effective until October 1, 2014 and the legislative Environmental Review Commission shall study this issue and report to the 2014 short session.
- Section 19 – Requires carbon monoxide detectors in hotels.
- Section 23 – Requires DHHS to set statewide rules for the smoking ban at outdoor seating areas of bars and restaurants
- Section 24 – The Environmental Review Commission is directed to study the operations of organizations that provide water and sewer infrastructure.
- Section 26 – DENR to study the continued need for vehicle emissions testing.
- Section 28 – Amend the rules that apply to open burning for land clearing or right-of-way maintenance.

- Section 33 – Clarifies the civil penalties appeals process for sedimentation control programs.
- Section 44 – Provide an acreage exemption for the development of brownfields
- Section 50 – Prohibit the regulation of the storage of nonhazardous recyclable materials
- Section 58 – DENR and local permitting programs shall study their application review processes to determine if revisions to a plan sealed by a professional engineer are also reviewed and approved by that professional engineer
- Section 59.3 – Amends the definition of leachate – **Governor McCrory issued an [executive order](#) addressing this provision**
- Section 59.4 – Authorize counties that accept solid waste from other local governments to charge a fee.

Vetoed Legislation

The General Assembly will return for a veto session on September 3 to address these bills.

[H 392](#) – Rep. Dean Arp (R- Union) – An Act Requiring a County Department of Social Services (DSS) to Verify Whether an Applicant for or Recipient of Temporary Assistance for Needy Families (TANF) Benefits or Food and Nutrition Services (FNS) Benefits is a Fleeing Felon or a Probation or Parole Violator, to Deny TANF or FNS Benefits to an Applicant or Recipient Who is a Fleeing Felon or a Probation or Parole Violator, and to Require Drug Screening and Testing for Certain Applicants and Recipients of Work First Program Assistance. **Governor McCrory’s [veto message](#) explains his opposition to the drug testing provisions but also demonstrates his support for the background check provisions. In order to keep the provisions he wanted intact, Governor McCrory issued an [executive order](#) to strengthen criminal background checks and information sharing.**

[H 786](#) – Rep. Harry Warren (R-Rowan) – An Act to Require the Department of Public Safety to Study Measures for Addressing the Problem of Illegal Immigration in this State; and to Clarify Which Employers are Subject to the State’s E-Verify Laws. **Governor McCrory’s [veto message](#) said the bill would open the seasonal employee exemption to other industries outside of agriculture and make it easier to hire illegal immigrants.**

Tax and Appropriations Provisions

The [tax reform plan](#) was negotiated throughout session and all sides finally agreed to a plan which became SL 2013-316 on July 23. The legislation eliminates the franchise tax on electricity and piped natural gas and replaces it with a sales tax that is fully applied to electricity and piped natural gas. The sales tax is expanded to include warranties and service contracts that are tied to the sale of tangible personal property and many exemptions are eliminated including the preferential sales tax rates for movies and amusements.

Over the biennium tax reform plan's impact on State revenue is a reduction of \$683.8 million. Of particular interest to the County is the repeal of the earmark on corporate income tax for school capital construction which directs that money back into the General Fund.

Due to the delays with tax reform, the legislature was forced to approve a [continuing resolution](#) which funded state government until a budget could be approved. On July 26 the biennial budget was signed by the Governor and became [SL 2013-360](#). The legislation does not shift any major programs to counties and it maintains funding levels relatively close to previous years. A [budget technical corrections bill](#) was also needed this year, and it contains many substantive provisions (including the extension of the MeckLINK deadline in Section 4.12).

Eligible Bills for Short Session

The bills listed below are eligible for legislative action during the short session under the adjournment resolution. This list is not meant to be comprehensive, as unrelated provisions can be dropped into bills to make them eligible (aka bring them back to life).

[S 42](#) – Sen. Warren Daniel (R- Burke) - An Act to Provide that a Charter School is a Governmental Unit for the Purpose of a Lease or Transfer of Personal or Real Property Between a Charter School and Another Governmental Unit – House Rules.

[S 112](#) – Sen. Brent Jackson (R-Duplin) – An Act to Improve and Streamline the Regulatory Process in Order to Stimulate Job Creation, to Eliminate Unnecessary Regulation, and to Make Various Other Statutory Changes – House Rules.

[S 612](#) – Sen. Harry Brown (R-Onslow) – Regulatory Reform Act of 2013 – House Regulatory Reform – House Regulatory Reform. *Many of the provisions of this bill were added into H 74. The bill included a comprehensive ban on local government's ability to enact ordinances more strict than the state or federal government, but that provision was watered down in H 74.*

[H 8](#) – Rep. Chuck McGrady (R- Henderson) - An Act to Amend the North Carolina Constitution to Prohibit Condemnation of Private Property Except for a Public Use, to Provide for the Payment of Just Compensation with Right of Trial by Jury in All Condemnation Cases, and to Make Similar Statutory Changes – Senate Judiciary I.

[H 11](#) – Rep. Harry Warren (R-Rowan) - An Act to Provide that Special Elections May be Held Only on the Date of Primary in Even-Numbered Years, on the Date of the General Election, or on the Date of the Municipal General Election, Except in Cases of a Public Health or Safety Emergency or for Recall Elections of Municipal Incorporations Governed by Local Act – Senate Rules.

[H 95](#) – Rep. John Torbett (R-Gaston) - An Act to Alter the Standard of Proof for Public Safety Telecommunicators and Dispatchers – Senate Judiciary II.

[H 150](#) – Rep. Nelson Dollar (R-Wake) - An Act to Clarify When a County or Municipality May Enact Zoning Ordinances Related to Design and Aesthetic Controls – Senate Rules.

[H 320](#) – Rep. Nelson Dollar (R-Wake) - An Act to Establish Standards for Medicaid Managed Care for Behavioral Health Services Under the 1915(B)/(C) Medicaid Waiver, Including the Establishment of Grievance and Appeal Procedures for Enrollees – Senate Health Care.

[H 346](#) – Rep. John Faircloth (R-Guilford) - An Act Authorizing Counties and Cities to Attach and Garnish a Member of the Governing Body If the County or City Has Been Granted a Money Judgment Against that Member and the Money Judgment Has not Been Satisfied – Senate State and Local Government.

[H 378](#) – Rep. Elmer Floyd (D-Cumberland) - An Act to Study the Oversight of Metropolitan Planning Organizations and Rural Transportation Planning Organizations and Their Role in Transportation Planning – Senate Transportation.

[H 458](#) – Rep. Pat McElfrat (R-Carteret) - An Act to Require Notice and an Opportunity for Comment from County Boards Before Permits for Land Application of Waste Within that County are Issued by the Environmental Management Commission; to Increase the Threshold for Department of Transportation Informal Bid Procedures; and to Study State Payments in Lieu of Taxes for Public Lands – Senate State and Local Government.

[H 585](#) – Rep. David Lewis (R- Harnett) - An Act to Provide that All Correctional Facilities and Juvenile Facilities in this State Shall Comply with the Provisions of the Federal Prison Rape Elimination Act (PREA) – Senate Appropriations.

[H 632](#) – Rep. Tim Moffit (R- Buncombe) - An Act to Authorize the Legislative Research Commission to Study Establishing a Property Owners Protection Act – Senate Rules.

[H 648](#) – Rep. Jonathan Jordan (R-Ashe) - An Act to Permit Counties to Use the Vote Center Concept for Second Primaries, Where Only the Early Voting Sites for the First Primary are Open on the Day of the Second Primary Rather Than the Normal Election Day Polling Places – Senate Rules.

[H 677](#) – Rep. William Brawley (R-Mecklenburg) - An Act Providing for the Local Government Regulatory Reform Act – Senate State and Local Government.

[H 708](#) – Rep. Tim Moffit (R-Buncombe) - A Joint Resolution to Direct the Legislative Research Commission to Study the Proper Use by a Local Government Owning or Operating a Public

Enterprise of Revenue Derived from Services Furnished by It and Make Recommendations to the General Assembly on Proper Oversight of Such Public Enterprise – Senate Rules.

[H 773](#) – Rep. William Brawley (R- Mecklenburg) – An Act Revising the Conditions Under Which Counties and Cities May Inspect Buildings or Structures – Senate Commerce.

[H 867](#) – Rep. Marilyn Avila (R- Wake) - An Act to Allow for the Movement of Certain Medicaid Recipients – Senate Health Care.

[H 894](#) – Rep. Rick Catlin (R-New Hanover) - An Act Authorizing Cities and Counties to Allocate Excess Stormwater Capacity for Urban Redevelopment Projects – Senate Commerce.