

## 2011 North Carolina General Assembly Long Session Wrap-Up Report

The 2011 North Carolina General Assembly long session ended on Saturday afternoon June 18 after several weeks of extremely long days, many into the wee hours of the morning. This was a very difficult legislative session for cities, towns and your citizens. The League legislative staff would like to express our deep appreciation for the involvement, support and information our members provided. Your hard work was extremely beneficial in maintaining communication with legislators, sharing the effect of legislation even under sometimes uncomfortable circumstances and supporting your League staff with information on the literally hundreds of bills in which we were involved.

You showed true leadership and have served your citizens well in the process.

The following wrap-up report is categorized by issue area. Within each issue area, we have focused on enacted bills. However, we also wanted to share a few key bills that are 'alive' and likely eligible for the 2012 Short Session or are not eligible but are of particular interest to our membership.

The General Assembly returned on July 13, 2011 for a session on redistricting and to address veto overrides. However, other items can, and will, be addressed.

In the interim, we will be visiting cities and towns across the state and working with you to further strategize about issues and goals. Based on the legislators' approach and concerns this past session, there are likely some updates needed to our strategies.

*MEANWHILE, IF YOU WOULD LIKE TO SCHEDULE AN 'ISSUE DISCUSSION' FOR YOUR STAFF, COUNCIL AND MAYOR (WITH LEGISLATORS PERHAPS JOINING FOR A PORTION), PLEASE CONTACT JENNIFER WEBB AT [JWEBB@NCLM.ORG](mailto:JWEBB@NCLM.ORG). OUR GA TEAM IS HAPPY TO BE AVAILABLE TO YOU.*

### M IS FOR MEMO!

An **M** beside a bill summary indicates a League memo is being prepared on this subject to provide detailed explanation about the application of the new law. These memos will be emailed to managers, attorneys, and clerks, and will also be available on our website – [www.nclm.org](http://www.nclm.org).

If you have any questions about a legislative issue; please contact a member of the Government Affairs or Legal teams listed at the end of this report. We are always happy to help!

## CITY AND TOWN ISSUES SUMMARY --- 2011 LONG SESSION

### GUIDE TO BILL STATUS

Along the left side of each page in the report, the bill number, title, sponsor, status and, if applicable, a session law (S.L.) number or committee assignment are indicated. Bills that are related to the 2011-12 Municipal Advocacy Goals are indicated with " \*\* " just before the bill number. Bills we mention that did not pass this session are in one of three categories:

- E = Eligible for 2012 short session
- LE = Likely Eligible / rules not finalized
- NE = Not Eligible ... unless the rules change!

## ALCOHOLIC BEVERAGE CONTROL

No push was made this session to privatize the ABC system, although this issue may surface in the short session. A provision in the studies bill (which was not passed) could now be independently assigned to the Legislative Research Commission to allow for study of ABC system privatization. League staff also remained watchful for legislation that would negatively impact local control over the location and density of ABC-permitted establishments and over the ABC store revenue streams. While the 2011 session was not the appropriate time, League staff continues to seek opportunities to strengthen local government's role in the approval, renewal and revocation of ABC permits, per your 2011-12 Municipal Advocacy Goals.

### HB98

**Breweries to Sell  
Malt Beverages on  
Premises  
(McGrady)  
S.L. 2011-107  
Eff. June 1, 2011**

This law allows on-site sales of beer at breweries which have brewery permits.

### HB189

**Require ABC  
Permittees To Be Tax  
Compliant  
(Hamilton)  
NOT PASSED-E  
House Commerce**

This bill would require Alcoholic Beverage Commission (ABC) permit holders to be in compliance with all state tax laws. The legislation allows for revocation of an ABC permit if the permittee failed to file taxes and/or has an overdue state tax debt. The bill includes local sales tax but does not include local property or privilege tax, which is a point the League staff will be discussing with sponsors in the interim.

### SB738

**Liability Insurance  
Required for ABC  
Permits  
(Goolsby)  
NOT PASSED-E  
House Insurance**

This legislation, which passed the Senate and remains in the House Insurance Committee, requires ABC permit holders to have at least \$1 million in liability insurance. If not, the bill requires revocation of the ABC permit upon lapse or cancellation of coverage.

### HB796

**Sale of Alcoholic  
Beverages  
(Moffitt)  
NOT PASSED-E  
Conference**

This bill, which has passed both Chambers and is in conference committee, would eliminate the ability of municipalities to prohibit the sales of beer and wine from noon on Sunday to 7:00 a.m. on Monday.

## ANNEXATION

### **M** HB845

**Annexation Reform  
(LaRoque)  
S.L. 2011-396  
Eff. July 1, 2011**

This bill became the vehicle for major overhaul of the city-initiated annexation laws. While it is severe and extremely restrictive, it is slightly better than a likely unending moratorium, and certainly better than other bills that had real possibility of passage, including HB531 Involuntary Annexation Reform, which required imminent threat to health and safety before annexations could occur, and SB627, the bill requested by the North Carolina Association of County Commissioners, which required a referendum called for approval of county commissioners for cross-county annexations, made the density and contiguity formulas for annexation tougher, etc. While the outlook was grim from very early in session when a moratorium on annexation passed the Senate, the League staff worked non-stop to ensure the best possible outcome. The political pressure over many years and the philosophies of many new legislators combined to overwhelm the process, virtually ensuring significant change. League staff worked all along the way to improve the bill as well as ensure it got no worse. For detailed information, please [CLICK HERE](#) or, if viewing in hard copy, see the attachment to this document. Below is a very brief overview:

- Requires cities to provide water and/or sewer extensions to annexed residents for free if over 50% of residents request water and sewer.

- Requires municipality to complete water/sewer extensions in 3.5 years. Can petition LGC for extension if delay no fault of municipality.
- Veto petition process allowing owners of 60% of annexed parcels to reject the annexation. Annexed parcel owners have 130 days from adoption of ordinance to sign and submit individual petition.
- No longer a split between small/large populations re formulas. All populations now fall under the formulas previously reserved for cities 5,000 and above--the population test; the population plus subdivision test; and the use plus subdivision test.
- Allows doughnut holes (areas completely surrounded by municipal limits) to be 'taken into' municipality without meeting urban purposes density tests or following the veto petition process.
- Requires impoverished neighborhoods to be annexed if 75% of parcel owners sign petition and the annexation debt service is less than 5% of the municipality's annual water/sewer system revenue. (as certified by LGC)

**M HB168**  
**Farms Exempt from**  
**City Annexation &**  
**ETJ**  
 (Sanderson,  
 Cleveland, Hill)  
 S.L. 2011-363  
 Eff. June 27, 2011

This new law eliminates most city-initiated annexation of bona fide farm property. Property that is being used for bona fide farm purposes (as broadly defined) on the date of the resolution of intent may not be annexed unless the owner gives written consent. See Land Use for discussion of ETJ provisions.

**M HB171**  
**Municipal Self-**  
**Annexations**  
 (L. Brown)  
 S.L. 2011-57

This law prohibits a municipality from petitioning itself to annex 1) property in which the municipality has no legal interest; 2) property that is exempt from taxation; or 3) property owned by a railroad or utility that objects to the annexation. The bill was designed to prevent a particular town from annexing the right of way for state highways in order to defensively extend its corporate limits but it is applicable statewide.

**HB358**  
**Apex/Cary**  
**Annexation Into**  
**Chatham Restricted**  
 (Hackney)

Requires that the Board of Commissioners of Chatham County adopt a resolution or ordinance consenting to a city-initiated annexation into Chatham County by the Towns of Apex or Cary before the final annexation ordinance can be adopted.

## LOCAL ANNEXATIONS SUBJECT TO VETO PETITION

**M HB56 / SB27**  
**Local Annexations**  
**Subject to 60%**  
**Petition**  
 S.L. 2011-177  
 S.L. 2011-173  
 (H: Collins)  
 (S: Brock)

In spite of extremely heavy debate all along the process about the bad precedent set by usurping local authority and wasting taxpayer money, the General Assembly passed both of these bills to suspend lawful annexations and require these cities to undergo the 60% veto petition process included in HB845: Kinston, Lexington, Rocky Mount, Wilmington, Asheville, Marvin, Southport, Fayetteville, and Goldsboro. City councils in these towns relied in good faith on existing law and expended significant amounts of public funds to provide services required by law. Local leaders need to be able to rely on the certainty of existing law.

## BROADBAND

**\*\*SB511**  
**Cities/Comm.**  
**Services**  
 (Hartsell, Newton,  
 Meredith)  
**NOT PASSED-NE**  
**Senate Rules**

This bill requires future municipal broadband service providers to attempt to form a public private partnership prior to initiating a city owned and operated broadband system, in order to facilitate broadband deployment statewide. Portions of the bill were ultimately integrated into the Level Playing Field legislation (HB129 (Avila)).

**HB129**  
"Level Playing  
Field"/Local Gov't  
Competition  
(Avila, Howard,  
Carney, Wainwright)  
S.L. 2011-84

For the fifth year in a row, the League fought to secure the rights of cities and towns to provide broadband service to their citizens and businesses. Unfortunately, that right was largely stripped away. Working with a coalition of pro-municipal broadband cities and interest groups, the League staff was successful in narrowing the range of damaging elements and obtaining important grandfathering provisions in the legislation, but bill proponents were ultimately successful in erecting significant barriers to future municipal broadband entrants. State law now preempts future municipal broadband service providers in a number of ways: (1) limits service provision to within municipal boundaries; (2) prevents subsidization of the broadband system from other municipal fund sources; (3) eliminates pricing flexibility; (4) requires payment in lieu of taxes from the broadband system to the municipal general fund; (5) limits advertising options; (6) restricts public financing of the broadband system to voted debt; and (7) requires cities to attempt to form a public private partnership prior to entering the market themselves. A handful of exemptions to the preemptions were developed – including municipalities serving "unserved areas." Governor Perdue allowed this bill to become law without her signature, stating her concern about it.

## BUDGET / MUNICIPAL REVENUES

**HB200**  
State Budget:  
Appropriations Act of  
2011  
(Brubaker)  
S.L. 2011-145

The state budget for fiscal year 2011-12 was the first state budget to be vetoed by the Governor and the first to be enacted over the Governor's veto. Legislative leaders made a commitment prior to session that they would work very hard not to balance the state budget on the backs of our cities and towns. They kept that promise and we saw no taking of state-collected municipal revenues. League staff worked throughout session to protect municipal revenues and ensure other budget provisions impacting local government were reasonable. The budget has the following effects on municipal government:

- Makes deep reductions to state spending, but does not change the structure of state-collected municipal revenues. We appreciate our legislators' efforts to address the State's fiscal needs without reliance on municipal revenues.
- Eliminates Powell Bill funding for the seven municipalities that do not maintain any of their own public streets. These towns' accumulated funds must be spent by June 30, 2012.
- Restricts NCDOT authority to accept federal funds related to high speed rail by requiring (1) reporting of rail project 25 year maintenance and operation costs, plus State matching funds, to General Assembly committees; and (2) General Assembly approval, if projected State costs exceed \$5M.
- Creates two Powell Bill distributions per year (Oct and Jan), thereby limiting the accumulation of funds to 5 years of distributions rather than the current 10. DOT can allow some small towns 10 years if their yearly amounts are too small to pay for projects.
- Reduces all public transportation grant programs by 6%.
- Cuts the Clean Water Management Trust Fund from \$100 million to \$11.25 million.
- Reduces funds available for parks and recreation grants to local governments by 48%.
- Eliminates funding for the inmate work crews that were supervised by Department of Corrections (DOC) employees and are made available at no cost to towns for various general labor activities. DOC is required to establish rules under which towns could get inmate crews for a fee. These rules likely will require that town employees receive supervision training and that towns provide inmate transportation.
- Reduces the Fire Protection Grant Fund appropriation by 10%, but no town currently receiving \$1,000 or less will be cut.
- Reduces state aid to local libraries by 13%.
- Pays for the local government support functions of the Department of Revenue and the State Treasurer out of local sales tax revenues, reducing those revenues by two-tenths of 1%, but providing greater flexibility to add positions to support local government.

The League staff worked diligently to preserve municipal revenues and limit other potential negative impacts.

## ELECTIONS

### HB351

Restore Confidence  
in Government  
(Lewis)  
VETOED  
Senate Override

This "Voter ID" bill was heavily debated during session, passing the Senate by a 31-19 vote and receiving concurrence in the House on a 62-51 vote. However, the bill was then vetoed by Governor Perdue. It is expected to be one of the bills strongly considered for an override vote this July. The bill requires voters to show photo identification when voting and includes language for the application and issuance of a voter identification card for voters who do not have other photo identification.

### HB658

Change Early Voting  
Period  
(Jones)  
NOT PASSED-E  
Senate Judiciary I

This bill, which is eligible for the 2012 Short Session, would permit voting no earlier than the second Thursday before an election, and changes the hours for early voting for the general elections. The early voting issue was another one of a handful of election bills that became contentious during the session because of the differing opinions about the bills' true purposes.

### SB47

Restore Confidence  
in Elections  
(Tillman)  
NOT PASSED-E  
House Elections

This bill, which passed the Senate and received significant action in the House, would make several changes to North Carolina election laws including: requiring ABC, bond and other special elections to happen at the same time as the regular election (HB366 also); end the ability to register and vote on same day; end straight party ticket voting; end instant runoff voting; and end candidate public funding for all but judicial races (HB452 also).

### SB456

Candidate List Party  
or Unaffiliated Status  
(Goolsby)  
NOT PASSED-E  
House Elections

This bill allows candidates in non-partisan elections to choose whether to list their party affiliation on the ballot. SB456 has passed the Senate and is in the House and eligible for the 2012 Short Session.

## ENVIRONMENT - GENERAL

### M SB22

APA Rules: Limit  
Additional Costs  
(Brown, Rouzer)  
S.L. 2011-13

This law restricts state agencies (of note, DENR) from adopting any rule that results in "substantial estimated additional costs" unless adoption of the rule is required to respond to a serious safety threat, federal budgetary or regulatory changes or a court order.

### M SB110

Permit Terminal  
Groins  
(H. Brown)  
S.L. 2011-387  
Eff. June 28, 2011

This law, which became effective without the Governor's signature, allows the Coastal Resources Commission to issue up to four terminal groin permits to limit sediment into inlet channels. This changes the state's long-standing policy regarding hardened structures along the coastline.

### M SB425

Ecosystem  
Enhancement  
Program Changes  
(Hunt)  
S.L. 2011-343  
Eff. June 27, 2011

Solely addressing municipal access to a state program, this law changed the definition of government entity to specifically exclude local governments from utilizing the Ecosystem Enhancement Program as a first choice in mitigation. The federal government, the state, and any state agency or state subdivision can access the EEP as a first option, but this law forces municipalities to first use a private mitigation bank, if available. Even in cases where only one private bank is available, no choice is allowed between this bank and the EEP for municipalities. Cities and towns with mitigation banking instruments in place before July 1, 2011, will still be able to use them as a primary resource. The bill proponents made no effort to conceal the fact that this law was crafted solely to develop the private mitigation banking market in North Carolina.

**\*\* HB119**  
**Amend**  
**Environmental Laws**  
**2011**  
**(Gillespie)**  
**S.L. 2011-394**  
**Eff. July 1, 2011**

League staff secured language to exempt Type I Solid Waste Compost Facilities from water quality permitting requirements, unless required by Federal law.

Additional language secured by League staff clarified the definition of "state funds use." Beginning July 1, 2011, municipalities using state funds for the construction or operation of public buildings have to establish a program for the collection and recycling of all spent fluorescent bulbs and thermostats that contain mercury. "State funds use" is now defined as the use of received grants from the state for the operation or construction of a public building.

Modifications to the Jordan Lake Rules were addressed in the Amends bill, with dischargers receiving a de facto extension to 2018, as long as the discharger has received an authorization for construction, installation, or alteration of the treatment works for compliance by December 31, 2016.

Language initially included in SB181 – No LUST Cleanup Under Certain Circumstances dealing with changes to laws regarding underground storage tanks, with a focus on policy addressing remediation, was rolled into HB119. The original bill language did not require the cleanup of a leak or spill if the adjacent properties had access to public water systems and no surface waters were within 1000ft. League staff worked with Senator East to ensure that proximity to municipal water supply wells was safeguarded with respect to such leaks. The language was significantly changed and any risk-based remediation efforts must take into account water supply wells, their proximity and the risk of a discharge affecting them. The bill became law without the Governor's signature on July 1, 2011.

## ENVIRONMENT - REGULATORY REFORM

**SB781**  
**Regulatory Reform**  
**Act of 2011**  
**(Rouzer)**  
**VETOED**

Legislators passed a large and controversial overhaul of the law governing the state's regulatory procedures. This bill has the potential to slow rulemaking, and with it, the open and public processes of notice and comment. As a result, we may see an increase in regulatory actions in the form of permit terms, total maximum daily loads (TMDLs), and policies and guidance. The complex bill increases restrictions on rulemaking, including: (1) no rule may exceed federal law or regulations, or state law; (2) agencies may not enforce guidance or policies; (3) every proposed rule must have a fiscal note approved by the rulemaking body prior to notice of the rulemaking; (4) fiscal notes are subject to public notice and comment; (5) agencies must review their rules annually and flag duplicative, burdensome, and inconsistent rules; (6) agencies must examine at least two alternatives to every rule and explain why they were discarded when noticing the proposed rule; and (7) administrative law judges will serve as the final decision-makers in settling disputes with agencies, with appeals directly to superior court. This bill was vetoed by the governor, but expected to be considered for override during the July special session.

## ENVIRONMENT - WATER

**M \*\*HB268**  
**Reclaimed Water**  
**Rules/Storm Debris**  
**Cleanup**  
**(Gillespie)**  
**S.L. 2011-48**

This bill includes irrigation of ornamental crops by field nurseries and above-ground container nurseries in the uses of reclaimed water allowed under a general permit. It also exempts artificial lakes or ponds used for reclaimed water storage from certain criteria associated with wastewater treatment storage facilities.

**M SB676**  
**Clarify Water & Well**  
**Rights / Private**  
**Property**  
**(Rouzer)**  
**S.L. 2011-25**

In its original form, this legislation included the removal of municipal authority to require connection to water and sewer within municipal boundaries. League staff worked with Senator Rouzer to preserve that authority. Despite that positive alteration, local government policy can no longer prohibit new wells or operation of existing wells if they meet state requirements.

**M** **\*\*HB586**  
**\*\*HB609**  
**\*\*HB787**  
Promote Water  
Supply Development  
/ Efficiency  
(McGrady)  
S.L. 2011-374

A combination of HB586 – Enhance Water Supply Funding, HB609 – Promote Water Supply Development, and HB787 – NC Water Efficiency Act were enacted as the final version of HB609. Incorporating language from these bills as passed in House Environment Committee, the law as written is much different in form and scope with respect to water efficiency proposals in the original HB787.

With bill sponsors that spanned the political spectrum, the first edition of HB787 had the potential to impose millions of dollars of unfunded water efficiency mandates. Residential water use limitations of 100 gallons/person/day (GPD) would be required by 2016, with additional goals of 75 GPD and 45 GPD by 2025 and 2035, respectively. The original language also included an appliance retrofit and incentive requirement for water systems. League staff was integral in the modification of this bill to its present form, wherein the bill has no numerical goals and includes an education component in lieu of the appliance retrofit and incentive program.

Additionally, modifications to the reservoir permitting process and funding uses of the Clean Water Management Trust Fund were addressed in HB609 and HB586, respectively. Support of legislative and regulatory efficiencies in water permitting processes is a 2011-12 Municipal Advocacy Goal.

**SB231**  
Interconnection of  
Public Water  
Systems  
(Hartsell)  
NOT PASSED-E  
House Environment

Interconnection legislation has been a goal of Senator Hartsell for almost a decade. The legislation would allow DENR to require public water or sewer systems to interconnect with other municipal, county or regional systems. It further provides that any wastewater system seeking a permit for construction or expansion must demonstrate (1) A plan to implement a program to reduce demand and manage capacity by reducing or eliminating stormwater and groundwater intrusion into collection lines; (2) Consideration of other options including discharging into created wetlands and beneficial use of treated wastewater for non-potable purposes; and (3) A plan to accommodate eventual interconnection among adjoining systems in the same sub-basin.

**SB492**  
Protect Landowner  
Water Rights  
(Rouzer)  
NOT PASSED-E  
House Environment

This bill as introduced attempted to alter the common law regarding water use, which could have moved North Carolina away from the Reasonable Use doctrine and towards the Law of Prior Appropriation. In Reasonable Use doctrine, riparian users are responsible for the reasonable use of water and to return this water in sufficient quality and quantity for downstream users. Moving away from this doctrine could prove detrimental to municipal water supplies along with limiting avenues for legal recourse. League staff worked with numerous stakeholders and legislators to modify this bill in committee. In its current form it prohibits the state and local governments from limiting a landowner's use of water otherwise allowed under the common or statutory law of the state from an impoundment constructed by or owned by the landowner, wells constructed on the landowner's property, or other source of water on the landowner's property. Although further modifications should be considered, the legislation was significantly improved.

## ETHICS & OPEN GOVERNMENT

**SB554**  
Personnel Records  
Technical Changes  
(Brunstetter)  
NOT PASSED-LE  
Senate Finance

This bill clarifies that increases/decreases in salary is public information only after Oct 1, 2007, and notices of dismissal for disciplinary reasons are public record only after Oct 1, 2010. Further, it clarifies that the public records act does not require creation of an actual notice of dismissal unless such notice is otherwise required by law. Lack of clarity in these areas has created confusion and unnecessary work for municipal governments and others. While the coalition supporting this legislation was unable to get it passed this session for a variety of reasons, success in the short session is anticipated.

**SB344 / HB685**  
Government  
Transparency Act of  
2011  
(Clary, Tucker,  
Goolsby)  
**HB685**  
(Blust)  
NOT PASSED-NE  
Senate Judiciary I

Even though this bill is not eligible for the 2012 Short Session, it has been included for your awareness. The bill would have significantly increased access to public employees' personnel records—hiring, firing, full performance evaluations, and beyond. While the League fully supports open government, a balance must exist between employees' basic rights and the rights of the media, interest groups, etc. Further, the bill would have created significant liability concerns for governments. Many groups and governments opposed the bill.

**M** HB36  
E-Verify  
(Cleveland)  
S.L. 2011-263  
Eff. October 1, 2011  
for Local  
Governments

This law requires counties, municipalities and employers to use the federal e-verify program to ensure the work authorization of new employees. The E-Verify system is free, so cost to local governments will be administrative. Local governments are the first to be required to use the system, starting October 1, 2011. An early version of the bill included subcontractors, but that language was removed in the Senate. The law also specifies penalties/fines for failure to comply.

HB87 / SB67  
Sunshine  
Amendment  
(H: LaRoque, T.  
Moore)  
(S: Clary, Tucker,  
Goolsby)  
NOT PASSED-NE

These companion bills propose to amend the North Carolina Constitution, granting right of access to all public records and meetings. The amendment would be considered by the voters during the November 6, 2012 General Election. In addition to guaranteeing by right access to records and meetings, existing statutory provisions impacting public records and open meetings as of January 1, 2013 would be preserved, and the new law would require a supermajority of the General Assembly to create new exceptions to public access. The League opposed the bills due to the unintended consequences the proposed changes would create. HB87 received a fatal blow in the House Rules Committee when it failed to receive a favorable report on a vote of 11-10, and the legislation was ultimately converted into an unrelated bill, while SB67 received no action, and remained in the Senate Judiciary I Committee.

**M** \*\*SB98  
911 Call Transcripts  
(McKissick, Atwater)  
S.L. 2011-321  
Eff. June 27, 2011

This new law further protects the identity of a 911 caller by authorizing local agencies to release records of 911 calls in the form of voice altered recordings, or written transcripts. Law enforcement agencies have observed a growing trend of 911 callers notifying authorities of an emergency by hanging up a connected call without speaking to the 911 operator, leaving first responders unprepared for the type of situation they were to encounter.

**M** \*\*SB182  
Statewide Email  
Subscription Lists  
(C. Jenkins)  
S.L. 2011-54  
Eff. April 28, 2011

This legislation, which was a League 2011-12 Advocacy Goal, protects local government email distribution lists by ensuring a copy does not have to be provided but that the list is only available on-site for public inspection. It also ensures that the lists are used only for the purposes for which they were subscribed or for emergency notifications. HB544 was originally introduced to meet the League's advocacy goal but a streamlining opportunity was presented in SB182, a local bill which was amended and applied statewide.

\*\*HB472  
(McGrady)  
HB307  
(Dollar)  
SB773  
City/County  
Electronic Notice  
(Brock)  
NOT PASSED-LE

This issue, which is a League 2011-12 Advocacy Goal, did not pass either Chamber in spite of diligent hard work by the sponsors. The legislation allowed local governments to adopt ordinances to publish required notices by electronic means in lieu of newspaper publication. HB307 would have been limited to the towns of Cary, Clayton, Wendell, and Zebulon and the counties of Wake and Cabarrus. SB773 included the same electronic notice concept, as well as a printed 'notice book' available for public inspection. Several alternatives were debated, including a combination of home mail, email and website postings. However, the Press Association strongly opposed this bill as one of a handful of bills it worked this session. The switch to electronic notice is a significant taxpayer savings for both counties and municipalities and provides for better communication with citizens. The League will continue advocating for this approach.

SB412  
Public Meetings /  
Records Law  
Violations  
(Goolsby, Clary,  
Tucker)  
NOT PASSED-NE

This bill would have made it a Class 3 Misdemeanor for an employee to deny access to or inspection of public records. The League opposed the bill, and it remained in the Senate Judiciary I Committee where it was first assigned.

SB420  
Municipal Sunshine  
Act  
(Vaughan)  
NOT PASSED-NE

This bill requires local governments to post notice of meetings and meeting minutes electronically, if an available website was free to the government and the end user. The bill did not relieve newspaper notice requirements, was opposed by the League, and remained in the Senate Judiciary I Committee where it was first assigned.

**HB92**  
**Repeal Land**  
**Transfer Tax**  
**(Howard, Starnes,**  
**Brawley, Jordan)**  
**S.L. 2011-18**

In a nutshell, this bill repealed authority granted to boards of county commissioners in 2007 to levy a land transfer tax (up to .4% of the amount transferred), if the transfer tax was approved via referendum. Cities were not granted this authority, but its repeal is noteworthy.

**HB315**  
**Taxpayer**  
**Information Act**  
**(Pridgen, Folwell,**  
**Collins, Stone)**  
**NOT PASSED-LE**  
**House Finance**

This proposed legislation requires the estimated amount of interest to be incurred from bond issuance to be included in the ballot language for voted public debt. Following significant opposition from expert bond counsel, the State Treasurer's Office, and other groups, the bill failed to be approved by the House Finance Committee late in the session.

**HB188**  
**Taxpayer Bill of**  
**Rights (TABOR)**  
**(Blust, Killian,**  
**Holloway, Dollar)**  
**NOT PASSED-LE**  
**House Judiciary A**

This bill proposes to amend the N.C. Constitution in order to restrict the authority of the General Assembly and Governor to propose and approve budgets which expand expenditures in future years by setting spending limits associated with "fiscal growth factors." If passed, voters would consider the amendment during the November 2012 General Election. Inflation and population growth rates serve as the basis for calculating spending limits, and a supermajority vote by the General Assembly would be required to exceed the artificial spending cap established. The bill was heard by the House Judiciary A Committee, but no action was taken.

**HB339**  
**Housing**  
**Authority/Collect**  
**Unpaid Rent**  
**(Cook)**  
**S.L. 2011-365**  
**EFF. OCTOBER 1,**  
**2011**

Effective October 1, 2011, housing authorities are authorized to participate in the debt set off program, in order to collect judicially determined debts owed to the housing authorities from the state income tax refunds of debtors. The League administers this program on behalf of municipalities opting to join the program, which has enabled NC cities to collect over \$30 million since its inception. The League supported the legislation.

**M HB595**  
**Reorganization/Leg**  
**Oversight**  
**Commissions**  
**(Barnhart, Burr)**  
**S.L. 2011-291**

This law establishes the Joint Legislative Committee on Local Government to review local government capital projects required to go before the Local Government Commission and require debt to be issued of over one million dollars (\$1,000,000) (with the exception of schools, jails, courthouses, and administrative buildings). Any project that fits these criteria must be reported to the Committee Chairs, Committee Assistant, and the Fiscal Research Division at least 45 days prior to presentation before the Local Government Commission. Reports may be made to the General Assembly and must include the purpose, scope, debt requirements, financing methods, and repayment plans of any local governmental capital project. The bill also makes the legislative committee on incorporations a subcommittee of this committee and changes its composition so that both of the local officials on the committee could be city officials or county officials rather than one of each.

**HB818**  
**Modify Disabled Vet**  
**Property Tax**  
**Exemption**  
**(McElraft)**  
**NOT PASSED-LE**  
**House Finance**

This bill modifies the property tax exclusion for disabled veterans by providing that the first \$45,000 of appraised value of the residence is excluded from tax for a qualifying owner due to a service connected disability and the greater of \$45,000 or 50% of the appraised value for a qualifying owner due to a combat related disability.

**\*\*HB917**  
Modify Sales Tax  
Distribution  
(Hamilton)  
NOT PASSED-LE  
House Rules

This bill proposes to modify the sales tax distribution formula between cities and counties by including only unincorporated areas when determining the county share in both the ad valorem and per capita sales tax distribution methodologies. This would boost the municipal share of sales tax from approximately 30% to approximately 50%. The League supports the legislation.

**SB267**  
Revenue Laws Tech  
Corrections  
(Clodfelter, Hartsell)  
S.L. 2011-330;  
VARIOUS EFFECTIVE  
DATES

This bill made numerous changes clarifying the tax laws, none of which changed the amount of revenue collected by local governments. The bill does revise the definition of the local sales tax base so that future changes in the state sales tax base are automatically incorporated without the need for separate provisions. At one point, a proposed committee substitute for the bill would have eliminated the ability of local governments to seek a refund of sales tax paid for video programming, such as cable TV. League staff had this change removed from the bill, but it may be considered by the Revenue Laws Study Committee before the 2012 session.

**SB426**  
Modify/Clarify Public  
Finance Statutes  
(Clodfelter)  
NOT PASSED-E  
House Finance

This bill would 1) extend the authority of local governments to use revenue bonds to provide up-front funding for certain special assessment projects from June 30, 2013 to June 30, 2016; 2) exempt from the pre-audit requirement any contract, agreement, or purchase order for an obligation (or a related document) that has been approved by the Local Government Commission; and 3) allow adoption of a revenue bond order after an application to the Local Government Commission is submitted, rather than after approval is received. The bill has passed the Senate and sits in the House Finance Committee for consideration in the short session.

## GOVERNMENT OPERATIONS / PERSONNEL

**HB602**  
**SB664**  
Law Enforcement  
Officers Fairness Act  
(H: Justice, Dollar,  
Stevens, Glazier)  
(S: Rouzer)  
NOT PASSED-NE

This bill did not pass either chamber and is not eligible for the 2012 Short Session. However, it is important to note as it did seek to open areas for potential labor union representation for law enforcement officers. Its purpose was to standardize the dismissal of municipal law enforcement officers, including establishing just cause for dismissal, opportunity to be heard, and a right to be 'represented.'

**M HB709**  
Put NC Back To  
Work  
(Folwell, Dollar,  
Hager, Crawford)  
S.L. 2011-287

This law makes changes to the North Carolina Workers' Compensation program including: setting a cap of 500 weeks on Temporary Total Disability, increasing Temporary Partial Disability from 300 to 500 weeks, reducing the Industrial Commission seats from seven to six, providing equal access to employee medical information, increasing the death benefit to 500 weeks, and increasing burial expenses from \$3500 to \$10000.

**HB172**  
Encourage Military  
Veteran Contractor  
Use  
(Killian, McElraft,  
Horn)  
NOT PASSED-NE

This proposed legislation alters the state's public contracting laws by establishing goals to encourage the use of military veteran contractors. While the League remained neutral on the policy of preferences for military veteran contractors, we were particularly concerned the bill would create significant local administrative burdens, and suggested a number of changes to reduce its impact on cities and towns – including the completion of a disparity study by the NC Department of Administration. Ultimately, the bill failed to receive a favorable report from the House Government Committee, and remained there at the end of the session.

**SB118**  
Downtown Service  
District Definition  
(Preston)  
S.L. 2011-322

This new law expands the definition of downtown revitalization projects in the municipal service district law to include the construction of public buildings, restrooms, docks, visitor centers, and tourism facilities.

**SB320**  
Municipal Systems  
S.L. 2011-212  
Eff. January 1, 2012

This new law allows municipalities to sell, lease, or discontinue water and wastewater systems without a referendum. League staff worked with the proponents and sponsor to ensure municipalities have the authority to act as they deem appropriate.

**SB386**  
Repeal G.S. 95-98  
Prohibition on  
Contracts  
(Kinnaird)  
NOT PASSED-NE

This bill did not move and is not eligible for the 2012 Short Session. However, it is of note because it completely repeals North Carolina's prohibition on contracts between labor unions and government to allow for collective bargaining in the state.

**SB413**  
Ordinance First  
Reading Vote  
(Clodfelter)  
NOT PASSED-E  
House Rules

This bill would require all members of a municipal governing body, rather than two-thirds, to vote for an ordinance in order for it to be adopted on the day that it is introduced. The budget ordinance, a bond order, or any other ordinance requiring a public hearing would be exempt from the requirement, provided that the public hearing for any of the three was conducted at least seven days before the vote.

## LAND USE / BUILDING CODES / PERMITTING

**HB8**  
Eminent Domain  
(Stam)  
NOT PASSED-E  
Senate Judiciary I

This bill, which will possibly be considered in the September legislative session, would put a constitutional amendment before the voters in November 2012 that states: "Private property shall not be taken by eminent domain except for a public use. Just compensation shall be paid, and shall be determined by a jury at the request of any party." The bill seeks to limit governmental condemnation authority to property acquired for public use, not public use or benefit as under current law. This change would limit or prevent the use of eminent domain for the acquisition of property for lease or resale to private entities. The League's position has been that the bill is unnecessary, given current North Carolina law. League staff was successful in working with the sponsor to narrow the bill to its current language.

**M HB168**  
Farms Exempt from  
City Annexation and  
ETJ  
(Sanderson,  
Cleveland, Hill)  
S.L. 2011-363

This new law significantly impacts the ability of city governments to plan for and create balanced, compatible growth patterns in and around municipalities. The bill does two significant things: (1) eliminates future involuntary annexations of property used for bona fide farm purposes, without the written consent of the property owner; and (2) rips from municipal extra territorial jurisdiction existing and future properties used for bona fide farm purposes. League staff members were successful at having the bill amended to allow the application of municipal ETJ authority upon the termination or conversion of the bona fide farm purpose, limit the ETJ exemption to portions of parcels used for bona fide farm purposes, restrict the jurisdictional exemptions for farms to apply only in the ETJ, and require landowners to prove the property is in fact being used for bona fide farm purposes by submitting various types of information to the city. Given the broad definition of a "bona fide farm purpose" and the potential for abuse under such a loose standard, we strongly advocated that such exemptions should only apply to use value farms, but were rebuffed. A related bill, SB380 – ETJ/Definition of Bona Fide Farm Purpose (Jackson), was similarly negotiated by League staff and remained in the House Agriculture Committee at the end of the session.

**HB281**  
ETJ Changes  
(LaRoque)  
NOT PASSED-E

The original bill language alters land use planning practices by eliminating ETJ in counties where countywide zoning is in effect, and authorizing ETJ residents to vote in municipal elections in all other counties. In response to significant lobbying efforts by League staff, and major push back by municipal officials, the bill was converted to a study of ETJ. We expect further discussion of the use of ETJ, in light of significant involuntary annexation reform passed this session.

**HB797 / SB622**  
Limit ETJ  
(H: Sagar, Dixon, Hill,  
Langdon)  
(S: Rouzer, Jackson)  
NOT PASSED-NE

These curious companion bills we believe were intended to address concerns that towns and cities were arbitrarily targeting agricultural lands in designing implementation plans associated with the Jordan/Falls Lake Rules. League staff was successful in dispelling such myths around the General Assembly, and these bills remained in committee at the end of the session.

**M** SB183  
Selective Vegetation  
Removal/State  
Highways  
(H. Brown)  
PASSED -  
RATIFICATION  
PENDING

Introduced at the request of the Outdoor Advertising Association, this bill in its original form expanded tree and shrubbery cut zones around billboards, allowed conversion of existing billboards to digital media by right, and trumped local tree preservation ordinances. The League led a coalition of mayors, planning professionals, environmental groups, and local communities in working with bill proponents to dramatically alter the bill, in order to protect the ability of locally elected officials to determine the appearance of local communities. Late-session action by Speaker Tillis and Rep. McGrady further protected local interests. In its final form, digital billboard conversions were eliminated, local tree preservation ordinances were retained, replanting requirements were imposed on billboard owners opting to remove vegetation around signs, and vegetation removal areas on state highways were reduced to 380 feet in the unincorporated portion of the county, 340 feet in the ETJ/municipalities on controlled access routes, and 250 feet on all other state highways. Due to an error, ratification of the bill is pending, and a final bill should be presented to Governor Perdue for her signature during the upcoming Special Session of the General Assembly. The League thanks Sen. Stein for his efforts to protect the appearance of local communities when the bill was negotiated in the Senate.

**M** HB332  
Clarify Development  
Moratoria  
(Killian, Mills,  
Crawford, Hamilton)  
S.L. 2011-286  
Eff. June 24, 2011

As a resolution to a long standing debate with the NC Homebuilders' Association concerning the authority of local governments to impose development moratoria, this new law eliminates local authority to use this planning tool in order to develop and adopt new or amended plans for residential uses. The original bill prohibited the use of temporary development moratoria for all development types, but we were successful at whittling the bill back. Unfortunately we were unable to completely stop it. The League would like to thank Reps. Mills and Hamilton for helping negotiate a better result for municipalities.

SB731  
Zoning/Design and  
Aesthetic Controls  
(Clodfelter)  
NOT PASSED-E  
House Commerce

This legislative proposal restricts the use of local zoning codes to control the appearance of local communities. In its original form, this bill eliminated the ability of cities and towns to control building design elements, including exterior building color, type or style of exterior cladding material, style or materials of roof structures or porches, exterior nonstructural architectural ornamentation, location or architectural styling of windows and doors, including garage doors, the number and types of rooms, and interior layout of rooms – including negotiated arrangements with developers. Bill proponents argue these design controls cost builders on average \$10,000 per home, and need to be eliminated. League staff successfully limited the reach of the bill to single family residential structures in zoning districts with five or fewer dwelling units per acre, and added a number of other exceptions.

HB652  
Property Owners'  
Protection Act  
(Moffitt)  
NOT PASSED  
Now a study in  
HB773

This bill, among other things, would establish a 'free use of land policy' in which local government rules, regulations and ordinances would be strictly construed in favor of the landowner. In every case where a landowner successfully challenges local government, the landowner would be awarded attorneys' fees. A local government would not be able to enforce a fine against a property owner for an act not actually committed by that property owner (ie involving a contractor, for example). League staff worked with the sponsor and others to explain the problems with the bill and the sponsor agreed to study the issue.

**M** HB687  
Attys Fees/City  
Action Outside  
Authority  
(Brawley, Moffitt,  
LaRoque, Brubaker)  
S.L. 2011-299

This law penalizes a municipality that "acts outside the scope of its legal authority" by allowing the court to award reasonable attorneys' fees to a successful plaintiff. Further, if the court determines the action of the municipality was an "abuse of its discretion," the court is required to award attorneys' fees. This bill and HB652 provide a glimpse into the perspectives among new legislators who came to the General Assembly with set opinions about municipalities in their districts. League staff worked with the sponsor and others to explain the problems this legislation created in terms of allowing municipalities to be flexible in supporting the best interest of the citizens. An amendment on the floor brought back in the "abuse of discretion" language. The bill passed with overwhelming support.

HB887  
Zoning/Temporary  
Health Care  
Structures  
(Moffitt)  
NOT PASSED-E  
Senate Finance

This bill passed the House after being worked on in Subcommittee and is alive for the 2012 Short Session. It allows for a temporary "health-care" housing unit to be placed on land owned for single-family dwellings. The unit is for the sole purpose of caring for a family member requiring assistance with defined activities of daily living (eg. an older parent or disabled family member). League staff worked with the sponsor and others to improve the bill and will continue to work to close potential loopholes.

**M HB806**  
Zoning Statute of  
Limitations/Ag  
District Change  
(Jordan, Stam)  
S.L. 2011-384;  
EFF. JULY 1, 2011

This new law changes the statute of limitations and repose as to challenging zoning ordinances, and clarifies how they are applied to enforcement actions and administrative appeals. The original bill established a two year statute of limitation (we were successful in dialing this back to one year) for contesting the validity of zoning or unified development ordinances, other than ordinances adopting or amending zoning maps, or approving special use, conditional use, or conditional zoning requests – beginning when a party first has standing to challenge the ordinance. Also, actions contesting the validity of ordinances adopting or amending zoning maps, or approving special use, conditional use, or conditional zoning requests would have to be filed within two months. The new law further clarifies the impact of the statute of limitation changes when a determination is made by an "administrative official." Lastly, the new law overrides case law impacting county development ordinances as it pertains to zoning districts in which more than 50% of the land is used for agriculture or silviculture purposes.

**M SB683**  
Residential  
Inspections  
(Hunt)  
S.L. 2011-281

This new law restricts local authority to establish residential rental registration and inspection programs, after the bill was dramatically overhauled through the efforts of League staff and others to prevent an outright elimination of inspections and rental registration programs. "Reasonable cause" will now be required for a local government to inspect a residential rental property, unless the local government designates an area to target under a periodic inspections program. "Reasonable cause" is defined as: (1) properties with a history of violations; (2) a complaint of substandard housing conditions or a request to inspect; (3) actual knowledge of unsafe conditions; or (4) violations visible from outside of the property. Authority to operate rental registry programs was retained, and those charging a universal registration fee as of June 1, 2011 can continue to charge fees under a revised annual fee schedule: (1) properties with 20+ units, \$50 maximum; (2) properties with 3-19 units, \$25 maximum; (3) properties with 1-2 units, \$15 maximum. Cities cannot require residential landlords to obtain a permit for permission to rent their property unless there have been more than three violations of housing ordinances or codes within a twelve-month period or the property has been identified within the top 10% of properties with crime or disorder problems as set forth in an ordinance, and may not charge violation related fees unless there have been two or more violations in a twelve month period, or the property has been identified within the top 10% of properties with crime or disorder problems as set forth in an ordinance.

**\*\*HB912**  
Vacant Housing  
Receivership  
(Brandon)  
NOT PASSED-LE

This proposed local act establishes a new authority for the cities of Greensboro and High Point to petition the court to appoint a receiver to rehabilitate vacant buildings, and transfer the building to responsible owners, when existing owners have failed to comply with orders of the city council.

## PUBLIC SAFETY

**M HB650**  
Amend Various Gun  
Laws/Castle  
Doctrine  
S.L. 2011-268  
Eff. December 1,  
2011

This legislation makes numerous changes to the gun laws to expand the circumstances in which a gun may be used in self-defense and to broaden the situations in which a concealed gun may be carried. League staff was successful in working with the sponsor to remove broad provisions overriding local ordinances. As written, the statutory authorization to prohibit concealed handguns in municipal parks has been narrowed to apply to "recreational facilities." If a municipality prohibits the carrying of concealed handguns at its recreational facilities, it must allow permittees to secure handguns in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle while at the facilities. The term "recreational facilities" includes playgrounds, athletic fields, swimming pools, and athletic facilities.

**SB170**  
Clarify Nuisance  
Abatement Laws  
NOT PASSED-NE  
Senate Judiciary II

This bill clarifies the ability of municipalities in using nuisance abatement authority by describing a "nuisance" as any building or place "which is used for" assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, etc. The bill received significant opposition from the Retail Merchants Association and from individuals representing nightclubs. League staff worked closely with the sponsor and the Metro Police Chiefs Association to address concerns, and will look toward another solution in the 2012 Short Session.

**HB673**  
Street Gang  
Nuisance Abatement  
(Faircloth)  
NOT PASSED-E  
Senate Judiciary II

This legislation, which passed the House and is eligible in the 2012 Short Session, adds property knowingly used for any street gang activity to the nuisance laws and defines street gangs themselves as a public nuisance, allowing the courts to take appropriate actions under the nuisance statutes.

## RETIREMENT

**HB927**  
State Pension  
Solvency Act of 2011  
(Folwell, McGee,  
Dixon, Starnes)  
S.L. 2011-232  
VARIOUS EFFECTIVE  
DATES

In its original form, this bill overhauled the Teachers' and State Employees' Retirement System (TSERS), while making moderate changes to the Local Government Employees' Retirement System (LGERS). In its final version, the new law increases the vesting period for TSERS from five to ten years for state employees hired on or after August 1, 2011, increases the duration of service required for state law enforcement officers to receive the Special Separation Allowance from five to ten years for state law enforcement officers hired on or after August 1, 2011, and makes it a criminal act to cash pension checks which an individual is not entitled to receive in both TSERS and LGERS. League staff lobbied to avoid significant changes to LGERS by asking for LGERS provisions to be removed from the bill.

**HB538**  
LGERS LEO Disability  
(Randleman, Dollar,  
Cotham, Faircloth)  
S.L. 2011-371  
EFF. JULY 1, 2011

This new law removes the one year waiting period before a law enforcement officer (LEO) is eligible for a work related disability retirement, making them eligible for disability retirement benefits on the first day of employment for any disability occurring while in the actual performance of duty. Previously, LEOs, firemen, and rescue squad workers must have one year of membership service in order to qualify for disability retirement benefits resulting from an injury occurring while in the actual performance of duty, and five years for non-work related injuries or illnesses. General employees in LGERS remain subject to a five year waiting period before they are eligible for disability retirement benefits, due to both work related and non-work related injuries.

**HB656**  
Allow Sheriffs'  
Assoc. in LGERS  
(Guice, Ingle,  
Faircloth)  
NOT PASSED-E  
House Floor

In the middle of late session activities, the NC Sheriffs' Association made a request to be added to the list of eligible employers in the Local Government Employees' Retirement System. HB656 (originally "Photo ID for Certain Controlled Substances") had already passed the House, and was being considered by the Senate when it was converted into the Sheriffs' Association bill, passed by the Senate, and sent to the House for a concurrence vote. The bill received significant opposition from the Office of State Treasurer, State Retirement Division, and the Retired Governmental Employees' Association over concerns that LGERS could lose its tax exempt status under IRS rules if the Sheriffs' Association was included.

**SB350**  
Fire and Rescue  
Separation  
Allowance  
(Hartsell)  
NOT PASSED-NE

This proposed legislation extends the Special Separation Allowance benefit received by law enforcement officers to fire fighters and rescue squad workers. The League opposed the bill, and ultimately the bill remained in the Senate Pensions Committee at the end of session. If enacted, this new benefit would cost local governments approximately \$7-8 million annually (.89% of payroll), in the form of additional employer contributions to LGERS.

**SB538**  
Local Retirement  
COLA Authority  
(Hartsell)  
NOT PASSED-LE

This bill clarifies the authority of the Local Government Retirement System Board of Trustees to grant cost of living adjustments (COLAs) for LGERS' retirees. The proposed legislation allows the Board to grant COLAs equal to or less than the rise in the consumer price index up to 4%, if actuarial gains are available in the system to fund the COLA. The bill remained in the Senate Pensions and Retirement Committee at the end of the session.

**SB701**  
TSERS/LGERS Return  
of Contributions  
(Meredith)  
NOT PASSED-E  
House State  
Personnel

This proposed legislation allows a state or local employee, leaving employment for reasons other than death or retirement, to have their contributions to the retirement system, plus accumulated interest, returned to them, by eliminating the five year vesting requirement, and the condition that the employee leave voluntarily. Current law establishes a statutory interest rate of 4%. If passed, the new law would cost approximately \$3.5 million for TSERS (.02% payroll), and \$750,000 for LGERS (.01% payroll) on an annual basis.

## SWEEPSTAKES

SB3  
Broaden  
Sweepstakes Law  
(Vaughan)  
NOT PASSED-LE  
Senate Judiciary II

In 2010, the General Assembly banned the use of "electronic machines and devices" to conduct sweepstakes that involve "entertaining displays." The law listed certain games that were banned by way of illustration and banned other games not involving skill but generating a prize as the result of an entry into a sweepstakes. A Guilford County judge upheld most of the ban, but overruled a ban on "other games not involving skill" as too broad. This bill would ban any electronic machine or device to conduct or promote a sweepstakes. Legislative leaders decided to wait for the outcome of court action on the current ban before taking action. League staff continues to closely monitor this issue.

HB226  
Prohibit  
Sweepstakes  
Devices  
(Rapp)  
NOT PASSED-LE  
House Commerce

This bill was also designed to close the existing loophole from the 2010 legislation banning sweepstakes cafes. It prohibits sweepstakes promoters from providing any type of electronic machine or device to sweepstakes entrants.

HB228  
Video Lottery  
Entertainment  
(Owens)  
NOT PASSED-E  
House Commerce

This bill took a different approach than those prohibiting sweepstakes cafes and allowed "video lottery" as a profit-sharing enterprise for the state, requiring at least 46% of profits to be transferred to the state lottery fund.

## TRANSPORTATION

The 2011-12 State Budget contained changes impacting the distribution and use of Powell Bill funds, as well as the authority of the General Assembly to oversee NCDOT acceptance of federal high speed rail grants.

HB635  
Adjust Highway  
Equity Formula  
(Murry, Killian, Blust,  
Hilton)  
NOT PASSED-E  
House  
Transportation

This proposed legislation redistributes state transportation dollars by eliminating the current "equity formula," and replacing it with a system which distributes funds to regions based, to a large extent, on relative population. At the end of the session, the bill remained in the House Transportation Committee.

HB399  
SB666  
(H: McElraft, Killian,  
Hager, Stone)  
(S: Forrester)  
Cap Motor Fuel Tax  
at Current Rate  
NOT PASSED-E

There were proposals to cap the state gas tax - none of which were passed. HB399 would have permanently capped the state gas tax at \$0.15 per gallon, effective July 1, 2011. SB666 would have capped the gas tax at \$0.15 per gallon temporarily, effective July 1, 2011, with a sunset of June 30, 2013. Both bills remained in committee as the session came to a close.

SB315  
Roadside Campaign  
Signs  
(Daniel)  
NOT PASSED  
Conference  
Committee Pending

This proposed legislation creates a uniform system for campaign sign regulation in the state highway rights of way, effective January 1, 2012, with an exemption for cities wishing to establish local regulations on all streets and highways within the city limits. In the absence of a city regulatory program, the uniform state system will apply on state highways. League staff worked with others to amend the bill to exempt cities due to the possibility of having two sets of election sign regulations at work in a city: one on the state highways, and one on the city roads. The Senate did not concur in the House version of the bill, and a conference committee was appointed but did not meet prior to the end of the session. It is anticipated the conference committee will meet, and generate a report to be considered during the July 2011 Special Session.

**SB107**  
Tax of Improved  
Property in Roadway  
Corridors  
(Brunstetter)  
S.L. 2011-3  
VARIOUS EFFECTIVE  
DATES

This new law creates two special classes of property under Section 2(2) of Article 5 of the NC Constitution: improved property in state roadway corridors, to be taxed at 50% of assessed value, and unimproved property, to be taxed at 20% of assessed value. The bill was passed due to significant delays in completing road projects across the state. The new law is effective for tax years beginning on or after July 1, 2011, and sunsets for improved properties July 1, 2021.

**SB214**  
Transportation Map  
Corridors/  
Condemnation  
S.L. 2011-242  
Eff. December 1,  
2011

Provides that if the entity that adopted a transportation corridor official map has not initiated acquisition proceedings or issued approval for a building permit or subdivision request within three years, the applicant can treat the property as unencumbered and free of any restriction on sale, transfer, or use.

**SB281**  
Municipal Service  
Districts/Streets  
(Stein)  
S.L. 2011-281

This new law authorizes municipal service districts to be established for the purpose of converting private residential streets to public streets, under certain circumstances: (1) the private road must be non-gated; (2) city must receive petition of 60% of the impacted residential property owners; (3) city must agree to maintain the road in perpetuity; (4) certain population requirements (designed for the Town of Morrisville). The service district cannot levy property taxes in excess of 30% of the rate of the previous fiscal year, must use the taxes generated for the upgrade of the road to meet public system standards, and must be abolished following the conversion to public maintenance.

## UTILITIES

**HB117**  
ElectriCities / Use of  
Rate Revenue  
(Daughtry)  
S.L. 2011-129

Originally applicable to all Municipal Electric Providers, this legislation now applies only to the towns of Clayton, Selma and Smithfield. The aforementioned municipalities are now limited in the use of electric rate revenue for operation of the electric system, making debt service payments and transferring amounts that represent a rate of return on the investment in the electric system. Authorized transfers shall not exceed either 3% of system gross capital assets or 5% of system gross annual revenues.

**HB457**  
Municipal Electric  
Utilities / Rate  
Hearings  
(Farmer-Butterfield)  
NOT PASSED-E  
Senate Rules &  
Operations

Members of the North Carolina Eastern Municipal Power Agency would have to hold public meetings prior to changing rates, fees or charges in this proposed legislation. The notice must be published at least once per week in a general circulation newspaper for a minimum of two weeks prior to the meeting. This bill was significantly altered from its original form, which would have placed NCEMPA under the NCUC for oversight of rates and services.

## STUDIES BILL (DIDN'T PASS, BUT LIST OF POSSIBLE OPEN ISSUES)

**HB773**  
Studies Act of 2011  
(Rules, Calendar, and  
Operations of the  
House)  
NOT PASSED  
Conference  
Committee-House  
only

Almost every session has a 'Studies Bill' that rolls many studies into one piece of legislation. The 2011 Long Session was no exception. However, there was disagreement between the House and the Senate on provisions in the bill, so a conference committee was appointed to iron out the differences. The Senate never assigned conferees, so the bill remains in limbo. Priority items affecting municipal operations include potential studies of:

- privatization of the ABC system
- allowing counties to provide broadband services through a public-private partnership
- HB652 Property Owners' Protection Act (explained under Land Use above)
- preventing third-party damage to underground utility infrastructure
- Federal and local funding for local mass transit
- the elimination of the passenger rail fare subsidy
- life-cycle cost analysis of Department of Transportation TIP projects exceeding \$500,000
- consolidation of environmental commissions (see SB564 below)

- water and sewer service providers, including the law related to establishing, operating and financing water and sewer services, specific to: Sanitary Districts, Water and Sewer Authorities, Metro Water Districts, Metro Sewer Districts, and any other organizations that provide water and sewer services (see SB564)
- cost of cleanup of industrial properties
- Jordan Lake Reservoir Water Quality Rules (see HB873)
- the allocation of surface water resources in the state
- incentives for "development ready" sites to stimulate economic development. Includes seat for League of Municipalities (see HB628)
- the property tax valuation process (see HB796)
- remote retailer obligations to collect sales tax (see HB867)
- tax amnesty for state tax debts
- tax reform, including eliminating the state income tax (see HB902)
- reuse of existing commercial buildings
- the procedure for incorporating municipalities (see SB515)
- use of reclaimed water and revisions to accommodate beneficial use
- toxic air pollutants
- development of pavement design and construction standards for secondary, local roads and municipal streets
- offshore wind energy generation off the coast of North Carolina
- property insurance rate making and the adequacy of citizen input; coastal property insurance rates (see HB820)
- retirement and health benefits of teachers and state employees, including any needed changes to the defined benefit plan
- options to provide rate relief to customers of the joint municipal power agencies (see SB587)
- broad use of public-private partnerships; includes consultation with League of Municipalities
- revenue laws of the state to determine effectiveness; analyze economic development programs
- cost-savings and efficiency in state government
- public private partnerships (see HB320, SB278)
- ETJs (Extraterritorial Jurisdiction) and whether they should be changed/eliminated (see HB281)
- energy independence and alternative fuels

**HB320**  
**SB278**  
 Continue P3 Study  
 (H: McGee)  
 (S: Jenkins)  
 NOT PASSED-LE  
 Senate Rules

This bill would continue the study of public-private partnerships by a study commission composed of 16 members—five Senate members, five House members, 3 public members appointed by Speaker, and 3 public members appoint by Senate President Pro Tem. Specifically the bill requires the study of state, regional and local government authority to engage in public-private partnerships for public capital projects, infrastructure banks, and "any other relevant issues it deems appropriate."

**SB428**  
 Study Consolidated  
 Environmental  
 Commission  
 (Clodfelter)  
 NOT PASSED-E  
 House Environment

This bill, which has passed the Senate, would direct the Environmental Review Commission to study the possible consolidation of North Carolina's environmental policy-making, rule-making, and quasi-judicial functions into one full-time environmental commission.

**HJR704**  
 Study State's Future  
 Energy Needs  
 (Hager)  
 NOT PASSED-E  
 Senate Commerce

This resolution, which passed the House, would establish a study commission on alternative fuel for vehicles and the state's future energy needs.

**HB925**  
**LRC Study of**  
**Metropolitan**  
**Sewerage/Water**  
**System**  
**(Moffitt)**  
**NOT PASSED-E**  
**Senate Rules**

This bill, which has passed the House, would direct the Legislative Research Commission to study the efficiency of requiring large cities 'located entirely within a metropolitan sewerage district' to convey their water system to the district so it could operate both water and sewer. The bill is aimed at the Asheville system. The language is also contained in HB773 Studies Act of 2011, which is pending in conference committee.

**HB867**  
**SB715**  
**Remote Retailer**  
**Click-Through Study**  
**(H: Starnes)**  
**(S: H. Brown)**  
**NOT PASSED-E**  
**House Rules**

This bill, which is likely eligible for the short session, allows the Revenue Laws Study Committee to study an online retailer's obligation to collect sales taxes.

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Ellis Hankins, League Executive Director, thanks our Governmental Affairs team, under the leadership of Kelli Kukura, for their hard work, tenacious efforts and effective representation of our municipal membership during probably the most challenging legislative session in years.

He also thanks President Chris Jones, the other officers and members of the League Board of Directors, and members of our legislative action committees, for the sound policy direction and active involvement in our state legislative lobbying efforts. Thanks to your efforts, we went into the 2011 legislative session with a very clear directive of Municipal Advocacy Goals established by our members in January 2011.

We thank you for your commitment to the citizens of North Carolina.

S. Ellis Hankins  
Executive Director

Kelli H. Kukura  
Director of Governmental Affairs

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