



North Carolina Department of Revenue

Beverly Eaves Perdue  
Governor

David W. Hoyle  
Secretary

August 25, 2011

**MEMORANDUM**

TO: County Assessors and Tax Administrators

FROM: David B. Baker, Director  
Local Government Division

RE: 2011 Local Government Legislation

We are enclosing a summary of the significant local government legislation (having state-wide application) enacted by the 2011 Session of the North Carolina General Assembly. The summary includes the bill number, purpose of the bill, and brief comments as to each ratified bill. This year we are not enclosing copies of the chaptered bills. A copy of each bill may be obtained at the following web page.

<http://www.ncga.state.nc.us/>

If you do not serve as the tax collector, please make copies of this memorandum and summary available to the person holding that position in your county.

If you have any questions concerning any of this new legislation, please call our staff at 919-733-7711.

## 2011 Local Government LEGISLATION

### Bills Enacted by the 2011 Session of the N.C. General Assembly

#### Ratified House Bills

##### HB 68

##### **G.S. 161-31(b) — Payment of Delinquent Property Taxes:**

Adds Alamance, Brunswick, Buncombe, and Yancey counties to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective April 20, 2011; HB 68, s. 1, S.L. 2011-45.)

##### HB 92

##### **Article 60 of Chapter 105 of the General Statutes is repealed:**

Repealed the Land Transfer Tax.

(Effective March 31, 2011; HB 92, s. 1, S.L. 2011-18.)

##### HB 96

##### **Chapter 162**

Authorizes Alleghany County, Jackson County, the Town of Grover and the Town of Swansboro to levy an additional three percent room occupancy and tourism development tax and to make other administrative changes.

(Effective June 17, 2011; HB 96, s. 1-6, S.L. 2011-170)

##### HB 123

##### **G.S. 105-277.3 — Agricultural, horticultural, and forestland – Classifications:**

Revises the business ownership requirements for present use value. Allows a new business entity to qualify for present use value assessment without waiting four years as long as the members of the business entity includes a member of the business entity that transferred the property to the new business entity. An application for property tax relief provided by this act may be filed and must be accepted at any time up to and through September 1 for the July 1, 2011, taxable year. Late applicants may be approved under 105-282.1(a1).

(Effective July 1, 2011; HB 123, s. 1, S.L. 2011-9)

##### HB 129

##### **G.S. 160A-340 — Provision of Communications Service by Cities:**

To protect jobs and to promote investment, it is necessary to ensure that the State does not indirectly subsidize competition with private industry through actions by cities and to ensure that where there is competition between the private sector and the State, directly or through its subdivisions, it exists under a framework that does not discourage private investment and job creation;

A communications network owned or operated by a city or joint agency shall be exempt from property taxes. However, each city possessing an ownership share of a communications network and a joint agency owning a communications network shall, in lieu of property taxes, pay to any county authorized to levy property taxes the amount which would be assessed as taxes on real and personal property if

the communications network were otherwise subject to valuation and assessment. Any payments in lieu of taxes shall be due and shall bear interest, if unpaid, as in the case of taxes on other property.

A city-owned communications service provider shall pay to the State, on an annual basis, an amount in lieu of taxes that would otherwise be due the State if the communications service was provided by a private communications service provider, including State income, franchise, vehicle, motor fuel, and other similar taxes.

(Effective May 21, 2011; HB 129, s. 1-7, S.L. 2011-84)

## **HB 168**

### **G.S. 153A-340(b)(2) — Annexation of Farm Property:**

For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency."

### **G.S. 160A-58.54 — Annexation of Farm Property:**

Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the owner or owners of the property."

(Effective June 27, 2011; HB 168, s. 1 and 3, S.L. 2011-363)

## **HB 206**

### **G.S. 105-275. — Property classified and excluded from the tax base:**

Exempts any real and personal property that meets each of the following requirements:

- a. It is a contiguous tract of land previously (i) used primarily for commercial or industrial purposes and (ii) damaged significantly as a result of a fire or explosion.
- b. It was donated to a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes by an entity other than an affiliate, as defined in G.S. 105-163.010.
- c. No portion is or has been leased or sold by the nonprofit corporation.

(Effective July 1, 2011; HB 206, s. 1, S.L. 2011-123)

## **HB 339**

### **Debt Setoff:**

G.S. § 105A-2(6) Authorizes a housing authority to collect unpaid delinquent debt by setting off the debt against a state income tax refund due a tenant or former tenant of the housing authority.

(Effective October 1, 2011; HB 339, s. 1, S.L. 2011-365)

## **HB 350**

### **G.S 105-275(12) — Property classified and excluded from the tax base:**

Modifies when land used for conservation purposes is to be excluded from property taxes. Amends 105-275(12) by providing that real property that (i) is owned by a nonprofit corporation or association organized to receive and administer lands for conservation purposes, (ii) is exclusively held and used for one or more of the purposes listed in this subdivision, and (iii) produces no income or produces income that is incidental to and not inconsistent with the purpose or purposes for which the land is held and used and if a disqualifying event occurs, provides for the collection of five years of deferred taxes under G.S. 105-277.1F(a).

An application for property tax relief provided by this act may be filed at any time up to and through December 31, 2011 and may be approved at the discretion of the local board under 105-282.1(a1).

(Effective July 1, 2011; HB 350, s. 1-3, S.L. 2011-274)

## **HB 417**

### **G.S. 105-278.6. — Real and personal property used for charitable purposes:**

Extends the time period for holding real property as a future site for housing for low or moderate income individuals and families from five years to 10 years. The deferred taxes would be due after 10 years if the property was not used for the intended purpose. This change goes into effect for the 2011 tax year so any property which would have lost its exclusion due to the 5 year time limit now has 5 more years to put the property into use.

(Effective July 1, 2011; HB 417, s. 1, S.L. 2011-368)

## **HB 845**

### **Reform the Involuntary Annexation Laws of North Carolina.**

#### **G.S. 160A-58.55 — (i) Petition to Deny Annexation Ordinance. – The following procedures shall apply to this subsection:**

(1) Upon receipt of the resolution of intent and a list of property owners of the real property located within the area, the county tax assessor shall prepare a list of the real property parcels within the area, and forward it to the board of elections in the county where a majority of the parcels proposed for annexation are located. The board of elections shall prepare petitions for property owners of the real property located within the area described in the resolution of intent to sign opposing the annexation ordinance.

(Effective July 1, 2011; HB 845, s.9, S.L. 2011-396)

## **HB 896**

### **An act to facilitate electronic listing of personal property for property tax purposes.**

#### **G.S. 105-304(a1) and (b)(3):**

These sections are repealed.

(Effective June 23, 2011; HB 896, s. 1, S.L. 2011-238)

**G.S. 105-296(c)** — Electronic listing of personal property:

If the county has provided for electronic listing of personal property under G.S. 105-310.1, a statement that the county allows electronic listing of personal property and the timetable and procedures for electronic listing is required to be advertised in a newspaper having general circulation in the county and posted in at least five public places in each township in the county.

(Effective June 23, 2011; HB 896, s. 2, S.L. 2011-238)

**G.S. 105-307 — Length of listing period; extension; preliminary work:**

Makes technical changes to conform to the repealing of G.S. 105-304(a1) and (b)(3) and to conform to the new section G.S. 105-310.

(Effective June 23, 2011; HB 896, s. 3, S.L. 2011-238)

**G.S. 105-310.1 — Electronic listing of personal property:**

The following new section G.S. 105-310.1 is added:

- (a) Personal property may be listed by electronic listing as provided in this section.
- (b) The Department of Revenue may establish, after consultation with the counties, the standards and requirements for electronic listing of personal property, including the minimum requirements that must exist before electronic listing will be allowed in a county.
- (c) The board of county commissioners may, by resolution, provide for electronic listing of personal property in accordance with the standards and requirements prescribed by the Department of Revenue. The board of county commissioners may, by resolution, delegate its authority to provide for electronic listing of personal property to the county assessor.
- (d) Definitions. — The following definitions apply in this section:
  - (1) Electronic listing. — The filing by electronic means of the abstract required by G.S. 105-309 and the affirmation required by G.S. 105-310.
  - (2) Electronic. — Defined in G.S. 66-312.

Our office will be publishing, later this year, the standards and requirements for electronic listing of personal property, including the minimum requirements that must exist before electronic listing will be allowed in a county.

(Effective June 23, 2011; HB 896, s. 4, S.L. 2011-238)

**G.S. 105-311 — Listing and signing affirmation; use of agents, mail, and electronic listing:**

Provides that the abstract must be filed with the assessor on a form approved by the Department of Revenue. Adds a limited liability company to section (a)(1) and allows an agent of the taxpayer authorized by a principal officer of the taxpayer in a manner prescribed by the Department of Revenue to sign the abstract. Requires abstracts to be submitted in person, by mail or electronically if the county has provided for electronic listing of personal property under G.S. 105-310.1.

Provides that in no event shall an abstract submitted by electronic listing be accepted unless the affirmation on the abstract is signed by the individual prescribed in subsection (a) of this section. The affirmation may be signed using an electronic signature method approved by the Department of Revenue. For the purpose of this Subchapter, abstracts submitted by electronic listing are considered filed when received in the office of the assessor as denoted by timestamps applied by the receiving equipment or programs.

(Effective June 23, 2011; HB 896, s. 5, S.L. 2011-238)

## Ratified Senate Bills

### **SB 29**

#### **G.S. 161-31(b) — Payment of Delinquent Property Taxes:**

Adds Alamance County to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective April 12, 2011; SB 29, s. 1, S.L. 2011-33.)

### **SB 55**

#### **G.S. 105-322 — Board of Equalization and Review:**

Increases the efficiency of property tax appeals in Mecklenburg County by allowing the county to divide the board of equalization and review into panels. The provision only applies to Mecklenburg County.

(Effective January 1, 2011; SB 55, s. 3, S.L. 2011-1.)

### **SB 76**

#### **G.S. 105-360 — Interest on Refunds:**

Adds the following new subsection to G.S. 105-360:

(e) When an order of the county board of equalization and review reduces the valuation of property or removes the property from the tax lists and, based on the order, the taxpayer has paid more tax than is due on the property, the taxpayer is entitled to receive interest on the overpayment in accordance with this subdivision. An overpayment of tax bears interest at the rate set under subsection (a) of this section from the date the interest begins to accrue until a refund is paid. Interest accrues from the later of the date the tax was paid and the date the tax would have been considered delinquent under G.S. 105-360. A refund is considered paid on a date determined by the governing body of the taxing unit that is no sooner than five days after a refund check is mailed.

#### **G.S. 105-378(d) — Enforcement and Collection Delayed Pending Appeal:**

When the board of county commissioners or municipal governing body delivers a tax receipt to a tax collector for any assessment that has been or is subsequently appealed to the **county board of equalization and review** or the Property Tax Commission, the tax collector may not seek collection of taxes or enforcement of a tax lien resulting from the assessment until the appeal has been finally adjudicated. The tax collector, however, may send an initial bill or notice to the taxpayer.

(Effective January 1, 2011; SB 76, s. 3, S.L. 2011-3.)

### **SB 107**

#### **G.S. 105-277.9A. — Taxation of property inside certain roadway corridors:**

Reduces the property tax owed for improved property inside certain roadway corridors. Adds the following provision which taxes improved real property located within a roadway corridor at 50% of its appraised value. This law is repealed in July of tax year 2021.

(a) Reduced Assessment. – Real property on which a building or other structure is located and that lies within a transportation corridor marked on an official map filed under Article 2E of Chapter 136 of the General Statutes is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and is taxable at fifty percent (50%) of the appraised value of the property if the property has not been subdivided, as defined in G.S. 153A-335 or G.S. 160A-376, since it was included in the corridor.

(Effective July 1, 2011; SB 107, s. 2, S.L. 2011-30.)

## **SB 200**

### **A local act only in effect for Alamance County and Orange County.**

An act to authorize Alamance County and Orange County to recommend the location of nine percent of the common boundary between Alamance County and Orange County subsequent to the 2010/2011 resurvey of the historic Orange County/Alamance County boundary line as described in the 1849 survey establishing Alamance County.

(Effective May 25, 2011; SB 200, s. 1-7, S.L. 2011-87.)

## **SB 201**

### **A local act only in effect for Alamance County and Orange County.**

An act to establish the common boundary between Alamance County and Orange County subsequent to the 2010/2011 resurveys of the transitioned properties, as authorized by the North Carolina General Assembly by Session Law 2010-61 enabling the changes in the historic Orange County/Alamance County boundary line as described in the 1849 survey establishing Alamance County, and to amend some sections of Session Law 2010-61.

(Effective May 25, 2011; SB 201, s. 1-12, S.L. 2011-88.)

## **SB 267**

### **G.S. 105-330.4 —Tax payments**

Adds the following new subsection to make it clear when tax payments are deemed to be timely paid:

(d) Tax payments submitted by mail are deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed to be received when the payment is received in the office of the tax collector. In any dispute arising under this subsection, the burden of proof is on the taxpayer to show that the payment was timely made.

(Effective June 27, 2011; SB 267, s. 40, S.L. 2011-330.)

### **G.S. 105-333(14) —Public Service Companies**

Amends the definition of a public service company to make it clear that wireless telephone companies are not considered public service companies and must be listed, appraised and assessed at the local county level.

(Effective June 27, 2011; SB 267, s. 41, S.L. 2011-330.)

### **Effective date of HB 1779**

Section 42 clarifies the effective date of the new combined motor vehicle/property tax system is July 1, 2013.

(Effective June 27, 2011; SB 267, s. 42, S.L. 2011-330.)

**SB 281****G.S. 160A-536 — Municipal Service Districts**

Authorizes cities to establish a municipal service district for the purpose of converting private residential streets to public streets and to authorize related community associations to transfer planned community property to cities.

(Effective May 12, 2011; SB 281, s. 2, S.L. 2011-72.)

**SB 537****G.S. 105-375— In rem method of foreclosure.**

Increases the fee for administrative costs from \$50.00 to \$250.00 in the processing of an In rem foreclosure action.

(Effective July 1, 2011; SB 537, s. 1, S.L. 2011-352.)