

NORTH CAROLINA  
WAKE COUNTY

GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18-CVS-\_\_\_\_\_

BH MEDIA GROUP INC., CAROLINA  
NEWSPAPERS, INC., PAXTON  
MEDIA GROUP, INC. AND WOMACK  
NEWSPAPERS, INC.,

2018 JUN 11 P 3:27  
BY \_\_\_\_\_  
JUDGE C. D. C.C.

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA  
AND GUILFORD COUNTY,

Defendants.

**COMPLAINT**

Plaintiffs, BH Media Group, Inc. d/b/a The News & Record, Carolina Newspapers, Inc., d/b/a The Carolina Peacemaker, Paxton Media Group, Inc. d/b/a High Point Enterprise and Womack Newspapers, Inc. d/b/a The Jamestown News, complaining of the Defendants, the State of North Carolina and Guilford County, North Carolina, allege and state the following:

**INTRODUCTION**

1. As early as 1789, when the Acts of the First Session of the First Congress required the Secretary of State to publish all bills, orders, resolutions and congressional votes in three publicly available newspapers, our laws have required the publication of notices in newspapers to inform citizens of important governmental action, and to alert individuals of potential legal actions that could have a critical impact on their lives. These dual purposes of education and due

process have informed the contours of legal notice advertising in North Carolina for decades.

2. The publication of legal notices is required in a broad range of civic life. Governments must publish legal notices prior to passage of budgets, prior to such actions as annexation and related to imposition of tax liens on property of delinquent taxpayers. Governments achieve competitive pricing through publication of requests for proposal before government contracting. Lending institutions and governments must publish legal notices before foreclosing on mortgages. Individuals use legal notices in connection with legal proceedings related to individuals who cannot be located.

3. Publication in newspapers is the best and most reliable manner to reach broad distribution of information. Most North Carolina newspapers are published online but also in hard copy, which makes newspaper notices accessible to the roughly 20 percent of North Carolinians who do not have home or ready access to the Internet. A single newspaper can have an audience of many, whether it is in a public library or a workplace lunchroom. Printed newspapers are not subject to hacking, data loss or computer malfunction. Once a notice is published in a printed newspaper, it is fixed for all time in a concrete and permanent way. That permanent record is a crucial part of the affidavit system used to prove proper notice has been given. In addition to the reliability and permanency of newspapers as the publisher of legal notices, newspapers serve as a third-party check on such

notices. If government agencies are allowed to function as both the advertiser and publisher, critical checks and balances will be lost.

4. For all these reasons, maintaining access to public notices through printed newspapers is critical for North Carolina citizens, and depriving a segment of our State's population of such effective notice is a deprivation not only of information, but of a fundamental aspect of civic life and constitutional process.

5. This action is a state constitutional challenge, on five separate counts, to North Carolina Session Law 2017-210 ("the Act"). The effective date for the Act was December 1, 2017. The Act is attached hereto as Exhibit A and incorporated by reference.

6. The Act states, "This section applies to Guilford County only." Thus, the Act was a "local act" and not subject to the Governor's constitutional power to review and veto legislation passed by the General Assembly. The Act was not submitted to the Governor for his signature pursuant to Article II, Section 22(6) of the North Carolina Constitution. Rather, it was signed by Senator Ralph Hise and Representative David Lewis on October 5, 2017.

7. The Act violates a number of substantive rights and protections afforded Plaintiffs and the citizens of this State under the North Carolina Constitution as will be more specifically set out below. Additionally, the Act violates constitutionally mandated procedural requirements for the enactment of laws by the General Assembly.

8. Pursuant to the Act, the Guilford County Commission (the duly elected governing body for Guilford County), by a vote of 5 to 4, adopted on March 1, 2018, an Ordinance (“the Ordinance”) pursuant to the authority granted Guilford County by the Act. A draft copy of the Ordinance is attached hereto as Exhibit B and incorporated by reference. The link to the Guilford County Code accessible through <http://www.myguilford.com> has not been updated since August 22, 2014, and therefore the ratified version of the Ordinance is not online.

9. Pursuant to the Act, N.C. Gen. Stat. § 1-602 of the North Carolina General Statutes (“Publication via county-maintained Web site”) was amended to state: “In lieu of publishing in a newspaper in accordance with this Article, publication of any notice permitted or required by law to be published in a newspaper may be accomplished by contracting with a county who has adopted an ordinance authorizing the county to publish such notice on the county-maintained Web site pursuant to this section.”

10. Plaintiffs are general publication newspapers publishing in Guilford County, and authorized to publish legal notices under N.C. Gen. Stat. § 1-597, *et seq.*, and have done so for years for both public and private parties.

11. Upon information and belief, the adoption of the Ordinance by the Guilford County Commission is an affirmative act by the Commission setting in motion the steps to begin publishing all legal notices required of the Commission on

its Website, in lieu of using newspapers authorized by the General Statutes to publish legal notices.

12. Upon information and belief, the adoption of the Ordinance by the Guilford County Commission permits the Guilford County Commission to accept legal notices required of other governmental entities and private parties in lieu of those other governmental entities and private parties using newspapers like Plaintiffs, which are authorized by the General Statutes to publish required legal notices.

13. Plaintiffs, as for-profit corporations incorporated in North Carolina or registered to do business in North Carolina, are authorized by the General Statutes of North Carolina to accept and publish legal notices. Pursuant to that authorization, Plaintiffs have established and maintained over the years, as an integral part of their publishing and press business, the publication of legal notices from public and private entities. The publication of those legal notices is an important part of Plaintiffs' revenue that allows them to cover and report the news.

14. Upon information and belief, as demonstrated by the procedural process for adopting the Act and other acts, Plaintiffs, as members of the press, were specifically singled out for prior press coverage and editorials published by some or all of the Plaintiffs involving certain acts by elected officials from Guilford County. As such, the Act is an effort to restrain the free press in violation of Article I, Section 14 of the North Carolina Constitution.

15. In addition, the Act deprives the Plaintiffs of revenues generated by their businesses as newspapers in violation of Article I, Section 1 of the North Carolina Constitution; constitutes a taking of property in violation of Article I, Section 19 of the North Carolina Constitution; and violates Plaintiffs' rights under Article I, Section 19 by denying them the equal protection of the law by irrationally treating Plaintiffs differently from all other print newspapers in general circulation in North Carolina. Furthermore, the laws of North Carolina requiring legal notices are general laws and, therefore, the Act, which is a local act, violates Article XIV, Section 3 of the North Carolina Constitution.

16. Finally, the Act was passed in violation of Article II, Section 22 of the North Carolina Constitution, which sets requirements for the constitutional process for enacting laws and limits the General Assembly's process for enacting laws. As described below, the General Assembly's passage of the Act took selected provisions from HB 205 pertaining to electronic legal notices in Guilford County, which had been vetoed by the Governor and not overridden, and substituted in committee those provisions in a wholly unrelated bill, Senate Bill 181, relating to amending the Charter of the City of Winston-Salem, a copy of which is attached as Exhibit C and incorporated by reference. As a result, and all in the course of one day, the House passed the Act—dealing with electronic legal notices in Guilford County—and replaced the title and language of Senate Bill 181, which dealt with amending the Charter of the City of Winston-Salem. The Senate concurred in the House's

action on the bill, which was then signed by two legislators who had taken the place under legislative rules of the presiding officers of the House and the Senate. Thus the Act was purportedly enacted into law but is in violation of the specific constitutional procedure set forth in Article II, Sec. 22 of the North Carolina Constitution and is thus unconstitutionally adopted.

17. The Act and the Ordinance enacted pursuant to it, being in violation of the Plaintiffs' rights under the North Carolina Constitution, are unconstitutional.

### **PARTIES**

18. Plaintiff BH Media Group, Inc. ("BH Media") is a foreign corporation registered to do business within North Carolina and doing business as The News & Record. BH Media's principal place of business is in Guilford County.

19. Carolina Newspapers, Inc. ("Carolina Newspapers") is a North Carolina corporation that publishes the Carolina Peacemaker. Carolina Newspapers' principal place of business is in Guilford County.

20. Paxton Media Group, Inc. ("Paxton Media") is a foreign corporation registered to do business in North Carolina. Paxton publishes the High Point Enterprise. Paxton Media's principal place of business is in Guilford County.

21. Womack Newspapers, Inc. ("Womack") is a North Carolina corporation that publishes the Jamestown News. Womack Newspapers' principal place of business is in Guilford County.

22. All of the Plaintiffs are in the newspaper publishing business, and therefore, employ reporters and editors to cover news in Guilford County and across the State of North Carolina. To report on and publish news, all of the Plaintiffs depend on income derived from selling subscriptions and single copies of their newspapers, selling advertisements to the public, and selling legal advertisements that afford government entities and the public a vehicle to comply with legal and constitutional notice requirements. All of the Plaintiffs are North Carolina taxpayers.

23. The State of North Carolina, through its General Assembly, passes local and general laws, including the Act.

24. Guilford County, by and through its elected Board of Commissioners, is a subdivision of the State of North Carolina.

### **JURISDICTION AND VENUE**

25. This Court has subject matter jurisdiction over this action because Plaintiffs seek declaratory relief and injunctive relief directly under the North Carolina Constitution, and no other adequate remedy at law is available or appropriate. Therefore, sovereign immunity is inapplicable.

26. Venue is proper in Wake County Superior Court pursuant to N.C. Gen. Stat. §§ 1-77 and 1-82 because this lawsuit is an as-applied constitutional challenge to laws enacted by the General Assembly in Raleigh.

### **FACTUAL ALLEGATIONS**



*Legislative Process Leading to the Passage of the Act*

27. On February 28, 2017, House Bill 205 was introduced by Representatives McNeill and Zachary as primary sponsors of “AN ACT TO AMEND PROVISIONS OF THE WORKERS’ COMPENSATION ACT RELATING TO PRISONERS,” a copy of which is attached hereto as Exhibit D and incorporated by reference.

28. On March 1, 2017, House Bill 205 was referred to Judiciary III.

29. On March 6, 2017, Senate Bill 181 was introduced by Senator Lowe as “AN ACT TO AMEND THE CHARTER OF THE CITY OF WINSTON-SALEM TO ESTABLISH A UNIFORM PROCESS FOR THE ELECTION OF INDEPENDENT OR NONPARTISAN CANDIDATES IN MUNICIPAL ELECTIONS,” (Exhibit C)

30. On March 7, 2017, Senate Bill 181 was referred to the Senate Rules Committee.

31. On March 8, 2017, House Bill 205 received a favorable vote on the Committee Substitute and was passed by the House on March 9, 2017, and sent to the Senate, a copy of which is attached as Exhibit E and incorporated by reference.

32. On April 25, 2017, Senate Bill 181 received a favorable vote on the Committee Substitute, a copy of which is attached as Exhibit F and incorporated by reference.

33. On April 26, 2017, Senate Bill 181 was passed by the Senate on Second and Third reading and sent to the House. Senate Bill 181, as passed by the Senate,

33. On April 26, 2017, Senate Bill 181 was passed by the Senate on Second and Third reading and sent to the House. Senate Bill 181, as passed by the Senate, still pertained solely to amending the City Charter of Winston-Salem, as described at the time the bill was filed.

34. On May 24, 2017, the Committee Substitute for House Bill 205 was amended in a Senate Committee, and renamed "AN ACT TO AMEND PROVISIONS OF THE WORKERS' COMPENSATION ACT RELATING TO PRISONERS AND PROVISIONS OF CERTAIN BENEFITS FOR NEWSPRINT EMPLOYEES," a copy of which is attached as Exhibit G and incorporated by reference.

35. On June 1, 2017, the Committee Substitute for House Bill 205, as amended by Senate Committee Substitute (Exhibit G), passed Second Reading in the Senate. On June 6, 2017, it passed Third Reading in the Senate and was sent to the House.

36. On June 28, 2017, the House refused to concur with the Senate Committee Substitute for House Bill 205 (Exhibit G), and a House and Senate Conference Committee was appointed to resolve the differences between the House and the Senate.

37. On June 28, 2017, a "Conference Report" was filed on House Bill 205 signed by Senators Trudy Wade, Dan Bishop and Andrew Brock and House

members Allen McNeill, Jason Saine and David R. Lewis, a copy of which is attached hereto as Exhibit H, and incorporated by reference.

38. On June 29, 2017, House Bill 205, as amended by the “Conference Report” and now titled: “AN ACT TO AMEND PROVISIONS OF THE WORKERS’ COMPENSATION ACT RELATING TO PRISONERS AND TO THE REBUTTABLE PRESUMPTION REGARDING NEWSPRINT EMPLOYEES; TO MODERNIZE PUBLICATION OF LEGAL ADVERTISEMENTS AND NOTICES; TO ALLOW GUILFORD COUNTY AND ANY MUNICIPALITY IN GUILFORD COUNTY TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE IN LIEU OF PUBLICATION; AND TO ALLOW GUILFORD COUNTY TO OPT TO POST LEGAL ADVERTISEMENTS AND NOTICES ON THE COUNTY WEBSITE FOR A FEE WITH MONIES COLLECTED TO BE USED FOR LOCAL SUPPLEMENTS FOR TEACHER SALARY AND OTHER COUNTY NEEDS,” a copy of which is attached as Exhibit I and incorporated by reference, was adopted, ratified, and submitted to the Governor pursuant to Article II of the North Carolina Constitution.

39. On or about July 17, 2017, House Bill 205 was vetoed by Governor Roy Cooper, who stated in his Veto Message:

Included in this legislation is an important change to the Prison Industry Enhancement Program that I do support. I urge the legislature to address that separately and I will sign it. However, time and again, this legislature has used the levers of big government to attack important institutions in our state who may disagree with them from time to time. Unfortunately, this legislation is another example

of that misguided philosophy meant to specifically threaten and harm the media. Legislation that enacts retribution on the media threatens a free and open press, which is fundamental to our democracy.

A copy of Governor Cooper's Veto Message is attached as Exhibit J and incorporated by reference.

40. On July 17, 2017, House Bill 205 was returned to the Clerk of the North Carolina House of Representatives. House Bill 205, and the provisions contained therein, were never submitted for a veto override vote by either the House of Representatives or Senate, and, therefore, never became law pursuant to Article II, Section 22 of the North Carolina Constitution.

41. On October 4, 2017, the short title and language in Senate Bill 181 was completely changed in a House Committee, and the entire contents of the bill pertaining to amending the City Charter of the City of Winston-Salem were replaced by a Committee Substitute. That Committee Substitute contained a portion of House Bill 205 relating solely to Guilford County, and contained the unconstitutional language in the Act.

42. On October 5, 2017, Senate Bill 181 (as reflected in Exhibit A), passed the House on Second and Third Reading by a vote of 58 to 57.

43. On October 5, 2017, Senate Bill 181 (as reflected in Exhibit A) was received by the Senate as a "special message" from the House, and was concurred in by the Senate by a vote of 30 to 16. Senator Ralph Hise and Representative David

Lewis signed the Bill in the signature blanks for the presiding officers of the Senate and House.

44. The Short Title of Senate Bill 181 no longer referenced “Amend W-S Charter Certain Candidates,” but instead the Short Title was captioned “Electronic Notice – Guilford County,” and the entire subject matter of the Bill had been changed.

### *Effect of the Act on the Plaintiffs*

45. N.C. Gen. Stat. § 1-597, entitled “Regulations for newspaper publication of legal notices, advertisements, etc.,” is a general law that applies in all 100 counties in North Carolina.

46. Article 8 of Chapter 143 of the North Carolina General Statutes, entitled “Public Contracts,” sets forth general laws pertaining to notice requirements for public contracts, and applies in all 100 counties in North Carolina.

47. Pursuant to the Act, Guilford County is exempted from the general law requirements of N.C. Gen. Stat. § 1-597 and Article 8 of Chapter 143 of the North Carolina General Statutes. Instead, the Act allows Guilford County to publish required notices through the use of electronic notices posted on its web site.

48. Article XIV, Section 3 of the North Carolina Constitution provides:

Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable in every county, city and town, and other unit of local government . . . no special or local act shall be enacted concerning the

subject matter directed or authorized to be accomplished by general or uniformly applicable laws[.]

49. The general laws set forth above dealing with the applicability of notice requirements throughout North Carolina, as affected by the Act, result in Guilford County being allowed by local act to circumvent the requirements of the general laws referenced above. Thus, the Act is unconstitutional.

50. Plaintiffs are for-profit corporations, and in order to report on and publish news, they depend on income derived from selling legal advertisements that afford government entities and the public a vehicle to comply with legal and constitutional notice requirements.

51. Over a substantial number of years, Plaintiffs have invested in and operated systems of legal advertising to enable them to properly meet any and all legal standards required when accepting and publishing legal notices.

52. Over a substantial number of years, individuals and businesses in Guilford County, throughout the State and throughout the country have established the habit of looking in newspapers for information of governmental or legal significance. The uniformity of the system of legal notice advertising allows consumers of this information to effectively, efficiently, and thoroughly gain information across all 100 North Carolina counties.

53. By the passage of the Act and Guilford County's adoption of the Ordinance, a governmental unit, Guilford County, will compete with Plaintiffs and be paid by other governmental units for legal advertising and notices, and will

accept and be paid by private citizens for legal advertising and notices. Such actions will deprive the Plaintiffs of most, if not all, of their revenue currently generated by legal advertising.

54. As a result of the Act and the Ordinance, Guilford County has positioned itself to directly compete with—and usurp—Plaintiffs’ private-sector business of providing legal advertising consistent with North Carolina law. Plaintiffs’ necessary business revenue will therefore be diminished and eliminated, thus depriving the Plaintiffs of the fruits of their own labor in violation of Article I, Section 1 of the North Carolina Constitution.

55. As a result of the Act and the Ordinance, the Plaintiffs’ revenues from legal advertising will be negated and, within the confines of rates charged, Guilford County will profit from the sale of legal advertising, resulting in a taking of Plaintiffs’ property in violation of Article I, Sec. 19 of the North Carolina Constitution.

56. Consistent with the political acts described above, the intent of the Act was to restrain the Plaintiffs in their coverage and editorializing about members of the General Assembly by diminishing Plaintiffs’ revenue from the sale of legal advertising, and to send a message to other members of the print media around the state of the potential negative consequences of publishing news or editorials negatively reflecting on the General Assembly. Thus, the Act violates Article I, Section 14 of the North Carolina Constitution.

57. As a result of the Act and the Ordinance, Plaintiffs as newspapers of general circulation are treated differently from newspapers of general circulation in all other counties of the State, and thus are deprived of the equal protection of the laws of the State under Article I, Section 19 of the North Carolina Constitution.

58. As described herein, the Act and the Ordinance are in violation of the limitations place upon the General Assembly for the enactment of laws by the North Carolina Constitution.

**COUNT 1**  
**Unconstitutional Local Act**  
**Article XIV, Section 3 of the North Carolina Constitution**

59. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

60. Article XIV, Section 3 of the North Carolina Constitution, entitled “General laws defined,” provides in relevant part:

Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State or general laws, or general laws uniformly applicable in every county, city and town, and other unit of local government . . . no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws[.]

61. The Act, as enacted by the General Assembly, is a local act, applicable in Guilford County only.

62. The effect of the Act and the subsequent passage of the Ordinance by the Guilford County Commission pursuant to the authority granted them by the



Act, is to provide by local act an exception to the general laws of the State pertaining to legal notices and advertisements in violation of Article XIV, Section 3 of the North Carolina Constitution. Accordingly, the Act is therefore unconstitutional and invalid.

**COUNT 2**  
**Violation of Equal Protection**  
**Article I, Section 19 of the North Carolina Constitution**

63. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

64. Plaintiffs are similarly situated with other newspaper publishers of legal notice advertising throughout North Carolina. Yet the Act and the Ordinance treat the Plaintiffs disparately compared with other newspaper publishers within that class.

65. The readers of Plaintiffs' newspapers are similarly situated with readers of other newspaper publishers of legal notice advertising throughout North Carolina. Yet the Act and the Ordinance treat Plaintiffs' readers disparately compared with other readers within that class.

66. The General Assembly's motivation for its disparate treatment of Plaintiffs was its unconstitutional desire to retaliate for the investigation and publication of particular news and editorial positions taken by the Plaintiffs in the past.

67. The Act and the Ordinance unconstitutionally deprive Plaintiffs of equal protection of the law by targeting the newspapers in Guilford County in retaliation for First Amendment protected editorial positions taken by the newspaper.

68. The Act and the Ordinance unconstitutionally deprive the readers of Plaintiff newspapers of equal protection of the law by depriving them of critical and important government information.

69. Because the Act and the Ordinance target Plaintiffs for their exercise of free speech rights, it violates Article I, Section 19 of the North Carolina Constitution.

**COUNT 3**  
**Violation of Freedom of the Press**  
**Article I, Section 14 of the North Carolina Constitution**

70. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

71. As described above, the Act was rushed through the General Assembly in the course of two days after the subject matter and language was completely changed in a Committee meeting.

72. The ultimate subject matter and language in Senate Bill 181 had been pulled from House Bill 205, which had been vetoed by the Governor who addressed the offending parts in his Veto Message as “retribution on the media.”

73. Despite the Governor's veto and the opposition to the changes to legal advertising contained in House Bill 205, the portion of House Bill 205 directly impacting the print media doing business in Guilford County was imported into Senate Bill 181, and the original language dealing with amending the charter of the City of Winston-Salem was deleted.

74. Senate Bill 181 as subsequently changed on or about October 5, 2017, was passed in Committee as a committee substitute, brought to the House floor on the same day and passed on second and third reading. Senate Bill 181 was then immediately—on the same day—sent to the Senate which concurred by Resolution with the House action. Senate Bill 181 was then signed by Senator Ralph Hise and Representative David Lewis on October 5, 2017.

75. Consistent with the political acts described above, the intent of the Act was to restrain the Plaintiffs in their coverage and editorializing about members of the General Assembly by diminishing Plaintiffs' revenue from the sale of legal advertising. This action was also an attempt to intimidate the print media in other parts of North Carolina by demonstrating through the Act that the General Assembly could inflict enormous financial consequences on "offending" print media. These actions, by and through the Act, are a violation of Article I, Section 14 of the North Carolina Constitution and the freedom of the press to be free from governmental restraint.

**COUNT 4**  
**Fruits of Their Labor and Law of the Land Clauses**

**Article 1, Section 1 and Article I, Section 19  
of the North Carolina Constitution**

76. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

77. Article I, Section 1 of the North Carolina Constitution provides in relevant part, “We hold it to be self-evident that all persons . . .are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor[.]”

78. Article I, Section 19 of the North Carolina Constitution provides in relevant part

No person shall be . . . disseized of his freehold, liberties, or privileges . . . or in any manner deprived of his life, liberty, or property, but by the law of the land[.]

79. As described above, Plaintiffs are for-profit corporations, and in order to report on and publish news, they depend on income derived from selling legal advertisements that afford government entities and the public a vehicle to comply with legal and constitutional notice requirements.

80. Over a substantial number of years, Plaintiffs have invested in and operated a system of legal advertising to enable it to properly meet any and all legal standards required when accepting and publishing legal notices pursuant to the laws of North Carolina.

81. By the passage of the Act and the Guilford County Commissioner's adoption of the Ordinance, Guilford County, a unit of local government in North Carolina will compete with and deprive Plaintiffs of revenues earned or to be earned from the sale of legal advertising and legal notices from governmental units and private parties.

82. As a result of the Act and the Ordinance, Guilford County will directly compete and usurp Plaintiffs' legal advertising business, thus depriving the Plaintiffs of the fruits of their own labor in violation of Article I, Section 1 of the North Carolina Constitution.

83. As a result of the Act and the Ordinance, the Plaintiffs' revenues from legal advertising and notices will be negated and within the confines of rates charged, Guilford County will profit from the sale of legal advertising and notices, resulting in a taking of Plaintiffs' property in violation of Article I, Section 19 of the North Carolina Constitution.

#### **COUNT 5**

#### **Violation of Constitutionally Required Legislative Procedure Article II, Sec. 22 of the North Carolina Constitution**

84. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

85. Article II, Section 22 of the North Carolina Constitution was substantially amended by the voters of North Carolina in November 1995 and provides a comprehensive procedural system for "Action on bills." Article II, Section

22(6), entitled “Local bills,” states in pertinent part: “Every bill that applies in fewer than 15 counties shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses.”

86. As described above, SB 181 originally was introduced and filed on March 6, 2017 as a local bill dealing with an amendment to the City Charter for Winston-Salem and for the establishment of a uniform process for elections of independent or nonpartisan candidates in municipal elections.

87. As described above, at no time in the Senate was the Act introduced as a bill nor were any of the requirements as set out in Article II, Section 22(6) complied with by either the House or Senate. As a result of this failure, which is described more fully above, the Act violated Article II, Section 22(6) of the North Carolina Constitution.

88. Furthermore, Article II, Section 22(1) provides that any bill vetoed by the Governor can only become law if three-fifths of the members of each house present vote to override the Governor’s veto.

89. House Bill 205 as set forth above was vetoed by the Governor and no override votes taken on the provisions of the Bill. The contents of Senate Bill 181 as reflected in the Act are, in part, the same provisions in House Bill 205.

90. Senate Bill 181 did not receive the necessary three-fifth votes to become law and override the Governor’s veto and, therefore, are in violation of Article II, Section 22(1).

91. Accordingly, the Act is unconstitutional.

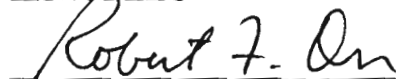
**REQUEST FOR RELIEF**

Plaintiffs respectfully request that the Court:

- (a) award them their actual damages, including lost profits and the fair market value of their legal advertising business, that they have lost as a result of the taking of their property by virtue of the Act and the Ordinance;
- (b) declare that the Act and the Ordinance violate the North Carolina Constitution and issue a permanent injunction enjoining the enforcement of the Act and the Ordinance;
- (c) assess the costs against the State pursuant to N.C. Gen. Stat. § 1-263; and
- (d) grant the Plaintiffs any and all other relief that the Court deems appropriate.

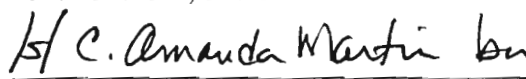
Respectfully submitted the 11<sup>th</sup> day of June, 2018.

ROBERT F. ORR, ATTORNEY AT  
LAW, PLLC



Robert F. Orr  
orr@rforrlaw.com  
NC State Bar No. 6798  
3434 Edwards Mill Road, Suite 112-372  
Raleigh, NC 27612-4275  
Telephone: 919.608.5335

STEVENS MARTIN VAUGHN  
& TADYCH, PLLC



C. Amanda Martin  
amartin@smvt.com  
NC State Bar No. 21186  
1101 Haynes Street, Suite 100  
Raleigh, NC 27604  
Telephone: 919.582.2300  
Facsimile: 866-593-7695

Attorneys for Plaintiffs

## INDEX OF EXHIBITS

- Exhibit A Senate Bill 181, final form
- Exhibit B Guilford County Ordinance, passed March 1, 2018
- Exhibit C House Bill 205, as introduced
- Exhibit D Senate Bill 181, as introduced
- Exhibit E House Bill 205, Committee Substitute
- Exhibit F Senate Bill 181, Committee Substitute
- Exhibit G House Bill 205, Amended Committee Substitute
- Exhibit H June 28, 2017, Conference Report
- Exhibit I Ratified House Bill 205
- Exhibit J Governor Cooper Veto Message related to House Bill 205



EXHIBIT A

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

SESSION LAW 2017-210  
SENATE BILL 181

AN ACT TO ESTABLISH A PILOT PROGRAM AUTHORIZING CERTAIN LOCAL GOVERNMENTS TO PUBLISH REQUIRED NOTICES ELECTRONICALLY AND TO AUTHORIZE GUILFORD COUNTY TO PUBLISH LEGAL NOTICES VIA THE COUNTY-MAINTAINED WEB SITE FOR A FEE.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Part 3 of Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-52.2. Electronic notice for notices required to be published by the board.**

(a) Except as provided in this section, the governing board may adopt an ordinance providing that any notice it is required by law to publish or advertise, whether under G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general law, or under any local act, may be published electronically as provided by this section in lieu of or in addition to the required publication or advertisement. The ordinance may cover all notices required to be published or advertised or a clearly identified category of notices.

(b) Upon adoption of an ordinance under subsection (a) of this section, the governing board shall publish specific instructions as to how to access all notices published electronically under the ordinance adopted pursuant to this section at least once a month for 12 months in a newspaper having a general circulation for that jurisdiction, as provided in G.S. 1-597.

(c) Any notice published under an ordinance adopted pursuant to subsection (a) of this section shall comply with all of the following:

- (1) The notice is published on the Web site of the governing board no later than the time that publication is required under the applicable statute or local act.
- (2) The Web site contains, on its main page, links to all notices or a link to another page with links to all notices.
- (3) Notices and links to all notices on the Web site shall be maintained on that Web site for at least one year after publication and shall be searchable.
- (4) A copy of the notice shall be filed in a notice book maintained separate and apart from the ordinance book or minutes of the governing board. The notice book shall be appropriately indexed and maintained for public inspection in the office of the clerk or in the office of another individual who is an employee of the governing board, as designated in the ordinance adopted pursuant to this section.
- (5) A copy of the notice shall be mailed or e-mailed to any person who has filed a written request for notice with the clerk or secretary of the governing board or with some other person designated by the governing board. The governing board may require each person submitting such a written request for notice to renew that request annually.

(d) Ordinances adopted pursuant to this section may not supersede any general law or local act that requires notice by mail to certain persons or classes of persons or the posting of signs on certain property.



(e) The ordinance adopted by the governing board may control notice given by any board appointed by the governing board, including the planning board, board of social services, and board of health.

(f) For purposes of this section, "governing board" means the body elected or appointed as the board of county commissioners, city council, or county board of elections."

**SECTION 1.(b)** G.S. 160A-1(7) reads as rewritten:

"(7) "Publish," "publication," and other forms of the verb "to publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the city is located.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by the governing board."

**SECTION 1.(c)** G.S. 153A-1(6) reads as rewritten:

"(6) "Publish," "publication," and other forms of the verb "to publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by the governing board."

**SECTION 1.(d)** G.S. 159-1(b)(5) reads as rewritten:

"(5) "Publish," "publication," and other forms of the word "publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by that governing board."

**SECTION 1.(e)** G.S. 163-33(8) reads as rewritten:

**"§ 163-33. Powers and duties of county boards of elections.**

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- ...
- (8) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law. If the election is on a State bond issue, an amendment to the Constitution, or approval of an act submitted to the voters of the State, the State Board of Elections shall reimburse the county boards of elections for their reasonable additional costs in placing such notices, advertisements, and publications. In addition, the county board of elections shall give notice at least 20 days prior to the date on which the registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election. The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. This subdivision shall not apply in the case of bond elections called under the provisions of Chapter 159. The county board may adopt a policy in

accordance with G.S. 153A-52.2 to provide for notices, advertisements, and publications to be given electronically."

**SECTION 1.(f)** This section applies only to Guilford County and any municipality located wholly or partly in Guilford County.

**SECTION 1.(g)** This section becomes effective December 1, 2017, and applies to notices published on or after that date.

**SECTION 2.(a)** Article 50 of Chapter 1 of the General Statutes is amended by adding a new section to read:

**"§ 1-602. Publication via county-maintained Web site.**

(a) In lieu of publishing in a newspaper in accordance with this Article, publication of any notice permitted or required by law to be published in a newspaper may be accomplished by contracting with a county who has adopted an ordinance authorizing the county to publish such notice on the county-maintained Web site pursuant to this section. The board of commissioners may adopt an ordinance establishing the county Web site as a central location for publishing or advertising legal notices in accordance with this section, if the county complies with all of the following:

- (1) The county maintains its own Web site, with sufficient staff to maintain that Web site.
- (2) The county has sufficient staff to complete affidavits as needed for all legal notices as required by subsection (d) of this section.
- (3) The county collects and remits fees as provided in subsections (b) and (c) of this section.

(b) The county may charge fees for the administrative costs to the county as follows for such publication:

- (1) For foreclosures, except those initiated by that county, no more than four hundred fifty dollars (\$450.00).
- (2) For other notices, except those by the State or any other political subdivision thereof, no more than one hundred dollars (\$100.00).
- (3) For notices by the State or any other political subdivision thereof, other than that county, no more than ten dollars (\$10.00).
- (4) For notices by that county, no fee shall be charged.

(c) Whenever a county has published a notice or any other paper, document, or legal advertisement within the meaning of G.S. 1-597 and a county employee makes a written statement under oath taken before any notary public or other officer or person authorized by law to administer oaths, stating that the county placed such notice, paper, document, or legal advertisement upon its Web site, such sworn written statement shall be received in all courts in this State as prima facie evidence that the county placed the notice, paper, document, or legal advertisement upon its Web site for the stated period of time. When filed in the office of the clerk of the superior court of that county, any such sworn statement shall be deemed to be a record of the court and such record or a copy thereof duly certified by the clerk shall be prima facie evidence that the county placed the notice, paper, document, or legal advertisement upon its Web site for the stated period of time.

(d) Notwithstanding G.S. 1-595, when a statute or written instrument stipulates that an advertisement of a sale shall be made for any certain number of weeks, publication via the county Web site in accordance with this section for the number of weeks so indicated is a sufficient compliance with the requirement.

(e) Nothing in this section requires a county to adopt an ordinance authorizing the county to publish notices on a county-maintained Web site."

**SECTION 2.(b)** This section applies to Guilford County only.

**SECTION 2.(c)** This section becomes effective December 1, 2017, and applies to notices published on or after that date.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5<sup>th</sup> day of October,

2017.

s/ Ralph E. Hise  
Presiding Officer of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

## EXHIBIT B

### Chapter 17: Electronic Notices

#### Sec. 17-1. Electronic Notices For Notices the Board Must Publish

- (a) Any notice that the board of county commissioners is required by law to be published or advertise, whether under G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general law, or under any local act, may be published electronically in lieu of or in addition to the required publication or advertisement. This ordinance covers all such notices authorized to be published or advertised.
- (b) Upon this ordinance's adoption, the county shall publish specific instructions as to how to access all notices published electronically under this ordinance at least once a month for twelve (12) months in a newspaper having a general circulation for that jurisdiction, as provided in G.S. 1-597.
- (c) Any notice published under this ordinance shall comply with G.S. 153A-52.2(c) (as it may be amended from time to time). For reference, it is noted that, as of the adoption of this ordinance, G.S. 153A-52.2(c) requires that any notice published under this ordinance comply with all of the following:
  - (1) The notice must be published on the county's Web site no later than the time that publication is required under the applicable statute or local act.
  - (2) The county Web site must contain, on its main page, links to all notices or a link to another page with links to all notices.
  - (3) Notices and links to all notices on the county Web site must be maintained on that Web site for at least one year after publication and shall be searchable.
  - (4) A copy of the notice must be filed in a notice book maintained separate and apart from the ordinance book or minutes of the board of county commissioners. The notice book must be appropriately indexed and maintained for public inspection in the office of the clerk.
  - (5) A copy of the notice must be mailed or e-mailed to any person who has filed a written request for notice with the clerk of the board of county commissioners. Such written requests for notice must be renewed annually to remain effective.
- (d) This ordinance does not supersede any general law or local act that requires notice by mail to certain persons or classes of persons or the posting of signs on certain property.
- (e) This ordinance also applies to notices given by boards appointed by the board of county commissioners.
- (f) Nothing herein shall limit the county's authority under Code 17-2.

**Sec. 17-2. Publication Via County-Maintained Web Site.**

- (a) The county Web site is established as a central location for publishing or advertising legal notices in accordance with G.S. 1-602. In connection therewith, the county must comply with all of the following:
  - (1) The county will maintain its own Web site, with sufficient staff to maintain that Web site.
  - (2) The county will have sufficient staff to complete affidavits as needed for all legal notices as required by G.S. 1-602.
  - (3) The county will collect and remit fees as provided in G.S. 1-602.

- (b) The county may charge fees for the administrative costs to the county as follows for such publication:
  - (1) For foreclosures, except those initiated by the county, four hundred fifty dollars (\$450.00), or such other fee as may be authorized by statute and approved by the board of county commissioners.
  - (2) For other notices, except those by the state or any other political subdivision thereof, one hundred dollars (\$100.00), or such other fee as may be authorized by statute and approved by the board of county commissioners.
  - (3) For notices by the state or any other political subdivision thereof, other than the county, ten dollars (\$10.00), or such other fee as may be authorized by statute and approved by the board of county commissioners.
  - (4) For notices by the county, no fee shall be charged.

Without limitation of any other rights it may have, the county may suspend a party's privilege of publishing notices on the county Web site for nonpayment.

- (c) To be within the scope of this ordinance, a notice must be specifically permitted or required by law. It is not the intent of this ordinance that the county Web site be open to notices not reasonably calculated to satisfy specific legal requirements.
- (d) The county may phase in its acceptance of notices for publication under this ordinance, on a lawful basis, based upon its capacity to comply with the requirements set out above, as determined by the manager. Similarly, the county may at any time exercise its authority under this ordinance by accepting for publication or advertising some but not all notices, on a lawful basis, based upon its capacity to comply with the requirements set out above, as determined by the manager.
- (e) The county may administratively set and post on the county Web site requirements for the submission of notices for publication, including but not limited to deadlines for submission, manner of submission, document format, payment terms, required information, and terms of use.
- (f) Nothing herein shall limit the county's authority under Code 17-1.

S

D

SENATE BILL DRS25021-LU-29B\* (01/25)

Short Title: Amend W-S Charter/Certain Candidates. (Local)

Sponsors: Senator Lowe (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF WINSTON-SALEM TO ESTABLISH A UNIFORM PROCESS FOR THE ELECTION OF INDEPENDENT OR NONPARTISAN CANDIDATES IN MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Paragraph 6 of Section 12A of the Charter of the City of Winston-Salem, being Chapter 232 of the Private Laws of 1927, as amended by Chapter 13 of the 1965 Session Laws, and by Ordinance dated January 6, 2003, reads as rewritten:

"Sec. 12A. Generally.

...

6. Independent or nonpartisan candidates; petition; affidavit of candidates; filing of petition; rules and regulations governing petitions. The Forsyth County Board of Elections shall include among the candidates for municipal office, as independent or nonpartisan candidates, the name of any qualified voter who has been requested to be a candidate for office ~~by written petitions signed by at least twenty five percent (25%) of those entitled to vote for a candidate for such office according to the vote cast in the last municipal election for the particular office, when such petition is accompanied by an affidavit from such proposed candidate that he seeks to become an independent or nonpartisan candidate and does not affiliate with any political party; provided, such petition is filed with the secretary of the board of elections on or before twelve o'clock Noon on the third Friday preceding the general municipal election for such office in accordance with the uniform municipal election laws under Subchapter IX of Chapter 163 of the General Statutes.~~

The board of elections may prescribe rules and regulations covering the information that shall be set out in the petition to be signed by the voters requesting a person to be a candidate for any such office, such as the giving of the full name of every such voter, the street address of such voter and any other pertinent information required to facilitate the checking of such petition against the registration books.

...."

**SECTION 2.** This act is effective when it becomes law.



H

D

HOUSE BILL DRH10084-LR-40A (02/07)

Short Title: Workers' Compensation/Prison Inmates. (Public)

Sponsors: Representatives McNeill and Zachary (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED  
AN ACT AMENDING PROVISIONS OF THE WORKERS' COMPENSATION ACT  
RELATING TO PRISONERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 97-13 reads as rewritten:

**"§ 97-13. Exceptions from provisions of Article.**

(a) Employees of Certain Railroads. – This Article shall not apply to railroads or railroad employees nor in any way repeal, amend, alter or affect Article 8 of Chapter 60 or any section thereof relating to the liability of railroads for injuries to employees, nor upon the trial of any action in tort for injuries not coming under the provisions of this Article, shall any provision herein be placed in evidence or be permitted to be argued to the jury. Provided, however, that the foregoing exemption to railroads and railroad employees shall not apply to employees of a State-owned railroad company, as defined in G.S. 124-11, or to electric street railroads or employees thereof; and this Article shall apply to electric street railroads and employees thereof and to this extent the provisions of Article 8 of Chapter 60 are hereby amended.

(b) Casual Employment, Domestic Servants, Farm Laborers, Federal Government, Employer of Less than Three Employees. – This Article shall not apply to casual employees, farm laborers when fewer than 10 full-time nonseasonal farm laborers are regularly employed by the same employer, federal government employees in North Carolina, and domestic servants, nor to employees of such persons, nor to any person, firm or private corporation that has regularly in service less than three employees in the same business within this State, except that any employer without regard to number of employees, including an employer of domestic servants, farm laborers, or one who previously had exempted himself, who has purchased workers' compensation insurance to cover his compensation liability shall be conclusively presumed during life of the policy to have accepted the provisions of this Article from the effective date of said policy and his employees shall be so bound unless waived as provided in this Article; provided however, that this Article shall apply to all employers of one or more employees who are employed in activities which involve the use or presence of radiation.

(c) Most Prisoners. – ~~This~~ Except as provided in this subsection and by subsection (c1) of this section, this Article shall not apply to prisoners being worked by the State or any subdivision thereof, except to the following extent: Whenever any prisoner assigned to the Division of Adult Correction of the Department of Public Safety shall suffer accidental injury or accidental death arising out of and in the course of the employment to which he had been assigned, if there be death or if the results of such injury continue until after the date of the lawful discharge of such prisoner to such an extent as to amount to a disability as defined in this Article, then such discharged prisoner or the dependents or next of kin of such discharged prisoner may have the benefit of this





1 Article by applying to the Industrial Commission as any other employee; provided, such  
2 application is made within 12 months from the date of the discharge; and provided further that the  
3 maximum compensation to any prisoner or to the dependents or next of kin of any deceased  
4 prisoner shall not exceed thirty dollars (\$30.00) per week and the period of compensation shall  
5 relate to the date of his discharge rather than the date of the accident. If any person who has been  
6 awarded compensation under the provisions of this subsection shall be recommitted to prison upon  
7 conviction of an offense committed subsequent to the award, such compensation shall  
8 immediately cease. Any awards made under the terms of this subsection shall be paid by the  
9 Department of Public Safety from the funds available for the operation of the Division of Adult  
10 Correction of the Department of Public Safety. The provisions of G.S. 97-10.1 and 97-10.2 shall  
11 apply to prisoners and discharged prisoners entitled to compensation under this subsection and to  
12 the State in the same manner as said section applies to employees and employers.

13 (c1) Certain Inmates. – Inmates employed pursuant to the Prison Industry Enhancement  
14 Program shall receive workers' compensation pursuant to G.S. 97-2(5).

15 (d) Sellers of Agricultural Products. – This Article shall not apply to persons, firms or  
16 corporations engaged in selling agricultural products for the producers thereof on commission or  
17 for other compensation, paid by the producers, provided the product is prepared for sale by the  
18 producer."

19 **SECTION 2.** This act is effective when it becomes law.

EXHIBIT E

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

D

HOUSE BILL 205  
PROPOSED COMMITTEE SUBSTITUTE H205-PCS10116-RN-4

Short Title: Workers' Compensation/Prison Inmates.

(Public)

Sponsors:

Referred to:

March 1, 2017

A BILL TO BE ENTITLED

AN ACT AMENDING PROVISIONS OF THE WORKERS' COMPENSATION ACT  
RELATING TO PRISONERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 97-13 reads as rewritten:

"§ 97-13. **Exceptions from provisions of Article.**

(a) Employees of Certain Railroads. – This Article shall not apply to railroads or railroad employees nor in any way repeal, amend, alter or affect Article 8 of Chapter 60 or any section thereof relating to the liability of railroads for injuries to employees, nor upon the trial of any action in tort for injuries not coming under the provisions of this Article, shall any provision herein be placed in evidence or be permitted to be argued to the jury. Provided, however, that the foregoing exemption to railroads and railroad employees shall not apply to employees of a State-owned railroad company, as defined in G.S. 124-11, or to electric street railroads or employees thereof; and this Article shall apply to electric street railroads and employees thereof and to this extent the provisions of Article 8 of Chapter 60 are hereby amended.

(b) Casual Employment, Domestic Servants, Farm Laborers, Federal Government, Employer of Less than Three Employees. – This Article shall not apply to casual employees, farm laborers when fewer than 10 full-time nonseasonal farm laborers are regularly employed by the same employer, federal government employees in North Carolina, and domestic servants, nor to employees of such persons, nor to any person, firm or private corporation that has regularly in service less than three employees in the same business within this State, except that any employer without regard to number of employees, including an employer of domestic servants, farm laborers, or one who previously had exempted himself, who has purchased workers' compensation insurance to cover his compensation liability shall be conclusively presumed during life of the policy to have accepted the provisions of this Article from the effective date of said policy and his employees shall be so bound unless waived as provided in this Article; provided however, that this Article shall apply to all employers of one or more employees who are employed in activities which involve the use or presence of radiation.

(c) Most Prisoners. – This Article shall not apply to prisoners being worked by the State or any subdivision thereof, ~~except to the following extent: as provided in this subsection and subsection (c1) of this section.~~ Whenever any prisoner assigned to the Division of Adult Correction of the Department of Public Safety shall suffer accidental injury or accidental death arising out of and in the course of the employment to which he had been assigned, if there be death or if the results of such injury continue until after the date of the lawful discharge of such prisoner to such an extent as to amount to a disability as defined in this Article, then such discharged prisoner or the dependents or next of kin of such discharged prisoner may have the benefit of this



1 Article by applying to the Industrial Commission as any other employee; provided, such  
2 application is made within 12 months from the date of the discharge; and provided further that the  
3 maximum compensation to any prisoner or to the dependents or next of kin of any deceased  
4 prisoner shall not exceed thirty dollars (\$30.00) per week and the period of compensation shall  
5 relate to the date of his discharge rather than the date of the accident. If any person who has been  
6 awarded compensation under the provisions of this subsection shall be recommitted to prison upon  
7 conviction of an offense committed subsequent to the award, such compensation shall  
8 immediately cease. Any awards made under the terms of this subsection shall be paid by the  
9 Department of Public Safety from the funds available for the operation of the Division of Adult  
10 Correction of the Department of Public Safety. The provisions of G.S. 97-10.1 and 97-10.2 shall  
11 apply to prisoners and discharged prisoners entitled to compensation under this subsection and to  
12 the State in the same manner as said section applies to employees and employers.

13 (c1) Certain Inmates. – Inmates employed pursuant to the Prison Industry Enhancement  
14 Program shall receive workers' compensation based on the average weekly wage calculated  
15 pursuant to G.S. 97-2(5).

16 (d) Sellers of Agricultural Products. – This Article shall not apply to persons, firms or  
17 corporations engaged in selling agricultural products for the producers thereof on commission or  
18 for other compensation, paid by the producers, provided the product is prepared for sale by the  
19 producer."

20 **SECTION 2.** This act is effective when it becomes law.

EXHIBIT F

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

S

D

SENATE BILL 181  
PROPOSED COMMITTEE SUBSTITUTE S181-PCS45423-BK-22

Short Title: Amend W-S Charter/Certain Candidates.

(Local)

Sponsors:

Referred to:

March 7, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF WINSTON-SALEM TO  
ESTABLISH A UNIFORM PROCESS FOR THE ELECTION OF INDEPENDENT OR  
NONPARTISAN CANDIDATES IN MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Paragraph 6 of Section 12A of the Charter of the City of  
Winston-Salem, being Chapter 232 of the Private Laws of 1927, as amended by Chapter 13 of  
the 1965 Session Laws and by Ordinance dated January 6, 2003, reads as rewritten:

"Sec. 12A. Generally.

...

6. Independent or nonpartisan candidates; petition; affidavit of candidates; filing of petition;  
rules and regulations governing petitions. ~~The Forsyth County Board of Elections shall include  
among the candidates for municipal office, as independent or nonpartisan candidates, the name  
of any qualified voter who has been requested to be a candidate for office by written petitions  
signed by at least twenty five percent (25%) of those entitled to vote for a candidate for such  
office according to the vote cast in the last municipal election for the particular office, when  
such petition is accompanied by an affidavit from such proposed candidate that he seeks to  
become an independent or nonpartisan candidate and does not affiliate with any political party;  
provided, such petition is filed with the secretary of the board of elections on or before twelve  
o'clock Noon on the third Friday preceding the general municipal election for such  
office.~~ The Any candidate seeking nomination by petition for municipal office shall comply with  
the requirements of Article 11 of Chapter 163 of the General Statutes, provided the Forsyth  
County board of elections may prescribe rules and regulations covering governing the  
following:

- (1) Setting the date and time completed petitions must be timely submitted for verification.
- (2) Stating the information that shall be set out in the petition to be signed by the voters requesting a person to be a candidate for any such office, such as the giving of the full name of every such voter, the street address of such voter and any other pertinent information required to facilitate the checking of such petition against the registration books."

**SECTION 2.** This act is effective when it becomes law.



EXHIBIT G

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

H

D

HOUSE BILL 205  
Committee Substitute Favorable 3/8/17  
PROPOSED SENATE COMMITTEE SUBSTITUTE H205-PCS30415-TUxr-19

Short Title: WC for Inmates/UI & WC/Newsprint Employees. (Public)

Sponsors:

Referred to:

March 1, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING A PROVISION OF THE WORKERS' COMPENSATION ACT  
3 RELATING TO PRISONERS AND PROVISIONS OF CERTAIN BENEFITS FOR  
4 NEWSPRINT EMPLOYEES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 97-13 is amended by adding a new subsection to read:

7 "(c1) Certain Inmates. – Notwithstanding the thirty dollars (\$30.00) per week limit in  
8 subsection (c) of this section, the average weekly wage of inmates employed pursuant to the  
9 Prison Industry Enhancement Program shall be calculated pursuant to G.S. 97-2(5)."

10 SECTION 2.(a) Article 3 of Chapter 95 of the General Statutes is amended by  
11 adding a new section to read:

12 "§ 95-28.5. Certain benefits for newspaper workers.

13 Any worker meeting all of the following conditions shall be treated as an employee for the  
14 purposes of Chapters 95, 96, 97, 105, and 143 of the General Statutes:

- 15 (1) The worker is paid by a person engaged in the business of publishing and  
16 distributing newspapers or magazines.
- 17 (2) The contractual relationship between the person and worker is not subject to  
18 negotiation or heavily favors either party.
- 19 (3) The rates paid to the worker under the contractual relationship are not  
20 subject to negotiation.
- 21 (4) The worker is required to deliver the newspapers or magazines according to  
22 specifications given by the person publishing or distributing the newspaper  
23 or magazine.
- 24 (5) Complaints regarding delivery of the newspapers or magazines are directed  
25 to the person publishing or distributing the newspaper or magazine, without  
26 the worker being allowed to correct the matter.
- 27 (6) The person publishing or distributing the newspapers or magazines may  
28 unilaterally alter the route or method of delivery.
- 29 (7) The work delivering the newspapers or magazines does not require highly  
30 skilled labor.
- 31 (8) The worker does not supply any special equipment other than transportation  
32 to perform the delivery."

33 SECTION 2.(b) G.S. 96-1(b)(12) reads as rewritten:

34 "(12) Employment. – Defined in section 3306 of the Code, with the following  
35 additions and exclusions:



- 1 a. Additions. – The term includes ~~service~~ all of the following:
- 2 1. Service to a governmental unit, unit.
- 3 2. Service to a nonprofit organization, or organization.
- 4 3. Service to an Indian tribe as described in 3306(c)(7) and
- 5 3306(c)(8) of the Code.
- 6 4. Service described in section 3306(c)(15)(A) or (B) of the
- 7 Code involving delivery or distribution of newspapers or
- 8 shopping news or involving the sale of newspapers or
- 9 magazines.

10 ...."

11 **SECTION 2.(c)** G.S. 97-2(2) reads as rewritten:

12 "(2) Employee. – The term "employee" means every person engaged in an

13 employment under any appointment or contract of hire or apprenticeship,

14 express or implied, oral or written, including aliens, and also minors,

15 whether lawfully or unlawfully employed, but excluding persons whose

16 employment is both casual and not in the course of the trade, business,

17 profession, or occupation of his employer, and as relating to those so

18 employed by the State, the term "employee" shall include all officers and

19 employees of the State, including such as are elected by the people, or by the

20 General Assembly, or appointed by the Governor to serve on a per diem,

21 part-time or fee basis, either with or without the confirmation of the Senate;

22 as relating to municipal corporations and political subdivisions of the State,

23 the term "employee" shall include all officers and employees thereof,

24 including such as are elected by the people. The term "employee" shall

25 include members of the North Carolina National Guard while on State active

26 duty under orders of the Governor and members of the North Carolina State

27 Defense Militia while on State active duty under orders of the Governor. The

28 term "employee" shall include deputy sheriffs and all persons acting in the

29 capacity of deputy sheriffs, whether appointed by the sheriff or by the

30 governing body of the county and whether serving on a fee basis or on a

31 salary basis, or whether deputy sheriffs serving upon a full-time basis or a

32 part-time basis, and including deputy sheriffs appointed to serve in an

33 emergency, but as to those so appointed, only during the continuation of the

34 emergency. The sheriff shall furnish to the board of county commissioners a

35 complete list of all deputy sheriffs named or appointed by him immediately

36 after their appointment and notify the board of commissioners of any

37 changes made therein promptly after such changes are made. Any reference

38 to an employee who has been injured shall, when the employee is dead,

39 include also the employee's legal representative, dependents, and other

40 persons to whom compensation may be payable: Provided, further, that any

41 employee, as herein defined, of a municipality, county, or of the State of

42 North Carolina, while engaged in the discharge of the employee's official

43 duty outside the jurisdictional or territorial limits of the municipality, county,

44 or the State of North Carolina and while acting pursuant to authorization or

45 instruction from any superior officer, shall have the same rights under this

46 Article as if such duty or activity were performed within the territorial

47 boundary limits of their employer.

48 Except as otherwise provided herein, every executive officer elected or

49 appointed and empowered in accordance with the charter and bylaws of a

50 corporation shall be considered as an employee of such corporation under

51 this Article.

1 Any such executive officer of a corporation may, notwithstanding any  
2 other provision of this Article, be exempt from the coverage of the  
3 corporation's insurance contract by such corporation's specifically excluding  
4 such executive officer in such contract of insurance, and the exclusion to  
5 remove such executive officer from the coverage shall continue for the  
6 period such contract of insurance is in effect, and during such period such  
7 executive officers thus exempted from the coverage of the insurance contract  
8 shall not be employees of such corporation under this Article.

9 All county agricultural extension service employees who do not receive  
10 official federal appointments as employees of the United States Department  
11 of Agriculture and who are field faculty members with professional rank as  
12 designated in the memorandum of understanding between the North  
13 Carolina Agricultural Extension Service, North Carolina State University, A  
14 & T State University, and the boards of county commissioners shall be  
15 deemed to be employees of the State of North Carolina. All other county  
16 agricultural extension service employees paid from State or county funds  
17 shall be deemed to be employees of the county board of commissioners in  
18 the county in which the employee is employed for purposes of workers'  
19 compensation.

20 The term "employee" shall also include members of the Civil Air Patrol  
21 currently certified pursuant to G.S. 143B-1031(a) when performing duties in  
22 the course and scope of a State-approved mission pursuant to Subpart C of  
23 Part 5 of Article 13 of Chapter 143B of the General Statutes.

24 "Employee" shall not include any person performing voluntary service as  
25 a ski patrolman who receives no compensation for such services other than  
26 meals or lodging or the use of ski tow or ski lift facilities or any combination  
27 thereof.

28 "Employee" shall not include any person elected or appointed and  
29 empowered as an executive officer, director, or committee member under the  
30 charter, articles, or bylaws of a nonprofit corporation subject to Chapter  
31 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization  
32 exempt from federal income tax under section 501(c)(3) of the Internal  
33 Revenue Code, who performs only voluntary service for the nonprofit  
34 corporation, provided that the person receives no remuneration for the  
35 voluntary service other than reasonable reimbursement for expenses incurred  
36 in connection with the voluntary service. When a nonprofit corporation as  
37 described herein employs one or more persons who do receive remuneration  
38 other than reasonable reimbursement for expenses, then any volunteer  
39 officers, directors, or committee members excluded from the definition of  
40 "employee" by operation of this paragraph shall be counted as employees for  
41 the sole purpose of determining the number of persons regularly employed  
42 in the same business or establishment pursuant to G.S. 97-2(1). Other than  
43 for the limited purpose of determining the number of persons regularly  
44 employed in the same business or establishment, such volunteer nonprofit  
45 officers, directors, or committee members shall not be "employees" under  
46 the Act. Nothing herein shall prohibit a nonprofit corporation as described  
47 herein from voluntarily electing to provide for workers' compensation  
48 benefits in the manner provided in G.S. 97-93 for volunteer officers,  
49 directors, or committee members excluded from the definition of  
50 "employee" by operation of this paragraph. This paragraph shall not apply to  
51 any volunteer firefighter, volunteer member of an organized rescue squad, an

1 authorized pickup firefighter when that individual is engaged in emergency  
2 fire suppression activities for the North Carolina Forest Service, a duly  
3 appointed and sworn member of an auxiliary police department organized  
4 pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol  
5 functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the  
6 General Statutes, even if such person is elected or appointed and empowered  
7 as an executive officer, director, or committee member under the charter,  
8 articles, or bylaws of a nonprofit corporation as described herein.

9 Any sole proprietor or partner of a business or any member of a limited  
10 liability company may elect to be included as an employee under the  
11 workers' compensation coverage of such business if he is actively engaged in  
12 the operation of the business and if the insurer is notified of his election to  
13 be so included. Any such sole proprietor or partner or member of a limited  
14 liability company shall, upon such election, be entitled to employee benefits  
15 and be subject to employee responsibilities prescribed in this Article.

16 "Employee" shall include an authorized pickup firefighter of the North  
17 Carolina Forest Service of the Department of Agriculture and Consumer  
18 Services when that individual is engaged in emergency fire suppression  
19 activities for the North Carolina Forest Service. As used in this section,  
20 "authorized pickup firefighter" means an individual who has completed  
21 required fire suppression training as a wildland firefighter and who is  
22 available as needed by the North Carolina Forest Service for emergency fire  
23 suppression activities, including immediate dispatch to wildfires and standby  
24 for initial attack on fires during periods of high fire danger.

25 ~~It shall be a rebuttable presumption that the term "employee" shall not~~  
26 ~~include any person performing services in the sale of newspapers or~~  
27 ~~magazines to ultimate consumers under an arrangement whereby the~~  
28 ~~newspapers or magazines are to be sold by that person at a fixed price and~~  
29 ~~the person's compensation is based on the retention of the excess of the fixed~~  
30 ~~price over the amount at which the newspapers or magazines are charged to~~  
31 ~~the person."~~

32 **SECTION 3.** Section 2 of this act becomes effective January 1, 2018. The  
33 remainder of this act is effective when it becomes law.





NORTH CAROLINA GENERAL ASSEMBLY  
CONFERENCE REPORT  
House Bill 205

H205-CRSTf-1 [v.3]

Page 1 of 2

[YES] Title Change

[YES] For Committee Substitute

To: The President of the Senate  
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on House Bill 205, A BILL TO BE ENTITLED AN ACT AMENDING A PROVISION OF THE WORKERS' COMPENSATION ACT RELATING TO PRISONERS AND PROVISIONS OF CERTAIN BENEFITS FOR NEWSPRINT EMPLOYEES, Senate Commerce and Insurance Committee Substitute Adopted 5/24/17, submit the following report:

The House and the Senate agree to the following amendment to the Senate Commerce and Insurance Committee Substitute Adopted 5/24/17, and the House concurs in the Senate Committee Substitute, as amended:

Delete the entire Senate Commerce and Insurance Committee Substitute Adopted 5/24/17, and substitute the attached Proposed Conference Committee Substitute H205-PCCS10403-RNf-1.

The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: June 28, 2017.

Conferees for the Senate

Conferees for the House of Representatives

Trudy Wade, Chair

Allen McNeill, Chair

Dan Bishop

Jason Saine



NORTH CAROLINA GENERAL ASSEMBLY  
CONFERENCE REPORT  
House Bill 205

H205-CRSTf-1 [v.3]

Page 2 of 2



Andrew C. Brock



David R. Lewis

**Rules Suspended**

HOUSE Submitted  
HOUSE ADOPTED  
SENATE ADOPTED

6.28.17

JUN 28 2017

6.28.17

Placed ON CAL FOR 6.28.17

60-6340J

(63-50) EV

(32/14)

Message Received

Ordered Enrolled

6.28.17

6.28.17

SENATE NOTIFIED  
**Special Message**

James White

ORDERED SENT TO GOVERNOR

**Special Message**

James White



EXHIBIT I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

HOUSE BILL 205  
RATIFIED BILL

*Amen Blessing*

RECEIVED JUN 29 2017

*9:11pm*

AN ACT TO AMEND PROVISIONS OF THE WORKERS' COMPENSATION ACT RELATING TO PRISONERS AND TO THE REBUTTABLE PRESUMPTION REGARDING NEWSPRINT EMPLOYEES; TO MODERNIZE PUBLICATION OF LEGAL ADVERTISEMENTS AND NOTICES; TO ALLOW GUILFORD COUNTY AND ANY MUNICIPALITY IN GUILFORD COUNTY TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE IN LIEU OF PUBLICATION; AND TO ALLOW GUILFORD COUNTY TO OPT TO POST LEGAL ADVERTISEMENTS AND NOTICES ON THE COUNTY WEB SITE FOR A FEE WITH MONIES COLLECTED TO BE USED FOR LOCAL SUPPLEMENTS FOR TEACHER SALARY AND OTHER COUNTY NEEDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 97-13 is amended by adding a new subsection to read:

"(c1) Certain Inmates. – Notwithstanding the thirty dollars (\$30.00) per week limit in subsection (c) of this section, the average weekly wage of inmates employed pursuant to the Prison Industry Enhancement Program shall be calculated pursuant to G.S. 97-2(5)."

**SECTION 2.(a)** G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately



after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of their employer.

Except as otherwise provided herein, every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term "employee" shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-1031(a) when performing duties in the course and scope of a State-approved mission pursuant to Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes.

"Employee" shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred

in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

"Employee" shall include an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the North Carolina Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

~~It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."~~

**SECTION 2.(b)** This section becomes effective January 1, 2018.

**SECTION 3.(a)** Article 50 of Chapter 1 of the General Statutes reads as rewritten:  
"Article 50.

"General Provisions as to Legal Advertising.

**"§ 1-595. Advertisement of public sales.**

When a statute or written instrument stipulates that an advertisement of a sale shall be made for any certain number of weeks, a publication once a week for the number of weeks so indicated is a sufficient compliance with the requirement, unless contrary provision is expressly made by the terms of the instrument.

**"§ 1-596. Charges for legal advertising.**

(a) The publication of all advertising required by law to be made in newspapers in this State shall be paid for at not to exceed the local commercial rate of the newspapers selected. Any public or municipal officer or board created by or existing under the laws of this State that is now or may hereafter be authorized by law to enter into contracts for the publication of legal advertisements is hereby authorized to pay therefor prices not exceeding said rates.

No newspaper in this State shall accept or print any legal advertising until said newspaper shall have first filed with the clerk of the superior court of the county in which it is published a sworn statement of its current commercial rate for the several classes of advertising regularly carried by said publication, and any owner or manager of a newspaper violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(b) When a notice is required by statute to be published by a unit of government more than once and is paid for by the unit of government and the cost of publication is not paid in advance by or allowed to be recouped from private parties, the unit of government may not be charged for the second and successive publications of that notice at a rate greater than eighty-five percent (85%) of the rate charged for the first publication in the series.

**"§ 1-597. Regulations for newspaper publication of legal notices, advertisements, etc.**

(a) ~~Whenever a notice or any other paper, document or legal advertisement of any kind or description shall be authorized or required by any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or judgment of any court of this State to be published or advertised in a newspaper, such publication, advertisement or notice shall be of no force and effect unless it shall be published in a newspaper with a general circulation to actual paid subscribers which newspaper at the time of such publication, advertisement or notice, shall have been admitted to the United States mails in the Periodicals class in the county or political subdivision where such publication, advertisement or notice is required to be published, and which shall have been regularly and continuously issued in the county in which the publication, advertisement or notice is authorized or required to be published, at least one day in each calendar week for at least 25 of the 26 consecutive weeks immediately preceding the date of the first publication of such advertisement, publication or notice; provided that in the event that a newspaper otherwise meeting the qualifications and having the characteristics prescribed by G.S. 1-597 to 1-599, should fail for a period not exceeding four weeks in any calendar year to publish one or more of its issues such newspaper shall nevertheless be deemed to have complied with the requirements of regularity and continuity of publication prescribed herein. Provided further, that where any city or town is located in two or more adjoining counties, any newspaper published in such city or town shall, for the purposes of G.S. 1-597 to 1-599, be deemed to be admitted to the mails, issued and published in all such counties in which such town or city of publication is located, and every publication, advertisement or notice required to be published in any such city or town or in any of the counties where such city or town is located shall be valid if published in a newspaper published, issued and admitted to the mails anywhere within any such city or town, regardless of whether the newspaper's plant or the post office where the newspaper is admitted to the mails is in such county or not, if the newspaper otherwise meets the qualifications and requirements of G.S. 1-597 to 1-599. This provision shall be retroactive to May 1, 1940, and all publications, advertisements and notices published in accordance with this provision since May 1, 1940, are hereby validated.~~ satisfying all of the following criteria:

(1) The newspaper has a content that appeals to the public generally.

- (2) The newspaper must have at least 100 paid subscribers and distribute at least 1,000 copies per issue in the county where the newspaper is seeking qualification.
- (3) The newspaper's paid subscriber distribution is not entirely limited geographically to one community or section of the county where the newspaper is seeking qualification.
- (4) In the county where the newspaper is seeking qualification, any person who wishes to do so may subscribe to the newspaper.
- (5) The newspaper must have regularly and continuously published for at least one day in each calendar week for at least 50 of the 52 consecutive weeks immediately preceding the date of the application.
- (6) The newspaper maintains a physical location in the county.

(b) Notwithstanding the provisions of G.S. 1-599, whenever a notice or any other paper, document or legal advertisement of any kind or description shall be authorized or required by any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or judgment of any court of this State to be published or advertised in a newspaper qualified for legal advertising in a county and there is no newspaper qualified for legal advertising as defined in this section in such county, then it shall be deemed sufficient compliance with such laws, order or judgment by publication of such notice or any other such paper, document or legal advertisement of any kind or description in a newspaper published in an adjoining county or in a county within the same district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be; provided, if the clerk of the superior court finds as a fact that such newspaper otherwise meets the requirements of this section and has a general circulation in such county where no newspaper is published meeting the requirements of this section.

**"§ 1-597.5. Requirements for electronic publication.**

(a) If the newspaper maintains an Internet Web site displaying the contents of the newspaper, then, at no additional charge, each notice shall be placed on that newspaper's Internet Web site on the same day that the notice appears in the print newspaper. The newspaper shall comply with all of the following with respect to the Internet Web site display:

- (1) A hyperlink to legal notices shall be provided on the front page of the newspaper's Internet Web site that provides access to the legal notices without charge.
- (2) If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's Internet Web site shall optimize its online visibility in keeping with the print requirement.
- (3) The newspaper's Internet Web site pages that contain legal notices shall present the legal notices as the dominant subject matter of those pages.
- (4) The newspaper's Internet Web site shall contain a search function to facilitate searching legal notices.
- (5) Notification for the electronic mail registry, as required by subsection (b) of this section, shall be available on the front page of the legal notices section of the newspaper's Internet Web site.

(b) Upon request of a person, newspapers that publish notices shall provide electronic mail notification to that person of legal notices when such notices are printed in the newspaper or added to the newspaper's Internet Web site. The electronic mail notification shall be provided without charge. For any legal notice required to be published more than once, electronic mail notification required by this subsection shall apply only to the first publication in the series of that notice.

(c) Any error in the placement of a governmental legal notice on a newspaper's Internet Web site or the delivery of an electronic mail notification shall be considered harmless error.

The requirement of proper legal notice shall be deemed to have been met if the notice is properly published in the print edition of the newspaper.

**"§ 1-598. Sworn statement prima facie evidence of qualifications; affidavit of publication-~~publication~~ by a newspaper.**

(a) Whenever any owner, partner, publisher, or other authorized officer or employee of any newspaper which has published a notice or any other paper, document or legal advertisement within the meaning of G.S. 1-597 has made a written statement under oath taken before any notary public or other officer or person authorized by law to administer oaths, stating that the newspaper in which such notice, paper, document, or legal advertisement was published, was, at the time of such publication, a newspaper meeting all of the requirements and qualifications prescribed by G.S. 1-597, such sworn written statement shall be received in all courts in this State as prima facie evidence that such newspaper was at the time stated therein a newspaper meeting the requirements and qualifications of G.S. 1-597. When filed in the office of the clerk of the superior court of any county in which the publication of such notice, paper, document or legal advertisement was required or authorized, any such sworn statement shall be deemed to be a record of the court, and such record or a copy thereof duly certified by the clerk shall be prima facie evidence that the newspaper named was at the time stated therein a qualified newspaper within the meaning of G.S. 1-597. Nothing in this section shall preclude proof that a newspaper was or is a qualified newspaper within the meaning of G.S. 1-597 by any other competent evidence. Any such sworn written statement shall be prima facie evidence of the qualifications on any newspaper at the time of any publication of any notice, paper, document, or legal advertisement published in such newspaper at any time from and after the first day of May, 1940.

(b) The owner, a partner, publisher or other authorized officer or employee of any newspaper in which such notice, paper, document or legal advertisement is published, when such newspaper is a qualified newspaper within the meaning of G.S. 1-597, shall include in the affidavit of publication of such notice, paper, document or legal advertisement a statement that at the time of such publication such newspaper was a qualified newspaper within the meaning of G.S. 1-597.

**"§ 1-599. Application of two preceding sections.**

The provisions of G.S. 1-597 and G.S. 1-598 shall not apply in counties wherein only one newspaper is published, although it may not be a newspaper having the qualifications prescribed by G.S. 1-597; nor shall the provisions of G.S. 1-597 and G.S. 1-598 apply in any county wherein none of the newspapers published in such county has the qualifications and characteristics prescribed in G.S. 1-597.

**"§ 1-600. Proof of publication of notice in newspaper; prima facie evidence.**

(a) Publication of any notice permitted or required by law to be published in a newspaper may be proved by a printed copy of the notice together with an affidavit made before some person authorized to administer oaths, of the publisher, proprietor, editor, managing editor, business or circulation manager, advertising, classified advertising or any other advertising manager or foreman of the newspaper, showing that the notice has been printed therein and the date or dates of publication. If the newspaper is published by a corporation, the affidavit may be made by one of the persons hereinbefore designated or by the president, vice president, secretary, assistant secretary, treasurer, or assistant treasurer of the corporation.

(b) Such affidavit and copy of the notice shall constitute prima facie evidence of the facts stated therein concerning publication of such notice.

(c) The method of proof of publication of a notice provided for in this section is not exclusive, and the facts concerning such publication may be proved by any competent evidence.

**"§ 1-601. Certain legal advertisements validated.**



Legal advertisements published prior to June 1, 1983, by a newspaper that met every requirement for publication of legal notices and advertisements under G.S. 1-597 when the advertisement was published except that the newspaper had a second class United States mail permit in a county adjacent to the county in which the advertisement was published instead of the county in which it was published may not be held to be invalid because of the lack of a second class United States mail permit in the proper county.

"§ 1-603. Reserved for future codification purposes.

"§ 1-604. Reserved for future codification purposes."

SECTION 3.(b) G.S. 45-21.17(1)b. reads as rewritten:

"b. And in addition thereto,

1. The notice shall be published once a week for at least two successive weeks in a newspaper ~~published and~~ qualified for legal advertising pursuant to G.S. 1-597 in the county in which the property is situated.
2. If no such newspaper is ~~published-qualified in the that~~ county, then notice shall be published once a week for at least two successive weeks in ~~a newspaper having a general circulation in the county~~ accordance with G.S. 1-597(b).
3. ~~In addition to the required newspaper advertisement, the clerk may in his discretion, on application of any interested party, authorize such additional advertisement as in the opinion of the clerk will serve the interest of the parties, and permit the charges for such further advertisement to be taxed as a part of the costs of the foreclosure."~~

SECTION 3.(c) The validation of any publication, advertisement, or notice pursuant to a previous enactment of G.S. 1-597 remains in effect and is not affected by any modifications of that statute enacted by this act.

SECTION 3.(d) This section becomes effective October 1, 2017.

SECTION 4.(a) Part 3 of Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-52.2. Electronic notice for notices required to be published by the board.**

(a) Except as provided in this section, the governing board may adopt an ordinance providing that any notice it is required by law to publish or advertise, whether under G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general law, or under any local act, may be published electronically as provided by this section in lieu of or in addition to the required publication or advertisement. The ordinance may cover all notices required to be published or advertised or a clearly identified category of notices.

(b) Upon adoption of an ordinance under subsection (a) of this section, the governing board shall publish specific instructions as to how to access all notices published electronically under the ordinance adopted pursuant to this section at least once a month for 12 months in a newspaper having a general circulation for that jurisdiction, as provided in G.S. 1-597.

(c) Any notice published under an ordinance adopted pursuant to subsection (a) of this section shall comply with all of the following:

- (1) The notice is published on the Web site of the governing board no later than the time that publication is required under the applicable statute or local act.
- (2) The Web site contains, on its main page, links to all notices or a link to another page with links to all notices.
- (3) Notices and links to all notices on the Web site shall be maintained on that Web site for at least one year after publication and shall be searchable.
- (4) A copy of the notice shall be filed in a notice book maintained separate and apart from the ordinance book or minutes of the governing board. The notice

book shall be appropriately indexed and maintained for public inspection in the office of the clerk or in the office of another individual who is an employee of the governing board, as designated in the ordinance adopted pursuant to this section.

- (5) A copy of the notice shall be mailed or e-mailed to any person who has filed a written request for notice with the clerk or secretary of the governing board or with some other person designated by the governing board. The governing board may require each person submitting such a written request for notice to renew that request annually.

(d) Ordinances adopted pursuant to this section may not supersede any general law or local act that requires notice by mail to certain persons or classes of persons or the posting of signs on certain property.

(e) The ordinance adopted by the governing board may control notice given by any board appointed by the governing board, including the planning board, board of social services, and board of health.

(f) For purposes of this section, "governing board" means the body elected or appointed as the board of county commissioners, city council, or county board of elections."

**SECTION 4.(b)** G.S. 160A-1(7) reads as rewritten:

"(7) "Publish," "publication," and other forms of the verb "to publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the city is located.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by the governing board."

**SECTION 4.(c)** G.S. 153A-1(6) reads as rewritten:

"(6) "Publish," "publication," and other forms of the verb "to publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by the governing board."

**SECTION 4.(d)** G.S. 159-1(b)(5) reads as rewritten:

"(5) "Publish," "publication," and other forms of the word "publish" mean ~~insertion~~ any of the following:

- a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements.
- b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has been adopted by that governing board."

**SECTION 4.(e)** G.S. 163-33(8) reads as rewritten:

**"§ 163-33. Powers and duties of county boards of elections.**

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- ...
- (8) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law. If the election is on a State bond issue, an amendment to the Constitution, or approval of an act submitted to the voters of the State, the State Board of Elections shall reimburse the county boards of elections for their reasonable additional costs in placing such notices, advertisements, and publications. In addition, the county board of elections shall give notice at least 20 days prior to the date on which the

registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election. The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. This subdivision shall not apply in the case of bond elections called under the provisions of Chapter 159. The county board may adopt a policy in accordance with G.S. 153A-52.2 to provide for notices, advertisements, and publications to be given electronically."

**SECTION 4.(f)** This section applies only to Guilford County and any municipality located wholly or partly in Guilford County.

**SECTION 4.(g)** This section becomes effective October 1, 2017, and applies to notices published on or after that date.

**SECTION 5.(a)** Article 50 of Chapter 1 of the General Statutes is amended by adding a new section to read:

**"§ 1-602. Publication via county-maintained Web site.**

(a) In lieu of publishing in a newspaper in accordance with this Article, publication of any notice permitted or required by law to be published in a newspaper may be accomplished by contracting with a county who has adopted an ordinance under G.S. 153A-458 to publish such notice on the county-maintained Web site.

(b) The county shall charge fees as follows for such publication:

(1) For foreclosures, except those initiated by that county, four hundred fifty dollars (\$450.00).

(2) For other notices, except those by the State or any other political subdivision thereof, one hundred dollars (\$100.00).

(3) For notices by the State or any other political subdivision thereof, other than that county, ten dollars (\$10.00).

(4) For notices by that county, no fee shall be charged.

(c) All fees collected under this section shall be distributed as follows:

(1) Ten percent (10%) for administrative costs of the county.

(2) Forty percent (40%) to the county general fund.

(3) Fifty percent (50%) to the local board of education for payment of local supplements for teachers as defined by G.S. 115C-325.1(6).

(d) Whenever a county has published a notice or any other paper, document, or legal advertisement within the meaning of G.S. 1-597 and a county employee makes a written statement under oath taken before any notary public or other officer or person authorized by law to administer oaths, stating that the county placed such notice, paper, document, or legal advertisement upon its Web site, such sworn written statement shall be received in all courts in this State as prima facie evidence that the county placed the notice, paper, document, or legal advertisement upon its Web site for the stated period of time. When filed in the office of the clerk of the superior court of that county, any such sworn statement shall be deemed to be a record of the court and such record or a copy thereof duly certified by the clerk shall be prima facie evidence that the county placed the notice, paper, document, or legal advertisement upon its Web site for the stated period of time.

(e) Nothing in this section requires a county to adopt an ordinance under G.S. 153A-458 and publish notices on a county-maintained Web site."

**SECTION 5.(b)** G.S. 1-595 reads as rewritten:

**"§ 1-595. Advertisement of public sales.**

(a) When a statute or written instrument stipulates that an advertisement of a sale shall be made for any certain number of weeks, a publication once a week for the number of weeks so indicated is a sufficient compliance with the requirement, unless contrary provision is expressly made by the terms of the instrument.

(b) When a statute or written instrument stipulates that an advertisement of a sale shall be made for any certain number of weeks, publication via the county Web site in accordance with G.S. 1-602 for the number of weeks so indicated is a sufficient compliance with the requirement."

**SECTION 5.(c)** This section applies to Guilford County only.

**SECTION 5.(d)** This section becomes effective October 1, 2017, and applies to notices published on or after that date.

**SECTION 6.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June, 2017.

Daniel J. Forest  
President of the Senate

**VETO**  
*Roy Cooper*

Tim Moore  
Speaker of the House of Representatives

Roy Cooper  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2017

RECEIVED  
FROM GOVERNOR  
JUL 17 2017  
5:19 PM  
*James V. Price*



Roy Cooper, Governor  
State of North Carolina

GOVERNOR ROY COOPER'S OBJECTIONS AND VETO MESSAGE:

**House Bill 205 AN ACT TO AMEND PROVISIONS OF THE WORKERS' COMPENSATION ACT RELATING TO PRISONERS AND TO THE REBUTTABLE PRESUMPTION REGARDING NEWSPRINT EMPLOYEES; TO MODERNIZE PUBLICATION OF LEGAL ADVERTISEMENTS AND NOTICES; TO ALLOW GUILFORD COUNTY AND ANY MUNICIPALITY IN GUILFORD COUNTY TO USE ELECTRONIC MEANS TO PROVIDE PUBLIC NOTICE IN LIEU OF PUBLICATION; AND TO ALLOW GUILFORD COUNTY TO OPT TO POST LEGAL ADVERTISEMENTS AND NOTICES ON THE COUNTY WEB SITE FOR A FEE WITH MONIES COLLECTED TO BE USED FOR LOCAL SUPPLEMENTS FOR TEACHER SALARY AND OTHER COUNTY NEEDS.**

Included in this legislation is an important change to the Prison Industry Enhancement Program that I do support. I urge the legislature to address that separately and I will sign it.

However, time and again, this legislature has used the levers of big government to attack important institutions in our state who may disagree with them from time to time. Unfortunately, this legislation is another example of that misguided philosophy meant to specifically threaten and harm the media. Legislation that enacts retribution on the media threatens a free and open press, which is fundamental to our democracy.

Therefore, I veto the bill.

Roy Cooper  
Governor

The bill, having been vetoed, is returned to the Clerk of the North Carolina House of Representatives on this 17th day of July, 2017, at 5:19 pm for reconsideration by that body.

The Capitol Building, Raleigh, NC 27602  
Mail: 20301 Mail Service Center, Raleigh, NC 27699-0301  
Phone: (919)814-2100

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