



# 2018 WINTER ATTORNEYS CONFERENCE **Legislative & Case Update**

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North Carolina Association of County Commissioners

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# Agenda



- **NCACC Legislative Goals**
- **Legislative Update**
- **Case Law Update**
- **Opioid Litigation Working Group**



# NCACC Proposed Priority Legislative Goals



- **PE-1: Seek legislation to establish a new state-county partnership to address statewide public school capital challenges--including but not limited to maintenance, renovation, construction and debt--through a dedicated, stable funding stream that is consistent from county to county and sufficient to meet the school facility needs of all 100 counties.**
- **PE-2: Seek legislation to repeal the statutory authority under G.S. 115C-431(c) that allows a local school board to file suit against a county board of commissioners over county appropriations for education.**



# NCACC Proposed Priority Legislative Goals



- **TF-1: Support efforts to preserve and expand the existing local revenue base of counties, and oppose efforts to divert to the state fees or taxes currently allocated to the counties to the state. Oppose efforts to erode existing county revenue streams and authorize local option revenue sources already given to any other jurisdiction.**
- **GG-3: Seek legislation, funding, and other efforts to expand digital infrastructure/broadband capability to the un-served and under-served areas of the state.**
- **Support School Calendar Flexibility**



# 2017 Legislative Session cont.

➤ Since we last talked...

**NCGA reconvened in**

- **August 2017**
- **October 2017**
- **January 2018**



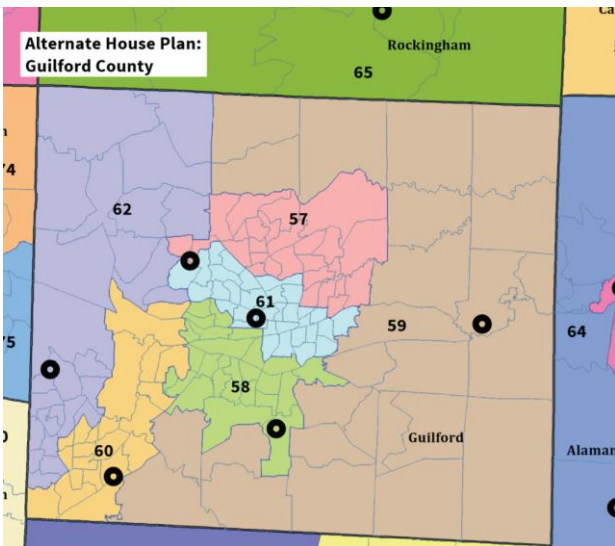


# August 2017 Topics

- **State House and Senate Redistricting plans**

- Federal panel calls for new state legislative maps to address 28 districts
- More on redistricting later

- **S.L. 2017-209 (HB 56):** Modifications to solid waste management limits how counties can dispose of solid waste; bill also includes GenX funding
  - Vetoed by Governor
  - Veto overridden in October





# October 2017 Topics

- **S.L. 2017-212 (SB 582)** clarifies that money from new needs-based lottery grant fund can only be used for construction of new school buildings
- **S.L. 2017-210 (SB 181)** local act authorizes Guilford County and its municipalities to publish notices electronically; Passed the House 58-57; effective December 1, 2017
- **S.L. 2017-214 (SB 656)**
  - Reduces the threshold for unaffiliated candidate to get on ballot
  - Eliminates judicial primaries for 2018 general election; candidate filing runs June 18 – June 29
  - Vetoed by Governor; Veto overridden





# January 2018 Topics

- Possible items for January reconvened session:
  - Constitutional amendments
  - Class size mandate
  - Redistricting
- Recessing and returning; holding committee meetings



Photo: N&O





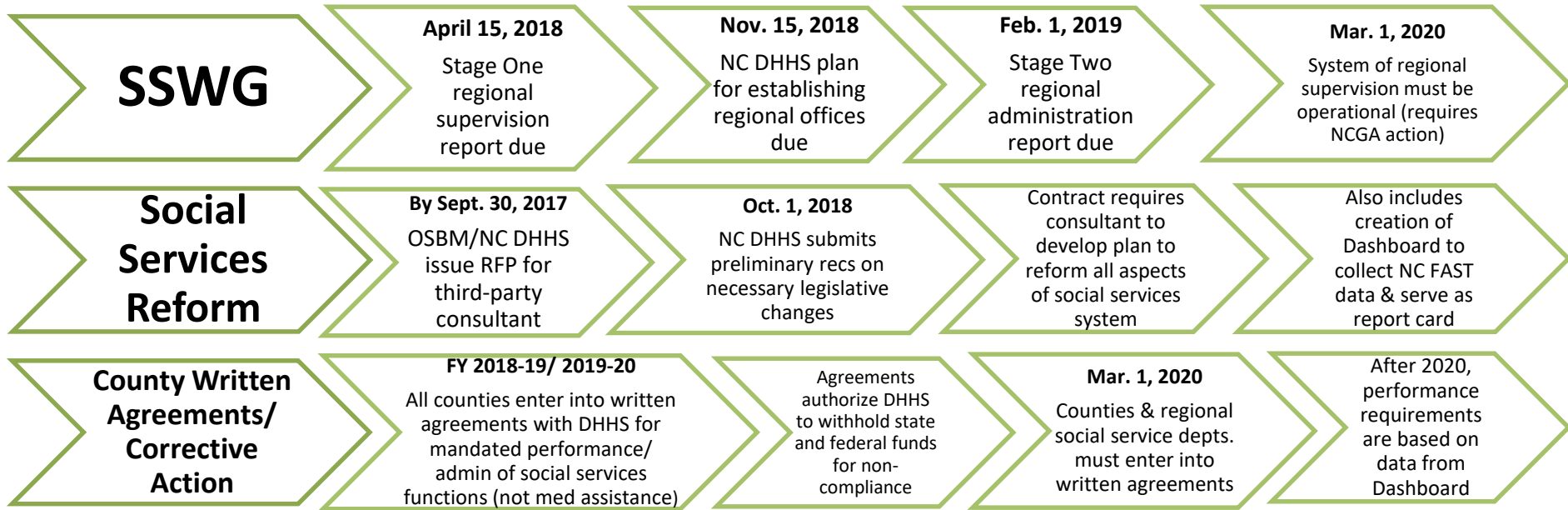
# Interim Committee Meetings



- **Health and Human Services Oversight**
- **Education Finance Reform Task Force**
- **Program Evaluation Oversight**
- **Social Services Regional Supervision and Collaboration Working Group (HB 630)**
- **Judicial Reform and Redistricting**



# Overview of Session Law 2017-41 (HB 630)



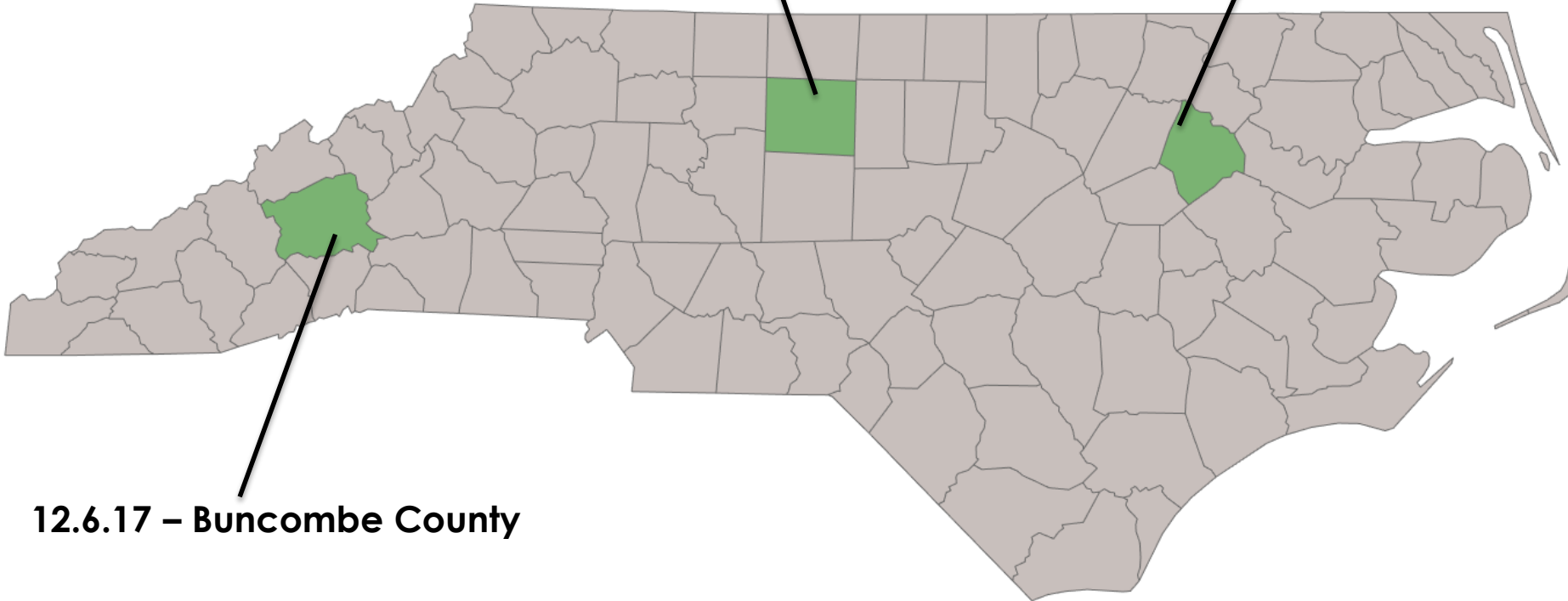


# Three Regional Convenings



**1.22.18 – Guilford County**

**2.28.18 – Edgecombe County**



**12.6.17 – Buncombe County**



# Redistricting

**Congressional**

**Legislative**

**Judicial**



# Retirements/Transfers

- Sen. Chad Barefoot (R-Wake)
- Sen. Bill Cook (R-Beaufort)
- Sen. Cathy Dunn (R-Davidson)
- Sen. Ron Rabin (R-Harnett)
- Sen. Tommy Tucker (R-Union)
- Rep. Larry Bell (D-Sampson)
- Rep. Susan Martin (R-Wilson)
  
- Rep. Bob Steinburg (R-Chowan) running for Senate District 1
- Rep. Carl Ford (R-Rowan) running for Senate District 33
- Rep. Sam Watford (R-Davidson) running for Senate District 32



# Other Legislative Issues

## Public School Capital Bond

- Part of NCACC's top legislative goal
- Legislation (HB 866/SB 542) would provide \$1.9 billion
- [www.ncschoolbond.com](http://www.ncschoolbond.com)



## Voting Machine Decertification

- Two deadlines—Jan. 1, 2018 & Sept. 1 2019 to replace voting machines
- SBEEE seeking extension during January session; evaluating equipment from multiple vendors but need Board for final approval



# Case Law Update



# Cases of Note

## U.S. Supreme Court

*South Dakota v. Wayfair*, 2018 U.S. LEXIS 624, petition for cert granted Jan. 12, 2018

- Whether the Supreme Court should abrogate *Quill v. North Dakota*'s sales-tax-only, physical presence requirement?





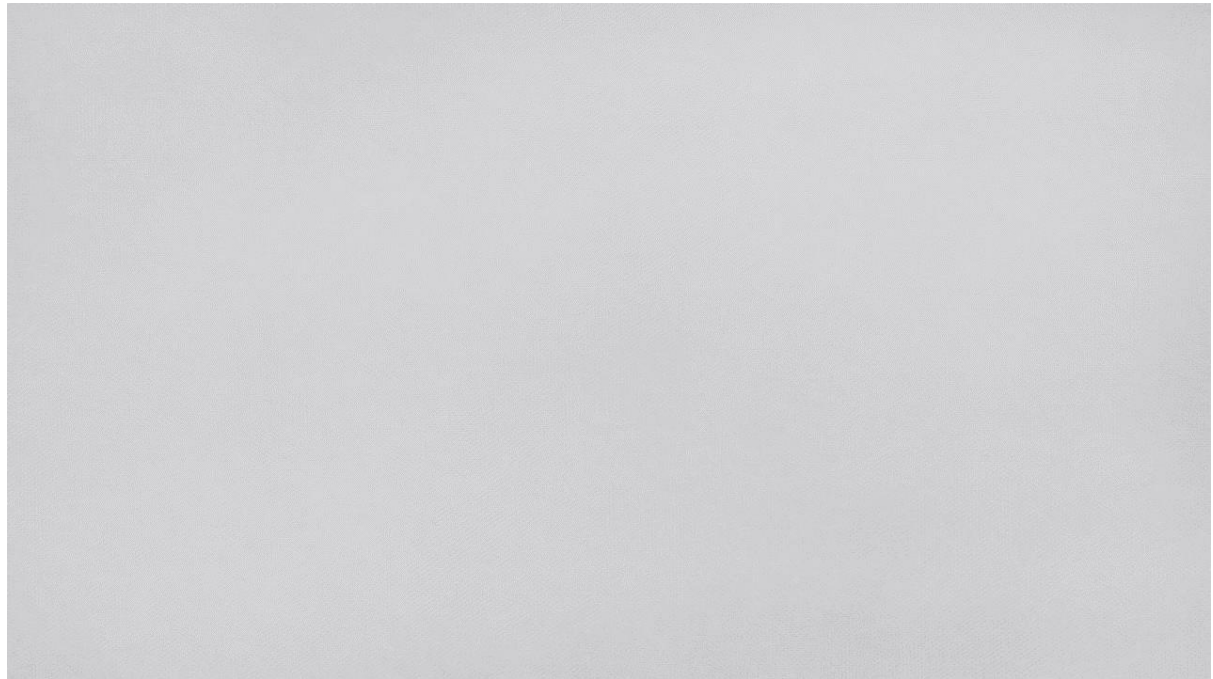


# Cases of Note

## U.S. Supreme Court

*Gill v. Whitford*,  
Argued Oct. 3, 2017

- Partisan gerrymander claim and standard to apply





# Cases of Note



## U.S. Supreme Court

*Nies v. Town of Emerald Isle*, 2017 U.S. LEXIS 4978 (Oct. 2, 2017)

- N.C. Ct. of Appeals decision, Nov. 2015; Found public trust doctrine extends to wet sand and dry sand beaches
- N.C. Supreme Court dismisses appeal
- U.S. Supreme Court denies petition for review, Oct. 2017



# Cases of Note



## U.S. Court of Appeals for the Fourth Circuit

*Lund v. Rowan County*, No. 15-1591 (July 14, 2017), On Rehearing en banc, Appealed to U.S. Supreme Court Oct. 12, 2017

- In 10-5 decision, Fourth Circuit affirms district court and finds Rowan County's opening prayer practice unconstitutional
- District court, applying *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), found prayers unconstitutional in 2015; Panel of Fourth Circuit reversed in 2-1 decision
- Residents of Rowan County sued the County, alleging it violated the Establishment Clause of the U.S. Constitution by commissioners delivering sectarian legislative prayers and by coercing Plaintiffs to participate in religious exercises at the beginning of county commission meetings



# Cases of Note



## U.S. District Court

*City of Greensboro v. Guilford County Board of Elections*, 2018 U.S. Dist. LEXIS 798 (Jan. 3, 2018)



# Cases of Note



## N.C. Supreme Court

*Catawba County v. Loggins*, 804 S.E.2d 474 (Sept. 29, 2017)

*Wray v. City of Greensboro*, 802 S.E. 2<sup>nd</sup> 894 (Aug. 18, 2017) [with dissent]

*Quality Built Homes v. Town of Carthage*, oral argument heard Jan. 9, 2018



# Cases of Note



## N.C. Court of Appeals

*Surgical Care Affiliates v. N.C. Industrial Commission*, 2017 N.C. App. LEXIS 981 (Nov. 21, 2017)

*Swan Beach Corolla v. Currituck County*, 805 S.E.2d 743 (Oct. 3, 2017) [with dissent]

*Silver v. Halifax County Board of Commissioners*, 805 S.E.2d 320 (Sept. 19, 2017) [with dissent]

*Richmond County Bd. of Educ. v. Cowell*, 803 S.E.2d 27 (July 18, 2017)



# Cases of Note



## **N.C. Court of Appeals**

*Ecoplexus v. Currituck County*, 2017 N.C. App. LEXIS 1084 (Dec. 19, 2017)

*Little River v. Lee County*, 2017 N.C. App. LEXIS 1059 (Dec. 19, 2017)

*Ring v. Moore County*, 2017 N.C. App. LEXIS 1042 (Dec. 19, 2017)

*Hampton v. Cumberland County*, 2017 N.C. App. LEXIS 1026 (Dec. 5, 2017)

*McDowell v. Randolph County*, 2017 N.C. App. LEXIS 1022 (Dec. 5, 2017)



# Opioid Litigation Working Group Update



## County List of Legal Activity

<b>Bladen</b>	Resolution declaring Opioid Crisis a public nuisance approved 12.18.17
<b>Brunswick</b>	Resolution declaring Opioid Crisis a public nuisance and authorizing county to retain legal counsel adopted 12.4.17
<b>Buncombe</b>	Lawsuit filed on 11.14.17; Baron & Budd (McHugh Fuller) law group
<b>Burke</b>	Issue was on 12.19.17 agenda for consideration
<b>Carteret</b>	Public Nuisance Resolution adopted 11.20.17
<b>Catawba</b>	Lawsuit filed, 1.11.18
<b>Chatham</b>	Public Nuisance Resolution adopted 11.20.17
<b>Gaston</b>	Public Nuisance resolution adopted and Baron & Budd law group retained, 1.12.18
<b>Mecklenburg</b>	Engaged Hanly Conroy, Crueger Dickinson group, 1.10.18
<b>New Hanover</b>	Lawsuit filed 12.14.17; Baron & Budd law group
<b>Onslow</b>	Lawsuit filed 12.4.17; Baron & Budd law group
<b>Person</b>	Adopted opioid resolution and retained Baron & Budd law group, 1.22.18
<b>Pitt</b>	Passed resolution declaring opioid crisis a public nuisance; retained Baron & Budd law group, 1.18.18
<b>Randolph</b>	Authorized Baron & Budd law group to file lawsuit, 1.2.2018
<b>Rockingham</b>	Lawsuit filed 12.12.17; Baron & Budd law group
<b>Rutherford</b>	Lawsuit filed 12.15.17; Baron & Budd law group
<b>Surry</b>	Lawsuit filed 12.15.17; Baron & Budd law group
<b>Wilkes</b>	Engaged Baron & Budd law group, 1.19.18
<b>Yadkin</b>	Lawsuit filed 12.17.17; Baron & Budd law group



# Thank you!

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