

Legislative Report



The 2009-2010 biennial session of the North Carolina General Assembly convened on Jan. 28.

The major issue facing the legislature this year is the budget shortfall, now predicted to be \$2.2 billion and growing.

Further, the fiscal staff of the General Assembly announced that it will cost an additional \$1.2 billion over the next two years to provide funding needed by the state's Health Plan, which provides health insurance for state employees, retirees and their families.

Dealing with the challenges such a major budget gap creates has occupied the first months of the governor's administration and the first quarter of the session, and will continue to do so for the coming months.

State and local government agencies and programs that serve the citizens of North Carolina can expect further budget cuts.

Although Gov. Bev Perdue and Lt. Gov. Walter Dalton are new to their current roles, both are legislative veterans and that experience has been evidence in how quickly the budget issues have been addressed.

While the top two positions in the state government may be new, there has been virtually no change in the General Assembly's leadership. Senate President Pro-Tempore Marc Basnight contin-



Jeff Gray

FOP Legislative Agent

ues to lead the Senate with Senator Charlie Dannelly as the Senate Deputy President Pro-Tempore, Senator Tony Rand as Majority Leader and Senator Phil Berger as Minority Leader for the Republicans.

Representative Joe Hackney began his second term as Speaker of the House with Representative William Wainwright as Speaker Pro-Tempore, Representative Hugh Hollimann as Majority Leader and Representative Skip Starn as Minority Leader for the Republicans.

The Fraternal Order of Police's major legislative agenda item - 25-year retirement for law enforcement officers - remains unchanged for this session.

The FOP is also seeking a long deserved seat on the Criminal Justice Education and Standards Commission.

We are also working on a "simplified" due process bill which allows for an opportunity to be heard by a neutral fact-finder and representation by legal counsel during any disciplinary action that could result in dismissal.

Both House and Senate members have stated that they will be introducing bills to implement HR 980 in the event it passes Congress. The FOP will be actively in-

involved in support on those bills, as well.

Here is an overview of legislation supported or opposed by the Fraternal Order of Police:

SB78: Repeal GS 95-98

Summary: This bill would repeal the law that currently prohibits contracts between government entities and labor unions involving collective bargaining.

FOP: In Favor

SB427: Restore Contract Rights to State/Local

Summary: This bill would repeal the prohibition against collective bargaining and also would set up a process for collective bargaining between state and public service employees.

FOP: In Favor

HB297: Expand Emergency Personnel Deduction

Summary: The bill would increase the allowable income tax deduction from \$250 to \$1,000 for eligible emergency services workers and expand the list of workers who are eligible to take the deduction to include 911 center communication staff or other dispatchers, fire department personnel, law enforcement agency personnel and rescue or emergency services personnel. The deduction is currently limited to eligible firefighters and members of unpaid volunteer rescue squads.

FOP: In Favor

HB429: Retirement Systems COLAs

Summary: This bill would provide a 1% cost of living increase to retirees of the teachers' and state employees' retirement system, local governmental employees retirement system, and the consolidated judicial retirement system.

FOP: In Favor

HB5: Good Faith Exception/Exclusionary Rule

Summary: This bill would amend state law to allow adoption of the good faith exception to the exclusionary

rule. It also requests the N.C. Supreme Court to reconsider and overrule its holding in State v. Carter that the good faith exception to the exclusionary rule, which exists under federal law, does not apply under N.C. law.

FOP: In Favor

HB8: Prohibits Cell Phones in Prison

Summary: This bill would make it a Class A1 misdemeanor to provide cell phones to inmates in the custody of the Department of Correction.

FOP: In Favor

SB12: Ban Mobile Phone Use While Driving

Summary: This bill would make using a mobile telephone or accessing additional technology unlawful while operating a motor vehicle on a public street or highway or public vehicular area.

FOP: In Favor

HB166: Increase Maximum Speed for Mopeds and Scooters.

Summary: This bill would increase the speed limit for mopeds from 30 mph to 50 mph "on a level surface."

FOP: Opposed

HB209: Sex Offender Registry/Liberties with Student

Summary: This bill would add the offense of taking indecent liberties with a student to the list of sex offenses that requires registration under the sex offender registration act.

FOP: In Favor

HB211: Computer Crime/Forensic Agent Funds

Summary: This bill would appropriate \$960,512 to the State Bureau of Investigation for eight new computer crime and computer forensic agents to investigate, arrest and prosecute sexual predators who attempt to prey on children.

FOP: In Favor

HB238: Require License for Moped

Summary: This bill would require a person operating a moped to possess a driver's license.

FOP: In Favor

HB67: License Plate/State Name Visible

Summary: This bill would make it unlawful to cover the state name on a state license plate by use of a license plate frame.

FOP: In Favor

SB65: Amend Computer Solicitation of Child

Summary: This bill would

expand the law prohibiting solicitation of a child by computer or commit an unlawful sex act to include solicitations by other electronic devices as well as computers.

FOP: In Favor

SB74: Increase Penalty/2nd Degree Murder

Summary: This bill would increase the penalty for 2nd degree murder to a B1 felony.

FOP: In Favor

HB93: Caisson Coordinator Contract Position/State Highway Patrol

Summary: This bill would provide funding for the State Highway Patrol to contract with someone to coordinate the activities of the North Carolina State Troopers Association Caisson Unit.

FOP: In Favor

HB96: Local Government Surplus Property Donations

Summary: This bill would clarify the authority of counties to donate surplus, obsolete or unused personal property to other governmental units or to nonprofit organizations.

FOP: In Favor

HB98: License Renewal/Deploying Reservists

Summary: This bill would authorize a reserve member of the armed forces to renew their driver's license upon receipt of deployment orders and would allow a 30-day grace period for their expired license upon their release from active duty.

FOP: In Favor

HB99: Military Police/Credit for B.L.E.T. Training

Summary: This bill would require the Department of Justice to conduct a study to evaluate the impact of allowing military personnel who have completed military police training to receive credit towards completion of the Basic Law Enforcement Training (BLET) course required by the N.C. Criminal Justice Education and Training Standards Commission. The study conducted by the Department of Justice would be required to be completed by Feb. 1, 2010 with a report to the Joint Legislative Corrections, Crime Control, and Juvenile Oversight Committee.

FOP: In Favor

HB118: Special License Plate for Blue Knights

Summary: This bill would authorize the Division of Motor Vehicles to issue a specialized license plate for members of the Blue Knights Inter-

When contacting members of the North Carolina General Assembly seeking support or opposition to the bills listed, refer to the bill number, whether it is senate or house legislation. Also, please send a copy to the North Carolina State Lodge.

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national Law Enforcement Of-
ficers Motorcycle Club, Inc.
FOP: In Favor

HB123: Death Penalty/ Proportionality Review

Summary: This bill would require the Supreme Court of North Carolina to evaluate capital causes in which the death penalty was imposed as well as similar cases in which the sentence of life imprisonment was imposed in conducting the proportionality review required by law.
FOP: Opposed

HB129: Habitual Misdemeanor Larceny/Felony

Summary: This bill would create the offense of habitual misdemeanor larceny for a person convicted of misdemeanor larceny five or more times.
FOP: In Favor

HB130: Add FOP Member to Criminal Justice Training Standards Commission

Summary: This bill would add one member to the N.C. Criminal Justice Education and Training Standards Commission to be selected by the State Lodge of the Fraternal Order of Police.
FOP: In Favor

HB134: Assault State or Local Officer or Employee

Summary: This bill would raise the criminal offense of simple assault on an officer or employee or the state or a city or county from a Class A1 misdemeanor to a Class 1 Felony.
FOP: In Favor

HB162: Electronic Record Interrogation/B1, B2, C Felony

Summary: This bill would provide that a custodial interrogation in a Class B1, Class B2, or Class C felony case must be electronically recorded in its entirety. This legislation would extend the provisions of N.C.G.S. 15A-211, that currently only applies in homicide investigations, to also apply to Class B1, Class B2 and Class C felonies.
FOP: Opposed

SB123: Warrantless Searches/Probationers & Parolees

Summary: This bill would expand the powers of law enforcement officers, probation officers and parole officers by making it a regular condition of probation that the probationer submit at reasonable times to warrantless searches of their person or vehicle by any law enforcement officer.
FOP: In Favor

SB135: Operation of Moped

Summary: This bill would require mopeds to be regis-



Photo By Michael H. Schwartz/BlueNote

The North Carolina legislature is in session. For information or the status of bills listed, visit the General Assembly Web site at www.ncleg.net.

tered with the Division of Motor Vehicles and have appropriate insurance.
FOP: In Favor

SB140: Amend Domestic Criminal Trespass

Summary: This bill would make it a felony for a person who is the subject of a valid protective order to trespass on property where the protected party resides if that property is operated as a safe house for domestic violence victims. This offense would apply even when the person covered by the protective order is no longer present on the premises of the safe house. This legislation would also make it an aggravating circumstance for 1st degree if the defendant who is the subject of a valid protective order commits a murder on the premises of a shelter for victims of domestic violence where the party is residing.
FOP: In Favor

HB269: Concealed Hand-gun Permit Valid in Parks

Summary: This bill would prohibit local governments from adopting an ordinance prohibiting a person with a concealed handgun permit from carrying their concealed handgun in a local government park.
FOP: In Favor

HB281: Uncorroborated Snitch/No Aggravating Circumstances

Summary: This bill would provide that in a capital case, the jury would not be able to find an aggravating factor that is based on the uncorroborated testimony of an incustody informant.
FOP: Opposed

HB310: Moped Registration/Licensing

Summary: This bill would require mopeds to be registered with the Division of Motor Vehicles, to have motor vehicle insurance and to limit the operation of a moped on a public street or highway to

those of a posted speed limit of less than the maximum speed recommended by the manufacturer for the engine displacement of the moped being operated.
FOP: In Favor

SB266: No Sex Offenders on Juries

Summary: This bill would provide that a person who is a convicted sex offender could not serve on a jury during their period of registration.
FOP: In Favor

HB323/SB729: Prevent the Theft of Scrap Metals

Summary: This bill would strengthen the requirements regarding secondary metals recycling in order to help prevent the theft of this property.
FOP: In Favor

SB270/HB538: Charlotte-Mecklenburg School Board Police

Summary: This bill would allow the Charlotte-Mecklenburg Board of Education to establish a campus law enforcement agency and to employ campus law enforcement officers. These officers would be required to meet the standards and be certified by the Criminal Justice Education and Training Standards Commission.
FOP: In Favor

SB300: Amend Speeding to Elude Arrest Statute

Summary: This bill would provide that when the felony Speed to Elude Arrest statute is violated, the vehicle is subject to seizure and forfeiture.
FOP: In Favor

SB351: No Felon as Sheriff

Summary: This bill would allow voters of North Carolina to vote in the general election in November 2010 for or against an amendment to the North Carolina Constitution to prohibit convicted felons from serving as Sheriff.
FOP: In Favor

HB405: Western Justice

Academy Firing Range

Summary: This bill would require that the new firing range to be constructed at the North Carolina Justice Academy's western campus must be an indoor facility.
FOP: In Favor

HB421: Use of Deadly Force/SBI Investigations

Summary: This bill would require the District Attorney to release investigation results to the internal affairs unit of the local law enforcement agency as well as the deceased next of kin and the news media when law enforcement officers use deadly force.
FOP: Opposed

HB471: Selling Motor Vehicle Registrations Unlawful

Summary: This bill would make the sale of a temporary motor vehicle registration plate to a person who was not authorized to purchase the plate unlawful.
FOP: In favor

HB473: Magistrate Can Carry Gun in Courthouse

Summary: This bill would provide that a magistrate who has a concealed handgun permit can carry or possess a concealed handgun while in a courthouse to discharge official duties.
FOP: Opposed

SB360/HB676: Repeal Statesville Police Act & Law Enforcement Jurisdiction in Iredell County

Summary: This bill would provide that the police officers for the City of Statesville and the City of Mooresville will have extraterritorial jurisdiction within one mile of the corporate limits of their city, pursuant to GS 160A-286, but would no longer have countywide jurisdiction throughout Iredell County.
FOP: Opposed

SB381/HB657: Establish Domestic Violence Fatality Review Team/Mecklenburg County

Summary: This bill would establish a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County to identify and review domestic violence related deaths and to facilitate communications between various agencies and organizations involving domestic violence cases in Charlotte and Mecklenburg County.
FOP: In Favor

HB697: Remove Restriction/Law Enforcement Officers Disability Benefits

Summary: This bill would remove the requirement that a law enforcement officer have at least one year of creditable service in the retirement system in order to qualify for disability retirement benefits for injuries that were incurred in the line of duty.
FOP: In Favor

SB624: 25-Year Law Enforcement Retirement

Summary: This bill would allow state and local law enforcement officers to retire with unreduced retirement benefits after 25 years of service. This bill would also allow officers who retire with 25 years of service to qualify for the Special Separation Allowance Benefit and would provide that the Special Separation Allowance Benefit does not terminate until the officer becomes eligible for unreduced social security benefits. This bill would also establish a Special Separation Allowance Fund in the Department of State Treasurer to receive funds from the agencies that employ law enforcement officers that would be used to pay a retired officer's Special Separation Allowance Benefit.
FOP: In Favor

SB557: Remove Restriction/LEO Disability Benefits

Summary: This bill would delete the requirement that law enforcement officers must have one year of creditable service in order to qualify for disability retirement benefits under the Local Government Employees' Retirement System for injuries incurred during the line of duty.
FOP: In Favor

SB558: Retirement System Cost of Living Adjustment

Summary: This bill would provide an increase of not more than 1% in benefits as a cost-of-living adjustment for retirees of the Teachers and State Employees' Retirement System and Consolidated Judicial Retirement System.
FOP: In Favor

HB620: Stalking Law Conforming Changes

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Summary: This bill would make technical corrections to the stalking law to conform to new and repealed statutes.

FOP: In Favor

HB631: Wearing of Medals by Public Safety Personnel

Summary: This bill would allow uniformed public safety officers to wear military service medals during the business week prior to Veterans Day and Memorial Day and on those days and the day immediately following.

FOP: In Favor

HB653: No Tuition for Campus Police Officer Training

Summary: This bill would authorize the State Board of Community Colleges to waive the tuition and fees for in-service training courses for campus police officers.

FOP: In Favor

HB658: Funds for Juvenile Crime Prevention Councils (JCPC)

Summary: This bill would appropriate funding to the Department of Juvenile Justice and Delinquency Prevention for local juvenile crime prevention councils throughout the state.

FOP: In Favor

HB659: Study Existing Children/Youth Programs

Summary: This bill would authorize a study of existing programs relating to children and youth.

FOP: In Favor

HB674: Registration Stop for Parking Violations

Summary: This bill would prevent the renewal of a motor vehicle registration if the applicant has outstanding parking fines that are due.

FOP: In Favor

HB706: Division of Motor Vehicle Handicap Placard Enforcement

Summary: This bill would change the handicap placard design to better reflect the expiration date of the tag.

FOP: In Favor

SB655: Increase Drivers License Restoration Fee

Summary: This bill would increase the drivers license restoration fee from \$100 to \$125.

FOP: In Favor

SB680: Increase Penalties for Drug Trafficking

Summary: This bill would increase the criminal penalty for numerous drug trafficking offenses.

FOP: In Favor

SB710: False Pretense/Increase Some Penalties

Summary: This bill would

increase the criminal penalty for the offense of obtaining property by false pretenses when the money or property obtained is valued between \$5,000 and \$100,000.

FOP: In Favor

SB713: Removal of Electronic Monitoring Device

Summary: This bill would make it a criminal offense to remove, destroy or circumvent the operation of an electronic monitoring device.

FOP: In Favor

SB726: Amend House Arrest Laws/Adult/Juvenile

Summary: This bill would provide that house arrest may be imposed as a condition of pretrial release.

FOP: In Favor

SB727: Require Chemical Test/Crashes Involving Death

Summary: This bill would require the administration of a chemical analysis for all drivers involved in motor vehicle crashes that result in death.

FOP: In Favor

HB515: Require Documentation-Certain Special Plates

Summary: This bill would require the Division of Motor Vehicles to verify the qualifications of any person applying for a special vehicle registration plate that is reserved for members of the military.

FOP: In Favor

HB570: Amend Private Protective Services Act

Summary: This bill would provide that the Private Protective Services Board would license persons as "digital forensic examiner" who contracts to conduct an examination of digitally stored data and to recover, image, analyze, or examine the data by using specialized software. This bill specifically provides that law enforcement officers providing the services of a "digital forensic examiner" do not have to be licensed by the Board.

FOP: In Favor

HB608/SB545: Require Titles for Scapped Vehicles

Summary: This bill would require that a motor vehicle title be provided by a seller when selling a scrap vehicle to secondary metals recycler or salvage yard.

FOP: In Favor

SB491: Expunge Non-violent Crimes

Summary: This bill would allow persons to apply to have their criminal record expunged in certain limited circumstances. A person could not file for an expungement under this law at least 10 years after the date of a felony conviction or the last date of any active sentence or period of probation or period of post-release supervision. Expungements granted under this proposed law would apply to five specific offenses: (1) breaking or entering buildings generally; (2) breaking or entering motor vehicles, aircraft, boats, etc.; (3) possessing stolen goods; (4) obtaining property by false pretenses where the value is less than \$100,000 or; (5) possession of a schedule VI controlled substance. The person requesting the expungement could have no prior offenses other than traffic violations. The record of the expunged offense would be maintained in a confidential file by the Administrative Office of the Courts and could be released to the North Carolina Sheriff's Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission "for certification purposes only."

FOP: Opposed

SB603: Funds for Juvenile Crime Prevention Council

Summary: This bill would appropriate \$500,000 to the Department of Juvenile Justice and Delinquency Prevention for local Juvenile Crime Prevention Councils based on population of the counties served by the council.

FOP: In Favor

Budget Concerns Places 25-Year Retirement For Police In Doubt

*By Michael Schwartz
BlueNote Editor*

Law enforcement should not count on seeing 25-year retirement legislation going anywhere during this session of the General Assembly.

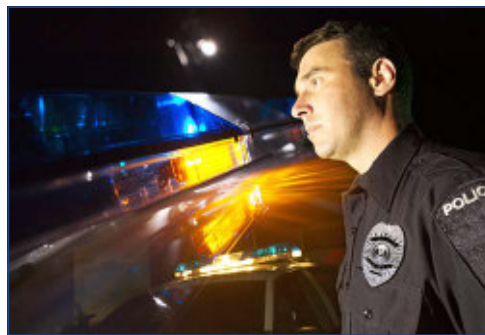
A top priority of the North Carolina Fraternal Order of Police for more than a decade, the legislation is not a top priority among our elected representatives in Raleigh.

Jeff Gray, the FOP's legislative agent, told members at the spring board meeting

in Wilmington not to count on it coming up during the current session because legislators are more concerned with North Carolina's budget deficit.

In addition, Senate Pro Tempore Marc Basnight has indicated that he is not in favor of giving law enforcement 25-year retirement. He said that police officers are "lucky to just have a job right now."

The N.C. League of Municipalities, which represents local governments, is opposed to the 25-year retirement legislation.



FOP Seeks Seat On Training And Standards Commission

*By Michael Schwartz
BlueNote Editor*

The North Carolina Fraternal Order of Police wants a seat on the N.C. Criminal Justice Education and Training Standards Commission.

The commission, through general statutes, establishes minimum employment, training and retention standards for the state's criminal justice officers.

The commission plans for the effective implementation of innovations in the state's system of criminal justice employment, training and education.

Representatives Bill Owens and Deborah K. Ross filed HB130 on Feb. 11 that would add a seat to the 33-member commission for a representative of the FOP. It has been referred to the Committee on Judiciary 1.

The legislation has been co-sponsored by seven House members, including: Martha Alexander, Cary D. Allred, Tricia Ann Cotham, Susan Fisher, Rick Glazer, Marvin W. Lucas and Cullie M. Tarleton.

If made law, the State Lodge would appoint a member to serve on the commission.

President Appoints Committee To Improve FOP's Legislative Efforts

*By Michael Schwartz
BlueNote Editor*

State President Terry Mangum has appointed a committee to create long-range goals for legislative matters in North Carolina.

The committee will study, create, and come up with a long range plan that the State Lodge could use in our legislative efforts so that the North Carolina Fraternal Order of Police can become more successful in Raleigh.

Mangum said the committee has been tasked with developing a program to address political endorsements, active support of candidates, and how the FOP can gain support on legislative issues.

He also wants each lodge to assign a liaison for legislative issues.

Currently, the commission has representatives of several police organizations, including the N.C. Association of Chiefs of Police, N.C. Police Executives Association, N.C. Law Enforcement Officers' Association, North State Law Enforcement Officers' Association, and the N.C. Law Enforcement Women's Association. The commission also has multiple political appointments.

The FOP argues that it should have representation on the commission because we are one of the state's largest police organization, with membership topping 6,000.

Jeff Gray, our legislative agent in Raleigh, said the bill is meeting strong opposition from the N.C. Sheriff's Association.

Questions arise as to why the sheriff's association opposes the legislation since sheriffs have their own education and training standards commission in North Carolina.

In response, State FOP President Terry Mangum is sending a letter to each of the state's 100 elected sheriffs to explain our position and ask why they would oppose the FOP having a seat.



Mangum Parks

Sergeant-at-Arms Rick Parks will serve as its chairperson. The members are Vice President Randy Hagler, Ron (Duck) Wyatt, John Byrd, Jeff Haynes, Bobby Gaddy, Phillip Ferguson, Robert Wilborn, Chet Effler and Jeff Gray.

Magnum has asked if anyone has suggestions that could help the committee meet its goals to please contact one of its members.

The committee is expected to make its initial presentation at the next board meeting.