

# PENC Legislative Update

## Legislative Brief

The General Assembly officially adjourned Saturday, June 18 – the Senate in the early morning hours after midnight on Friday and the House following shortly thereafter at noon. To say this has been a tumultuous session would be an understatement. There have never been so many large scale changes made to the way state government will run in the future. There have never been so many vetoes by a Governor – including the one to the state budget. And, there are still many bills the Governor has left to sign, or veto... My guess is that she will pull out that red stamp at least a couple of more times.

So, what do all these changes mean for engineers? Well, that's what we're still trying to figure out. But, in the meantime, I wanted to give all of our members an update on two important issues that PENC worked on in the closing days of the session.

### **Prohibition of Roadway Medians**

You may recall that PENC was able to “bury” HB 561, a bill that would have prohibited the construction of medians in four separate sections of roadway, in the Senate rules committee after it passed in the House earlier this session. And, up until the last week of session, with the Senate refusing to hear the bill, we were hopeful that the issue would not come up again. However, when it comes to politics, if a legislator(s) with power wants an issue to be heard, there are always ways to make it happen. Especially if you are the House Rules Chair and House Chair of Appropriations...

The “Omnibus Transportation Bill” was born on June 14<sup>th</sup> exactly 4 days before the legislative session was scheduled to adjourn. This bill, introduced by House Rules Chair, Representative Stephen LaRoque with strong support from House Appropriations Chair Brubaker, combined 5 Senate bills that had already been approved in their chamber into the one “omnibus” bill and conveniently added the prohibition of medians provision for three roadways (the original medians bill was also Representative LaRoque's). Both NCDOT and PENC were scheduled to speak in opposition to this provision of the bill in the House Transportation Committee meeting that morning but were denied the opportunity. The bill passed out of committee.

With adjournment looming, the bill went immediately to the House floor where we worked with one Republican and one Democrat to offer an amendment to oppose the median provision included in the omnibus bill. Despite our best efforts, we were no match for the powerful leadership that supported the bill, and it passed overwhelmingly in the House.

For the next two days, we worked with the Senate to shore up their opposition to the median provision in the House Omnibus Bill. The Senate's support was unwavering and they passed their own bill that included all the good items in the House bill but excluded the median

prohibition provision. The Senate Transportation Appropriations Chairs, Kathy Harrington and Bill Rabon, as well as the Rules Chair Senator Apodaca “held the line” sacrificing some of their own items to take a stand against the prohibition of medians.

By Friday, when the Senate’s version of the bill was scheduled on the House calendar, there were only two options. The House could concur with the Senate, losing the medians but making the other stakeholders included in the bill happy (Farm Bureau, Highway Patrol, Automobile Dealers, Engineers, NC Loggers Association, NCDOT), etc. OR they could fail to concur and lose everything. This was the last bill taken up before adjournment and the Senate had already left town.

Amazingly, the House failed to concur! So, they not only LOST the prohibition of median provision they sacrificed the other good transportation items that many powerful stakeholders supported.

While we won this battle, many good transportation provisions were sacrificed, and the “median” war is far from over. This legislation can be taken up again in the short session next year and we’ll need your help again to fight back this effort to legislate engineering.

### **Certificate of Merit**

After 3 hearings in the Senate Judiciary Committee, Senate Bill 435, Certificate of Merit, the bill requiring that a certificate of merit accompany any claim of negligence against an engineer or architect or the action would be dismissed, passed the Senate with a bipartisan vote of 36-14. The bill was scheduled to be heard by the House Select Committee on Tort Reform on the Wednesday morning before session adjournment on Saturday. Much to our surprise, the committee meeting was abruptly canceled. Because the bill was considered somewhat controversial (the Homebuilders and General Contractors opposed it) we learned the House Speaker felt there was not enough time to give the proposed legislation enough consideration.

For a day and a half, ACEC and PENC looked for other ways to pursue the legislation to “get around” the House objections. But, by the end of the week, all options had been exhausted and time ran out. The good news is that this legislation is still eligible for consideration in the short session in 2012. Between now and May of next year, we can begin to educate the House members on the importance of this legislation and the positive impact it can have for our members. Again, we will need your help in convincing our legislators of why this legislation is important to the engineering community. A complete legislative update on all bills and budget items that affect engineers will be available to our members within the next two weeks.

Thanks to all of you that sent e-mails or made phone calls on these issues. When legislators hear from you, their constituents, it truly does make a difference. And, it makes my job a whole lot easier to have your support!

Sincerely,  
Betsy Bailey  
Professional Engineers of North Carolina