



INTRODUCTION

BUDGET UPDATE

We hope no one has made any vacation plans around the legislature's latest budget timeline, because an agreed upon budget by mid-September is looking less and less likely. The negotiations, which are still ongoing between the corner offices and behind closed doors, have hit a wall. "There are a number of things that we're talking about that we have not resolved. I don't think we have to resolve all of those things in order to begin making progress. But at this point I would say we're not making really much progress," Senate leader Phil Berger said when asked about budget negotiations. Sen. Berger specifically noted that the chambers are going back and forth on the tax package, spending for the State Capital and Infrastructure Fund, and the amount of money in the rainy-day fund.

After writing the above update, the next week brought a change in attitude and like in years' past, North Carolina's budget process is just about as unpredictable as this state's weather. We have heard rumblings in the building of a conference report coming in the next few days, and Sen. Rabon has said that he expects Senate committees to close down in the next couple of weeks. Yet, Senate leader Berger has maintained that budget negotiations are far from over. "My crystal ball's a little cracked," Senate leader Berger told reporters this week. "It could go fairly quickly, but given what we've seen thus far I don't anticipate that... I don't see us getting to the finish line before the end of September." The budget talks are primarily between House and Senate leadership as of now. They intend to work out their own differences on the budget before including Gov. Cooper in earnest in negotiations. The Democratic Governor will ultimately have to sign off on the budget unless Republicans can garner enough Democratic support from members to override a veto.

If we don't have a budget until the fall, the odds of a break for legislators is extremely unlikely given the deadlines for redistricting. Candidates are scheduled to begin filing for congressional and legislative races on December 6th; legislators have indicated that they need to have the maps finished by at least three weeks before that date. With much work left to do, the General Assembly is likely to be in for most of October. Although North Carolina's General Assembly is supposed to be a part-time legislature, there is no limit on the length of regular sessions. That has been made clear given the lengths of sessions in recent years.



NORTH CAROLINA SECURITY AND LOW VOLTAGE ASSOCIATION



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This regular session, also known as the long session, began in January and has now gone on into month number nine. As of now, the House has conducted business on 120 “legislative days” and the Senate has on 126 days. The General Assembly meets for regular session beginning in January of each odd-numbered year and adjourns to reconvene after the start of the following even-numbered year for “short session.” Although there is no limit on the length of sessions, generally long session lasts for six months and the short session lasts for roughly six weeks. North Carolina is one of 11 states that does not place a limit on the length of sessions.

CERTIFICATE OF NEED REFORM

Senate Bill 462 was approved by the House, 100-3, and is now on the Governor’s desk. This bill would make changes to the state’s Certificate of Need (CON) process, which requires health providers to obtain permission from a state board before opening or expanding any new type of service. Senate Bill 462 would increase the dollar threshold that diagnostic center equipment, major medical equipment, and capital expenditures for new institutional health services must exceed before they are subject to Certificate of Need review. It would also require projects subject to a Certificate of Need to initiate construction within a certain timeframe: projects costing more than \$50 million would have to begin within four years, and projects costing \$50 million or less would have to start within two years. The bill passed both chambers with strong numbers in support; it is likely to become law.

SENATE BILL 300, CRIMINAL JUSTICE REFORM

Senate Bill 300, which would make various changes to the Criminal Code and would increase law enforcement standardization and oversight, had a unanimous concurrence vote in the Senate and has been signed into law by the Governor. Many of this bill’s changes are inspired by recent events, including last summer’s Black Lives Matter protests and the killing of Andrew Brown Jr. in Elizabeth City by members of the Sheriff’s Department. House Speaker Moore formed a study committee to take a closer look at these issues. The Governor assembled his own study group, who had far more recommendations than are in this bill. Nonetheless, Democratic Attorney General Josh Stein considers this a step in the right direction. "One law alone can't improve every part of our criminal justice system, but this law will make our state safer and more just," Stein said in a news release.

Senate Bill 300 covers a lot of ground. Among other things, the bill would:

- Provide a process to have all LEO fingerprints entered in state and federal databases;
- Require the Commissions to create a database for law enforcement agencies of "critical incident information" which includes causing death or serious bodily injury;
- Require that written notification of Giglio material be reported to the appropriate law enforcement standards commission;
- Require the standards commission to notify law enforcement agencies and district attorneys of reported information when a law enforcement officer is transferring to that agency;
- Allow health care providers to transport the respondent in an involuntary commitment;
- Require that LEO receive training on mental health and wellness strategies;
- Require a psychological screening for LEO certification or employment;
- Create a study of the benefits of physical fitness testing throughout the year;
- Require law enforcement agencies to create an early warning system within the agency to monitor officer actions and behaviors including discharge of a firearm, use of force, vehicle collisions, and citizen complaints;
- Require Commissions to create a best practices recruitment guide to encourage diversity;

- Require the SBI to investigate deaths due to use of force by a law enforcement officer and deaths of inmates, when requested by the Governor, a law enforcement agency head, a district attorney, or the Commissioner of Prisons;
- Expand mandatory in-service training for LEO to include ethics, mental health topics, community policing, minority sensitivity, use of force, and the duty to intervene and report;
- Create a duty for LEO to intervene and report an excessive use of force by LEO;
- Reduce the time allowed before a first appearance in front of a judge from 96 to 72 hours and requires first appearances in misdemeanor cases;
- Increase penalties for resisting an officer if the resistance causes an officer to be injured;
- Implement a public awareness campaign on how to “interact lawfully with law enforcement,” and would
- Require a law enforcement agency that receives a request for disclosure of a recording of body worn camera footage which depicts a death or serious bodily injury to petition the court within three business days for a determination of how and when the footage shall be disclosed.

HOUSE BILL 805, PREVENT RIOTING AND CIVIL DISORDER

House Bill 805 was approved by the Senate on a party-line vote this week, 25-19. This measure would increase the punishment for inciting or taking part in a riot, and would require those arrested to be held for up to 48 hours without bond. This bill is in response to riots that broke out during last year’s racial justice protests in downtown Raleigh. "I saw firsthand the violence and destruction caused by rioters right here in downtown Raleigh last year," Speaker Moore said in a statement. "Our rights to free speech and assembly are precious and must be preserved, but never at the expense of harm to others." Sponsors of the bill have been clear that this is aimed at people “overtly participating” in a riot, and should not have a chilling effect on individuals’ ability to exercise their First Amendment right to protest, although critics of the bill aren’t so sure. House Bill 805 will go back to the House for a concurrence vote on changes made by the Senate.

MEDICAL MARIJUANA BILL

North Carolina’s medical marijuana bill has nearly reached the Senate floor, with one last stop in Senate Rules, a committee chaired by the primary sponsor of this bill. The bill has picked up new oversight language to set the stage for regulations, that according to bill sponsor Sen. Lee is “like nothing we’ve seen in the rest of the country.” Senate Bill 711, Compassionate Care Act, is a bipartisan bill that would allow marijuana use for a range of medical conditions to help end-of-life pain or nausea, and would set up a state network for supply and distribution of the drug. Although the bill has passed committees with a wide range of support from members on both sides of the aisle, there still has been some push-back from various members and advocacy groups along the way. In particular, critics have worried that this measure could slowly but surely lead to full legalization once we start down this path, a concern voiced by Sen. Hise in Senate Health this week. If passed as is, the bill would allow doctors to prescribe marijuana for the following conditions: cancer, epilepsy, HIV/AIDS, Amyotrophic lateral sclerosis (ALS), Crohn's disease, Sickle cell anemia, Parkinson's disease, Post-Traumatic Stress Disorder (PTSD), Multiple Sclerosis, Cachexia or wasting syndrome, severe or persistent nausea "related to end-of-life or hospice care" or in someone who is bedridden or homebound, a terminal illness when the patient's remaining life expectancy is less than six months, or any condition when the patient is in hospice care.

REDISTRICTING

The General Assembly will be hosting 13 public hearings as part of the redistricting process. Please see below for the hearing schedule:

Wednesday, September 8

Caldwell Community College and Technical Institute, 6:00 p.m.

Tuesday, September 14

Forsyth Technical Community College, 4:00 p.m.

Elizabeth City State University, 5:00 p.m.

Wednesday, September 15

Durham Technical Community College, 6:00 p.m.

Nash Community College, 5:00 p.m.

Thursday, September 16

Pitt Community College, 3:00 p.m.

Alamance Community College, 5:00 p.m.

Tuesday, September 21

Western Carolina University, 5:00 p.m.

Wednesday, September 22

Central Piedmont Community College, 3:00 p.m.

Thursday, September 23

Mitchell Community College (Iredell County Campus), 3:00 p.m.

Tuesday, September 28

UNC-Pembroke, 4:00 p.m.

Wednesday, September 29

UNC-Wilmington, 5:00 p.m.

Thursday, September 30

Fayetteville Technical Community College, 6:00 p.m.

HOUSE BILL 890, ABC OMNIBUS LEGISLATION

House Bill 890 has breezed through Senate Commerce and Insurance and Senate Rules Committees. This bill would make several changes to the laws concerning ABC stores, distilleries, and other alcohol-related statutes. Among other things, this bill would allow online orders from ABC stores, extend hours of operations for distilleries, expand the size of growlers from two liters to four, establish a Liquor Council, permit sale of two alcoholic beverages per person at college sporting events, eliminate the requirement on the town of Cary to issue alcoholic beverage licenses, and allow permits for free liquor tastings at festivals, farmers markets, fundraisers, and other events. If approved by the Senate, the bill will be returned to the House for a concurrence vote on Senate changes.

BILL UPDATES

HOUSE BILL 264, Emergency Powers Accountability Act, was amended in the Senate Judiciary Committee to:

- amend the proposed definition of the term *concurrence of Council of State* to specifically require the Governor to document the contact and response of each Council of State member on the same website the related executive order is published, and add that the Governor's release of the information must be prior to, or simultaneously with, exercising the stated authority if consensus is achieved; and
- amend the provisions regarding the expiration of a gubernatorial or legislative declaration of a state of emergency for statewide emergency areas to require concurrence of Council of State to continue (was, to extend) a declaration beyond its expiration seven days following issuance, provide for the declaration to expire 45 days after issuance with concurrence of Council of State, unless the NCGA extends the declaration by enactment of general law, and prohibit the Governor from issuing a substantially similar declaration arising from the same events that were the basis for an initial declaration that was not legislatively extended.

The bill as amended was approved by the Senate Judiciary and Rules Committee and will next be considered by the full Senate.

HOUSE BILL 320, Modernize Remote Business Access. Several amendments were made to this bill in the Senate Judiciary Committee, including provisions to:

- amend the definition of vote as it applies throughout the North Carolina Nonprofit Corporation Act by adding that the term includes authorization by written ballot and written consent through an electronic voting system;
- allow a corporation to conduct a transaction by electronic means, except as limited by its articles of incorporation or bylaws or by action of its board of directors;
- amend the statute that sets out emergency powers by providing that an emergency exists if a natural or man-made disaster impedes the ability of the corporation's board of directors or members to comply with one or more provisions of the corporation's bylaws (was, exists if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event); and
- allow a member's consent to action taken without a meeting to be in electronic form and delivered by electronic means, except as limited by the articles of incorporation or bylaws.

The bill as amended was approved by the Senate Judiciary and Rules Committees and will next be considered by the full Senate.

HOUSE BILL 324, Ensuring Dignity & Nondiscrimination/Schools, was amended in the Senate Education/Higher Education Committee to include provisions to ban the teaching of critical race theory in schools. The bill would:

- prohibit public schools from promoting that: (1) one race or sex is inherently superior to another race or sex; (2) an individual, solely by virtue of his or her race or sex, is inherently racist, sexist, or oppressive; (3) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (4) an individual's moral character is necessarily determined by his or her race or sex; (5) an individual, solely by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (6) any individual, solely by virtue of his or her

race or sex, should feel discomfort, guilt, anguish, or any other form of psychological distress; and (7) a meritocracy is inherently racist or sexist;

- amend the definition of *promote* to define the term more narrowly to only include compelling students, teachers, administrators, or other school employees to affirm or profess belief in the concepts described in the act; no longer includes (1) including described concepts in curricula, reading lists, seminars, workshops, trainings, or other educational or professional settings in a manner that could reasonably give rise to the appearance of official sponsorship, approval, or endorsement, or (2) contracting with, hiring, or otherwise engaging speakers, consultants, diversity trainers, and other persons for the purpose of advocating described concepts;
- include the concept that a meritocracy is inherently racist or sexist (replacing the concept that the belief that the United States is a meritocracy is an inherently racist or sexist belief, or that the United States was created by members of a particular race or sex for the purpose of oppressing members of another race or sex);
- add the following five concepts to those public school units are prohibited from promoting: (1) that the United States government should be violently overthrown; (2) that particular character traits, values, moral or ethical codes, privileges, or beliefs should be ascribed to a race or sex, or to an individual because of the individual's race or sex; (3) that the rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups; (4) that all Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including life, liberty, and the pursuit of happiness; and (5) that governments should deny to any person within the government's jurisdiction the equal protection of the law.

The bill as amended was approved by the House and Senate and was sent to the Governor for his signature on September 3, 2021. The Governor has 10 days to either sign or veto the bill or it will become law without his signature.

HOUSE BILL 398, Pistol Purchase Permit Repeal. This bill to repeal the State's pistol purchase permit system and remove the requirement for local sheriffs to sign off on handgun purchases for anyone who does not already have a concealed carry permit was vetoed by the Governor on August 30, 2021. Gov. Cooper's veto states that, "Gun permit laws reduce gun homicides and suicides and reduce the availability of guns for criminal activity. At a time of rising gun violence, we cannot afford to repeal a system that works to save lives. The legislature should focus on combating gun violence instead of making it easier for guns to end up in the wrong hands."

HOUSE RESOLUTION 973, Urge President and Congress on Afghanistan, would urge Congress and President Joe Biden to take additional action regarding the evacuation of American citizens, American troops, ally troops, and Afghan citizens and their families, who helped America fight in the War on Terror and have been properly vetted by the United States' Department of State, from Afghanistan. Introduced by the House Rules Committee. **After an amendment on the House floor to amend the long title, the bill was approved by the House.**

SENATE BILL 300, Criminal Justice Reform, was amended in the House Rules Committee to revise the provisions regarding law enforcement agency recordings to:

- require any portion of a recording in the custody of a law enforcement agency that depicts a death or serious bodily injury to be disclosed, if requested by submission of the required notarized form to a personal representative of the deceased, the injured individual, or a person representative on behalf of the injured individual, upon order of the court;

- require ordered disclosure to be done by the agency in a private setting and prohibit the person receiving disclosure from recording or copying the recording;
- require the portions relevant to the death or serious bodily injury to not be edited or redacted;
- amend the term *personal representative* to include NC licensed attorneys (was, attorneys);
- define *serious bodily injury as a* bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization;
- require the person requesting disclosure to submit a signed and notarized form with notice of specified prohibitions and criminal penalties;
- require the law enforcement agency to petition the superior court, at no cost, where any portion of the recording was made for issuance of an order regarding the disclosure requested, within three business days of receipt of the notarized form;
- require delivery of the copy of the petition and recording to the resident superior court judge or their designee and provide for continued confidentiality unless the court issues disclosure;
- direct the court to conduct an in-camera review of the recording and enter an order within seven business days of filing instructing the recording to be either immediately disclosed with or without editing or redaction, disclosed at a later date with or without editing or redaction, or not disclosed to the person(s) seeking disclosure;
- specify six factors the court must consider in determining whether the recording may be disclosed, including (1) if the recording contains confidential or exempt information and (2) if disclosure may harm the reputation or jeopardize the safety of a person;
- list persons required to be notified, or their designated representatives, and who must be given an opportunity to be heard at any proceeding;
- allow the court to order any conditions or restrictions on the disclosure that the court deems appropriate; and
- require petitions to be scheduled for hearing as soon as practicable, with the court required to issue an order within seven business days after filing, and subsequent proceedings to be accorded priority by trial and appellate courts and the court to schedule a subsequent hearing to be held within 20 days after issuance of an order to reconsider disclosure if disclosure is denied based on a determination that confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

The bill as amended was approved by the House Rules Committee and the full House. The Senate agreed with the changes made to the bill by the House and the bill was signed into law by the Governor on September 2, 2021.

SENATE BILL 636, Donor Privacy. This bill would provide that, except as specifically required by State or federal law or authorized by the person donating monies or other tangible goods, the identity of any person donating monies or other tangible goods to a nonprofit corporation is confidential. The bill also would allow the court to award reasonable attorneys' fees to the prevailing party and would prohibit a public servant from using or disclosing in any way confidential information gained in the course of the public servant's official activities or by reason of the public servant's official position. **The bill was approved by the House and the Senate but was vetoed by the Governor on September 3, 2021. In his veto, Governor Cooper states that, "This legislation is unnecessary and may limit transparency with political contributions."**

LEGISLATION ENACTED

SENATE BILL 316, Gen. Contractors/Plumbing/Electr. Exempt. This legislation provides that plumbing and heating contractors and electrical contractors are exempt from the general contractor licensure requirements of GS 87-1 if they are bidding and contracting directly with the owner of a public building project if all of the following apply:

- a licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules;
- the total amount of the general contracting work so classified does not exceed a percentage of the total bid price pursuant to rules established by the Board; and
- a licensee with the appropriate license to provide plumbing and heating or electrical performs all work that falls within those classifications.

The State Licensing Board for General Contractors; State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors; and State Board of Examiners of Electrical Contractors may adopt rules to implement these provisions. **Effective: October 1, 2021.**

SENATE BILL 733, 2021 Appointments Bill. This legislation appoints persons to various public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

- Edward L. Kerlin of Wake County is appointed to the 911 Board for a term expiring December 31, 2022.
- Mark B. Patterson of Cleveland County is appointed to the North Carolina Code Officials Qualification Board for a term expiring June 30, 2025.
- Satish S. Garimella of Wake County is appointed to the North Carolina Education and Workforce Innovation Commission for a term expiring June 30, 2024.
- Deanna Brena of Robeson County and James D. "Jim" Storie of Watauga County are appointed to the North Carolina Locksmith Licensing Board for terms beginning January 1, 2022, and expiring December 31, 2024.
- Roger M. Woods of Mecklenburg County is appointed to the North Carolina State Building Commission for a term expiring June 30, 2024.
- Robert A. "Bobby" Bryan of Wake County and the Honorable Robert "Bob" Rucho of Brunswick County are appointed to the Rules Review Commission for terms expiring June 30, 2023.
- **Stephen H. Wheeler of Cumberland County** and James Crabtree of Guilford County are appointed to the Alarm Systems Licensing Board for terms expiring June 30, 2024.
- Baker Glasgow of Wake County is appointed to the North Carolina State Building Commission for a term expiring June 30, 2024.
- Allen Kelly of Wake County is appointed to the North Carolina Code Officials Qualification Board for a term expiring June 30, 2025.
- Michelle P. Logan of Pitt County is appointed to the North Carolina Education and Workforce Innovation Commission for a term expiring June 30, 2022, to fill the unexpired term of Craig Hagood.
- William H. Morris of Harnett County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring July 1, 2025.
- Deborah M. Atkinson of Wake County is appointed to the North Carolina Locksmith Licensing Board for a term beginning January 1, 2022, and expiring December 31, 2024.

- Andrew P. Atkins of Wake County, the Honorable Barbara Jackson of Wake County, and Wayne R. Boyles, III, of Moore County are appointed to the Rules Review Commission for terms expiring June 30, 2023.

Effective: September 1, 2021, except as otherwise provided.

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