



LEGISLATIVE SCHEDULE

Last week the General Assembly completed their business for this calendar year... or so they are telling us. The plan is to hold skeleton sessions until December 10th, and return on December 30th if needed to address any court action regarding the state's new maps, or if there are any necessary technical corrections or vetoes to consider. This ends the second-longest session in state history. **It's the longest ever in calendar days**, but in legislative days it falls a hair short of the state's 2001 regular legislative session, in which business was conducted for 179 days. This session has had 165 legislative days.

CAMPAIGN ANNOUNCEMENTS

These long sessions (that seem to be growing longer) have taken its toll on legislators throughout the state. North Carolina is supposed to have a part-time legislature, but in five out of the past seven years long session has extended beyond its traditional early-summer adjournment. We're seeing the impact now, as there have been some unexpected retirement announcements from current members leading up to candidate filing for 2022, which begins on December 6th and ends on December 17th.

Rep. Brian Turner, a Democrat from Buncombe County, cited the increasing demands on legislators as part of the reason he will not be seeking re-election. "During my tenure I have seen our legislative session lengthen to the point where session in October, November, and December (well past our planned adjournment at the end of June) has become the norm." Rep. Turner said, "This is unsustainable." Democratic Rep. Susan Fisher, who also represents Buncombe County, announced her retirement this week, as well.

Sen. Chuck Edwards Announces Run for Congress

In more Western North Carolina news, Sen. Chuck Edwards (R) has officially announced his run for North Carolina's 14th Congressional District seat. This is the seat that Congressman Madison Cawthorn currently holds, but following the redraw of the maps, Cawthorn announced that he would be running in the newly drawn 13th district instead. The new 14th District will include a portion of Watauga County along with Avery, Mitchell, Yancey, Madison, Buncombe, Henderson, Haywood, Transylvania, Jackson, Swain, Macon, Graham, Clay, and Cherokee counties.



NORTH CAROLINA SECURITY AND LOW VOLTAGE ASSOCIATION



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Crowded Field for Retiring Congressman Butterfield's District 2 Seat

There are numerous familiar names that have thrown their hat into the ring for this predominantly eastern North Carolina district, following long-time Congressman G.K. Butterfield's announcement of his retirement. Among those running for the seat are former state senator turned U.S. Senate candidate, Erica Smith, state Senator Don Davis, and Rep. James Gailliard. This district covers the following 17 counties: Washington, Martin, Bertie, Hertford, Greene, Wayne (partly), Wilson, Edgecombe, Nash, Halifax, Franklin, Northampton, Warren, Vance, Granville, Person, and Caswell.

Rep. Charles Graham Seeks New Congressional Seat

This week, Rep. Charles Graham (D) announced he will no longer be running for Congress in the state's 9th Congressional District, which includes his current State House district. Instead, he will be running in the newly-redrawn 4th Congressional District, which includes Cumberland, Sampson, Harnett, Wayne, and Johnston counties. In a press release explaining his decision, Rep. Graham describes North Carolina as "the most gerrymandered state in the nation," and calls the 9th Congressional District "one of the most heavily gerrymandered districts" in the state. Assuming they win their respective primaries, this move will mean facing off against his old Republican colleague in the state House, Rep. John Szoka.

NC DHHS SECRETARY MANDY COHEN STEPPING DOWN

After nearly five years on the job, North Carolina's Secretary of Health and Human Services Dr. Mandy Cohen is stepping down. Cohen has been instrumental in the state's response to the COVID-19 pandemic. Her leadership during her tenure has garnered statewide and national attention. She was named 2020's "Tar Heel of the Year" by the Raleigh News & Observer and received the Leadership in Public Health Practice Award from Harvard University's T.H. Chan School of Public Health for her role in the state's pandemic response. "While it's hard to step away, it's the right time for me personally and the right time for our team," Cohen said during a news conference Tuesday afternoon. "It has been the honor of a lifetime to serve this state at such an important moment in history." Cohen plans to enjoy some downtime with her family and recharge before looking for a new opportunity.

Gov. Cooper has announced that he will nominate Chief Deputy Secretary Kody Kinsley to replace Cohen beginning January 1st. Kinsley has served as the state operation's lead for the COVID-19 pandemic response and has served in the department for nearly four years. Prior to joining the team, Kinsley worked for the federal government under both the Trump and Obama administrations. Although Kinsley does not have a medical degree, Cohen expressed her confidence in his ability to lead the department in her latest press conference. "So much of it is about the execution and the operations, and this is where Kody Kinsley shines, and I have leaned on him so much," Cohen said. The Governor's nomination of Kinsley will need to be confirmed by the state Senate. If confirmed, he will be the first openly gay cabinet secretary in North Carolina history.

REDISTRICTING

The state's new maps survived their first legal challenge. Superior Court Judge Graham Shirley denied a request to put the maps, and the upcoming primary, on hold. Critics of the new maps have argued that North Carolina cannot move forward with our elections under unfair district maps. That was part of the argument NAACP had in this case. The NAACP wanted to block the maps

from taking effect, and to move the state's primary from March to May to allow time to redraw them.

The Superior Court Judge made clear that he was not ruling on the legality of the maps themselves. Shirley explained that the NAACP was essentially asking him to block maps before they even became law, or potentially caused harm, and he doesn't have the power to declare maps unconstitutional. That would require the majority of a three-judge panel. "It essentially asks the court to interfere with the process of the General Assembly prior to the completion of that process, which would violate the principle of separation of powers," Shirley said.

Shirley is also a member of the three-judge panel that heard the other challenge to the new maps, filed by the North Carolina League of Conservation Voters and a group of voters represented by Democratic attorney Marc Elias, today. The judges ruled today to deny the plaintiffs' request for a preliminary injunction. This ruling allows for the challenged state and congressional maps to be used in the 2022 elections as lawsuits continue. Therefore, candidate filing will be unaffected and will begin as planned on Monday, and will run through December 17th.

SUPREME COURT STEPS IN

This week, the Supreme Court agreed to hear a case brought forward by Senate leader Phil Berger and Speaker Tim Moore on whether or not Republican state legislators are entitled to defend North Carolina's voter ID law instead of Democratic Attorney General Josh Stein, who they believe cannot adequately represent their interests. The justices granted the request on Wednesday to take up a federal appeals court ruling that denied the Republican Senate and House leaders' request to intervene in a suit the NAACP brought against the voter ID law. Attorney General Josh Stein has urged the justices to reject the petition given that the state is "already actively defending the challenged law." Berger and Moore argued that this case raises issues that are of "particular importance in the context of divided government and litigation involving controversial matters." The legal questions the justices have agreed to consider will largely be around who gets to defend the law when the executive branch is controlled by one party and the legislative branch is controlled by another. They will not be considering the validity of the underlying voter ID law passed by the legislature in 2018. Arguments in the case will likely be scheduled for the beginning of the new year, with a decision expected by June or July.

BILL UPDATES

HOUSE JOINT RESOLUTION 979, Adjournment Resolution, would adjourn the House of Representatives and the Senate on Friday, December 10, 2021, until Thursday, December 30, 2021, at 12:00 noon, and provide that, during the regular session that reconvenes on December 30, 2021, only the following matters may be considered:

- (1) Bills returned by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill;
- (2) Bills providing for the selection, appointment, or confirmation as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate;
- (3) Bills providing for action on gubernatorial nominations or appointments;

- (4) Bills concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials and containing no other matters;
- (5) Bills responding to actions related to litigation challenging the legality of legislative enactments, including litigation concerning the matters listed in subdivision (4) above, and containing no other matter;
- (6) Bills returned on or before Friday, December 10, 2021, to the house in which the bill originated for concurrence;
- (7) Adoption of conference reports for bills for which conferees had been appointed by both houses on or before Friday, December 10, 2021;
- (8) Bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes;
- (9) Simple resolutions addressing organizational matters of each respective house;
- (10) A joint resolution further adjourning the 2021 Regular Session or amending a joint resolution adjourning the 2021 Regular Session to a date certain.

Introduced by the House Rules Committee and approved by the House and the Senate. **Effective: November 30, 2021.**

SENATE BILL 326, Election Day Integrity Act. This bill that would amend the date by which mail-in absentee ballots must be received by the county board of elections in order to be counted, require publishing of the date absentee ballots are available and the deadline for requesting an absentee ballot, and provide for the reporting of ballots by the county boards of elections **was vetoed by Governor on December 2, 2021.** In his veto, Governor Cooper states, “The legislature ironically named this bill "The Election Day Integrity Act" when it actually does the opposite. Election integrity means counting every legal vote, but this bill virtually guarantees that some will go uncounted.”

SENATE BILL 329, Building Code Mod./Permit Exemption Amt. Mod., was amended in Conference Committee to establish a new limitation for minor activities for which permits are generally not required under the statute to make the subsection not applicable to work involving any changes to which the North Carolina Fire Prevention Code applies and make conforming changes to new GS 143-138(b21), which provides for permit exclusion for certain minor activities in commercial buildings or structures. The bill was also amended to add that, for purposes of determining applicability of permit exclusion for a commercial building or structure under GS 143-138(b21) or (b5), or GS 160D-1110(c), cost is the total cost of work, including all building additions, demolition, alterations, and repair work, occurring on the property within 12 consecutive months. In addition, the bill was amended to change the effective date of the proposed changes to statutes regarding NC State Building code enforcement and permits to December 15, 2021 (was, December 1, 2021), and to now provide for the expiration of the proposed changes on December 31, 2024. **The Conference Committee report was approved by the House and the Senate and has been sent to the Governor for his signature.**

SENATE BILL 473, Enhance Local Gov't Transparency, was amended on the House floor to:

- authorize the Local Government Commission to require the governing board of a local government or public authority that has been the subject of an investigative audit with findings by the State Auditor, upon receipt of the investigative report pursuant to State law, to select the certified public accountant to conduct the annual audit required by the statute;

- amend the new statute that would make it a Class H felony for a public officer or employee to financially benefit from their position to specify that the statute applies to elected officers of political subdivisions of the State (was, elected officials);
- add a requirement to the new Class 1 misdemeanor for local public officials participating in contracts benefits nonprofits with which they are associated, set forth in proposed GS 14-234.3, to require a knowing violation;
- amend the definition provided for public official under the new statute to now define public official to mean any individual who is elected or appointed to serve on a governing board of a political subdivision of the State, excluding an employee or independent contractor of that political subdivision of the State.

The bill as amended was approved by the full House and Senate and has been sent to the Governor for his signature.

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