



North Carolina Spirits Association

Legislative Report
October 25, 2019

After taking last week off, both chambers returned to Raleigh this week to continue their efforts to wrap up the legislative session. Senate Leader Phil Berger has asserted that the Senate will adjourn on October 31, regardless of whatever legislation is outstanding, but the House has not given an end date for session. The legislature has continued work on mini budgets as the budget stalemate with the Governor continues. While most state employees have received raises in various mini budgets, the legislature has yet to pass a raise for teachers and school employees. They have indicated that a bill is being worked on, but there is some disagreement on the path forward. The Senate has not voted on the budget override since receiving the bill from the House. However, the Senate has noticed that an override vote may take place on Monday, the 28th. Senator Berger has also indicated that the Senate may come back to Raleigh to vote on the budget override after the candidate filing period, so that Democrats can vote for the override without fear of a primary challenger.

The House and Senate have been at odds for months over the North Carolina Farm Act of 2019. The bill largely deals with updating industrial hemp regulations in response to a recent federal law change that expanded the legal uses and market for hemp. The issue in controversy between the House and Senate has been a ban on smokable hemp. Representative Jimmy Dixon has claimed that leaving smokable hemp legal would essentially be a backdoor way to legalize marijuana, since the two plants look and smell similar. The law enforcement community shares those concerns, claiming that smokable hemp would prevent them from getting probable cause based on the smell of marijuana. Senator Brent Jackson, the bill sponsor, has argued that there are tests to differentiate the two substances, and that banning smokable hemp will severely affect farmers' ability to market the crop, since the smokable products are one of the most profitable uses of the plant. The two sides reached a compromise this week in conference and agreed on a smokable hemp ban that will start on June 1, 2020. The bill also requires the Department of Agriculture and Consumer Services, the North Carolina Industrial Hemp Association, the North Carolina Hemp Commission, the State Bureau of Investigation, and other law enforcement agencies to study various issues related to smokable hemp and report to the Agriculture and Forestry Awareness Study Commission.

The Senate passed two finance bills this week that largely include provisions included in the vetoed budget. Senate Bill 557 and Senate Bill 578 have both passed the Senate and are now in the House Finance Committee. Senate Bill 557 increases the standard deduction for married couples filing jointly from \$20,000 to \$21,000, and from \$10,000 to \$10,750 for those filing single. The bill also clarifies the definition of a holding company for franchise tax implementation. It establishes market-based sourcing for companies calculating their sales factor for multi-state apportionment, and requires marketplace facilitators to collect and remit sales tax for third-party-sellers.

Senate Bill 578 reduces the franchise tax rate from \$1.50 to \$0.96 per \$1,000 of tax value over two years. The rate will be \$1.29 in 2021 and \$0.96 in 2022. Electric utility companies will continue to pay the \$1.50 rate until 2027. The bill also reduces the qualifying expense threshold for awards from the Film and Entertainment Grant Fund. This section also specifies that the grant is a binding agreement and not subject to appropriations by the General Assembly. Senate Bill 557 passed the Senate with large bipartisan support, while Senate Bill 578 passed on mainly party lines, as Democrats feared that the franchise tax cuts would jeopardize funding availability for future government needs.

The House Health Committee held a meeting this week to hear from the NC Department of Health and Human Services (DHHS), NC Healthcare Association (NCHA), and the NC Medical Society on the state's move to managed care Medicaid, known as Medicaid Transformation. DHHS Secretary Mandy Cohen noted slow sign-ups and the budget stalemate as challenges to meeting the February 2020 implementation date, but still insisted that the Department would be ready if they had a budget by November 15. The provider community seemed less optimistic that the February 2020 date was feasible, as they noted slow patient sign-ups, credentialing issues, and a lack of provider contracts in place. Without provider contracts in place, many Medicaid beneficiaries will not be able to select their doctor when enrolling, and credentialing issues will affect reimbursements. Lawmakers also expressed concern with the Department's aggressive timeline, with Republicans and Democrats both talking of delaying the implementation until July 2020. With the Senate planning to adjourn next week, and no budget in place, it is likely that the Department will be forced to delay.

The House Transportation Appropriations Committee took up a bill to address the current cash flow issues at the Department of Transportation (DOT). DOT announced earlier this year that a cash flow shortage will force them to lay off around 1,000 temporary employees and halt nearly a thousand projects. DOT cited increased costs due to hurricane-related road repairs and slow federal reimbursements for road damage costs. In an average year, DOT spends around \$65 million on storm damage road repair, however, this year they have spent nearly \$300 million. DOT claims they have spent \$311 million to date on the controversial Map Act lawsuits, which prevents landowners from developing property in areas where future highway projects are planned. The legislature has repealed the Map Act.

Representative John Torbett unveiled a bill that would spend \$360,200,000 from the General Fund to help DOT pay for Map Act claims. It also appropriates \$301,000,000 from the Savings Reserve to the Highway Fund to be used towards projects on the delayed list, but the Department would be required to repay the Savings Reserve by 2025. The bill contains another section that would make money in the Savings Reserve available for DOT in response to nationally declared disasters. The bill passed the Committee, but House and Senate budget writers have indicated that they are working on a competing approach that will be narrower and try to use more money currently at DOT to solve the problem. This alternative approach could also include additional oversight at DOT to avoid similar problems in the future.

The House and Senate adjourned on Thursday and will reconvene on Monday afternoon.

For more information about legislation described in the legislative reports, feel free to contact me at dferrell@nexsenpruet.com or (919) 573-7421. Information is also available on the General Assembly's website: www.ncleg.gov.

Prepared By: David P. Ferrell, Esq. - NCSA Lobbyist

**NEXSEN PRUET PLLC
150 Fayetteville Street, Suite 1140
Raleigh, North Carolina 27601
Telephone: (919) 573-7421
dferrell@nexsenpruet.com
www.nexsenpruet.com**