



North Carolina NOW Legislative Update—12 March 2017

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This Week

In light of the Trump administration's new interpretation that Title IX does not allow transgender people to use the restroom consistent with their gender identity, the U. S. Supreme Court refused to hear the Virginia case concerning this issue. The case was sent back to the lower court for reconsideration in light of the Trump administration's new rule. This non-decision will have the effect of making transgender bathroom rights a state-by-state issue. The issues can still be challenged in federal court on constitutional grounds, but losing Title IX is a serious blow to framing a successful lawsuit. The constitutionality of the new interpretation of Title IX could be challenged, but no suit on these grounds has been filed. This refusal of the Supreme Court to rule in this case will impact both the North Carolina lawsuits and the effort to repeal HB2. For more details, see: <http://www.newsobserver.com/news/nation-world/national/article136866748.html>

The bill to roll back non-partisan judicial elections to District and Superior Courts (HB100/SB136) has been ratified and sent to the Governor.

Senate leader Phil Berger has gone into the business of generating fake news. On his Facebook page, he alters the headlines of articles from the News and Observer to suit his ideological bias, a violation of the site's policy. See: <http://www.newsobserver.com/news/politics-government/state-politics/article137442113.html>

Governor Roy Cooper has been invited to deliver his State of the State message to a joint session of the House and Senate at 7:00 pm on 13 March 2017.

Lawsuit Updates

Since our Republican-dominated General Assembly has been passing law after law that is being or has been challenged in court, in addition to keeping up with new legislation introduced this session, I believe it is equally important to track the status of the various challenges to laws that have already been passed.

Vote ID/Voter Suppression Law

After a Fourth Circuit Court of Appeals panel ruled key provisions of a 2013 elections law unconstitutional (noting that it targeted African American voters

“with almost surgical precision”), Governor McCrory hired private attorneys to appeal the ruling to the U. S. Supreme Court on behalf of the state because then-Attorney General Roy Cooper refused to do so. Governor Cooper and Attorney General Josh Stein have dismissed these private attorneys and removed the state from the appeal of the law. This action will not end the suit because the State Board of Elections is also a party. Republican legislative leaders are crying “foul,” claiming that both the Governor and Attorney General have exceeded their authority in the matter. For more information, see: <http://www.newsobserver.com/news/politics-government/state-politics/article134017644.html>

Expanding Medicaid under the Affordable Care Act

Governor Cooper has emphasized that expanding Medicaid under the Affordable Care Act, which would provide medical insurance coverage for up to 500,000 North Carolinians, is one of his highest legislative priorities. He has already begun the process of expanding Medicaid even though the General Assembly passed a law in 2013 prohibiting a governor from doing so without approval from the legislature. The Governor maintains that this law is unconstitutional because it violates the separation of powers and unlawfully restricts the powers of the governor. Medicaid expansion is still before the courts as Governor Cooper and the Republicans in the General Assembly continue their fight. This article gives a good summary of the history of the issue and where it stands today: <https://nondoc.com/2017/01/24/medicaid-expansion-north-carolina/>

Repeal of HB2

The U. S. Supreme Court refused to hear the Virginia case concerning the right of a transgender student to use the school restroom that reflects his gender identity and sent the case back to the lower court. The lower court ruling relied heavily on the Obama administration's rule that Title IX legislation protected transgender rights in the matter of bathroom choice. However, the Trump administration rescinded the rule that allowed a choice. Advocates for repealing HB2 no longer can appeal to Title IX to support their case unless the constitutionality of the Trump administration's rule itself is successfully challenged. For more information, see: <http://www.newsobserver.com/news/nation-world/national/article136866748.html>

2017 Legislative Election on Hold

A Federal Appeals Court ordered new legislative districts be drawn by March 15 because 28 of our legislative districts are racially gerrymandered. New elections were ordered to be held for the redrawn districts in November, but the U. S. Supreme Court has now put the lower court order to redraw NC legislative districts and hold new elections in 2017 on hold. See:

<http://nccapitolconnection.com/2017/01/11/scotus-issues-stay-on-2017-legislative-elections/?gclid=CMBxj9n-5NECFdgBgQodgBwF9w>

Lawsuits filed as a result of the special session legislative power grab

Jack Nichols has written an excellent article summarizing and explaining the various lawsuits that have been filed in response to the legislative efforts to strip the governor of his traditional (some would argue constitutional) powers. Here is the link: www.newsobserver.com/opinion/op-ed/article129015444.html. He cautions that this list is probably not complete because there likely will be more suits to come.

BILL TRACKER

House Bills

HB62, Woman's Right to Know Addition/Ashley's Law: Would require doctors to give women false and misleading information about non-surgical abortions (the abortion pill); namely, that the procedure can be reversed halfway through. Also requires that fetal death be verified before completing the procedure. Referred to Health; if favorable Judiciary IV 02/09/2017

H63, Citizens Protection Act of 2017: An omnibus bill cracking down on undocumented people with economic sanctions leveled against "sanctuary" cities that do not comply with its provisions. Referred Judiciary II; if favorable Finance; if favorable Appropriations 3/07/2017

HB78, Repeal/Equality for All: Repeals HB2; includes a statewide anti-discrimination law identical to that contained in HB82, but also adds tougher penalties for crimes committed in restrooms or changing facilities intended for the opposite sex. Referred to Rules 02/13/2017

HB82, Equality for All/Repeal HB2: Has the support of LGBT advocacy organizations (including NC Equity and the Human Rights Campaign) and also has the most sponsors and co-sponsors (all Democrats). In addition to repealing HB2, this bill includes a comprehensive statewide non-discrimination law that includes a number of other categories, including sexual orientation, gender identification, and military veteran status, and would explicitly support bathroom access based on gender identity along with banning discrimination in housing, employment, and all public accommodations. Referred to Rules 2/13/2017

HB102/SB85: NC Adopt Equal Rights Amendment: Title says it all. Referred to Rules 02/16/2017

HB107, Common Sense Compromise to Repeal HB2: HB107: Backed by Governor Cooper and the Democratic leadership (House Democratic Leader Darren Jackson and Senate Minority Leader Dan Blue). In addition to repealing HB2, this bill would require local governments to give the legislature 30 days notice before passing non-discrimination ordinances and also includes tougher penalties for crimes committed in bathrooms. Referred to Rules 02/16/2017

HB125, Threatened Weapon Included in First Degree Rape: Adds the threat to use a weapon to the elements of first degree rape. Under the current law there must be an actual weapon used or displayed.

Referred to Judiciary II

02/20/2017

HB152, Hate Crimes/Increase Scope and Penalty: Expands the scope of the hate crimes law to include gender, sexual orientation, gender identity, or disability and increases the penalty.

Referred to Judiciary II

02/22/2017

HB163, Enact Right to Life at Conception Act: Would have the effect of outlawing abortion because although it would not “require” a woman to be prosecuted for terminating her pregnancy, doctors are not protected from prosecution at all. The bill does not specify the penalties for terminating a pregnancy nor does it explain how to determine the moment of conception.

Referred to Health; if favorable, Judiciary I

02/23/2017

HB186, Repeal HB2/State Nondiscrimination Policies: This bipartisan bill is worse than the “compromise” rejected during the special session late last year, and LGBT advocacy groups oppose it. It is a repeal of HB2 that would allow municipalities and other local governments to pass local ordinances provided that they did not regulate bathroom access in private facilities. In addition, if opponents are able to collect enough petition signatures, they could force a ballot referendum on any proposed ordinance. This bill is supported by various industries that have suffered economic harm from HB2, but Governor Cooper has expressed concern about the bill as written.

Referred to Rules

02/27/2017

HB238, Economic Security Act of 2017: An omnibus bill that is a progressive economic wish list. Would raise the state minimum wage to \$15/hr in phases over five years; mandate equal pay for equal work; require paid sick leave and family medical leave; increase the tipped minimum age; “ban the box” requiring people to disclose criminal histories on job applications; repeal public employee collective bargaining restrictions; and restore the earned income tax credit and tax credits for child care and certain employment related expenses.

Referred to Rules

03/06/2017

Senate Bills

SB25, Repeal HB2: This bill would repeal HB2 and restore the local human rights ordinances struck down by HB2. A “clean” bill with no other provisions.

Referred to Rules

02/15/2017

SB85/HB102, NC Adopt Equal Rights Amendment: Title says it all.
Referred to Rules 02/15/2017

SB109, Hate Crime against Emergency Worker: Makes assaulting an emergency responder, such as a law enforcement official, firefighter, or medical responder, a hate crime with enhanced penalties. Also includes making a false report in order to assault an emergency worker.
Referred to Rules 02/20/2017

SB 145, Government Immigration Compliance: Targets sanctuary cities and sanctuary public universities that do not enforce federal immigration laws by withholding state funding. Also prohibits local law enforcement from issuing ID to undocumented people.
Referred to Rules 03/01/2017

SB210, Living Wage by 2022: Would increase the state minimum wage to \$15/hr in steps over a five-year period and thereafter adjust the minimum wage annually based on increases in the US Consumer Price Index.
Referred to Rules 03/08/2017

Ratified Bills

HB100/SB136, Restore Partisan Elections/Sup and Dist Courts: Would roll back reforms that made these judicial races non-partisan and identify judicial candidates with party labels on the ballot.
RATIFIED 03/09/2017

SB136/HB100, Restore Partisan Election/Sup. And Dist. Court: See HB 100
RATIFIED 03/09/2017