



North Carolina NOW Legislative Update—19 March 2017

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This Week

Governor Cooper has issued his first veto. He vetoed the bill that would make elections of District and Superior Court judges partisan. Cooper, who led the fight to make judicial elections nonpartisan in 1990 when he was a state senator, said that judges should be elected based on their experience and ability, not on their political party. He also noted that candidates not affiliated with a party would have a very difficult time getting on the ballot because they would be required to get signatures of 2 percent of the voters in their districts. A three-fifths vote in both houses will be required to overturn the Governor's veto, which is the expected outcome because Republicans have veto-proof majorities in both houses.

Both the House and the Senate have turned their attention to their respective budgets. The budgets differ in details, but both houses are proposing plans that will benefit business and the wealthy through changes in the tax laws with the Senate plan more drastic than the plan being considered in the House. For more details and a comparison of the proposed plans, see:

<http://www.newsobserver.com/news/politics-government/state-politics/article138891468.html>

As protest at the legislative building increases, the General Assembly police are studying ways to increase security. This is an issue we need to keep an eye on: See <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article138206883.html>

A three-judge Superior Court panel has found the law that gave Republicans majorities on both local and the state elections board unconstitutional. The decision also ruled unconstitutional the law that made it harder to fire Republican political appointees. But the decision upheld the right of the state Senate to advice and consent (i.e., hold hearings and vote) on members of the Governor's cabinet. The decision will be appealed to the state Supreme Court.

ERA UPDATE

The United States stands poised to make women's rights history this month as Nevada is expected to ratify the Equal Rights Amendment (ERA) after more than three decades. ERA Bill SJR2 passed the Nevada Senate earlier this month. This past Tuesday, it passed out of the Nevada Assembly (House) Committee and goes next to the full floor of the Assembly (House) for a final vote. There are technical amendments for message transmittal and to add co-sponsors, but the

amendments are not expected to impact its substance or delay ratification. The final vote is anticipated to occur March 20th through March 22nd, the latter date coinciding with the original passage of the ERA bill by the US Congress in 1972.

In North Carolina, NC4ERA has issued Action Alerts for ERA bills S85 and H102, both of which were introduced into the NCGA on February 14th of this session and sent to their respective Rules Committees. Primary bill sponsors are Senator Floyd B. McKissick, Jr (S85) and Representative Carla Cunningham (H102). All ERA advocates are asked to contact the Rules Committee members and urge that the bills be heard and passed favorably out of Committee. For messaging and contact information for committee members visit NC4ERA: A Project of NC NOW <http://www.nc4era.org/alerts.html>, Marena Groll, NC4ERA, Chair info@nc4era.org

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

A three-judge panel of the Superior Court has found the law that gave Republicans majorities on both the local and state elections boards unconstitutional. See: <http://electionlawblog.org/?p=91663>

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

HB303, Voter Freedom Act (SB228): Makes needed reforms to the process of challenging a person's eligibility to vote to prevent voter intimidation through the threat of a challenge and to stop specious challenges.

Referred to Rules

03/13/2017

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

SB 228, Voter Freedom Act (HB303): See HB 303
Referred to Rules 03/14/2017

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
VETOED 03/16/2017

SB136/HB100, Restore Partisan Election/Sup. And Dist. Court: See HB 100 description.
RATIFIED 03/09/2017
VETOED 03/16/2017