



## INTRODUCTION

The big news around Raleigh last week was the long-awaited State Board of Elections hearing on the controversy surrounding the election in the 9<sup>th</sup> Congressional District. After months of investigation into fraud and four days of testimony, Republican Mark Harris announced that he believed a new election should take place. The Board unanimously ordered the new election, with a timeframe to be decided later. This will not be the end of the matter though as criminal investigations are on-going and new information was released during the hearing about what the campaign and the candidate did or did not know about the absentee ballot program.

There were some fireworks at the General Assembly as well, as health care shifted to a new focus— the State Health Plan. Treasurer Folwell and the North Carolina Healthcare Association testified before the House Health Committee on Folwell’s plan to save more than \$300 million annually from the State Health Plan by cutting provider reimbursement rates.

Under the plan, which would go into effect on January 1, 2020 without legislative action, the State Health Plan would reimburse providers at 177 percent of Medicare’s payment rate for the same service. The hearing, which became contentious at times, focused on [Folwell’s goal to reduce rising costs and increase transparency](#). At the same time, [hospital leadership warned that the changes would amount to significant cuts to hospitals](#), especially those in rural parts of the state, that are already under budget pressures. Some hospital executives suggested that the Plan should focus instead on “value-based care,” which rewards providers for keeping patients healthy. This debate is likely to stay in the forefront, and most anticipate that legislators will get involved and there will be legislation filed about the State Health Plan.

Another contentious issue brewing in the General Assembly is the potential modernization of North Carolina’s Alcohol and Beverage Control (ABC) laws. North Carolina is one of just 17 states that directly control the sale and distribution of spirits. Recent polls have shown that about half of North Carolinians support privatization of the system, and a recent [study by the Program Evaluation Division](#) also brought attention to the issue. Several pieces of legislation have been filed dealing with the issue, with likely more to come. Possible changes include



## APARTMENT ASSOCIATION OF NORTH CAROLINA



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forcing local ABC boards in the same county to merge, allowing local governments the option to open ABC stores on Sunday, offering free in-store liquor tastings and allowing alcohol delivery. Rep. Chuck McGrady (R-Henderson) has signaled his intention to introduce legislation to privatize the ABC system.

Last week the Fiscal Research Division and the Office of State Budget and Management released their [consensus revenue forecast and state budget outlook](#). The forecast predicts overall revenues for the fiscal year ending June 30 will be \$151 million higher than anticipated when the current year's budget was approved, representing less than 1 percent of the state's \$24 billion budget. The forecast predicts modest growth in state revenues for the next three fiscal years and continued economic growth for the state. The forecast warned about the impact of major budget pressures in the coming years, including K-12 enrollment, higher education enrollment, the state retirement system, the State Health Plan and Medicaid.

## **BILLS OF INTEREST**

HOUSE BILL 104, Litter Definition Clarification, would:

- change the current law, which classifies littering offenses ranging from a Class 3 misdemeanor to a Class 1 felony;
- define yard waste and add yard waste to the definition of litter;
- exempt yard waste placed on or near a curb for collection by a yard waste collection service pursuant to local ordinances from the statute's littering prohibitions; and
- apply to all offenses committed on or after December 1, 2019.

**Introduced by Representative Torbett and referred to the House State and Local Government Committee.**

HOUSE BILL 110, Protect Religious Meeting Places, would amend the statute that prohibits weapons on campus or other educational property to add a new subsection that provides that the statute does not apply to a person with a valid concealed handgun permit, or a person who is exempt from obtaining a permit, if: (1) the person possesses and carries a handgun on educational property other than an institution of higher education or a nonpublic, postsecondary educational institution; (2) the educational property is the location of both a school and a building that is a place of religious worship; (3) the weapon is a handgun; and (4) the handgun is only possessed and carried on educational property outside of the school operating hours. The bill would: (1) provide that, for these purposes, property owned by a local board of education or county commission may not be construed as a building that is a place of religious worship; and (2) define *school operating hours* as "Any time when curricular or extracurricular activities are taking place on the premises and any time when the premises are being used for educational, instructional, or school-sponsored activities." **Introduced by Representative R. Turner and referred to the House Judiciary Committee.**

HOUSE BILL 126, Organ & Tissue Donation/Heart Heroes, would include tissue donation as part of the driver's license donor authorization. **Introduced by Representatives Murphy, Dobson, Potts, and Sasser and referred to the House Health Committee.**

HOUSE BILL 130, Allow Game Nights, is identical to Senate Bill 66, summarized in the February 20, 2019, Legislative Report. **Introduced by Representatives Boles, Lucas, Saine, and Floyd and referred to the House Alcoholic Beverage Control Committee.**

HOUSE BILL 132, Dismissal or Not Guilty/Automatic Expunction, is an identical “companion” bill to Senate Bill 82, summarized below in this Legislative Report. **Introduced by Representatives Morey, Rogers, Richardson, and Reives and referred to the House Judiciary Committee.**

HOUSE BILL 135, Government Immigration Compliance, would:

- repeal law enforcement authority to use prohibited forms of identification;
- create additional incentives for local governments to comply with state laws related to immigration;
- create a private cause of action to remedy local government noncompliance with state immigration laws;
- prohibit UNC constituent institutions from becoming sanctuary universities; and
- direct the Department of Public Safety to enter into a Memorandum of Agreement with the Department of Homeland Security.

**Introduced by Representatives Cleveland, Presnell, Speciale, and Brody and referred to the House State and Government Committee.**

HOUSE BILL 140, The FAIR Act, would amend the State Constitution, if approved by a majority of voters at the primary election in March 2020, to provide for nonpartisan criteria and a nonpartisan process for redistricting. This is one of many bills we expect to be filed on the topic this year, but this one has bi-partisan support so we will watch closely. **Introduced by Representatives McGrady, Reives, Stevens, and Hardister and referred to the House Redistricting Committee.**

HOUSE BILL 143, Universal Identification/Biometrics Study, would direct the Legislative Research Commission (LRC) to study the feasibility of requiring individuals' participation in a universal identification program to secure all State-related transactions, including whether any existing State identification system, database, or network would be appropriate to add biometric identification as an additional authentication method. The LRC would:

- examine the current existing universal identification systems in the State, and determine whether current systems would be suitable for adaptation and improvement;
- identify which State agency would be appropriate for the development, maintenance, and implementation of a universal identification system;
- determine whether the implementation of a universal identification system would comply with higher education and medical information privacy laws;
- determine the financial impacts of the implementation of a universal identification system and ongoing costs, with and without biometric authentication; and
- develop a projected timeline for implementation.

The LRC would report its findings, including any proposed legislation, to the 2020 Regular Session of the 2019 General Assembly when it convenes. **Introduced by Representatives Terry, Beasley, and Alexander and referred to the House State and Local Government Committee.**

HOUSE BILL 144, Hands Free NC, would prohibit a person from operating a motor vehicle under any of the following circumstances:

- with a wireless communication device in the person's hand;
- while physically holding or supporting a wireless communication device with the person's body;
- while watching a video or movie or communicating by video on a wireless communication device; and
- while texting on a wireless communication device.

Exceptions would be provided for:

- the use of a wireless communication device affixed, mounted, or installed in a motor vehicle to: (1) initiate, answer, or terminate a call by touching a single button, if the person is 18 years or older; or (2) follow the route recommended by an electronic navigation system so long as all address information is entered before operating the vehicle;
- the use of a wireless communication device to communicate an emergency situation to any of the following: an emergency response operator; a publicly or privately-owned ambulance company or service; a hospital; a fire department; or a law enforcement agency;
- the use of a wireless communication device by any of the following while in the performance of official duties: a law enforcement officer; a member of a fire department; the operator of a public or private ambulance; or a first responder responsible for the protection and preservation of life, property, evidence, or the environment.

Violations would be as follows:

- first offense - a person with no prior offense, or no offense in the prior 36 months, would be guilty of an infraction, a fine of \$100, and no insurance points;
- second offense – a person guilty of a first offense occurring within the previous 36 months would be guilty of an infraction, a fine of \$150, and one insurance point under the Safe Driver Incentive Plan;
- third and subsequent offenses – a person guilty of two or more offenses occurring within the previous 36 months would be guilty of an infraction, a fine \$200, and two insurance points.

The bill would prohibit local governments from passing an ordinance regulating the use of a wireless communication device while operating a motor vehicle. **Introduced by Representatives Corbin, Torbett, Hardister, and Pierce and referred to the House Transportation Committee.**

HOUSE BILL 146, Living Wage By 2024, would increase the State's minimum wage in phases until 2024 when the wage would be adjusted automatically each year by increases in the cost of living, as follows: January 1, 2020 - \$8.80 per hour; January 1, 2021 - \$10.35 per hour; January 1, 2022 - \$12 per hour; January 1, 2023 - \$13.50 per hour; and January 1, 2024 - \$15 per hour. **Introduced by Representatives Farmer-Butterfield and K. Smith and referred to the House Finance Committee.**

SENATE BILL 75, Restore Ct. of Appeals Membership, would repeal a law passed in 2017, restoring the number of judges on the NC Court of Appeals to fifteen and eliminating language that would require the abolition of vacant seats on the Court of Appeals until the Court is decreased to twelve. **Introduced by Senators Hise, Daniel, and Bishop. The bill was approved by the Senate Judiciary and Rules Committees and the Senate, and has been referred to the House Rules Committee.**

NOTE: This measure, if passed, should end a lawsuit filed by Democratic Governor Roy Cooper challenging the 2017 law. Bill sponsors have pointed to resolving this lawsuit as their reasoning behind the bill, but the recent shifting in judicial seats could have influenced these legislators as well. The North Carolina Supreme Court's Chief Justice Mark Martin recently resigned, leaving Gov. Cooper with the task of appointing a new Chief Justice. Had Gov. Cooper followed tradition, Senior Associate Justice Paul Newby, a Republican, would have been promoted to Chief Justice. Instead, Gov. Cooper appointed Justice Cheri Beasley, a Democratic Justice with less Supreme Court experience than Newby. This appointment breaks new ground as Justice Cheri Beasley will be the first African American woman to ever lead the North Carolina Supreme Court. Newby released a statement expressing his disappointment in the Governor's selection and expressed his intent to run for the seat in 2020. "Sadly, today Governor Cooper decided to place raw, partisan politics over a non-partisan judiciary by rejecting the time-tested tradition of naming the Senior Associate Justice as Chief Justice." Newby said, and he noted that only once since 1900 has a governor "disonored the tradition of appointing the Court's most senior Justice to that position." Judge Phil Berger Jr., a North Carolina Court of Appeals Judge and son of Senate President Pro Tempore Phil Berger, has expressed interest in running for Newby's Supreme Court seat in 2020. Republican Judge Robert Hunter Jr. will reach the mandatory retirement age of 72 at the end of February, which would under current law reduce the Court of Appeals to 14 judges – eight Republicans and six Democrats – if S75 has not been enacted by then.

SENATE BILL 81, Litter Definition Clarification, is identical to House Bill 104, summarized above in this Legislative Report. **Introduced by Senators T. Alexander and referred to the Senate Rules Committee.**

SENATE BILL 82, Dismissal or Not Guilty/Automatic Expunction, would:

- change current law, which allows for individuals who have had charges dismissed or have been found not guilty to petition the court for expunction of records, and modifies the statute to require the prosecutor or other judicial officer who ordered dismissal of the charges to provide notice to the court and mandate the court to order the expunction;
- modify the statute to mandate the court that enters findings of not responsible for the charges or not guilty to order the expunction of any entries relating to the specific case from all official records;
- require the court to order the expunction of DNA records when the person's case has been dismissed instead of the person having to apply for the expunction of the records.
- make further conforming changes to accommodate the expunction of such records;
- change current law, which makes specified confidential files under the current statute electronically available to prosecutors if the criminal record was expunged on or after July 1, 2018, to include all expunctions that would be provided under this amended statute;
- instruct the Administrative Office of the Courts to revise or create necessary forms to reflect these changes and
- implement all changes by December 1, 2019.

**Introduced by Senators McKissick, Daniel, and Britt and referred to the Senate Rules Committee.**

SENATE BILL 83, Winston-Salem/Real Property Conveyances, is identical to House Bill 59, summarized in the February 20, 2019, Legislative Report. **Introduced by Senators Krawiec and Lowe and referred to the Senate Rules Committee.**

SENATE BILL 86, Small Business Healthcare Act, would seek to create greater opportunities for small employers to provide employees access to health insurance by:

- amending the MEWA (multiple employer welfare arrangement) licensure provisions to:
  - require a MEWA to have a constitution or bylaws and have been organized and maintained in good faith for a continuous period of at least two years for purposes other than obtaining or providing insurance (currently, a MEWA must be established by a trade association, industry association, or professional association of employers or professionals, having a constitution or bylaws, and having been organized and maintained in good faith for a continuous period of five years for purposes other than obtaining or providing insurance);
  - require the MEWA to have at least one substantial business purpose unrelated to offering and providing health care coverage or other employee benefits to its employer members and their employees, and requirement to have a commonality of interest;
  - provide that a MEWA will be treated as having a commonality of interest if it is established by employers in the same trade, industry, business, or profession, or by employers in the same region or metro area contiguous to the State and including the State;
  - amend the definition of MEWA to specify that the term *employer* includes sole proprietors and self-employed workers;
- amending the requirements for group accident and health insurance policies and contracts to:
  - specify that, as used in the provisions concerning premium payment under a policy issued to an employer or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business whereby the employer is the policyholder and the policy covers employees or agents for amounts of insurance based on a plan, *employer* includes a MEWA that is classified by the US Department of Labor as a bona fide group or association under either the specified section of the Employee Retirement Income Security Act or any US Department of Labor advisory opinion, as described;
  - require an association, for a policy issued to an association or to a trust or trustees of a fund established, created, or maintained for the benefit of members of one or more associations, to have 500 persons at the outset, have been organized and maintained in good faith for purposes other than obtaining insurance, and have been in active existence for at least two years (currently, at least five years);
  - delete the language from the term *employer* which defined the term to include only employers of two or more employees;
- prohibiting insurers from providing stop loss, catastrophic, or reinsurance coverage to small employers who employ fewer than 12 eligible employees (currently, fewer than 26 eligible employees) that does not comply with the underwriting, rating, and other applicable standards of the Small Employer Group Health Coverage Reform Act.

**Introduced by Senators Bishop, Krawiec, and Edwards and referred to the Senate Rules Committee.**

SENATE BILL 88, Electrician Requirements for Certain Orgs, would:

- add further specificity to existing exceptions for a person installing, maintaining, altering, or repairing electric work, wiring, devices, appliances, or equipment upon the person's own property when for the person's own benefit and when the property is not at the time intended for rent, lease, or sale;
- further specify that this exception does not limit the abilities of local boards of education, hospitals, or nonprofit organizations from employing licensed personnel to perform maintenance and repairs on property owned by a local board of education, hospital, or nonprofit organization;
- specify that the exceptions laid out in statute does not inhibit the abilities of a licensee who is regularly employed by a local board of education to maintain an individual license or to contract and/or perform services at the direction of a local board of education, hospital, or nonprofit organization for any building or facility owned by these entities, regardless of whether all or a portion of the building is being leased or otherwise provided for by another entity; and
- explicitly authorize local boards of education to employ licensed electrical contractors pursuant to the statute.

**Introduced by Senators Sawyer and T. Alexander and referred to the Senate Rules Committee.**

SENATE BILL 90, Protect Religious Meeting Places, is identical to House Bill 110, summarized above in this Legislative Report. **Introduced by Senators Daniel, Britt and Johnson and referred to the Senate Rules Committee.**

SENATE BILL 99, Allow Durham Pub. Schools to Provide Housing, is identical to House Bill 31, summarized in the February 12, 2019, Legislative Report. **Introduced by Senators McKissick, Woodard and referred to the Senate Rules Committee.**

SENATE BILL 104, National Popular Vote Interstate Compact, would establish North Carolina as a member to the "Agreement Among the States to Elect the President by National Popular Vote" where each member state will conduct a statewide popular election for President and Vice President of the United States. The agreement would take effect when states cumulatively possessing a majority of the electoral votes have enacted the agreement in substantially the same form and the enactments have taken effect in each state. The bill includes provisions establishing the process for appointing presidential electors in member states, governing withdrawal from the agreement, and for termination of the agreement if the electoral college is abolished. **Introduced by Senators Nickel, Chaudhuri, and Waddell and referred to the Senate Rules Committee.**

SENATE BILL 113, DMV/Emergency Contact Information, would require the Division of Motor Vehicles to: (1) include on applications for issuance and renewal of drivers' licenses an option for the applicant to provide emergency contact information; and (2) develop a system for adding or updating the information in person, online, or by mail. Emergency contact information would not be considered a public record. In the event of an emergency situation, the Division would make emergency contact information in customer records electronically available to a law enforcement officer who in the exercise of his/her official duties requires assistance in reaching an emergency contact. In the absence of gross negligence or willful misconduct, the Division, its employees, and law enforcement officers would be immune from any civil or criminal liability in connection with the maintenance and use of emergency contact information voluntarily provided for use in an

emergency situation. **Introduced by Senator J. Davis and referred to the Senate Transportation Committee.**

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