



## INTRODUCTION

It's been a busy time at the General Assembly as hundreds of bills were rushed to be filed to meet the Senate's bill filing deadline on April 2<sup>nd</sup>. The House will have a few more weeks to prepare for their bill filing deadline on Tuesday, April 16<sup>th</sup> (bills not related to the budget). Once both chambers' deadlines have passed, legislators will turn their attention to meeting the May 9<sup>th</sup> crossover date, by which time bills must be passed by the chamber in which it was introduced in order to remain eligible for the remainder of the 2-year session, unless the bill has a fiscal impact on the State.

### NC GOP Chairman Indicted

North Carolina Republican Party Chairman Robin Hayes was indicted by a federal grand jury on conspiracy and bribery charges, for allegedly attempting to influence NC Insurance Commissioner Mike Causey. The indictment accuses the former congressman of funneling bribe money to Causey's re-election campaign and of making false statements to the FBI.

On Monday, Hayes announced that he would not be seeking another term as NC GOP chairman due to health concerns. His indictment was brought on through an investigation into a major political donor, Greg Lindberg. Lindberg has given millions of dollars to Republican groups, and has given significantly to Democrats as well.

### Legislative Spring Break

The House has voted to take a break from session from April 18<sup>th</sup> - 24<sup>th</sup>. This was a change from the original proposed break of April 22-26, which the Senate is still expected to take. If the two chambers take different spring breaks it would require that much of the building staff, lobbyists and staff cover the days only one chamber is in session, limiting their break to two days. While we can hope the two chambers decide to align their schedules, those who have experienced a few legislative sessions have learned not to expect it to be so just because it is logical and efficient. Regardless of what overlap (if any) the chambers choose, we will continue to be on hand for each session, even if it's just one chamber.



## APARTMENT ASSOCIATION OF NORTH CAROLINA



THIS LEGISLATIVE REPORT IS A  
PUBLICATION OF KOCHANEK LAW GROUP  
AND IS A MEMBER BENEFIT OF AANC.  
ANY USE OR REPRODUCTION OF THIS  
REPORT IS LIMITED TO AANC  
AND ITS MEMBERS.

FOR MORE INFORMATION:

Colleen Kochanek  
Alexander C. Miller  
P.O. Box 1038  
Wake Forest, NC 27588  
919.747.9988  
[colleen@kochaneklawgroup.com](mailto:colleen@kochaneklawgroup.com)  
[alex@alexmillernc.com](mailto:alex@alexmillernc.com)  
[www.kochaneklawgroup.com](http://www.kochaneklawgroup.com)

## BILLS OF INTEREST

HOUSE BILL 446, Civil Pro./Punitive Damages/Change of Venue, would require an action in which punitive damages are requested to be tried in the county where the party from whom punitive damages are sought resides or has its principal office. However, the action would be tried in the county where the cause of action arose if punitive damages are sought: (1) from more than one party and those parties' residences or principal office or offices are in more than one county; or (2) by both plaintiff and defendant. **Introduced by Representatives Zachary, Strickland, and Dixon and referred to the House Judiciary Committee.**

HOUSE BILL 454, Allow ERPOs to Save Lives & Prevent Suicides, would allow a family or household member or a law enforcement officer or agency to file a petition for an Extreme Risk Protection Order (ERPO) to temporarily restrict a person's access to firearms in situations where a person poses a significant danger of harming themselves or others by possessing a firearm. The bill would:

- require the petition to include all of the following:
    - an allegation, including supporting facts, that the respondent poses a danger of physical harm to self or others by having in his or her care, custody, possession, ownership, or control a firearm. If the petitioner is seeking an ex parte ERPO, the petition would include an allegation that the respondent poses an imminent danger of physical harm to self or others by having in his or her care, custody, possession, ownership, or control a firearm;
    - an identification, to the best of the petitioner's knowledge, of the number, types, and locations of firearms under the respondent's custody or control;
    - an identification of any existing protection order under State law governing the respondent;
    - an identification of any pending lawsuits, complaints, petitions, or other 36 actions between the petitioner and the respondent;
  - require an ERPO issued to include:
    - a statement of the grounds supporting issuance of the ERPO;
    - the date and time the ERPO was issued and when it expires;
    - whether a mental health evaluation or chemical dependency evaluation of the respondent is required;
    - the address of the court in which any responsive pleading may be filed
    - a description of the requirements for relinquishment and retrieval of any firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, ownership, or control of the respondent;
    - a description of the process for seeking termination of the ERPO;
    - a statement that a violation of the ERPO is punishable as a Class A1 misdemeanor;
  - require the court, upon issuance of an ERPO, including an ex parte ERPO, to order the respondent to surrender to the sheriff all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the respondent;
  - require the court to consider whether a mental health evaluation or chemical dependency evaluation of the respondent is appropriate and may order the respondent to undergo evaluation if appropriate;
  - require the court, upon receipt of a petition for an ex parte ERPO, to hold a hearing in person on the day the petition is filed or the judicial day immediately following the day the petition is filed;
-

- allow the court, if it clearly appears to the court from specific facts shown that the respondent poses an imminent danger of causing physical harm to self or others by having in his or her custody a firearm, to issue an ex parte ERPO before a hearing for a full ERPO and without evidence of service of process or notice;
- include provisions regarding the surrender, retrieval, and disposal of firearms;
- include provisions regarding the duration and renewal of ERPOs;
- allow a respondent to request the termination of a full ERPO by filing a motion with the court;
- require the clerk of court to deliver on the same day that an ERPO is issued, a certified copy of that ERPO to the sheriff of the county in which the ERPO is issued, and the sheriff to provide for prompt entry of the ERPO into the National Crime Information Center registry and to provide for access of such orders to the courts on a 24-hour-a-day basis;
- make it a Class A1 misdemeanor for any person to possess, purchase, or receive, or attempt to possess, purchase, or receive, a firearm, ammunition, or permits to purchase or carry concealed firearms for so long as an effective ERPO is entered against that person;
- make it a Class 2 misdemeanor for any person to knowingly make a false statement when petitioning for an ERPO, and for any person to knowingly make a false statement to law enforcement that an ERPO remains in effect; and
- include petitioners for an ERPO in the Address Confidentiality Program.

**Introduced by Representatives Morey, Clark, Harrison, and Martin and referred to the House Judiciary Committee.**

HOUSE BILL 456, Permit Req'd/Assault Weapon & Long Gun, would require a permit for the purchase of an assault weapon or long gun. **Introduced by Representatives Clark, Morey, and Harrison and referred to the House Judiciary Committee.**

HOUSE BILL 462, Judicial District 19D - Hoke County, would require one of the four district court judges in District 19D (Hoke and Moore counties) to be a resident of Hoke County and allow the other three to be residents of either Hoke or Moore counties. **Introduced by Senator Clark and referred to the Senate Rules Committee.**

HOUSE BILL 464, Small Business Health Care Act, would enact a new Article 50A, Association Health Plans to:

- require all association health plans delivered or issued for delivery in the State to be in compliance with GS Chapter 58 (contains insurer requirements including prudent layperson), regardless of the domicile of the sponsoring association receiving the policy;
- define *associated health plan* as a fully insured group health insurance policy sponsored by a sponsoring association and offered or sold to members of the sponsoring association, to provide health benefits;
- define *sponsoring association* as an association comprised of one or more employer members that provides an association health plan to its employer members; if it meets the other requirements, a sponsoring association is treated as an employer of a single group health plan;
- define *employer member* as a sole proprietorship, or an individual or entity employing at least one person, which is a member of a sponsoring association;
- prohibit an insurer from delivering or issuing for delivery an association health plan to a sponsoring association unless the sponsoring association meets specified requirements, including: (1) having at least one substantial business purpose unrelated to the offering and

providing of health insurance or other employee benefits to its employer members and their employees; (2) having registered as a multiple employer welfare arrangement (MEWA) with the Insurance Commissioner; and (3) having a commonality of interest shared among the employer members based on either the establishment by employer members in the same trade/industry/business/profession, or by employer members as a statewide association in an area that does not exceed State boundaries;

- include employer membership requirements to obtain coverage under a plan, requiring the employer member to be a member of the sponsoring association and either be domiciled or have a principal headquarters or administrative office in the State, or be licensed by the State agency for the employer member's industry, trade, or profession;
- limit the provision of coverage to eligible employees and individuals paid on an IRS Form 1099, and require employer members to commit to remaining members of the sponsoring association and receiving and paying for benefits under the plan for a period of at least two years;
- include criteria a plan must meet, including that the plan can neither be offered nor advertised to the public generally, and require the plan to provide a level of coverage that is at least 60% of the actuarial value of allowed costs for covered benefits;
- require a sponsoring association to meet certain solvency requirements before it can be delivered or issued for delivery of a plan;
- prohibit a plan or sponsoring association from conditioning eligibility for coverage on any health-status factor, including claims experience, evidence of insurability, and disability;
- allow a plan or sponsoring association to make rating distinctions among its employer members on factors other than health-status factors, if the rating distinction is not directed at individual beneficiaries or based on a health factor specifically identified;
- prohibit plans from imposing limitations based on preexisting conditions;
- prohibit a plan or sponsoring association from requiring any individual, as a condition of initial or continued enrollment in the plan, to pay a premium or contribution greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health-status factor in relation to the individual or to an individual enrolled in the plan as a dependent of the individual;
- clarify that the statute does not restrict the amount an insurer can charge for coverage under a plan, or prevent an insurer from establishing premium discounts or modifying otherwise applicable co-payments or deductibles for an association health plan in return for adherence to programs of health promotion and disease prevention; and
- specify that the Article does not preclude a sponsoring association from engaging a broker or agent licensed to sell insurance in the State for purposes of reviewing and considering any plan.

**Introduced by Representatives K. Hall, Grange, Dobson, and B. Turner and referred to the House Insurance Committee.**

HOUSE BILL 487, CC Short-Term Workforce Training Funds, would appropriate over \$12 million in additional recurring funds for the 2019-2020 fiscal year from the General Fund to the Community Colleges System Office for short-term workforce training continuing education programs that lead to a State or industry-recognized credential. **Introduced by Representatives Dobson, Howard, McElraft, and Carney and referred to the Committee on Education - Community Colleges. If favorable to the Committee on Appropriations, Education, then to full Appropriations, and then to the House Rules Committee.**

HOUSE BILL 493, Abuse & Neglect Resources, would direct the State Board of Education to adopt a policy to be implemented by local boards of education, charter schools, and regional schools to provide students in grades six through 12 with information on child abuse and neglect, including age-appropriate information on sexual abuse. Information would be provided in a document provided to all students at the beginning of each school year and on a display posted in visible, high-traffic areas throughout each school. The document and display would include, at a minimum, the following information:

- likely warning signs indicating that a child may be a victim of abuse or neglect, including age-appropriate information on sexual abuse;
- the telephone number used for reporting abuse and neglect to the department of social services in the county in which the school is located;
- a statement that information reported will be held in the strictest confidence, to the extent permitted by law; and
- available resources, including the anonymous safety tip line application.

**Introduced by Representatives White and Horn and referred to the House Education K-12 Committee.**

HOUSE BILL 495, Prohibit Municipal Regs/Offsite Easements, would prohibit any municipality from prohibiting, regulating by ordinance, or enforcing an existing ordinance regulating the use of off-site wastewater systems or other systems approved by the Department of Health and Human Service under rules adopted by the Commission for Public Health when the proposed system meets the specific conditions of the approval. This act would be effective retroactively to municipal ordinances enacted on or after October 15, 2018. Would void and deem unenforceable any inconsistent municipal ordinance. **Introduced by Representative McElraft and referred to the Committee on State and Local Government, if favorable, the House Rules Committee.**

HOUSE BILL 496, 4-Year Terms for Legislators in 2022, would amend the State Constitution, if approved by voters of the State at the general election in November 2020, to provide for four-year terms for members of the General Assembly beginning with members elected in 2022. **Introduced by Representative Adams and referred to the House Rules Committee.**

HOUSE BILL 498, NC Constitutional Carry Act, would:

- amend the statute that prohibits carrying concealed weapons to provide that the **term weapon does not include a firearm** for purposes of the statute;
- allow any person who is a citizen of the United States and who is at least 18 years old to carry a concealed handgun in this State unless provided otherwise by law (currently, the Sheriff's Department issues concealed carry permits);
- make it unlawful for a person who meets any of the specified criteria to carry a concealed handgun, including a person who is under indictment for a felony, who is an unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance, or who is or has been adjudicated to be a danger to self or others due to mental illness or lack of mental capacity;
- make a violation a Class 2 misdemeanor for a first offense and a Class H felony for a second or subsequent offense;
- require a person to carry valid identification when carrying a concealed handgun and to disclose to any law enforcement officer that the person is carrying a concealed handgun when approached or addressed by the officer and display the proper identification upon the officer's request;
- make it unlawful to carry a concealed weapon into certain areas, as specified; and

- require the State to continue to make a concealed handgun permit available to any person who applies for and is eligible to receive a concealed handgun permit.

**Introduced by Representatives Kidwell, Speciale, and Hanig and referred to the House Judiciary Committee.**

HOUSE BILL 500, Eliminate Second Primaries, would eliminate second primaries and instead enact new procedures for instances where candidates receive the same number of votes as follows:

- when more than one person is seeking election to a single office and two or more candidates receiving the highest numbers of votes each receive the same number of votes, the board of elections would determine the nominee by lot; and
- when there are more persons seeking nomination to two or more offices (constituting a group) than there are offices to be filled, and two or more candidates receiving the lowest numbers of votes necessary for nomination each receive the same number of votes, the board of elections will, from among those candidates receiving the same number of votes, determine the nominee by lot.

**Introduced by Representatives Floyd and Alexander and referred to the House Elections and Ethics Law Committee.**

HOUSE BILL 501, Justice/Judge May Continue Term Past Age 72, would allow a justice or judge elected to office prior to the justice or judge's seventy-second birthday to continue in office past the mandatory judicial retirement age of seventy-two until January 1 of the year following the next election for members of the General Assembly. **Introduced by Representatives Morey and John and referred to the House Judiciary Committee.**

HOUSE BILL 508, Firearm Safe Storage Awareness Initiative, would direct the Department of Health and Human Services to launch a two-year statewide firearm safe storage awareness initiative to educate the public about the importance of the safe storage of firearms and to facilitate the distribution of gun locks. The initiative would include the development of a website and toolkit and an outreach process. The bill would provide \$86,500 this year and \$69,200 next year to the Department to cover any costs associated with launching the initiative. **Introduced by Representatives McNeill, White, C. Smith, and Sauls and referred to the House Health Committee.**

HOUSE BILL 510, Reenact Nonpartisan Judicial Elections/Fund, would reenact nonpartisan judicial elections and reestablish public financing for judicial campaigns. **Introduced by Representatives John and Morey and referred to the House Rules Committee.**

HOUSE BILL 512, "We the People" Act/Referendum, is identical to Senate Bill 339, summarized in the March 27, 2019, Legislative Report. **Introduced by Representatives Dahle and Insko and referred to the House Elections and Ethics Law Committee.**

HOUSE BILL 513, Efficient and Affordable Energy Rates, is identical to Senate Bill 338, summarized in the March 27, 2019, Legislative Report. **Introduced by Representatives Dahle and Insko and referred to the House Rules Committee.**

HOUSE BILL 514, Equality for All, would amend various statutes to expand the list of persons protected against discrimination. The bill would:

- amend the State Fair Housing Act unlawful discriminatory housing practices provisions to:

- define “protected status” as a person's race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual orientation, gender identity, military or veteran status, or genetic information;
- make it an unlawful discriminatory housing practice for any person in a real estate transaction, because of the protected status (currently, race, color, religion, sex, national origin, handicapping condition, or familial status) of another person to engage in specified acts;
- provide that is an unlawful discriminatory housing practice for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms and conditions of such a transaction, because of that person's protected status (currently, race, color, religion, sex, national origin, handicapping condition, or familial status);
- amend the exemption for religious institutions and organizations operated by religions institutions or organizations that give preference to members of the same religion in a real estate transaction, if membership in that religion is not restricted by a protected status, other than religion (currently, race, color, sex, national origin, handicapping condition or familial status); and
- enact the Equal Access to Public Accommodations Act to protect and safeguard the right and opportunity of all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation free of discrimination because of race, religion, color, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status, military or veteran status, or genetic information; however, it is not be deemed to constitute discrimination on the basis of sexual orientation or gender identity for a public accommodation to provide separate bathrooms or changing facilities based on gender, but a place of public accommodation would provide access to such facilities based on a person's gender identity.

**Introduced by Representatives Harrison, Fisher, Butler, and Alexander and referred to the House Rules Committee.**

HOUSE BILL 515, Full Repeal of HB2, would repeal GS Chapter 143Article 81A, Preemption of Regulation of Access to Multiple Occupancy Restrooms, and SL 2017-4, Section 3, which prohibits local governments from enacting or amending an ordinance regulating private employment practices or regulating public accommodations. **Introduced by Representatives Meyer, Morey, Beasley, and John and referred to the House Rules Committee.**

HOUSE BILL 522, Study Outside Water Rates, would require the Legislative Research Commission to study fee and charge setting by municipalities in the operation of a water or sewer system. Would further instruct the Commission to focus on the disparity in fees between customers of the municipal system inside the boundaries of the municipality and customers of the municipal system outside of those boundaries. Would require the Legislative Research Commission to report its findings and recommendations, including any legislative proposals, to the General Assembly by May 1, 2020. **Introduced by Representative Szoka and referred to the Committee on Energy and Public Utilities, if favorable, House Rules Committee.**

HOUSE BILL 523, NC Servicemembers Civil Relief Act, would:

- create a new Article, *North Carolina Servicemembers Civil Relief Act*. The purpose of the Article is to incorporate into State law the rights, benefits, and protections of the federal

Servicemembers Civil Relief Act and to extend those rights, benefits, and protections to members of the North Carolina National Guard, and of other states, serving on active duty and residing in North Carolina;

- define *military order* as official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military service. For members of the North Carolina National Guard, this term includes an order from the Governor pursuant to current statute and, in the case of a member of the National Guard of another state, this term includes an order from the governor of that state;
- define *military service* as: as defined in U.S. Code; in the case of a member of the North Carolina National Guard, State active duty under an order of the Governor pursuant to this Chapter, for a period of more than 30 consecutive days; in the case of a member of the National Guard of another state, service under an order of the governor of that state that is similar to State active duty, for a period of more than 30 consecutive days;
- provide that the rights, benefits, and protections of the federal Servicemembers Civil Relief Act apply to a service member engaged in military service to the extent the service materially affects the servicemember's ability to comply with his or her obligations. Would extend the rights and protections of the contract-termination provisions of this act, and of U.S. Code's subsection, *Rent, Installment Contracts, Mortgages, Liens, Assignment, Leases, Telephone Service Contracts*, to dependents of servicemembers engaged in military service;
- authorize servicemembers to terminate contracts for telecommunication, internet, television, or satellite radio service at any time after the date the servicemember receives an order to relocate for a period of military service of at least 90 days to a location that does not support the contract, without any early termination charge, or customary resubscription fees, and with a refund for any fee paid for service that extends beyond the termination date of the contract. Would provide a notice requirement, and recognize that unpaid obligations at the time of termination still remain the obligation of the servicemember;
- **prohibit evicting a servicemember while the member is engaged in military service or within 14 days after service terminates;**
- **provide that the servicemember is not liable for any penalty or fee arising from failure to vacate the residence if service prevents the member from removing possessions from the residence;**
- provide for extension of a lease agreement expiring while the member is engaged in military service to be extended by the member to terminate 10 days after the members' service terminates;
- deem violations of the Article an unfair or deceptive trade practice;
- authorize the Attorney General or any aggrieved servicemembers to commence a civil action against anyone who violate this Act, and provides remedies for their respective suits;
- authorize the court to assess a civil penalty not to exceed \$5,000 per violation, and court costs and attorneys' fees in cases brought by aggrieved servicemembers;
- allow, at any stage of any civil action or proceeding in which a service member engaged in military service is a party, a court to stay the action or proceeding on its own motion and requires staying the action or proceeding on application by the servicemember or a person acting on the member's behalf unless the member's ability to litigate is not materially affected by his or her military service. Would apply during the servicemember's military service and within 60 days after service terminates;



- direct the North Carolina National Guard to post a list of rights a servicemember or servicemember's dependent has under the state and federal Servicemembers Civil Relief Act on its website;
- if the act becomes law, goes into effect October 1, 2019, and applies to contracts entered into, renewed, or modified on or after that date; and
- clarify that no member of the NC National Guard can be forced to use any of his or her vacation or accrued leave from his or her civilian employment for a period of active service.

**Introduced by Representatives Grange, Szoka, and Goodwin and referred to the Committee on Homeland Security, Military, and Veterans Affairs, if favorable, State and Local Government, if favorable, House Rules Committee.**

SENATE BILL 355, Land-Use Regulatory Changes. This is an omnibus bill that includes a wide variety of changes to NC Land Use regulations. Generally, this bill would:

- provide for the development permit applicant to choose which adopted version of a rule or ordinance will apply to the permit, and now also apply to the use of the building, structure, or land indicated on the permit application, in the event the rule or ordinance is amended between the time the development permit application was submitted and a development permit decision was made;
- define *development permit* to include zoning permits, site plan approvals, special use permits, variances, certificates of appropriateness, plat approvals, development agreements, building permits, subdivision of land, State agency permits for development, driveway permits, erosion and sedimentation control permits, and sign permits;
- add further specifications for permit choice, including: allowing the applicant to act on the permit without awaiting the outcome of a rule, map, or ordinance amendment if the applicant chooses the version of the rule applicable at the time of the permit application and providing for permit choice in instances where an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, determined as specified;
- prohibit the enforcement of any provision of the applicant's chosen version of the rule or ordinance determined to be illegal for any reason without the written consent of the applicant;
- provide that amendments to land development regulations are not applicable or enforceable without the written consent of the owner with regard to: buildings or uses of buildings or land for which a development permit application has been submitted and issued pursuant to current statute, as amended; subdivisions of land for which a development permit authorizing the subdivision has been submitted and issued pursuant to current statute, as amended; a vested right established pursuant to statute; and a multi-phased development in accordance with current statute, as amended;
- provide that multi-phased developments are vested for the entire development with land development ordinances in place at the time a site plan approval is granted for the initial phase of the multi-phased development, with the right vested for seven years from the time a site plan approval is granted for the initial phase of the multi-phased development;
- define multi-phase development to mean a development containing 25 acres or more that is both submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase;
- provide that the vested rights established pursuant to the statutes are effective upon filing of the development permit application pursuant to statute for so long as the permit remains valid under the law. Would provide that local development permits expire one year after

issuance unless work authorized by the permit has substantially commenced or otherwise specified by statute. Would add that vested rights established under the statutes do not preclude vesting under one or more subdivisions of the respective statute or by application of common law principles. Would establish that established vested rights preclude any action by a city or county that would change, alter, impair, prevent, diminish or otherwise delay the development or use as provided in the development permit application, except where a change in State or federal law mandated enforcement after the application that has a fundamental and retroactive effect on development or use;

- remove existing language which requires actual notice to affected landowners for requests for zoning map amendments which are not made by the land owner, to instead prohibit any zoning map amendment to be initiated or enforceable without the written consent of all property owners whose property is the subject of the zoning map amendment, with the exception for the initiation and enforcement of zoning map amendments by cities and counties;
- require written notice of the administrative decision to include language that the determination is final and that the party for whom the notice is given has a right to appeal in order for the decision to be effective;
- allow a person claiming a statutory or common law vested right to have the right reviewed by the zoning administrator or other officer designated by regulation, whose decision can be appealed to the board of adjustment. Also, would provide for the person claiming the vested right to bring a civil action for declaratory relief, injunctive relief, damages, or any other remedies available by law, in superior court or federal court to challenge the enforceability, validity, or effect of a local land development regulation, for the specified claims;
- require a court to allow the record to be supplemented with evidence to the extent the petition raises standing, impartiality, or scope of review issues. Would add that the rules of discovery set forth in the NC Rules of Civil Procedure apply to the supplementation of the record of those described issues. Would specify that the court can review the decision-making board's decision as specified to ensure the rights of the petitioner were not prejudiced because the decision-making body's decisions, inferences, conclusions, or decisions were in excess of the statutory authority conferred to the city, including preemption;
- require the court to reverse a zoning board decision if it finds that the decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law;
- prohibit a city or county from asserting an estoppel defense before any board of adjustment or in any civil action if the landowner or permit applicant is challenging conditions that were illegally imposed;
- require a court to award reasonable attorneys' fees and costs to the party who successfully challenged a city or county action that was found to have violated a statute or case law setting forth unambiguous limits on its authority;
- restrict cities and counties from issuing special use permits or conditional use permits that impose unenforceable regulations or restrictions, including without limitation taxes, impact fees, building design elements not voluntarily offered by the petitioner, street improvements in excess of those authorized, driveway improvements in excess of those authorized, or other unauthorized limitations on the development or use of land, as specified;

- prohibit the denial of a development permit authorized by statute on the basis that existing public facilities are inadequate to serve the property described in the permit application regardless of the type of use or development of said property;
- prohibit cities and counties from requiring, enforcing, or incorporating into the zoning regulations or permit requirements any condition or requirement not authorized by otherwise applicable law;
- prohibit a city from requiring an applicant to acquire right-of-way from property not owned by the applicant, but would allow an applicant to voluntarily agree to acquire the right-of-way; and
- prohibit the use of a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit inconsistent with any definition of the same in other State law, including the State Building Code Council.

**Introduced by Senators Bishop, Newton, and Searcy. Referred to the Committee on Judiciary and if favorable, re-referred to Senate Rules Committee.**

SENATE BILL 362, Annual Report Standardization, would make various amendments to the laws governing the submission of annual reports by various entities to the Secretary of State, including:

- requiring the annual report form to include the names, titles, and business street addresses of its principal officers and the name, mailing address, e-mail address, and telephone number of an individual who is authorized to provide information regarding persons with the authority to bind the corporation, and an e-mail address for the corporation, if different from the e-mail address provided for its registered agent;
- allowing the Secretary of State to provide by e-mail any notice or form required if the submitting domestic or foreign corporation to be notified has consented to receiving notices and forms via e-mail and has provided the Secretary of State an e-mail address for receiving the notices or forms, and providing that any e-mail address provided is confidential information and not a public record; and
- increasing the fee for submitting the electronic annual report to \$125 (was \$25 for a paper submission and \$18 for an electronic submission).

**Introduced by Senators Wells and Perry and referred to the Senate Commerce and Insurance Committee.**

SENATE BILL 367, Clarify Property Owners' Rights, would prohibit counties and cities from adopting ordinances regulating the removal of trees from private property within the county's jurisdiction without the express authorization of the General Assembly. Would require any ordinance regulating the removal of trees from private property to provide that the owner can remove any tree on the property that interferes with a construction or renovation project so long as the owner replaces the tree with a sapling, as defined, of the same or similar type. Would continue to validate 19 specified existing local acts that authorize ordinances regulating the removal of trees from private property, and requires the governing body of the respective county or city to amend the ordinances to include a provision which provides for tree removal by the property owner as described by this act. Would repeal any ordinances regulating the removal of trees from private property that were adopted before the act becomes law without the express authorization of the General Assembly. **Introduced by Senators McInnis, Krawiec, and B. Jackson and referred to the Committee on State and Local Government. If favorable, referred to the Committee on Judiciary and if favorable, referred to Senate Rules Committee.**

SENATE BILL 368, Physical and Psych. Evals. for LEOs, would direct the North Carolina Criminal Justice Education and Training Standards Commission to establish minimum standards

to ensure applicants for criminal justice officers are psychologically and physically suited to fulfill essential job functions. The standards would include, at a minimum, the following: (1) completion of a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina who is trained and experienced specifically in pre-employment psychological evaluations for public safety positions, which would include a written psychological test battery and an in-person interview; and (2) certification of a physical examination by a North Carolina licensed physician, physician's assistant, or nurse practitioner to ensure the applicant meets the physical standards needed to fulfill the officer's particular responsibilities as stated in the essential job functions. **Introduced by Senator Steinburg and referred to the Senate Rules Committee.**

SENATE BILL 373, Electric Standup Scooters, would:

- define an electric standup scooter as a device with no more than three 12-inch or smaller diameter wheels that has handlebars, is designed to be stood upon by the user while riding, and is powered by an electric motor that is capable of propelling the device with or without human propulsion at a speed no greater than 20 miles per hour on a paved level surface;
- exempt electronic standup scooters from registration and certificate of title requirements;
- provide that conflicting ordinances in effect on or adopted after the effective date of the act are null and void; and
- direct municipalities that have adopted an ordinance or regulation affecting standup electronic scooters to review their ordinances and regulations for compliance with the act.

**Introduced by Senators Woodard and Krawiec and referred to the Senate Rules Committee.**

SENATE BILL 398, Felony Forfeiture Changes/Retirement, would prohibit the payment of any retirement benefits or allowances, except for a return of member contributions plus interest, to any justice or judge who was either convicted of impeachment or removed from office for reasons other than physical or mental incapacity. **Introduced by Senators Johnson and Wells and referred to the Senate Rules Committee.**

SENATE BILL 405, Establish Duty to Report & Render Assistance, would:

- require a person who witnesses the commission or attempted commission of a crime that is reasonably believed to result in the victim suffering serious physical injury or death to report the attempt or crime to a law enforcement officer or agency as soon as reasonably practicable by telephone or any other means;
- define "serious physical injury" as physical injury that causes great pain and suffering;
- require a person at the scene of a crime or an emergency who knows that another person is exposed to or has suffered serious physical injury to give reasonable assistance to the person, which reasonable assistance would include obtaining or attempting to obtain aid from law enforcement or medical personnel by telephone or any other means;
- provide that these requirements do not apply to a person who reasonably believes reporting or rendering aid would place that person or another person in danger of immediate bodily harm;
- require the identity of a person who reports the commission or attempted commission of a crime to be held in the strictest confidence by the law enforcement agency that receives the report and to only be disclosed by the law enforcement agency pursuant to a court order or without a court order only to a federal, State, or local government entity that demonstrates a need for the identity of the person to carry out the entity's mandated responsibilities;

- provide that a person who gives reasonable assistance may not be liable in civil damages for any acts or omissions related to the assistance provided, unless the acts or omissions amount to wanton conduct or intentional wrongdoing; and
- make a violation a Class 2 misdemeanor, including a fine of not less than \$100 or more than \$500, unless the conduct is covered under another provision of law providing greater punishment.

**Introduced by Senator McInnis and referred to the Senate Rules Committee.**

SENATE BILL 406, Limit Conditional Zoning, would:

- change current law concerning cities and counties regarding their authority to divide territorial jurisdiction into districts, including special use districts and conditional use districts;
- prohibit cities and counties from imposing any conditions for a use that is permitted by the zoning classification of a petitioner's subject parcel, whether imposed through ordinance, regulation, or permit requirements, unless the city or county is granted authority to impose the conditions by the General Assembly;
- change current statute, which allows cities and counties to authorize, by ordinance, boards of adjustment, planning boards, or boards of commissioners to hear and issue special or conditional use permits and impose reasonable and appropriate conditions upon the permits; and
- add a provision to each statute to specify that a condition is reasonable and appropriate if the city or county would otherwise be able to impose it in a similar fashion upon other similarly situated parcels that are in the same zoning classification through a grant of authority in the General Statutes.

**Introduced by Senators McInnis and Gunn and referred to the Senate Rules Committee.**

SENATE BILL 415, Grand Jury if LEO Charged Performing Duties, would require the district attorney, in any matter where the grand jury is to consider a presentment or indictment of a sworn law enforcement officer as a defendant for actions arising out of or in the performance of the officer's duties as a sworn law enforcement officer, to notify the officer by personal service 10 days prior to the grand jury session. The officer would be notified that the officer is entitled to appear before the grand jury and voluntarily testify or present evidence if the officer so desires. If the officer elects to testify, the officer would be called to testify after the State's evidence has been presented to the grand jury. **Introduced by Senators Daniel, Edwards, and Britt and referred to the Senate Judiciary Committee.**

SENATE BILL 418, The I. Beverly Lake, Jr., Fair Trial Act, would require the court to conduct a pretrial hearing to determine whether the reliability of the testimony of an in-custody informant is sufficient to overcome a rebuttable presumption of inadmissibility, unless the defendant waives such hearing. The judge would: (1) require certification from the district attorney vouching for the trustworthiness of the in-custody informant; and (2) determine whether the prosecution has proven by a preponderance of the evidence that the testimony of the in-custody witness is reliable. The bill includes factors the judge must consider and jury instruction regarding in-custody informant testimony. If an in-custody informant receives leniency (plea bargain, reduced or dismissed charges, bail consideration, reduction, or modification of sentence) related to a pending charge, a conviction, or a sentence for a crime against a victim in connection with offering or providing testimony against a suspect or defendant, the prosecutor would have to notify the victim. **Introduced by Senators Daniel, McKissick, and Britt and referred to the Senate Rules Committee.**

SENATE BILL 420, NC Servicemembers Civil Relief Act, is identical to House Bill 523, summarized above in this Legislative Report. **Introduced by Senators Britt and Daniel and referred to the Senate Judiciary Committee.**

SENATE BILL 423, North Carolina Animal Abuser Registry Act, would require the North Carolina Department of Public Safety, beginning January 1, 2020, to post a publicly accessible list on its website of any person convicted of an animal abuse offense on and after that date. The list would include a photograph taken of the convicted animal abuser as part of the booking process, the animal abuser's full legal name, and other identifying data deemed necessary to properly identify the animal abuser and to exclude innocent persons. The list would not include the abuser's Social Security number, drivers license number, or any other State or federal identification number. A person who, after the person's first conviction, is convicted of another animal cruelty violation would forfeit ownership, charge, or custody of all animals and could not own an animal for up to five years from the date of the conviction. **Introduced by Senators McKissick and Britt and referred to the Senate Rules Committee.**

### BILL UPDATES

SENATE BILL 220, Removal of Political Signs by Citizens, was amended on the Senate floor to: (1) provide that any political sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period is deemed unlawfully placed and abandoned property, and allow a person to remove and dispose of such political sign without penalty; and (2) require municipalities adopting an ordinance regulating political sign placement to include the same provisions applicable to signs remaining in the right-of-way of streets located in the corporate limits of and maintained by the municipality. **The bill as amended was approved by the Senate and will next be considered by the House Rules Committee.**

- Colleen Kochanek  
AANC Legislative Counsel  
P.O. Box 1038  
Wake Forest, NC 27588  
919.274.0982  
[colleen@kochaneklawgroup.com](mailto:colleen@kochaneklawgroup.com)  
[www.kochaneklawgroup.com](http://www.kochaneklawgroup.com)<sup>i</sup>

Alexander C. Miller, MSW  
Alex Miller Government Affairs  
5 W Hargett St., Suite 908  
Raleigh, NC 27610  
919.619.3360  
[alex@alexmillernc.com](mailto:alex@alexmillernc.com)

---

<sup>i</sup> THIS LEGISLATIVE REPORT IS A PUBLICATION OF KOCHANЕК LAW GROUP AND IS A MEMBER BENEFIT OF AANC. ANY USE OR REPRODUCTION OF THIS REPORT IS LIMITED TO AANC AND ITS MEMBERS.