



## INTRODUCTION

There was plenty of talk about the budget last week at the General Assembly, but a bit less action. Since Governor Cooper vetoed the budget, he and the Republican leadership in the General Assembly have not appeared to come closer to a compromise. Cooper held a press conference to announce his version of a compromise, which legislative leaders said was actually a move away from common ground. A vote to override the veto hung over the General Assembly all last week, but never materialized, which is surely a sign that they do not have the votes. Three weeks into the new fiscal year and we seem no closer to resolving the stalemate.

Medicaid expansion continues to be a major sticking point. A House committee passed a version of expansion with work requirements and premiums, but the Senate continues to assert the votes are not there for expansion in their chamber.

At the end of last week, the House passed a stop gap budget that mainly addresses needed changes to draw down federal money for programs and to keep up long-standing commitments that require new funding. House Bill 111, the Supplemental Appropriations Act, would:

- cover enrollment increases at public schools;
- expand the eligibility of veterans and dependents of veterans for in-state tuition;
- provide additional funding for Medicaid transformation efforts and NC FAST;
- fund the Suicide Prevention Hotline;
- set LME/MCO transfer amounts to DHHS;
- expand eligibility for Florence relief to farmers who were impacted by excessive rain and flooding from May 15, 2018, through December 31, 2018;
- fund Raise the Age implementation;
- provide funding for the Western Carolina University Steam Plant project;
- provide funding for IT upgrades for tax systems;
- transfer funds from the Highway Trust Fund to the N.C. Department of Transportation; and
- continue employer contributions to the retirement systems at the same as the recurring portion of the rates in effect as of June 30.



## APARTMENT ASSOCIATION OF NORTH CAROLINA



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The Senate then proceeded to approve their own version of a stop gap budget that was entirely different and focused on providing direction for spending of block grants from the Federal government. It is a bad sign for the session wrapping up when the House and Senate cannot even agree on a stop gap budget proposal. Providing a glimpse into the future of a protracted budget battle, Senate Rules Chairman Bill Rabon filed an adjournment resolution that would end the current session on Monday, July 22, with a reconvened session to begin at noon on Tuesday, Aug. 27.

## LANDLORD TENANT CHANGES

HOUSE BILL 880, Landlord/Tenant Changes. This is the bill that was requested by the Apartment Association and is a compilation of several issues that we have been working on over the past few years. Although the bill was approved almost unanimously by the House, the Senate had not heard the bill yet and as we approached the end of session, we made a big push to hear the bill in committee. Once the leadership staff reviewed the bill and spoke to some of the agencies involved, like the Administrative Office of the Courts and the School of Government, it was discovered that there may be some legal issues in making some of the changes we had worked out with the North Carolina Justice Center. In light of the time of the session, we were asked to remove parts of the bill to continue to work on those for the short session. As a result, the bill was heard in the Senate Judiciary Committee as a Proposed Committee Substitute (PCS) which makes the following changes to the second edition:

- removes a proposed section, which established that (1) the criminal record of any prospective or current residential lessee, occupant, or guest does not make any future injury or damage arising from the lessee, occupant, or guest foreseeable by the lessor or the lessor's agent and that (2) the residential lessor or the lessor's agent is not obligated to screen for or refuse to rent because of the criminal record of a prospective or current lessee, occupant, or guest;
- removes the proposed changes to statute, which provided that in the event of a judgment in favor of the landlord, out-of-pocket expenses not included in the judgment are chargeable to the tenant and can be collected by the landlord in any post-judgment attempt to settle or collect amounts owed, so long as the expenses and collection are allowable under the terms of the lease or agreement;
- makes clarifying and technical changes to proposed statute concerning alternative tenant-landlord dispute resolution; and
- removes the section of the bill concerning post-judgment satisfaction agreements which allowed for relief from a summary ejection.

We are committed to working on these sections of the bill and bringing amended language before the general assembly on these issues during the short session. **The bill as amended was approved by the Senate Judiciary and the Senate Rules Committee and will next be considered by the Full Senate. A special thanks to AANC members who have contacted their legislators about these important issues to the Apartment industry.**

## BILLS OF INTEREST

HOUSE BILL 961, Ensuring Authorization of Federal Funds, is the Senate's version of a stop-gap budget bill. The Senate took an existing bill (related to funding for technical education in the hospitality industry) and re-wrote it in the Senate Committee on Appropriations/Base Budget. The bill would allocate various federal block grants, including the TANF Block Grant, the Social Services Block Grant, the Low-Income Energy Assistance Block Grant, the Child Care and

Development Fund Block Grant, the Mental Health Services Block Grant, the Substance Abuse and Prevention Block Grant, the Maternal and Child Health Block Grant, the Community Services Block Grant and the Preventive Health Services Block Grant. This version differs a great deal from the House's temporary funding bill, House Bill 111, which took the approach of funding various priorities, including public school enrollment growth, Raise the Age implementation and NC FAST progress. Both bills include funding for the suicide prevention hotline. **The bill as amended was approved by the Senate Appropriations Committee and will next be considered by the Senate Rules Committee.**

SENATE JOINT RESOLUTION 688, Adjourn 2019 Session to Date Certain, would provide that when the Senate and House of Representatives adjourn on Monday, July 22, 2019, they stand adjourned to reconvene on Tuesday, August 27, 2019, at noon. The bill would limit matters that may be considered at that time to matters authorized pursuant to the 2019 Senate Permanent Rules and the 2019 House Permanent Rules. **Introduced by Senator Rabon and referred to the Senate Rules Committee.**

### BILL UPDATES

HOUSE BILL 655, NC Health Care for Working Families, is Rep. Donny Lambeth's legislation that would expand Medicaid with the addition of work requirements and premiums for recipients. It is a "North Carolina version" of expansion that he has been working on for many years. The bill was heard in the House Health Committee, after months of sitting idle, and a new version was approved. The latest version specifies that the bill would not go into effect without passage of a state budget and that failure to pass legislation ensuring that the State and county share of associated costs is not passed means that the program cannot be implemented. It also clarifies that, if the program approved by the Centers for Medicaid and Medicare does not substantially comply with the program as designed, it must not go into effect. **The bill as amended was approved on a bipartisan vote of 25-6 and was placed on the House calendar and has been there for almost two weeks, waiting to be heard by the Full House.**

SENATE BILL 420, NC Servicemembers Civil Relief Act. This bill that was amended at the request of the Apartment Association of North Carolina was approved in the House unanimously and the Senate agreed to the changes made by the House. **The bill will next be sent to the Governor for his consideration.**

SENATE BILL 562, The Second Chance Act, was amended in the House Judiciary Committee to:

- limit expunction eligibility to offenses committed prior to December 1, 2019, while the person was less than 18 years old, but at least 16 years old;
- provide that the victim has a right to be present at any hearing on the petition for expunction upon request and the victim's views and concerns must be considered by the court at the hearing, and make conforming changes concerning the required findings by the court prior to entering an order;
- clarify that the requirements that the person have completed any active sentence, period of probation, and post-release supervision, and have no outstanding restitution order or outstanding civil judgments, apply only to the offenses eligible for expunction;
- amend the provisions regarding prosecutor access to expunged files, to allow for records of a criminal conviction expunged on or after July 1, 2018, to be considered a prior conviction and used for the following purposes: (1) to calculate the prior record level and prior conviction level, if appropriate; (2) to serve as a basis for indictment for a habitual

offense; (3) when a conviction of a prior offense raises the offense level of a subsequent offense; (4) to determine eligibility for relief under GS 90-96 (conditional discharge for first controlled substance offense); or (5) when permissible in a criminal case under the specified NC Rules of Evidence (previously, only provided for use to calculate prior record level, and did not extend to the newly added expunction records);

- provide that the information maintained by AOC and made available under the statute is prima facie evidence of the expunged conviction for the allowable purposes; and provide that expungement of a conviction cannot serve as a basis to challenge a conviction or sentence entered before the expungement of that conviction;
- allow AOC to disclose expungement files for expungements upon request of State or local law enforcement, the NC Criminal Justice Education and Training Standards Commission, and the NC Sheriffs' Education and Training Standards Commission;
- amend the proposed changes regarding expunction of records when charges are dismissed or there are findings of not guilty, for petitions for expungement involving multiple offenses, to allow the district attorney to petition the court, and no longer require the court to hold a hearing when any charge resulted in a conviction on the day of dismissal or had not yet reached a final disposition;
- provide for expunction by operation of law if any person is charged with a crime, either a misdemeanor or felony, or is charged with an infraction, and (1) all charges are disposed of on or after July 1, 2020, and (2) all charges in the case are dismissed without leave, dismissed by the court, or result in a finding of not guilty or not responsible (previously, excluded motor vehicle law violations);
- amend the provisions for when the court may treat multiple nonviolent felonies and nonviolent misdemeanors as one conviction under the statute, to no longer require that the nonviolent felonies or nonviolent misdemeanors not have been alleged to have occurred after the person had already been served with criminal process for the commission of a nonviolent felony or nonviolent misdemeanor;
- amend the petition process to allow a person to petition the court for one or more nonviolent misdemeanor convictions or one nonviolent felony conviction (was, one or more nonviolent misdemeanor convictions or nonviolent felony convictions), according to the following time restrictions: (1) for expunction of one nonviolent felony misdemeanor, no earlier than the later of five years after the date of conviction or when any active sentence, period of probation, or post-release supervision has been served; (2) for expunction of more than one nonviolent misdemeanor, the later of seven years after the date of the person's last conviction other than a traffic offense not listed in the petition, or seven years after any active sentence, period of probation, or post-release supervision has been served; and (3) for expunction of one nonviolent felony, the later of 10 years after the date of the conviction or 10 years after any active sentence, period of probation, or post-release supervision has been served;
- provide that the victim has the right to be present at any hearing on the petition for expunction upon request, and the victim's views and concerns must be considered by the court at the hearing; and
- amend the findings required for expunction of one or more nonviolent misdemeanors, to require the petitioner to have no convictions for any other felony or misdemeanor, other than a traffic offense, for one nonviolent misdemeanor petition, or for more than one nonviolent misdemeanor, no convictions for a misdemeanor or a felony listed as an exception to the terms "nonviolent misdemeanor" or "nonviolent felony."

**The bill as amended was approved by the House Judiciary Committee and will next be considered by the House Rules Committee.**

SENATE BILL 572, S Corp Pro Se Representation in Court, was amended in the House Judiciary Committee to:

- allow S corporations to be represented by (was, can represent themselves) and appear in any state court using a non-attorney representative who is the sole owner of the business entity if the owner files an affidavit providing that the owner's interest in the business entity is 100% (was, if the owner's interest is at least 25%), and limit the applicability to the trial of civil actions in which the amount in controversy is \$25,000 or less;
- provide that the phrase "practice law" does not include the representation or appearance in court by a non-attorney representative who is the sole owner of an S Corporation as allowed under GS 84-5(c); and
- amend the statute that prohibits persons other than members of the State Bar from practicing law to provide that the statute does not apply to the representation or appearance in court by a non-attorney representative who is the sole owner of an S Corporation as allowed by GS 84-5(c).

**The bill as amended was approved by the House Judiciary Committee and will next be considered by the House Rules Committee.**

SENATE BILL 574, Gaming Commission. A variety of amendments were made to this bill on the House floor, including:

- clarifying that the members of the NC Lottery Commission will operate as the NC Gaming Commission until appointments have been made to the NC Gaming Commission;
- modifying ALE agents' primary responsibilities and subject matter jurisdiction; and
- specifying that ALE agents have full power and authority as peace officers to execute criminal process, respond to and take enforcement action for any crime of violence or breach of peace, and additional duties directed by the Governor or the Secretary of the Department of Public Safety when necessary for security at a public event, or protection of persons or property due to a disaster or state of emergency.

**The bill as amended was approved by the full House and will next be considered by the Senate.**

SENATE BILL 620, Electric Standup Scooters, was amended in the Senate Transportation Committee to remove the new proposed statutes regulating Electric Standup Scooters. The bill would instead direct the Legislative Research Commission (LRC) to study the regulation of electric standup scooters in the State, including any proposed legislative changes needed to more effectively regulate the operation of scooters and the operation of scooter share businesses in the State, and would report its findings, together with any proposed legislation, to the 2020 Regular Session of the 2019 General Assembly upon its convening. **The bill as amended was approved by the Senate Transportation Committee and will next be considered by the Senate Commerce and Insurance Committee.**

SENATE BILL 683, Combat Absentee Ballot Fraud, was amended on the Senate floor to:

- require county board of elections to create a list of applications made for absentee ballots received by the county board, require county boards to update the list daily from the date the county board begins to mail application and ballots through the date of canvass, and make the list public record;
- retain the requirement for a qualified voter eligible to vote by absentee ballot, or that voter's near relative or verifiable legal guardian to complete a request form for an absentee ballot application and absentee ballots, with receipt by the county board required no later than

5:00 p.m. on the Tuesday before the election (previously, required a written, signed request rather than a completed request form);

- maintain the current law that establishes that a completed written request form for absentee ballots is only valid on a form created by the State Board of Elections and signed by the requesting voter or the voter's near relative or verifiable legal guardian, but would restrict the availability of the form to the State Board's offices and county board of elections offices (no longer allowing the State Board to make the form available online or allowing county boards to reproduce the form);
- maintain current law which allows for a voter to request a State Board-created form to request absentee ballots either in person or by writing to the county board and add to the information the request form must contain to include: (1) a clear indicator of the calendar year in which the election(s) generating the request are to be held; (2) the name of any individual or group that assisted with the voter obtaining or completing the written request form; and (3) a unique identifier, applicable only to the voter completing that written request form;
- restrict delivery of the completed request form to the county board by the voter or that voter's near relative or verifiable legal guardian only, and provide that a request not delivered by those authorized persons invalid;
- amend the minimum criteria for the State Board's implementing rules concerning forms of identification that must be included with completed written requests for absentee ballots to include (1) acceptable photocopies of forms of readable identification as described by state law (was, acceptable forms of readable identification substantially similar to those required under state law), and (2) a process for a voter without acceptable photocopies of forms of readable identification to complete an alternative affidavit that includes inability to attach a physical copy of the voter's ID with the written request as a reasonable impediment to compliance with the requirement;
- require the State Board's absentee ballot request form to include a unique identifier for voters, effective January 1, 2019, and applicable to requests for absentee ballots on or after that date;
- remove the requirement for the State Board to prepare and disseminate a voter instruction sheet regarding the process to request a mail-in absentee ballot by December 1, 2019, and instead, would require the State Board to report by May 1, 2020, as to its plans to implement the unique identifier requirement on request forms and any necessary statutory changes;
- amend GS 163A-1307, concerning the requirements for container-return envelopes for absentee ballots, to require the State Board to prohibit the display of the voter's party affiliation on the outside of the container-return envelope;
- increase from a Class 2 misdemeanor to a Class 1 misdemeanor the new offenses of selling or attempting to sell completed written requests for absentee ballots, and compensating or accepting compensation based on the number of returned written requests for absentee ballots;
- make it a Class G felony to steal, release, or possess the official register of absentee requests for mail-in absentee ballots prior to the opening of the voting place for a purpose other than the conduct of business at the county board of elections; and
- remove the proposed changes to GS 163A-1303 concerning uniform hours at one-stop sites, and instead amend the statute to change the weekday hours for one-stop sites from 7:00 a.m. to 7:00 p.m., to 8:00 a.m. to 8:00 p.m.

**The bill as amended was approved by the Senate and will next be considered by the House Rules Committee.**

## LEGISLATION ENACTED

HOUSE BILL 529, Utilities/Water and Wastewater Consumption. This legislation directs the Commission for Public Health to study the requirements of the current administrative code, 15A NCAC 18A .2530(f), which requires that all swimming pools have a telephone that is capable of directly dialing 911 or other emergency notification system, permanently affixed to a location inside or within 75 feet of the pool enclosure, and accessible to all pool users. The Commission must: (1) examine the need for a dedicated permanently affixed telephone in light of widespread cellular telephone availability, and the need for and advisability of requiring closure of pools where a dedicated permanently affixed telephone is temporarily out of service due to technical issues; and (2) report the study's findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services no later than March 1, 2020. **Effective: July 8, 2019.**

HOUSE BILL 934, Right to Try Adult Stem Cell Treatments. This legislation: (1) authorizes access to and use of certain investigational adult stem cell treatments for patients with certain severe chronic diseases or terminal illnesses; (2) regulates the possession, use, and transfer of adult stem cells; (3) makes it a Class A1 misdemeanor to knowingly offer to buy, offer to sell, acquire, receive, sell, or otherwise transfer any adult stem cells for valuable consideration for use in an investigational adult stem cell treatment; and (4) prohibits a licensing board from revoking, failing to renew, suspending, or taking any other disciplinary action against a licensed physician based solely on the physician's recommendation that an eligible patient have access to an investigational adult stem cell treatment, or the physician's administration of an investigational adult stem cell treatment to the eligible patient, provided that the recommendation made or the care provided is consistent with the applicable standard of care and requirements of the statute. **Effective: December 1, 2019, and applies to acts committed on or after that date.**

SENATE BILL 313, Perf. Guar. to Streamline Afford. Housing, was signed into law by the Governor on July 4th. This act reduces the costs and aids housing affordability by streamlining the performance guarantee process between developers and local governments. **Effective: July 4, 2019, and applies to performance guarantees issued on or after that date.**

SENATE BILL 316, Affordable Housing. **This bill that would require municipalities to provide information on affordable housing in their jurisdiction was approved by the House unanimously and has been signed into law by the Governor on July 19, 2019. This legislation was supported by the Apartment Association of North Carolina.**

SENATE BILL 529, Fees/Returned Checks. This legislation increases from \$25 to \$35 the maximum processing fee a person who accepts a check in payment for goods or services may charge and collect for returned checks. **Effective: October 1, 2019, and applies to checks dated on or after that date.**

SENATE BILL 686, Appointments Bill 2019, appoints persons to various public offices and commissions based upon the recommendation of the President Pro Tem of the Senate and the Speaker of the House. **Effective: July 16, 2019, unless otherwise provided.**

- Effective August 1, 2019, David Anderson of Johnston County and Dr. Donald van der Vaart of Wake County are appointed to the North Carolina Environmental Management Commission for terms expiring on July 31, 2021. J.D. Solomon of Johnston County is

appointed to the Environmental Management Commission for a term expiring on June 30, 2023.

- Leigh Brown of Cabarrus County, Derek Macleod of New Hanover County, Tom Smith of Wake County, James Carlton Kearney, Sr., of Henderson County, Paul S. Jaber of Nash County, and James W. Oglesby of Buncombe County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2021.
- James Pressley of Iredell County is appointed to the North Carolina Housing Partnership for a term expiring on August 31, 2020, to fill the unexpired term of Roy Helm.
- Sam Isham of Robeson County and Kirby J. Robinson of Forsyth County are appointed to the North Carolina State Building Commission for a term expiring on June 30, 2022. Roger Woods of Mecklenburg County and Blair Bordeaux of Wake County are appointed to the North Carolina State Building Commission for a term expiring on June 30, 2021.

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