



INTRODUCTION

This week was as notable for the variety of issues that received attention as it was for any one of the particular items. Senate Bill 10, the Boards and Commissions overhaul bill discussed at length in last week's report, was finally sent to Governor McCrory, who early in the week signed the Medicaid expansion ban into law. With that, two of the measures that have dominated the discussion this session had left the (legislative) building at last, freeing up space for a number of other subjects.

Voter ID was the biggest-ticket item discussed, with House leaders making it clear once again that some form of ID requirement to vote at the polls will be sent to Governor McCrory before the 2013 session adjourns. Drivers licenses, MetLife, guns, missing children, and the "Red Route" also got their turn on the front page, while the two largest issues of the session – tax reform and the state budget - continue to draw the most speculation, discussion, and behind-the-scenes negotiation.

Voter ID – Last Friday, Speaker Tillis told a crowd at the annual Civitas Institute's Conservative Leadership Conference that the process to create and pass a voter ID measure was about to begin. On Tuesday, the Speaker, along with many members of his caucus, held a press conference to explain that process, saying "A convincing majority of North Carolinians support voter ID, and we will pass a strong bill this session." The process Speaker Tillis laid out includes a meeting of the House Elections Committee this week to take public comment, followed by two subsequent meetings to hear expert testimony. The committee Chairman, Rep. David Lewis, said he expects the bills to be filed toward the end of this month, and voted on by the full House in mid-April. Whether the final measure would require North Carolinians to show a valid, government-issued photo ID before they can cast a ballot, or have somewhat looser requirements (which Governor McCrory has publically indicated he could support), has yet to be determined. Also unknown is what changes, if any, the Senate will make to the House's proposal. What has been made clear by opponents of this kind of requirement is that they plan to oppose it with every resource they can muster. With state government fully controlled by leaders who campaigned on getting Voter ID done this year, however, it's likely their protests will have little effect.



NORTH CAROLINA GROUND WATER ASSOCIATION



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Drivers Licenses – House Democrats filed a bill, H184, to block a proposal that would issue licenses to certain immigrants, as required by federal law, but with a distinctive pink strip across the top and the words “No Legal Status” stamped on them. The Federal Deferred Action for Childhood Arrivals program put in place a two-year block on deportation for certain immigrants – those who were brought to the country illegally as children, who are in or have completed school, are in the military, and have no criminal record. Asked for an official opinion, State Attorney General Roy Cooper advised the state Division of Motor Vehicles that DACA immigrants are legally eligible to be issued licenses. The new Transportation Secretary Tony Tata announced he would begin issuing them, but only with the distinctive markings. Immigrant rights groups, faith leaders, and some Democrat legislators spoke out against the measure. Governor McCrory defended the decision, calling it a “pragmatic compromise.” Given that H184 was filed by a group of Democrats with no Republican support, it is not currently expected to receive legislative action.

MetLife – On Thursday, Governor McCrory, Speaker Tillis, and other state leaders held a press event at the Charlotte Chamber of Commerce to announce that MetLife Group, Inc. will bring more than 2,600 jobs to Charlotte and Cary over the next three years, and invest \$125.5 million in its facilities. The announcement was touted as the largest economic development success in the State’s history, and both McCrory and former Governor Perdue’s administrations claimed credit (the recruitment of MetLife began before McCrory took office). The company will receive roughly \$90 million in state incentives, which include minimum job and average salary totals as well as investment targets. As many Republican lawmakers are opposed to such incentive packages, we expect the long-running debate about their effectiveness to continue.

Red Route – House Bill 10, which would repeal a 2011 law that banned studying an alternative “red route” for the N.C. 540 project, became the latest touchstone in the ongoing tension between the House and Senate Republicans. The 2011 law, pushed for by legislators who represent the town of Garner (through which the red route would run) as well as town leaders, had the inadvertent effect of cutting off all federal funding for the \$2 billion project, which is halfway completed. H10, as passed by the House, would have repealed the law and allowed federal funding to resume. When the bill got to the Senate Transportation Committee, however, its Chairman Sen. Bill Rabon ran an amendment to the bill that would remove three previously-approved state turnpike projects from statute (the Mid-Currituck Bridge, the Garden Parkway in Gaston County, and the Cape Fear Skyway) and put them back into competition for transportation dollars. The amended bill passed the committee and was rushed to the Senate floor the same day for a vote. After passing initially, the final vote was delayed by an objection from Democratic leader Martin Nesbitt, but only until the next Senate session. As funding for two of these projects was the subject of considerable debate during the budget process last year, the addition of Sen. Rabon’s amendment guarantees a delay in reaching a compromise on the bill, which in turn delays the resumption of federal funding for the 540 project. House sponsors of the bill said they were “blindsided” by the move, which Sen. Rabon said on the floor “bill does not kill any project. It simply brings the rats into the daylight.” Who the “rats” in this equation are is up for debate, but this marks the second week in a row that the friction between the chambers has come to a head publically. No one is yet sure what this portends for the major issues left to tackle this session, but the general mood among many lawmakers, lobbyists, and staff is one of caution, and more than a little concern.

PROTECT LANDOWNERS' WATER RIGHTS

SENATE BILL 163, Protect Landowners' Water Rights, would establish seven principles that would constitute the water resources policy of the State and govern administrative and judicial determinations regarding water use. The principles would include:

- (1) that water resources will be protected;
- (2) protection of water will include voluntary initiatives – the State will utilize a combination of regulatory and voluntary programs to ensure the protection of water resources and the preservation of landowners' water rights;
- (3) that policies encourage conservation and efficiency;
- (4) that policies encourage increased storage capacity – the State will examine and seek to eliminate regulatory impediments to increased development of water resources and storage structures, including wells, ponds, reservoirs, and other impoundments;
- (5) encourage reuse – the State will encourage the adoption of programs that facilitate the increased use of reclaimed water and recycled water and will subject any statutes or rules that could possibly interfere with the increased use of reclaimed water and recycled water to a heightened standard of necessity and urgency;
- (6) recognize roles of landowners – the State will promote practices, projects, and programs that encourage landowners to conserve and protect water resources; and
- (7) preservation of landowners' water rights.

The bill also would prohibit State and local governments from adopting rules or ordinances to limit a landowner from withdrawing and using water as otherwise allowed under the common or statutory law of the State from any of the following: (1) an impoundment constructed by or owned by the landowner; (2) **wells constructed on the landowner's property**; or (3) other sources of water on the landowner's property, including, but not limited to, captured stormwater, springs, and artesian wells. However, these provisions could not be construed to limit the enforcement of State or local laws designed to limit the use or installation of wells for withdrawals in areas with groundwater contamination or to limit the enforcement of State water quality standards. The bill also provides that State or local government may not limit a landowner's withdrawal from these sources for agricultural purposes during periods of water shortage emergencies. **Introduced by Senators Jackson, Cook, and Rabin and referred to the Senate Agriculture/Environment/ Natural Resources. The North Carolina Ground Water Association strongly supports this bill, and the NCGWA urges its members to contact their legislators in support of Senate Bill 163.**

BILLS OF INTEREST

HOUSE BILL 208, Ban the Box, would make it an unlawful employment practice for an employer to make inquiries of or otherwise seek information about an employment applicant (including through the use of a form or application), relating to whether the applicant has ever been convicted of a criminal offense. An employer could ask or seek information about the applicant's criminal history: (1) after extending the applicant a conditional offer for employment; or (2) where the granting of employment may involve an unreasonable risk to the safety of specific individuals or the general public. An employer who violates this section could be assessed a civil penalty of not more than \$100 per violation. The bill also would direct the Commissioner of Labor to adopt rules to: (1) define categories of employment where an individual's past criminal history may involve an unreasonable risk to the safety of specific individuals or to the general public; and (2) establish factors to be considered by employers in

assessing whether an individual's past criminal history poses such an unreasonable risk. **Introduced by Representatives Brandon, Pierce, and R. Moore and referred to the House Commerce and Job Development Committee.**

HOUSE BILL 212, Create North Carolina Accountability Report, would direct the Program Evaluation Division to create and maintain a web-based North Carolina Accountability Report. The Report would profile State departments and programs, and for each department or program would (i) describe why it exists, how it is funded, and what current issues exist and (ii) include references to pertinent information. Each program profile would contain a Program Evaluation Division rating based upon specified criteria and questions. **Introduced by Representative R. Brawley and referred to the House Appropriations Committee.**

HOUSE BILL 224, Asheville ETJ and Annexation, would provide that the City of Asheville has no authority to exercise any power under and is prohibited from completing, initiating, or otherwise beginning any annexation proceeding under GS § 160A-360 (Territorial jurisdiction). Relinquishment of authority by the City would be effective April 1, 2013, and after that date, the city regulations and powers of enforcement would remain in effect until (1) Buncombe County has adopted the regulation or (2) 60 days has elapsed following the effective date of this act, whichever is sooner. During this period, Buncombe County could hold hearings and take other required measures in order to adopt county regulations for the area. **Introduced by Representatives Moffitt and Ramsey and referred to the House Government Committee.**

HOUSE BILL 226, The Free Means Free Act, would prohibit a person, firm, or corporation, in connection with the sale or lease or solicitation for the sale or lease of any goods, property, or service, from representing that any goods, property, or services are free or otherwise without cost, unless all of the following conditions are met:

- (1) the person who receives the goods, property, or service will have no financial obligation in connection with the goods, property, or service at any time, including any obligation to pay for shipping, restocking, continued receipt of the goods, property, service in the future, or any related expenses;
- (2) the person, firm, or corporation that provides the goods, property, or service does not obtain credit or debit card information or any other means of charging the recipient; and
- (3) the recipient of the goods, property, or service is not required to take any affirmative steps to cancel or otherwise prevent receipt of non-free goods, property, or services in the future.

A violation would be considered an unfair and deceptive trade practice. **Introduced by Representatives R. Brawley and Turner and referred to the House Commerce and Job Development Committee.**

HOUSE BILL 238, Maintaining Water & Sewer Fiscal Health, would authorize the Local Government Commission to impound the books and records of the water and/or sewer enterprise system of a local government or public authority, assume full control of all its affairs, or take any lesser actions deemed necessary, if the audited financial statements for three consecutive fiscal years meet certain criteria. If the Commission assumes control over the system, it would have the powers of the governing board as necessary, including setting rates, negotiating contracts, collecting payments, suspending service to nonpaying customers, resolving disputes with third parties, and transferring the ownership of the enterprise system. **Introduced by Representatives Cleveland and Dockham and referred to the House Health and Human Services Committee.**

HOUSE BILL 246, The Gun Rights Amendment, would amend the North Carolina Constitution, if approved by a majority of voters in a statewide referendum held in November 2014, to restrict the limitations that may be placed on a person who holds a concealed carry permit. A person who holds a valid permit to carry a concealed handgun could not be prohibited by the State from carrying a concealed handgun except as follows:

- in courthouses;
- in federal government buildings where the federal government prohibits weapons;
- on private property where the owner has posted prominently displayed signs forbidding concealed weapons on the premises;
- on school campuses by persons not authorized to carry concealed weapons on school campuses;
- in law enforcement or correctional facilities;
- while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed, but a person does not violate this condition if a controlled substance in the person's blood was lawfully obtained and taken in therapeutically appropriate amounts or if the person is on the person's own property; and
- under a domestic violence court order.

The bill also would prohibit the State from engaging in a general confiscation of weapons and from cooperating in the effort of any other entity to do so. The bill would provide an exemption for a person with a valid concealed handgun permit carrying a handgun from the provisions that ban carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed, in any building housing any court of the General Court of Justice, at a parade, funeral procession, picket line, or demonstration, upon any private health care facility or upon any public place owned or under the control of the State or local government. **Introduced by Representatives Pittman, Ford, Hardister, and Speciale and referred to the House Rules Committee.**

HOUSE BILL 253, Voter Protection and Integrity Act, would require a legally registered voter seeking to vote to certify his or her identity by signing a photo affidavit or presenting photo identification. A person could have his or her photograph taken by a designated election official and sign a voter photo affidavit, affirming that he or she is the registered voter in whose name they are requesting a ballot to vote. It would be a Class I felony to fraudulently sign the affidavit in order to vote more than once in the same primary of election or vote illegally. The signed photo affidavit would remain on file in digital format at the county board of elections office for a period of time to be determined by the State Board of Elections and would be included in the State voter file. Photo identification would include any of the following:

- an unexpired North Carolina drivers license, including a learner's permit or a provisional license;
- an unexpired special identification card for nonoperators;
- an unexpired identification card issued by a branch, department, agency, or entity of this State, any other state, or the United States permitted by law to issue personal identification;
- an unexpired student identification card issued by an accredited North Carolina university or college;
- an unexpired United States passport.
- an employee identification card issued by any branch, department, agency, or entity of the United States government, this State, or any county, municipality, board, authority, or other entity of this State;
- an unexpired United States military identification card;

- an unexpired tribal identification card; or
- a voter registration card issued by the State Board of Elections or by a county board of elections, even though it does not contain a photograph of the voter.

The bill also would require that in person voting requirements, including the photo affidavit and photo identification provisions, be included in the Judicial Voter Guide. **Introduced by Representatives Goodman, Lucas, Floyd, and C. Graham and has not yet been assigned to a House committee.**

HOUSE BILL 263, Small Business New Job Creation Incentive, would allow a tax credit for creating jobs to a small business that meets certain eligibility requirements, and that satisfies the threshold requirement for new job creation in this State. The amount of the credit would be an additional \$2,000 per job if the job is located in an urban progress zone or an agrarian growth zone and is created by a small business. A small business would be a taxpayer that employs no more than 50 eligible employees throughout the taxable year and that is engaged in a business other than a list of specified retail trades, restaurants or bars. **Introduced by Representatives Goodman, Wray, Waddell, and C. Graham and has not yet been assigned to a House committee.**

HOUSE BILL 264, Justice for Rural Citizens Act, would prohibit a local government from having or exercising any jurisdiction beyond its corporate limits, since citizens who live outside the corporate limits may not vote in an election for the officers of the local government, by repealing the statutes that authorize territorial and extraterritorial jurisdiction. **Introduced by Representatives Pittman, Ford, Moffitt, and Hardister and has not yet been assigned to a House committee.**

HOUSE BILL 265, Automobile Insurance Regulatory Modernization, is identical to Senate Bill 154, summarized in the March 4, 2013, legislative report. **Introduced by Representatives Collins, Murry, Burr, and Warren and has not yet been assigned to a House committee.**

HOUSE BILL 266, Standards for Some Nursery Stock Purchases, would prohibit community appearance commissions, cities, and counties from requiring that nursery stock that is purchased within the jurisdiction of the commission, city, or county meet any standard for nursery stock that is stricter than the American Standard for nursery stock adopted by the American Nursery and Landscape Association, unless the stricter standard is necessary to protect public health or safety. **Introduced by Representatives Turner and R. Brawley and has not yet been assigned to a House committee.**

HOUSE BILL 267, NCGA Prior Approval/Interstate Tolling, would prohibit the imposition of tolls on existing interstates without prior approval of the General Assembly. **Introduced by Representatives Collins, Torbett, Floyd, and Wray and has not yet been assigned to a House committee.**

SENATE BILL 171, Limit Regulation of Greenhouse Gas Emissions, would prohibit state agencies and local governments from adopting, implementing, or enforcing a rule or ordinance that regulates greenhouse gas emissions or limits human activity for the purpose of reducing greenhouse gas emissions if the rule or ordinance is not required by a federal regulation or law or is more stringent than a corresponding federal regulation or law. "Human activity" would be defined as energy generation by a public utility, industrial processes, transportation, agricultural production, waste treatment and disposal, fossil fuel extraction activities, and any other residential, commercial, or other activities involving the burning of fossil fuels. **Introduced by**

Senators Jackson, Brock, and J. Davis and referred to the Senate Agriculture/Environment/Natural Resources Committee.

SENATE BILL 174, Disapprove Industrial Commission Rules, would disapprove certain rules adopted by the North Carolina Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on October 18, 2012. These Rules covered a wide variety of issues dealing with Worker's Compensation cases, including Electronic Payment of Costs, Reinstatement of Compensation, Application for or Stipulation to Additional Medical Compensation, Appointment of Guardian Ad Litem, Discovery, Medical Motions and Emergency Medical Motions, Expert Witnesses and Fees, Review by Full Commission, Review of Administrative Decisions, Hearing Costs or Fees, Fees Set by the Commission, Order for Mediated Settlement Conference.

The bill would also disapprove the following rules, adopted by the North Carolina Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on November 15, 2012: Termination and Suspension of Compensation, Infants and Incompetents, Interaction with Physicians, Suspension of Rules, Sanctions, Compensation of the Mediator, and Suspension of Rules. **Introduced by Senator Brown and referred to the Senate Commerce Committee.**

SENATE BILL 185, Extend Sunset for Earned Income Tax Credit, would extend the sunset for the earned income tax credit from January 1, 2014, to January 1, 2019. **Introduced by Senators McLaurin and Stein and referred to the Senate Rules Committee.**

SENATE BILL 186, Notice Publication by Counties and Cities, would allow cities and counties to adopt an ordinance providing that any notice it is required by law to publish may be published by electronic means, including on their website. Each city or county would be required to file a copy of each notice in a notice book separate and apart from its ordinance book or minute book, which would be indexed and maintained for public inspection in the office of the city clerk or the county register of deeds, and to mail or e-mail to any person that has filed a written request to receive notices. Ordinances adopted pursuant to this section could not supersede any general law or local act that requires notice by mail to certain persons or classes of persons or the posting of signs on certain property. The ordinance adopted by the county could control notice given by any board appointed by the governing board of the county, including the board of social services and board of health. The bill would amend the definition of "publish" to include: (1) electronic notice, if an ordinance has been adopted by the governing board; and (2) insertion in a news publication circulated in the county, published at least once per week, and with an audited readership of at least 25,000 persons. The bill would allow county boards of election to adopt a policy that provides for electronic notices, advertisements, and publications. **Introduced by Senators Wade and Brock and referred to the Senate Rules Committee.**

SENATE BILL 205, Eliminate Unnecessary Testing/Animal Waste, would require an animal waste management plan for an animal operation to include provisions regarding periodic soil testing at crop sites where the waste products are applied at least once every three years. Currently, periodic testing is required at least once per year. **Introduced by Senator Walters and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 207, Maintaining Water & Sewer Fiscal Health, is identical to House Bill 238, summarized above in this legislative report. **Introduced by Senator Tucker and referred to the Senate Finance Committee.**

SENATE BILL 220, State Minimum Wage/Inflation Increases, is identical to House Bill 115, summarized in the February 23, 2013, legislative report. **Introduced by Senators Parmon and D. Davis and referred to the Senate Rules Committee.**

SENATE BILL 232, Public Contracts/Local Business Preference, would authorize counties and cities, when contracting for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment involving the expenditure of public money, to give preference to local bidders when certain requirements are met. A local bidder would be a bidder that has paid unemployment taxes or income taxes in this State and whose principal place of business is located within the boundaries of the county or municipality giving the preference. **Introduced by Senator Soucek and has not yet been assigned to a Senate committee.**

SENATE BILL 235, Voter Protection and Integrity Act, is identical to House Bill 253, summarized above in this legislative report. **Introduced by Senators Clark and Ford and has not yet been assigned to a Senate committee.**

SENATE BILL 242, Hire Long-Term Unemployed Workers Incentive, would allow a \$2,000 tax credit to a taxpayer that hires and retains a qualified employee for a period of at least one year. A qualified employee would be an individual who has received the maximum regular unemployment benefits allowable during the benefit year and who has not been employed since the time of receiving unemployment benefits. In order to be eligible for the credit, the taxpayer must satisfy the wage and health insurance standards (set out in G.S. 105-129.83) with respect to the qualified employee. **Introduced by Senators McLaurin and Stein and has not yet been assigned to a Senate committee.**

BILL UPDATES

HOUSE BILL 120, Building Inspections/Local Consistency, was amended in the House Regulatory Reform Committee to remove the provisions that would have required the Council to revise the provisions of the State Building Code applicable to all other buildings and structures at least every three years. (The bill continues to require the Code to be revised for single family homes every 6 years.) The bill would require all Code interpretations made by staff of the Department of Insurance to be in writing or through e-mail and all appeal decisions made by the Council to be published in the North Carolina Register at least semiannually and to also be posted on the Council's Website within two business days of issuance. The bill was further amended to exempt equipment or facilities of a cable television company and other structures supporting cable television from the State Building Code requirements. **The bill as amended was approved by the House Regulatory Reform Committee and will next be considered by the full House.**

HOUSE BILL 180, Mechanics Liens/Technical Corrections, was amended in the House Judiciary Subcommittee C to clarify that GS 44A-11.1 (lien agent designation and duties) applies to any improvements to real property for which the costs of the undertaking is \$30,000 or more, either at the time that the original building permit is issued or, in cases in which no building permit is required, at the time the contract for the improvements is entered into with the owner. The bill also would require the receipt of a Notice to Lien Agent from the potential lien claimant by the lien agent no later than 15 days after the first furnishing of labor or materials by the potential lien claimant in order to perfect a claim of lien. **The bill as amended was approved by the House Judiciary Subcommittee C and the full House. The bill will next be considered by the Senate Judiciary I Committee.**

SENATE BILL 33, Use of Criminal History Records by Licensing Boards, was amended in the Senate Judiciary II Committee to allow the board to consider affidavits or other written documents, including character references, when deciding whether to deny a license. The bill was also amended to provide that the section does not apply to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission. **The bill as amended was approved by the Senate Judiciary II Committee and the full Senate, and will next be considered by the House Judiciary Subcommittee C.**

SENATE BILL 91, Prohibit Expunction Inquiry, was amended in the Senate Judiciary II Committee to require an agency to vacate (instead of reverse) any administrative actions taken against a person whose record has been expunged as a result of the charges or convictions expunged. A person whose administrative action has been vacated by an occupational licensing board pursuant to an expunction order could reapply for licensure, and would have to satisfy the board's then current education and preliminary licensing requirements to obtain licensure.

The bill was also amended to provide that an employer is not prohibited from asking a job applicant about criminal charges or convictions that have not been expunged and are part of the public record. A person who receives an order of expunction pursuant to this section could not be found guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge the arrest, indictment, information, trial, or conviction. However, a person holding or seeking certification by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission would be required to disclose any and all convictions to the certifying Commission, regardless of whether or not the convictions were expunged. The bill would provide for a civil penalty of up to \$500 per violation for an employer who requires the disclosure of expunged arrest, criminal charge, or conviction. In determining the amount of any penalty, the Commissioner would consider the size of the business of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations. The section would not create a private cause of action against an employer, educational institution, or a State or local government agency. The bill was further amended to remove the provision that would have made a willful violation a Class 3 misdemeanor. **The bill as amended was approved by the Senate Judiciary II Committee and the full Senate, and will next be considered by the House Judiciary Subcommittee A.**

LEGISLATION ENACTED

SENATE BILL 4, No NC Exchange/No Medicaid Expansion. This bill which prohibits North Carolina from Expanding Medicaid under the Accountable Care Act or running the State Insurance Exchange, among other provisions, was signed into law by the Governor on March 6, 2013. **Effective: March 6, 2013.**

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