



INTRODUCTION

The big news last week at the Legislature was the win by the Governor in the Constitutional challenge filed by the Governor (and former Governors) against the Legislature that the Legislature had overstepped its authority. Basically, the lawsuit said that the Legislature was infringing on the power of the Executive branch by appointing members to various commissions where the work or oversight should have been from the Executive branch. The Coal Ash Commission was specifically cited in the lawsuit. Ironically, the lawsuit was decided by a three judge panel in a new procedure established by the Legislature when laws are challenged constitutionally. Speaker of the House, Rep. Moore, and President Pro Tem of the Senate, Senator Berger have already announced their intention to appeal the decision and the battle will wage on between the branches of government. The decision could also have some other short term effects as bills have already been stalled that would appoint members to other Boards and Commissions. It also will be interesting to see whether this will cause further strife in the already tenuous relationship between the Governor and the Legislature.

Committee work really picked up last week as well, with almost all committees meeting or scheduling future meetings. There are quite a few new committee chairs so some were leading a meeting for the first time and there was a bit of a learning curve. Also, it is always interesting to see new members trying to get bills through committee and being nervous about the questions they might get and the vote. Things will definitely continue to heat up as legislation moves through both chambers in earnest and the deadlines approach. All bills must be filed in the Senate by Thursday, and the same day is the deadline in the House to have bills to drafting (except for finance or appropriations bills).

We expect the Appropriations Subcommittees to continue their work, but do not expect any sort of budget proposal until late April or early May once the tax revenues are clearer. The subcommittees are trying to learn the details and really getting into the nitty gritty of the various agencies to come up with priorities for when they must make their spending decisions.



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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

FOR MORE INFORMATION:

Colleen Kochanek
NCCEP Legislative Counsel
P.O. Box 12946
Raleigh, NC 27605
919.747.9988

colleen@kochaneklawgroup.com
www.kochaneklawgroup.com

BILLS OF INTEREST

HOUSE BILL 239, Restore Early Voting Days, would restore the number of early voting days to no earlier than the third (currently, second) Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 1:00 p.m. on the last Saturday before that election. A county board of elections would conduct one-stop voting on the last Saturday before the election until 1:00 p.m. and could conduct one-stop voting until 5:00 p.m. on that Saturday. The bill would remove the current laws that: (1) require any plan adopted by either the county board of elections or the State Board of Elections to provide for the same days and number of hours of operation on each day for all sites in that county for that election; and (2) allow a county board of elections by unanimous vote of the board to submit a request to the State Board to reduce the number of hours established for a primary or a general election. **Introduced by Representative L. Hall and referred to the House Rules Committee.**

HOUSE BILL 240, Allow NC College ID to Meet Voter ID Req., would allow a student photo identification card issued by a North Carolina college or university to be used to identify a voter if the identification card has a printed expiration date and has not expired. **Introduced by Representative L. Hall and referred to the House Rules Committee.**

HOUSE BILL 250, Healthy Food Small Retailer/Corner Store Act, would enact the Healthy Food Small Retailer Act, and includes the following provisions:

- establishes the Healthy Food Small Retailer Fund to provide funding and assistance for small food retailers operating in the State, in both urban and rural areas, with the goal of increasing the availability and sales of fresh fruits, vegetables, and other nutrient-dense foods at affordable prices to local residents and improving the diet and health of local residents, especially in food desert zones;
- provides \$1 million to the Department of Commerce to be allocated to the Fund;
- defines a food desert zone as a census tract that: (1) has a poverty rate of 20% or greater or has a median family income at or below 80% of the median family income for the State; and (2) has at least 500 persons or at least 33% of the population who, for a metropolitan area, live more than one mile from a grocery store or healthy, affordable food retail outlet store or, for a nonmetropolitan area, more than 10 miles from a grocery store or healthy, affordable food retail outlet store;
- provides that, upon application of a county, the Secretary of Commerce would make a written determination whether an area is a food desert zone, which determination would be effective until December 31 of the year 10 years following the year in which the determination is made;
- requires the Department of Commerce to develop guidelines for the administration of the program and selection of recipients of food desert relief; and
- requires small food retailers receiving money from the Fund to accept or agree to accept Supplemental Nutrition Assistance Program benefits and Special Supplemental Nutrition Program for Women, Infants and Children benefits.

Introduced by Representatives Holley, Whitmire, B. Brown, and Lambeth and referred to the House Appropriations Committee.

HOUSE BILL 252, Conflict of Interest/Certain Relationships, would require a covered person (legislator, public servant, or judicial officer) to recuse him/herself from any legislative, executive, or official action if that action could result in a reasonably foreseeable financial benefit to a registered lobbyist or liaison personnel, or that lobbyist's principal or liaison's State agency/governmental body, if the covered person is married to, or has a current dating or sexual

relationship with, the lobbyist or liaison. A dating relationship would be defined as a relationship where the parties are romantically involved over time and on a continuous basis during the course of the relationship; a casual acquaintance or ordinary fraternization between individuals in a business or social context would not be considered dating. **Introduced by Representatives Glazier, Faircloth, G. Martin, and Daughtry and referred to the House Rules Committee.**

HOUSE BILL 306, NC Cancer Treatment Fairness, would require every health benefit plan offered by an insurer that provides coverage for prescribed, orally administered anticancer drugs that are used to kill or slow the growth of cancerous cells and that provide coverage for intravenously administered or injected anticancer drugs to provide coverage for prescribed, orally administered anticancer drugs on a basis no less favorable than the coverage the policy, contract, or plan provides for the intravenously administered or injected anticancer drugs. Coverage for orally administered anticancer drugs could not be subject to prior authorization, dollar limit, co-payment, coinsurance, deductible provision, or other out-of-pocket expense that does not apply to intravenously administered or injected anticancer drugs. **Introduced by Representatives Lewis, L. Hall, Avila, and Lambeth and referred to the House Insurance Committee.**

HOUSE BILL 317, Medical Marijuana for Terminally Ill Patients, would allow a person to lawfully possess or use marijuana or tetrahydrocannabinols, if the person:

- has been diagnosed with either a terminal illness or a debilitating illness by a licensed physician;
- has been admitted to hospice or is at home under the care of hospice; and
- has a valid prescription or written recommendation issued by a licensed physician who, in the course of treating the terminal or debilitating illness, has determined that marijuana or tetrahydrocannabinols alleviates the illness or symptoms associated with the illness.

A "debilitating illness" would mean a chronic and substantial inability, as a result of a physically debilitating illness, disease, or injury, to care for oneself, a minor child, or both. **Introduced by Representatives Alexander, Carney, Harrison, and Cunningham and has not yet been referred to a House committee.**

HOUSE BILL 321, Convention of States, would request that the US Congress call for a convention of the states to propose amendments to the Constitution of the United States that would be limited to: (i) impose fiscal restraints on the federal government, (ii) limit the power and jurisdiction of the federal government, and (iii) limit the terms of office for its officials and for members of Congress. **Introduced by Representatives Jones, Millis, Riddell, and Pendleton and has not yet been referred to a House committee.**

HOUSE BILL 323, Reinstate Setoff Debt Collection/UNC Health, would reinstate the Setoff Debt Collection procedures for the University of North Carolina Schools of Medicine, clinical programs, and the UNC Health Care System. **Introduced by Representatives B. Brown, S. Martin, and Farmer-Butterfield and has not yet been referred to a House committee.**

SENATE BILL 296, Healthy Food Small Retailer/Corner Store Act, is identical to House Bill 250, summarized above in this Legislative Report. **Introduced by Senators D. Davis and Pate and referred to the Senate Rules Committee.**

SENATE BILL 297, Prenatal Narcotic Drug Use/Criminal Offense, would create the criminal offense of prenatal narcotic drug use, which would allow a woman to be prosecuted for assault (a Class 2 misdemeanor) for the illegal use of a narcotic drug while pregnant, if her child is born

addicted to or harmed by the narcotic drug and the addiction or harm is a result of her illegal use of a narcotic drug taken while pregnant. The woman's active enrollment in an addiction recovery program before the child was born, continuation in the program after delivery, and successful completion of the program, regardless of whether the child was born addicted to or harmed by the controlled substance, would be an affirmative defense to prosecution. This provision would not apply to: (1) any lawful act or omission by a pregnant woman with respect to her unborn child; or (2) any lawful medical or surgical procedure performed by a health care professional licensed to perform the procedure to which the pregnant woman consents. **Introduced by Senators B. Jackson and Pate and referred to the Senate Rules Committee.**

SENATE BILL 302, Establish Maternal Death Review Committee, would establish the Maternal Mortality Review Committee within the Department of Health and Human Services to reduce maternal mortality in this State. The Committee would review cases of mortality due to complications from pregnancy or childbirth and develop recommendations to prevent future maternal deaths. Licensed health care providers, health care facilities, and pharmacies would be required to provide reasonable access to the Committee to all relevant medical records associated with a case under review, and could not be held liable for civil damages or subject to criminal or disciplinary action for their good faith efforts to provide such records. All information, records of interviews, written reports, statements, memoranda, or other data obtained would be confidential. In addition, all proceedings and activities of the committee, opinions of committee members formed as a result of such proceedings and activities, and records obtained, created, or maintained pursuant to this Part would be confidential and not subject to open meetings and open records laws, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. However, these provisions would not limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the committee's proceedings. Members of the committee could not be questioned in any civil or criminal proceeding regarding the information presented or opinions formed as a result of a meeting or communication of the committee; however, these provisions would not prevent a member of the committee from testifying to information obtained independently of the committee or which is public information. **Introduced by Senators Barefoot, D. Davis, and Tarte and referred to the Senate Rules Committee.**

SENATE BILL 315, School Playgrounds Available to Public, would allow local boards of education to make outdoor school property available to the public for recreational purposes, if the use is consistent with the proper preservation and care of the outdoor school property. No board of education would be liable for a personal injury suffered from the use of the school property pursuant to such an agreement. **Introduced by Senators Pate, Tillman, and Van Duyn and referred to the Senate Rules Committee.**

SENATE BILL 317, Strengthen Controlled Substances Monitoring, is identical to House Bill 165, summarized in the March 9, 2015, Legislative Report. **Introduced by Senators Hise, Clark, and Tarte and referred to the Senate Rules Committee.**

SENATE BILL 318, PED Recs/Publicly Funded Substance Abuse Services, is substantively identical to House Bill 119, summarized in the March 9, 2015, Legislative Report. **Introduced by Senator Hise and referred to the Senate Rules Committee.**

SENATE BILL 319, Chiropractor Co-Pay Parity, would prohibit an insurer from imposing, as a limitation on treatment or level of coverage, a co-payment amount charged to the insured for chiropractic services that is higher than the co-payment charged for the services of a duly

licensed primary care physician for a comparable medically necessary treatment or condition.
Introduced by Senator Hise and referred to the Senate Rules Committee.

SENATE BILL 346, Enact Stricter Immunization Requirements, would state that it is not the intent of the General Assembly to require any child in this State to be immunized, as it is the parent, guardian, or custodian of a child who makes the final determination as to whether or not to immunize the child. However, in order for a child to attend school in grades kindergarten through 12 in this state, the child would have to have be immunized against the following: hepatitis A, hepatitis B, rotavirus, diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), rubella, mumps, pneumococcal disease, influenza, varicella, meningitis, and any other virus, disease, or condition against which the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), currently recommends for persons aged from birth through 18 years. No child would be required to be immunized against human papillomavirus (HPV) or any other sexually transmitted disease.

The bill would require each child to be screened for Severe Combined Immunodeficiency to determine if the child qualifies for a medical exemption prior to receiving any of the required immunizations. If a child has not received the required immunizations by the specified age and does not qualify for a medical exemption, the responsible person would be required to obtain the required immunization for the child as soon as possible after the lack of the required immunization is determined. When the Commission for Public Health requires an additional immunization against a disease, or requires an additional dose of a vaccine based on a new recommendation by the ACIP, the requirement for the additional immunizations would be effective beginning with the next academic year. The Commission could exempt from the new requirement children who are or who have been enrolled in school (K-12) on or before the effective date of the new requirement if they are beyond the age at which vaccination is recommended. **The bill also would repeal G.S. 130A-157, which provides for a religious exemption to the immunization requirement. Introduced by Senators Tarte, Barringer, and Van Duyn and has not yet been referred to a Senate committee.**

SENATE BILL 347, Up Minimum Wage with COLA/Const. Amendment, would amend the State constitution, if approved by voters in a statewide election held in November 2016, to require employers to pay employees wages no less than the minimum wage for all hours worked in North Carolina. Six months after enactment of the amendment, the minimum wage would be set at \$8.80 per hour, and would be increased on January 1st of each year based upon the increase in the cost of living. **Introduced by Senators Bryant, Waddell, and Smith-Ingram and has not yet been referred to a Senate committee.**

SENATE BILL 354, North Carolina Healthcare Jobs Initiative, would make a variety of amendments to the State's laws regarding Medicaid, including:

- repealing the prohibition on Medicaid expansion;
- requiring Medicaid expansion by providing that, effective January 1, 2016, the Department of Health and Human Services, Division of Medical Assistance, must provide Medicaid coverage to all people under age 65 who have incomes equal to or less than 133% of the federal poverty guidelines. Specifically, persons in the expansion group who have access to employer-sponsored insurance would be eligible for assistance with the cost of insurance through the existing North Carolina Health Insurance Premium Payment (NC HIPP) program;

- providing funding to the Department of Health and Human Services, Division of Medical Assistance, of almost \$6.6 million this year and over \$7 million next year for administrative costs associated with the Medicaid expansion. These funds would provide a State match for an estimated \$19.8 in federal funds for this year and over \$21 million in federal funds next year. If the amount of federal funds available for this purpose exceeds these amounts, then the expenditure of State funds would be reduced by an amount equal to the amount of excess federal funds that are available;
- making the following reductions due to anticipated savings generated by the Medicaid expansion to other State programs that currently serve the population to be included in the Medicaid expansion:
 - reduces funding to the Department of Health and Human Services, Division of Mental Health, by almost \$8.2 million this year and almost \$16.4 million next year;
 - reduces funding for the AIDS Drug Assistance Program (ADAP) in the Department of Health and Human Services, Division of Public Health, by \$14.3 million this year and by \$28 million next year; and
 - reduces funding for the Inmate Health Care program within the Department of Public Safety, Division of Corrections, by \$8.5 million this year and \$17 million next year;
- **requiring each hospital that is not fully exempt from both the equity assessment and UPL assessment to be subject to an additional assessment in order for the hospital providers of this State to pay for the State share of the service and administrative costs of Medicaid expansion; and**
- directing the Secretary of DHHS to annually calculate the assessment amount for a hospital by multiplying the total State share of service and administrative costs of Medicaid expansion by the hospital provider's percentage of all Medicaid services billed by all hospitals subject to this section. The Secretary would notify each hospital that is assessed of the following: (1) the total State share of service and administrative costs of Medicaid expansion for the applicable time period; (2) the hospital's share of all Medicaid services billed; and (3) the amount assessed to the hospital.

Introduced by Senators Bryant and Clark and has not yet been referred to a Senate committee.

- Colleen Kochanek
 NCCEP Legislative Counsel
 P.O. Box 12946
 Raleigh, NC 27605
 919.747.9988
colleen@kochaneklawgroup.com
www.kochaneklawgroup.comⁱ

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