



Kochanek
law group
Focusing on Legislative Representation

LEGISLATIVE REPORT May 2, 2017

INTRODUCTION

The General Assembly faced the “crossover” deadline this week, meaning that most legislation had to be passed by the chamber in which they were filed by Thursday, April 27th. In total, over 100 bills passed out of the House or Senate this week, with sessions stretching late into the night and furious last-minute lobbying punctuating stretches of relative calm as members sequestered themselves in caucus meetings to strategize and decide the fate of various proposals. A flurry of bills were filed in the House just before the deadline, with most including a small appropriation or some Finance impact as a means of avoiding the crossover deadline (bills that impact the budget, have a Finance Committee referral or are local bills are not subject to crossover).

Bills subject to crossover but did not make the deadline are not eligible to be heard again for the remainder of the biennium session, and will have to be re-filed in 2019. Given the controversial nature of some of the measures that were among those not to make the deadline (including bills dealing with gun rights, immigration, abortion and gay marriage) there is a sense of relief as some divisive and distracting issues can be set aside as focus turns to the budget and the hundreds of bills that did make the cutoff. Not making crossover does not necessarily mean, however, that amendments can't be made to bills that remain eligible. Some of the language in bills that are now presumed “dead” may very well pop up as amendments later in the session.

In addition to meeting crossover deadlines, the House and Senate both voted to override Governor Cooper's veto of House Bill 239 which will reduce the size of the Court of Appeals from 15 judges to 12. As the next three judgeship terms end, they will be ineligible for replacement under the language of the bill. Cooper originally vetoed the legislation citing concerns that the bill encroached on the Governor's authority to replace vacancies in the court. Three vacancies are expected to occur during Cooper's first term in office and he will now be unable to appoint replacements.



TOWING AND RECOVERY PROFESSIONALS OF NC



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BILLS OF INTEREST

HOUSE BILL 881, Automatic Voter Registration, would provide for automatic voter registration at drivers license offices and certain public agencies, and direct the State Board of Elections to establish and implement an education and outreach campaign to inform voters of the automatic voter registration procedures. The person taking the application would affirmatively ask if the applicant is registered to vote and, if not, whether the applicant would like to register to vote. If the applicant declines registration, the person taking the application would note on the application that the applicant affirmatively declined to become registered to vote during the transaction with the agency. If the applicant wishes to register to vote, the person taking the application would require the applicant to provide specified information, including declaring a preference to be affiliated with a political party or a preference to be an unaffiliated voter. Any person who willfully and knowingly and with fraudulent intent gives false information on the application would be guilty of a Class I felony. The bill also would provide funds to the Division of Motor Vehicles, and the Department of Health and Human Services, Divisions of Public Health and Central Management and Support to implement these requirements. **Introduced by Representatives Brockman, Meyer, Beasley, and Duane Hall and referred to the House Rules Committee. Was not taken up before the crossover deadline.**

HOUSE BILL 885, Community Opportunity Tax Credit, would authorize individual and corporate taxpayers who donate money to a community-based development organization (as defined) a credit against the taxes under this statute of up to 33% of the amount donated. The total amount of all tax credits allowed to taxpayers under this section for donations made in a calendar year could not exceed \$5 million. **Introduced by Representative Setzer and referred to the House Finance Committee.**

HOUSE BILL 886, Excise Tax Increases for Substance Abuse, would increase excise taxes on tobacco products other than cigarettes, cigarettes, and malt liquor with a portion of the funds being remitted to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in the Department of Health and Human Services for supporting the provision of substance use programs and services. **Introduced by Representative C. Graham and referred to the House Finance Committee.**

HOUSE BILL 891, Free Breakfast and Lunch in K-12 Pub. Schools, would establish the North Carolina School Breakfast and Lunch Fund, and provide \$200 million in each of the next two years to the Department of Public Instruction to provide free breakfast and lunch for students in public schools, including cooperative innovative high schools, regional schools, charter schools, and lab schools. **Introduced by Representatives Brockman, Quick, Autry, and Holley and referred to the House Appropriations Committee.**

HOUSE BILL 892, Free Lunch for Some Students/Stop Lunch Shame, would provide \$5 million to the Department of Public Instruction to provide that any student eligible for reduced-price lunch, including students in cooperative innovative high schools, regional schools, charter schools, and lab schools, receive lunch at no cost. The bill also would prohibit public schools from: (1) publicly identifying or stigmatizing a student who cannot pay for a meal or who owes a meal debt by, for example, requiring that the student wear a wristband or hand stamp; or (2) requiring a student who cannot pay for a meal or who owes a meal debt to do chores or other work to pay for meals, unless chores or other work are required of all students regardless of meal debt. The school would be required to direct communications about a student's meal debt to a parent or guardian and not the student; however, the school could send a student home with a

letter addressed to a parent or guardian. **Introduced by Representatives Brockman, Harrison, Quick, and Terry and referred to the House Appropriations Committee.**

HOUSE BILL 900, Safe Infrastructure & Low Property Tax Act, would:

- require the Department of Revenue, in conjunction with municipal governing entities and county boards of commissioners, to: (1) study the existing property tax exemptions, exclusions, deferrals, and other benefits to determine whether those benefits are needed or no longer serve the intended function and are, therefore, suitable for repeal; and (2) report the findings of its study to the Revenue Laws Study Committee no later than January 1, 2018;
- direct the Revenue Laws Study Committee to: (1) study property tax benefits currently provided to nonprofit entities and evaluate the amount of charity care provided by recipient nonprofit entities, the costs associated with all local services provided to and benefitting nonprofit entities, and the impact on local property tax revenues of the loss of tax base resulting from nonprofit entities purchasing and using previously taxed parcels of property; and (2) report its findings, together with any recommended legislation, to the 2018 Regular Session of the 2017 General Assembly upon its convening;
- allow municipalities to levy a 1.5% local prepared food tax, in addition to the current local sales and use taxes, to be used only for construction and improvement public infrastructure and facilities or for economic development, if approved by voters in a referendum, with specified exemptions; and
- authorize municipalities to levy a local occupancy tax, if approved in a referendum and a resolution is adopted; and
- allow municipalities to levy a local sales and use tax at the rate of ¼ % in addition to the current local sales and use taxes, to be used only for construction and improvement public infrastructure and facilities or for economic development, if passed in a referendum and the governing body of a municipality adopts a resolution and after 10 days' public notice.

Introduced by Representatives Ross and Saine and referred to the House Finance Committee.

HOUSE BILL 906, Statewide Nondiscrimination/Funds, would:

- 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;
- prohibit discrimination in real estate transactions, employment, lending or the extension of credit, public schools, charter schools, and nonpublic schools on the basis of race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual orientation, gender identity, military or veteran status, or genetic information
- 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;
- provide that it will 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 must provide access to such facilities based on a person's gender identity;

- provide \$1 million to the Department of Administration, Human Relations Commission, to provide grants to requesting counties and municipalities to be used to support nonprofit community organizations that support youth who identify as lesbian, gay, bisexual, transgender, or queer; and
- provide \$788,076 to the Department of Administration, Human Relations Commission, to be used for operating expenses and to fund four new positions.

Introduced by Representatives Meyer, Beasley, Brockman, and Butler and referred to the House Appropriations Committee.

HOUSE BILL 916, North Carolina Health Plan, would offer a comprehensive health care plan for all residents of North Carolina, on January 1, 2019, in accordance with the provisions of the Patient Protection and Affordable Care Act that allows states to offer their citizens alternatives to the Health Insurance Exchanges. The Department of Insurance and the Department of Health and Human Services would study the issues and propose statutory changes to facilitate the operation of the Health Plan, and report to the House Committees on Health and Human Services and Insurance and to the Senate Committee on Insurance no later than January 1, 2018. The bill would provide \$2.5 million to the Department of Insurance and \$2.5 million to the Department of Health and Human Services to implement the study. For the first two years of the Health Plan, no co-payments or deductibles would be charged. If later implemented, deductibles could not exceed \$250 per individual or \$500 per family. The Health Plan would not charge co-payments or deductibles for preventive care; but could charge a co-payment or deductible for a specialist visit without a referral by a primary care provider. All residents would be covered, but would have to enroll prior to receiving services. The Health Plan would offer a direct billing system for providers, and providers who participate in the direct billing system would be entitled to payment for services within 30 days of providing services. **Introduced by Representatives Brockman and Insko and referred to the House Appropriations Committee.**

BILL UPDATES

HOUSE BILL 35, Protect North Carolina Workers Act, was amended in the House Commerce and Job Development Committee to define an employer as any person, business entity, or other organization that transacts business in the State and employs 15 (currently, 25, and was 5 in the previous edition) or more employees in this State. **The bill as amended was approved the Committee and the full Senate and referred to the Senate Rules Committee.**

HOUSE BILL 308, No Insurance While Driving/Tow Vehicle, was amended to:

- provide that a law enforcement officer charging a motor vehicle owner shall have the motor vehicle towed and stored using the law enforcement agency's current rotation system and regulations pertaining to towing and storage;
- delete the provision delaying the lien of the person in custody of the vehicle towed and stored under this statute by 90 days;
- amend the provision authorizing release of a motor vehicle to restrict release to an innocent owner who has not had a lapse in financial responsibility; and
- provide for determination by the clerk of superior court that a petitioner has not had a lapse in financial responsibility, including notice and scheduling requirements

The amendments above were made at the request of the Towing and Recovery Professionals of North Carolina. The bill as amended still met with opposition and while it was reported favorable out of Judiciary I, it was then referred to the House Committee on

Rules, Calendar and Operations and was not sent to the floor in time to meet the Crossover deadline. The bill is therefore “dead” for the remainder of the 2017-2018 session.

HOUSE BILL 827, Use of Passing Lane/Increased Penalty, was amended in the House Transportation Committee to:

- require any vehicle proceeding at less than the legal maximum speed limit or impeding the steady flow of traffic to be driven in a lane other than the inside lane next to the centerline or median of a multilane highway, except when overtaking and passing another vehicle proceeding in the same direction or when making a left turn;
- provide \$50,000 to the Division of Motor Vehicles to provide education to the public on compliance with this section; and
- require a violation to be enforced by warning ticket only until November 30, 2018.

The bill as amended was approved by the House Transportation Committee and sent to the House Judiciary I Committee.

SENATE BILL 346, Salvage Yards/Waiting Period, was amended to now require a secondary metals recycler or salvage yard that purchases a motor vehicle under the statute and does not have a valid title at the time of purchase to wait at least 48 hours from the time of submission and verification with the Division of Motor Vehicles before damaging, dismantling or wrecking the motor vehicle. **Passed the Senate, sent to the House and referred to the House Rules Committee.**

SENATE BILL 411, Various Motor Vehicle Law Revisions, was amended to:

- delete the proposed amendment authorizing a motor vehicle dealer to transfer title by certifying specified statements regarding liens, to the best of the dealer's knowledge and information;
- require that a completed form and certificate of title be submitted no later than 45 days following the sale or transfer of the vehicle;
- provide that the dealer principal, owner, or manager of a dealership is liable for violation;
- provide an exemption to the requirement that a person transferring title or interest deliver the certificate of title at the time of delivering the vehicle for when the certificate of title is unavailable;
- direct a motor vehicle dealer, when an existing certificate of title on a motor vehicle is unavailable, to deliver the certificate of title with the transferee's application for new title and necessary taxes and fees to the DMV within 20 days of receipt of the title, but no later than 45 days following the sale or transfer of the vehicle;
- authorize the dealer to offer the vehicle for sale subject to prior written notice that the dealer is not in possession of the certificate of title;
- specify circumstances under which the certificate of title is considered unavailable;
- authorize the purchaser to rescind the purchase transaction and collect the full purchase price of the vehicle and liquidated damages when the dealer fails to deliver the certificate of title to the DMV; and
- not limit other civil remedies or consumer protections.

Passed the Senate, sent to the House and referred to the House Rules Committee.

SENATE BILL 412, Improve Process/Sale of Unclaimed Vehicles, would:

- require that the Division of Motor Vehicles make all of the forms necessary for the sale of an unclaimed motor vehicle available on the DMV's website, and requires that the DMV allow the forms to be submitted electronically; and
- allow forms that need a signature to be submitted with an electronic signature.

Passed the Senate, sent to the House and referred to the House Rules Committee.

LEGISLATION ENACTED

HOUSE BILL 13, Class Size Requirement Changes. The proposed committee substitute adopted by the Senate would delay the class size reduction mandate until the 2018-19 school year with the exception that the average class size for K-3 will be capped at 20 students in 2017-18 (current 16-17 law is 21 students), and would also cap the individual class size in K-3 at 23 students in 2017-18 (current 16-17 law is 24 students). For the 2018-19 school year, however, the full class size reductions (as enacted in the 2016 budget) go into effect with a verbal commitment to fund the reductions. The bill as amended was approved by the Senate and the House agreed to the changes made to the bill made by the Senate. The bill was signed into law by the Governor on April 27, 2017. **Effective: April 27, 2017, and applies beginning with the 2017-2018 school year.**

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