

# ALERTS

## North Carolina Legislative Report - May 4, 2012

April 30 - May 4, 2012

### *On The Floor*

The General Assembly is currently out of session. Both the House and Senate will return for the "short" legislative session (the second year of a 2-year session) on May 16th.

### *Interim Committee Meeting Highlights*

**Revenue Laws Committee** - The Revenue Laws Committee completed its interim work this past week and reported out of committee several legislative proposals that could be considered during the short session which begins on May 16th. A list of legislative proposals and brief descriptions are listed below.

#### Expedited Rulemaking for Forced Combination

- This Legislative Proposal would require the Department of Revenue to adopt rules regarding its interpretation of the Secretary's authority to re-determine the State net income of a corporation properly attributable to its business carried on in the State by adjusting its net income or require it to file a combined return. The proposal provides an expedited rule-making process for these rules.

#### 1. Unemployment Insurance Changes

- This Legislative Proposal includes several changes to the unemployment laws that fall within these three categories:
  1. The extension of the three-year look-back period from January 1, 2012 to January 1, 2013.
  2. The resolution of outstanding issues associated with S.L. 2011-401, Senate Bill 532 (ESC/Jobs Reform bill).
  3. The statutory changes required to comply with the federal Trade Adjustment Assistance Extension Act of 2011.

#### 2. Extend Tax Provisions

- This Legislative Proposal would extend the sunset of certain tax provisions as proposed by the Revenue Laws Study Committee.

#### 3. Appraisal Management Company Reported to Department of Revenue

- This Legislative Proposal would require the North Carolina Appraisal Board to report annually to the NC Department of Revenue the following information about registered appraisal management companies: name, address, process agenda if any, type of entity, employer identification number or social security number, and North Carolina Secretary of State identification number if any.

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**4. Revenue Laws Technical, Clarifying and Administrative Changes**

- This Legislative Proposal would make technical, clarifying and administrative changes to the revenue laws and related.

**House Appropriations Subcommittee Meetings** - A number of House Subcommittees met and released budget options and a timeline for the House budget process during the short session.

**House Appropriations Subcommittee on Transportation** - House Republicans proposed legislation Tuesday that would end North Carolina's required safety and emissions inspections for hundreds of thousands of cars and light trucks that are 3 years old or newer. Air quality and motor vehicle regulators have assured legislators that the change would not cause pollution or safety problems, because newer vehicles rarely flunk the required inspections. "By eliminating the need for these inspections during the first three years, you'll be giving the consumer a break at a time I think they need it," said Rep. Ric Killian, a Charlotte Republican. Killian is co-chairman of the House Transportation Appropriations Subcommittee, which released a handful of draft bills for consideration in the General Assembly session that starts May 16.

***In the News***

**Revenue Forecasts** - The state will take in \$232.5 million more than expected this year in tax payments, according to a revised revenue forecast by the legislature's Fiscal Research Division and the Office of State Budget and Management. For the next budget year, tax revenue is projected to be \$21 million more than expected. In an e-mail to top legislators and staff members, legislative economist Barry Boardman said this year's surplus results from better than expected growth in personal income tax withholding. Other sources of revenue, including sales tax, corporate income taxes and franchise taxes are expected to come in at or slightly below original projections. The downgraded economic forecast for the state and the nation resulted in the small change in next year's projection, Boardman wrote.

**Redistricting Records** - Legislative leaders won't have to turn over the information their lawyers produced on redistricting right away, a three-judge panel has said. Last month, the judges decided in favor the Democrats and non-profits seeking redistricting information from the private lawyers House Speaker Thom Tillis, Senate leader Phil Berger, and Senate redistricting Chairman Bob Rucho hired. The judges said that since the lawyers were paid with taxpayer money, their work on the redistricting plans is public record and should be treated like the work produced by state employees. The legislators filed notice of appeal last week, and have a temporary stay that will expire May 11. The stay will give them time to seek an appeal, the judges wrote.

**Paperless Chambers** - The House and Senate are about to try going paperless. In past years, the General Assembly's print shop has churned around a million copies of the thousands of bills filed by lawmakers. Today, most legislators don't receive large bill piles and the media checks the web more often for bills, but unread copies still fill recycling bins and trash cans. So General Assembly leaders believe it's time to consider using more technology while scaling back copying expenses. "We've got a paper-laden culture at the Legislature," said House Speaker Thom Tillis, R-Mecklenburg. The House and Senate will embark on a pilot

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program with the May budget session in which lawmakers will follow bills and amendments during floor debate on laptops or other devices, not paper. The House is going further by having members file their own bills electronically, and its wooden racks have been dismantled. Lawmakers will still have the option of receiving paper copies this year, but a successful pilot could bring incentives to make it essentially obligatory in 2013. "We're not trying to go totally automated overnight," said Senate Rules Committee Chairman Tom Apodaca, R-Henderson. "We're trying to move at a deliberate pace." Tillis said shifting more activity online should improve the process of legislating.

**Tax Reform** - The leading Democratic and Republican candidates for governor agree that North Carolina should attempt to reform its tax code, which has remained largely unchanged since the 1930s. "I have no illusions that this effort will be easy or painless," wrote former U.S. Rep. Bob Etheridge, a Democratic primary candidate, in response to an Associated Press questionnaire. "My approach as governor, rather than just 'endorsing' a tax reform plan, will be to bring all the players ... together to create a system that is both predictable and fair to all." Lt. Gov. Walter Dalton, who's been serving at the Legislature since 1997, said an incremental approach is required out of political necessity. "On this issue, I believe in evolution, not revolution," said Dalton, another Democratic hopeful. "As we've seen in the past, comprehensive reform is nearly impossible to pass in the General Assembly." Business leaders, fiscal number-crunchers and elder statesmen on both sides of North Carolina's political aisle have tried for years to build momentum to retool the tax code. Legislators have made little progress.

**Settling In** - Former state banking commissioner Joseph Smith Jr. expects the \$25 billion mortgages settlement he's overseeing will be an important step toward restructuring the mortgage industry "in a way that is more fair to consumers." The settlement -- the largest ever involving a coalition of state and federal agencies -- is not enough by itself to reform the industry, Smith said last week during an interview in his new office on the 18th floor of the PNC Plaza building in downtown Raleigh. But Smith, 62, who resigned from his state post in February to become monitor of the newly formed Office of Mortgage Settlement Oversight, anticipates its consumer protections and compliance provisions could be the model for new federal regulations for all mortgage providers.

**Ethics Request** - House Democrats have asked two ethics panels to examine whether laws were broken after two aides to Republican House Speaker Thom Tillis resigned because of their relationships with lobbyists. House Minority Leader Joe Hackney, D-Orange, and other Democratic caucus leaders wrote to the Legislative Ethics Committee and the State Ethics Commission requesting the investigations. The disclosures of inappropriate relationships between Tillis' staff and the lobbyists raise questions about conflicts of interest and undue influence on the legislative process, Hackney and others wrote. Charles Thomas, the chief of staff to Tillis since early 2011, resigned last week after a newspaper confronted him about his relationship with a registered lobbyist for the North Carolina Home Builders Association. A few days later, Tillis policy adviser Amy Hobbs offered her resignation after the speaker said she had a similar relationship with a lobbyist who has represented several clients. The Democrats said they are especially concerned about comments Thomas made to a news reporter that people like himself would pay for food and drink bills when a group would go out in Raleigh and that lobbyists might do the same thing. State ethics laws place severe restrictions on gifts of any kind. "The people of North Carolina deserve to know whether decisions intended to be in the best interest of the state came about as a result of unreported or illegal gift-giving between the speaker's staff and

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lobbyists with specific agendas," the Democrats wrote.

**Monroe Bypass** - The North Carolina Department of Transportation and Federal Highway Administration failed to fully assess the environmental impacts of a \$700 million toll road project in the Charlotte area, a three-judge panel of the 4th U.S. Circuit Court of Appeals in Richmond ruled on Thursday. In doing so, the judges concluded unanimously that the agencies violated the National Environmental Protection Act. The ruling struck down a flawed environmental impact statement that calls into question various approvals for the Monroe Bypass, apparently sending the project back to the drawing board, according to opponents. Attorneys for the Southern Environmental Law Center, who said the ruling has national implications, joined conservation groups and others opposed to the bypass in hopes of returning the project to the drawing board. "This is a wake-up call for NCDOT and transportation agencies around the country that the only legal way to assess environmental impacts of building major highways is to factor in resulting sprawl development on the landscape," Darren Farren, a senior attorney with the SELC, said in a statement.

**Merger Proposal** - Duke Energy and Progress Energy appear to have reached an agreement with the N.C. Utilities Commission's Public Staff regarding the companies' \$26 billion merger plan as altered to meet objections from federal regulators. A draft of the agreement between the utilities and the commission's customer advocate is expected to be filed with the commission as soon as next week. The state commission will not give final approval on the deal until the Federal Energy Regulatory Commission accepts a plan proposed by the companies to settle potential monopoly concerns. Duke and Progress have worked with the Public Staff for several weeks to settle issues raised by the previous plan the companies proposed to address concerns FERC has raised. The federal agency says the new Duke formed by the merger would have sufficient market dominance to throttle wholesale competition for electricity in specific Carolinas markets during certain summer and winter months. It won't approve the deal until the companies propose effective measures to check the market power of the merged company.

**Sweepstakes Suit** - The N.C. Court of Appeals has granted several Fayetteville gambling houses a new day in court to fight the high privilege license taxes the city levied on them several years ago. The ruling reverses a decision that dismissed the sweepstakes cafes' case in Cumberland County Superior Court in August. The gambling houses say in their lawsuit that the annual privilege license taxes that Fayetteville imposes on their industry are unjustly and unfairly high and are designed to put them out of business. This, they say, violates the N.C. constitution, which has a clause that says taxation must be done in a just and equitable manner. The fees used to be \$50 per year. In 2010, the city raised them to a minimum of \$4,500 per year, and they can run in the tens of thousands for the larger locations. Fayetteville officials argue that high fees are necessary because the businesses create added work for law enforcement. A three-judge Court of Appeals panel unanimously ruled that Superior Court Judge Russell Lanier Jr. should have let the case go forward.

**Campaign Spending** - Republican Robert Pittenger has put at least \$1.13 million into his 9th District congressional campaign, bringing the total he raised through mid-April to \$1.4 million -- four times as much as his nearest GOP rival in the 10-man primary. Pittenger, a real estate investor, gave his campaign an additional \$150,000 in April, according to a new report posted Tuesday by the Federal Election Commission. The money has allowed him to run an aggressive media campaign on TV and radio and put glossy mailers into the homes of many GOP voters. He's not the only one giving or loaning himself money. State Rep. Ric Killian loaned his

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campaign \$101,000. Financial consultant Edwin Peacock took out a \$249,999 home equity loan. And insurance executive Dan Barry put in nearly \$74,000.

**House Budget** - The annual North Carolina state budget dance is about to begin in earnest now that legislators know how much money they'll have to spend. Republican legislators still have yet to hear formally from their partner -- Democratic Gov. Beverly Perdue -- about what she'd like. Lawmakers learned this week they should have a revenue surplus of about \$233 million for the fiscal year ending June 30, largely the result of more income taxes being withheld from workers' paychecks, according to a legislative staff memo. House budget subcommittees also have started meeting and have received preliminary orders to locate cost savings in several areas of government. No cuts have yet been directed for public education by the House, a key lawmaker said. GOP legislators warn most of this year's surplus will probably be needed to close an immediate \$150 million shortfall for the state's Medicaid program this year and to close an additional projected gap between revenues and Medicaid expenses for the next fiscal year. That means spending money on any new or expanded programs likely will occur when cost-cutting frees up additional funds.

**Final Report** - State regulators Tuesday issued a long-awaited analysis of fracking, reiterating that the mining method can be done safely in North Carolina, despite overwhelming public opposition to the natural gas extraction technique. The 484-page report on hydraulic fracturing, or fracking, tweaks an earlier agency recommendation issued in March that became the focus of heated debate during public hearings attended by hundreds of people. The state Department of Environment and Natural Resources' final report incorporates the public comments and citizen suggestions but doesn't change the agency's overall conclusions. The final report contains a litany of safety recommendations, including a request for more state funds to conduct further studies, before fracking for natural gas should be allowed in this state. The agency's report sets the stage for a legislative debate between lawmakers eager to approve the controversial mining practice and those who say it's too risky and dangerous. The report was commissioned last year by the state legislature.

According to the report, this state is not likely to become a staging ground for derricks and pipelines for more than two decades, based on an analysis of the American Natural Gas Alliance. The industry group said in a recent report that the nation's priority regions for fracking, looking out to 2035, do not include North Carolina. The reasons for the lack of interest are simple: This state's natural gas reserves are unproven and comparatively puny. Geologists estimate a 40-year supply concentrated around Lee, Chatham and Moore counties, but the actual reserve could be smaller or larger and won't be known until drillers drop test wells to assess what's below.

### *Upcoming Committee Meetings*

Wed, May 09, 2012

10:00 AM Program Evaluation Oversight Comm., Jt. Leg.

12:00 PM House Select Committee on Agricultural Regulations (House)

1:00 PM Unemployment Fraud Task Force (2011)

Thu, May 10, 2012

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8:30 AM Appropriations Subcommittee on Natural and Economic Resources (House)

1:00 PM Appropriations Subcommittee on Justice and Public Safety (House)

Mon, May 14, 2012

2:00 PM HHS - Subcommittee on LME Governance

Tue, May 15, 2012

9:30 AM Joint Legislative Oversight Committee for Health and Human Services

10:00 AM House Select Committee on Dentistry Management Arrangement Limits (House)

10:00 AM Jt. Regulatory Reform Committee

10:00 AM JOBS Study Commission, Jt. Legis.

2:00 PM House Subcommittee on Justice and Public Safety

Wed, May 16, 2012

9:00 AM Legislative Research Commission

12:00 PM Session Convenes (House)

12:00 PM Session Convenes (Senate)

Thu, May 17, 2012

9:30 AM Rep. Insko - Center for Women's Health Research

Mon, May 21, 2012

10:00 AM Task Force on Fraud Against Older Adults