

ALERTS

North Carolina Legislative Report - February 14, 2014

February 1 - 14, 2014

The General Assembly has officially completed its business for the 2013 long session. The 2014 short session will begin on Wednesday, May 14, 2014. The MVA Public Affairs Legislative Report on North Carolina will be distributed bi-weekly to keep you up to date on the latest legislative issues facing the state during the interim.

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Committee Reports

Revenue Laws Study Committee

The Revenue Laws Study Committee met on Tuesday, February 11. The Committee had an extremely full agenda and took up the following issues:

- The first substantive item taken up by the Committee was an update on the Department of Revenue's decision to cancel a contract with CGI for the TIMS (Tax Information Management System) project. TIMS was intended to be a complete overhaul of the Department's internal IT system. Members of the Committee expressed great concern over the fact that the State had spent roughly \$69 million on a project that is currently capable of supporting only 28 of 34 tax schedules (which make up less than 10% of the Department's workload).
- Next on the agenda was a proposal with respect to the applicability of the sales tax on performance contracts. A subcommittee had been appointed to address the limited issue of how to treat retailer-contractors. Retailer-contractors are persons who engage in a business that involves both a) selling building materials, supplies, equipment, and fixtures at retail and b) entering into real property improvement contracts with its customers. A bill draft was presented on this subject that would declare that a retailer-contractor that enters into a real property improvement contract with a customer is the consumer of the tangible personal property used in performing the contract and is liable for the tax.
- Next the Committee heard from a representative of the NC Bar Association about the taxation of trusts and estates. Currently, North Carolina is unique in imposing income taxes on trusts and estates based on the residency of beneficiaries. The chair of the Committee asked staff to develop a proposal on this issue to present at a later meeting.
- Next on the agenda was a proposal with respect to local privilege license taxes. Currently, cities have a great deal of leeway in imposing privilege license taxes (basically cities can impose privilege license taxes in their discretion except where specifically limited) whereas counties have only limited authority. The draft proposal would repeal the authority of a county to levy a privilege license tax altogether and would repeal

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cities' broad authority to levy privilege taxes and instead allow a city to levy an annual business tax of up to \$100 on each business operating within the city.

- Next a proposal was presented with respect to compliance initiatives related to holders of ABC (alcoholic beverage control) permits. The draft would make compliance with respect to State tax laws a precondition to the issuance of most ABC permits. There were very few questions or concerns about this proposal.
- Next up on the agenda was a request from the Department of Revenue with respect to the use of the proceeds of the collection assistance fee. The Department asked for an increase in the amount of the proceeds of the fee that could be used for taxpayer locator services, which was supported by the Committee. The Department also asked for the authority to use private collection agencies for the collection of tax debts from residents. There was a great deal of discussion of the pros and cons of this second issue, but no determination was reached.
- Next the Committee heard a presentation on the pros and cons of two items related to the apportionment of corporate income and franchise taxes. Staff explained the basics of how the State's apportionment formula works for income and franchise tax purposes for multistate corporations operating within the State. Staff explained the arguments for and against moving to an apportionment formula based solely on the corporation's sales within this State. Staff next addressed the issue of how sales of services are sourced for purposes of computing the sales factor and explained the arguments for and against moving to a market-based sourcing methodology. The Committee took no action with respect to the issues raised in the presentation.
- Finally, staff gave an update with respect to some sales and use tax changes that will take effect July 1, 2014.

Joint Legislative Oversight Committee on Health and Human Services

The Joint Legislative Oversight Committee on Health and Human Services met on Tuesday, February 11. Representative Justin Burr presided over the committee meeting.

Pam Kilpatrick, Assistant State Budget Officer with OSBM, and Rod Davis, DHHS CFO, gave a Medicaid budget update. In regards to a budget overrun, DHHS said that \$209 million is the best estimate at this point.

Secretary Aldona Wos also informed lawmakers that North Carolina has met a federal deadline to clear a massive backlog of food stamp applications. The Secretary also announced that Dr. Robin Cummings will serve as the new Medicaid director for the state.

Deborah Landry with the NCGA Fiscal Research Division gave a presentation on Child Protective Services programs in other states.

Landry then gave an overview of Pre-K and Smart Start budget and children served. Rob Kindsvatter, Director of the Division of Child Development and Early Education with DHHS, gave a child development and early education update. Dr. Nancy Brown, Chair of the North Carolina Partnership for Children, gave the committee a presentation on Smart Start.

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After that presentation, Ryan Blackledge with the NCGA Legislative Drafting Division gave the committee a presentation on Medicaid eligibility extension related to MAGI. Blackledge reviewed some of the legal and fiscal problems with the way DHHS obtained the wavier. Several members of the committee expressed frustration that the General Assembly was never informed that DHHS was going to seek the wavier. The Secretary apologized to the lawmakers and said that she was disappointed that proper process was not followed.

David Rice with NCGA Fiscal Research Division then gave a presentation on Medicaid accountable care organizations in other states.

Sandy Terrell with DHHS gave the committee an update on the Medicaid Shared Savings plan. She stated that they will have a report on Shared Savings Methodology ready for the committee on March 1st and that the Shared Savings Plan will be implemented on July 1st. Terrell said that there are several challenges they have with this program. Some of the challenges include reaching consensus around providers on benchmarks, an aggressive timeline for implementation, lack of clarity about incentives and difficulty of smaller provider incentives to achieve savings. Terrell emphasized that provider input is very important moving forward in the process and that DMA will reach the deadlines set by law.

Luke Hoff, Director, Property & Construction Division with DHHS, gave the committee a state update on the Broughton and Cherry Hospital construction projects.

Chris Scarboro, President of NC Health Information Exchange, gave a state report to the committee on the Health Information Exchange. During the presentation, Senator Ralph Hise asked about the high fees associated with the program and his concern that it may have an impact on rural hospitals. Scarboro said that he expects to have the info sharing agreement in 30 days between DHHS and HIE. Representative Nelson Dollar asked DHHS when they believe the sharing agreement will be complete. DHHS is not as optimistic as HIE, but they are looking forward to meeting with hospitals next week to hear their concerns.

Drexdal Pratt, Division Director of Health Service Regulation with DHHS gave the committee an update on the implementation of Transparency provisions (S.L. 2013-382). After several stakeholder meetings and meetings with General Assembly members regarding guidance with the transparency provisions, DHHS said they are moving forward with rules for the fair billing provisions and the transparency provisions. The next stakeholder meeting is March 7 and the target date for full implementation of the statutes is October.

Mark Gogal and Secretary Wos addressed staffing issues at DHHS. Gogal noted that there are 81 openings in DMA. Chairman Burr stated that he will assist DHHS staffing issues by helping draft legislation that gives DHHS the flexibility to hire the best and brightest in the future.

The next committee meeting will take place on March 11.

Joint Legislative Economic Development and Global Engagement Oversight Committee

The Joint Legislative Economic Development and Global Engagement Oversight Committee met on Thursday, February 6. The Committee began by hearing several updates on the Economic Development Partnership of North Carolina, Inc. - the public-private partnership formed by the Department of Commerce to manage parts

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of the State's business recruitment and marketing efforts. Legislative staff gave updates to the Committee on the Department's current plans as submitted to the Office of State Budget and Management, the status of Senate Bill 127 (a bill that ultimately was not enacted in 2013, but that has been used as a guide by the Department in the creation of the public-private partnership), and best practices learned from other states' experiences with public-private partnerships for economic development. Next, the Committee heard from the Secretary of Commerce and Richard Lindenmuth, the CEO of the Economic Development Partnership of North Carolina, with respect to their efforts in getting the Partnership up and running. After these presentations, the Committee heard from John Lassiter, the Chair of the Economic Development Board, on the economic development strategic plan developed by the Board. The plan is the first comprehensive plan the State has had for economic development in a decade. Finally, the Committee heard from Pat Mitchell, the Director of the Rural Economic Development Division within the Department of Commerce, on the Division's continued efforts with respect to programs formerly administered by the Rural Economic Development Center.

Joint Legislative Committee on Information Technology

The Joint Legislative Committee on Information Technology met on Thursday, February 6. Co-Chair Senator Andrew Brock presided over the hearing. The committee heard a report on IT business cases from Budget Director Art Pope and DHHS Chief Information Officer Chris Estesan gave an update on the NC Tracks outage. The Committee also heard reports on moving towards a statewide IT plan, the tax information management system, a study to establish State requirements to safeguard personal citizen data collected by branches of State government, shared service rates and resource planning activities.

Revenue Laws Study Committee, Subcommittee to study NEL v. NOL.

The subcommittee of the Revenue Laws Study Committee tasked with studying the issue of whether the State should allow an income tax deduction for net operating losses (NOL) rather than net economic losses (NEL) met on Wednesday, February 5. There was general agreement from the subcommittee that North Carolina should transition from allowing a NEL deduction to allowing a NOL deduction. There was also general agreement that North Carolina should not fully conform to federal law on this issue. Instead of allowing NOLs to be carried forward and back as under federal law, the Committee seemed ready to allow NOLs to be carried forward only. As with the current treatment of NELs for State purposes, the Committee was leaning towards allowing NOLs to be carried forward for up to 15 years. The only point of discussion was how to determine an amount of existing losses that taxpayers could carry forward as of the effective date of any change. Several options were discussed, but a final determination on this issue was not reached.

Joint Legislative Education Oversight Committee

The Joint Legislative Education Oversight Committee held its fourth meeting of the interim on Tuesday, February 4. The meeting was chaired by Senator Jerry Tillman. After introductions, Steve Brooks with the State Education Assistance Authority presented a proposal on centralizing residency determination for college applicants. Rebecca Troutman, NC Association of County Commissioners, followed to discuss local funding for NC school systems. The meeting wrapped up with a presentation on draft rules for DPI's three residential programs and an update on the state's virtual academies. The committee will hold its next meeting on March 4

in Raleigh.

Joint Legislative Administrative Procedure Oversight Committee

The Joint Legislative Administrative Procedure Oversight Committee met on Tuesday, February 4. The Committee began by hearing an update on some items raised at previous meetings. Specifically, the Committee had questions about whether required reports had been received from certain licensing boards and the contents of those reports. Of particular concern to the Committee were licensing boards that had not submitted either of the required reports (the North Carolina Board of Examiners of Fee-Based Practicing Pastoral Counselors and the North Carolina Board of Recreational Therapy Licensure). The Committee also expressed concern about several licensing boards that had either very low (or negative) fund balances and those with very high fund balances and requested further information. Next the Committee heard from four State entities that enjoy either a partial or complete exemption from the rulemaking process under the Administrative Procedure Act. These entities (the Department of Commerce, The University of North Carolina, the State Board of Community Colleges, and the State Board of Education) each gave a justification for the full or partial exemption from rulemaking enjoyed by the entity.

Joint Legislative Workforce Development System Reform Oversight Committee

The Joint Legislative Workforce Development System Reform Oversight Committee met on Tuesday, February 4. The Committee heard a review of the Commission on Workforce Development's report, "Measuring the Performance of North Carolina's Workforce Development System: A First Look." The Commission on Workforce Development had been directed by the General Assembly in 2012 to develop and continuously improve performance measures to assess the effectiveness of workforce training and employment. The Commission and staff from the Department of Commerce gave a presentation. The Department presented on the performance measures that had been developed to date, the results of some initial evaluations of the system based on those measures, and some data limitations that hampered efforts to fully evaluate the system. The Department then outlined the next steps to be taken in the ongoing review. Next, Roger Shackelford, Director of the Division of Workforce Solutions, answered some specific questions from Committee members about efforts of the Division in meeting requirements for the Division to meet with applicants for unemployment insurance benefits.

Joint Legislative Commission on Energy Policy

The Joint Legislative Commission on Energy Policy met on Tuesday, February 4. Senator Bob Rucho presided over the commission meeting.

Bruce McKay, Managing Director for Federal Affairs with Dominion, and Bill Cooper, President of the Center for Liquefied Natural Gas, gave presentations that provided the committee with an overview of liquefied natural gas facilities and exports.

Jim Womack, Chairman of the Mining and Energy Commission, gave the committee an update on MEC activities, milestones and scheduling regarding the rules development process for the management of natural gas fracturing. Each MEC committee working on the rules process then gave an update on each specific issue area. Womack also gave an update on Water/Wastewater Management and Environmental Standards

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Committee. Charles Holbrook gave the update for the Administration of Oil and Gas Committee.

Amy Pickle gave an update for the Rules Committee. Dr. Ray Covington gave the update on the issue of pooling. Dr. Ken Taylor with DENR gave an update on the Coordinated Permitting Study Group findings and conclusions.

Jennifer McGinnis, Commission Counsel, gave an overview of the member and staff trip to Arkansas. Several members also made comments about the trip and how they thought it was very helpful with a variety of issues they are working on in North Carolina.

Robbie Ferris, CEO/President of SfL+A Architects, and Steven Hunt, CEO and General Manager, Lumbee River EMC gave presentations on net-zero energy schools.

The next committee meeting will take place at 1 p.m. on March 4.

2014 Candidate Filings

North Carolina's 2014 campaign season officially opened Monday, February 10. The filing period will end Friday, February 28.

In the News

News & Observer: Cooper asks for stay in federal redistricting suit

Charlotte Observer: Report lauds high court financing

AP: NC, local elections boards closed due to storm

Wilson Times: Attorney general approves Wilson Medical, Duke LifePoint hospital merger

Charlotte Observer: I-77 toll lanes project on track to start in fall

News & Observer: Guilford County school board votes to sue to stop end of teacher tenure

News & Observer: Berger names Senate co-chairs for Affordable Care Act committee

WRAL: NC Dems clash over Chavis, party changes

WRAL: Lawmakers to push legislation for coal ash cleanup

WRAL: NC public health chief also to oversee Medicaid

Hickory Record: ALLRAN OUT: Longtime state senator done after 34 years in Raleigh

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News & Observer: Unauthorized waiver adds millions to NC Medicaid costs

News & Observer: McCrory: Raise teachers' starting pay

Charlotte Observer: North Carolina GOP has financial edge heading into elections

Calendar

Mon, February 17, 2014

10:00 AM

House Committee on Treasurer Investment Targets and State Employee Retirement Options (LRC)(2013)

1027/1128 LB

10:00 AM

Environmental Review Commission -- CORRECTED

643 LOB

1:00 PM

House Committee on Unmanned Aircraft Systems (LRC)(2013) -- CORRECTED

544 LOB

Tue, February 18, 2014

9:00 AM

Committee on Civilian Credit for Military Training and State Adjutant General Selection Criteria (LRC)(2013)

544 LOB

9:00 AM

Committee on Market Based Solutions and Elimination of Anti-Competitive Practices in Health Care (LRC)
(2013)

643 LOB

1:00 PM

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Purchase and Contract Study Committee (2013)

415 LOB

2:00 PM

Committee on Omnibus Foster Care and Dependency (LRC)(2013)

414 LOB

Wed, February 19, 2014

9:00 AM

Committee on Jordan Lake (LRC)(2013)

544 LOB

9:30 AM

Agriculture and Forestry Awareness Study Commission -- CORRECTED

Mt. Olive College, Hennessee Room

1:00 PM

Joint Legislative Program Evaluation Oversight Committee

544 LOB

1:00 PM

House Study Committee on Education Innovation (2013)

643 LOB

Thu, February 20, 2014

9:30 AM

**Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees (LRC)(2013) --
CANCELLED**

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544 LOB

10:00 AM

Committee on Common Core State Standards (LRC)(2013)

643 LOB

1:00 PM

House Committee on Judicial Efficiency and Effective Administration of Justice (LRC)(2013)

544 LOB

Mon, February 24, 2014

10:00 AM - 3:00 PM

Joint Legislative Oversight Committee on Health and Human Services, Mental Health Subcommittee

643 LOB

10:00 AM

Intentional Death Health Committee

1027/1128 LB

1:00 PM

House Committee on Food Desert Zones (LRC)(2013) -- CORRECTED

544 LOB

Tue, February 25, 2014

10:00 AM

North Carolina Educator Effectiveness and Compensation Task Force

643 LOB

Wed, February 26, 2014

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9:00 AM

Joint Legislative Oversight Committee on Health and Human Services, ex. Subcommittee on Public Guardianship

643 LOB

2:00 PM

House Committee on Funeral and Cemetery Regulation (LRC)(2013)

Catawba Valley Community College - Hickory, NC

Thu, February 27, 2014

9:00 AM

House Committee on Wetland and Stream Mitigation (LRC)(2013)

544 LOB

1:00 PM

House Committee on Land Development (LRC)(2013)

Magnolia Place Subdivision Clubhouse

Mon, March 03, 2014

8:30 AM

House Committee on Property Owner Protection and Rights (LRC)(2013)

1027/1128 LB

1:00 PM

House Committee on Public Enterprise Systems and Use of Funds (LRC)(2013)

1027/1128 LB

Tue, March 04, 2014

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10:00 AM

Joint Legislative Administrative Procedure Oversight Committee

544 LOB

10:00 AM

Joint Legislative Education Oversight Committee

643 LOB

Mon, March 10, 2014

10:00 AM

Unintentional Death Committee

1027/1128 LB

Thu, March 13, 2014

9:00 AM

Joint Legislative Emergency Management Oversight Committee

544 LOB

Thu, March 20, 2014

9:30 AM

Committee on the Assessment of Regulated and Non-Regulated Industry Utility Fees (LRC)(2013)

544 LOB

1:00 PM

Committee on Cultural and Natural Resources (LRC)(2013)

643 LOB

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Wed, March 26, 2014

10:00 AM

Child Fatality Taskforce - Perinatal Health Committee

1027/1128 LB

Thu, March 27, 2014

9:00 AM

Joint Legislative Commission on Governmental Operations

643 LOB

Mon, April 07, 2014

10:00 AM

Child Fatality Task Force

1027/1128 LB

Wed, May 14, 2014

12:00 PM

Session Convenes (House)

House

12:00 PM

Session Convenes (Senate)

Senate

Thu, May 22, 2014

8:00 AM

Skin Cancer Screening

1124/1224 LB