



INTRODUCTION

While the corner offices negotiate the budget and public hearings are being held across the state for Redistricting, legislative activity on Jones Street has been a bit slow over the past few weeks. Although there hasn't been much bill movement, there is still a flurry of activity happening behind the scenes between budget negotiations and work on major pieces of legislation that lawmakers hope to pass before session comes to a close, like the Senate's rumored new version of the House's energy bill. Please see below for a run-down of what has happened at the General Assembly over the past few weeks.

BUDGET UPDATE

Speaker Moore is hopeful that the Senate and House can send their consensus budget over to Gov. Cooper this week. The word around Jones Street is that budget negotiators worked late into the night and into the early morning on a budget compromise between chambers last week in an effort to reach this goal. "The plan right now is for the House and the Senate to come up with an agreement ... that would then be shared confidentially with the Governor to give the Governor an opportunity to either say whether he would sign it as is, or if there are changes, he would like to see," Speaker Moore said. Speaker Moore said they do not plan to publicly share their version of the budget or agreements made after negotiations in order to leave room for "very frank and candid negotiations." Speaker Moore hopes that the budget can be finalized in the first or second week of October.

ABC COMMISSION CHAIR RESIGNS

The chairman of N.C. ABC Commission, A.D. Zander Guy Jr., resigned last week, effective immediately. The former Surf City mayor's resignation comes as the state ABC commission and county ABC boards grapple with liquor supply chain and fulfillment issues throughout the state's 171 local ABC boards. On top of supply chain issues caused by the pandemic, further issues have risen from the state's new contract with its vendor, LB&B Associates, which included a new online inventory and ordering system.

Some local ABC boards have seen a reduction in the number of weekly shipments, as well as shipments with incomplete liquor orders or different orders altogether. As a result, some



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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area stores are seeing empty shelves. That impacts more than just people's ability to grab a drink. For instance, the Mecklenburg County ABC distributed \$5 million in alcohol education community grants and more than \$14 million in profit sharing to the city, county, and Charlotte Mecklenburg Library in fiscal year 2020, according to WBTV.

In light of these issues, the House Committee on Alcoholic Beverage Control plans to hold a hearing next Wednesday to discuss liquor distribution and warehousing with the ABC Commission and its contractor. Deputy commissioner of the N.C. ABC Commission, Terrance Merriweather, will oversee operations until Governor Cooper announces a new chairman. Word is that Gov. Cooper hopes to name a replacement this week.

HOUSE BILL 890, ABC OMNIBUS LEGISLATION

House Bill 890 was one of big-ticket items that has passed at the General Assembly during their few voting sessions over the past weeks. House Bill 890 passed the Senate on a 35-7 vote and a 95-8 concurrence vote in the House. The Governor signed the widely supported omnibus bill into law on September 10. This legislation makes several changes to the laws concerning ABC stores, distilleries, and other alcohol-related statutes.

Among other changes, House Bill 890 does the following:

- allows online orders from ABC stores;
- extends hours of operations for distilleries and allow for Sunday sales, when ABC stores are closed;
- expands the size of growlers from two liters to four;
- establishes a Liquor Council;
- permits sale of two alcoholic beverages per person at college sporting events;
- allows cities and towns to create "social districts" where people can walk with alcoholic beverages from nearby restaurants and bars;
- establishes rules for ice cream, popsicle, and gelatin products that contain alcohol;
- allows charter buses traveling at least 75 miles to serve alcohol; and
- eliminates the requirement on the town of Cary to issue alcoholic beverage licenses.

SENATE BILL 360, PROHIBIT COLLUSIVE SETTLEMENTS BY THE AG

Senate Bill 360 passed the House on a party-line vote last week, and has now been sent to the Governor. This bill would require joint approval from the Speaker of the House and the President Pro Tempore of the Senate before the Attorney General could enter into a consent judgement or settlement agreement in a dispute, claim, or controversy in which the Speaker of the House or the President Pro Tempore of the Senate have intervened or are otherwise named parties.

This Republican-led bill was in response to the State Board of Elections settlement agreement and rule change during the 2020 election, that ultimately lengthened the number of days the Board of Elections could accept absentee ballots postmarked by Election Day to nine days after November 3rd. Republicans have held that that settlement was unlawful and changed election law in the middle of an election, after the General Assembly had already passed bipartisan election measures to address an election held during a pandemic. Bill sponsor, Rep. Destin Hall, argued on the floor that the challenge essentially became a "friendly lawsuit" between Democratic lawyers representing the plaintiffs, the Democratic majority on the State Board of Elections, and the Democratic Attorney General. Democrats have held that the Board of Elections acted within its authority to settle the case. They argue that this bill should be presented as a constitutional amendment that's voted on by the people since it would change the state constitution by changing the authority given to the attorney general. "The laws as they are work, and they work well," Rep.

Morey (D) said. "If you don't like what our attorney general is doing in settling cases that he's constitutionally obligated to do, then run for attorney general."

The bill has passed both chambers by party line, and is likely to be vetoed by the Governor. Based on the vote count, it is unclear if a veto override is likely to take place with this bill or bills that have also passed with nearly party-line votes, like House Bill 398, Pistol Purchase Permit Repeal.

REP. VERLA INSKO ANNOUNCES RETIREMENT

Rep. Verla Insko, one of the longest-serving members of the General Assembly, has announced that she will not be seeking re-election next year. The Democratic lawmaker has represented the Chapel Hill area since 1997, and is currently serving her 13th term in the House. In her announcement, she made it clear that she will not be leaving her seat early and will be here until the end of December. She just wanted to give notice early enough so that anyone considering running for her seat had time to consider the move before candidate filing opens near the end of the year. Rep. Insko has been known for her advocacy in the areas of public education and greater access to health care. "Keep true to your values... Hang in there, love each other and fight the good fight," said Rep. Insko during her announcement on the floor last week.

BILL UPDATES

HOUSE BILL 264, Emergency Powers Accountability Act, was amended on the Senate floor to give the State Health Director, for no more than seven calendar days, the authority to determine and order that a class or category of persons (was, persons or animals) need to be quarantined or isolated to protect the public health. **The bill as amended was approved by the Senate and has been sent back to the House for approval.**

HOUSE BILL 324, Ensuring Dignity & Nondiscrimination/Schools. This bill that includes provisions to ban the teaching of critical race theory in schools was vetoed by the Governor on September 10th. In his veto, Governor Cooper states that, "The Legislature should be focused on supporting teachers, helping students recover lost learning, and investing in our public schools. Instead, this bill pushes calculated, conspiracy-laden politics into public education." **The bill has been referred back to the House Rules Committee.**

HOUSE BILL 805, Prevent Rioting and Civil Disorder. This bill that would (1) increase the penalties for rioting or inciting rioting that causes damage to property, serious bodily injury, or death and assaulting emergency personnel during a riot or state of emergency; (2) allow recovery of treble damages for property damage or personal injury caused by rioting or looting; and (3) require pretrial release conditions for rioting and looting offenses to be determined by a judge was vetoed by Governor Cooper on September 10th. The veto provides, "People who commit crimes during riots and at other times should be prosecuted and our law provide for that, but this legislation is unnecessary and is intended to intimidate and deter people from exercising their constitutional rights to peacefully protest." **The bill has been sent back to the House Rules Committee.**

SENATE BILL 191, The No Patient Left Alone Act, was negotiated by a conference committee, which released a new version. The conference committee substitute would make these changes to the bill:

- change the requirement that licensed hospitals allow patients to receive visitors to the fullest extent permitted, removing the references to GS Chapter 166A of the General Statutes, or any other provision of law to the contrary;
- require hospitals to provide notice of the patient visitation rights in this bill to patients and, when possible, patients' family members;

- establish contact information that must be included in the notice of visitation rights;
- require each hospital to allow compassionate care visits;
- allow a hospital to require compassionate care visitors to submit to health screenings necessary to prevent the spread of infectious diseases and allow a hospital to restrict a compassionate care visitor who does not pass a health screening requirement or who has tested positive for an infectious disease;
- allow a hospital to require compassionate care visitors to adhere to infection control procedures;
- require the North Carolina Medical Care Commission (Commission) to adopt rules necessary to require each hospital to have written policies and procedures for visitation;
- delete the sections related to patient visitation rights for nursing home residents and combination home residents;
- instead require each licensed nursing or combination home to allow patients and residents to receive visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control and Prevention or any federal law;
- establish that if the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, or any other federal agency finds a nursing or combination home has violated any rule, regulation, guidance, or federal law relating to a patient's or resident's visitation rights, the Department of Health and Human Services (DHHS) may issue a warning about the violation and give the nursing or combination home not more than 24 hours to allow visitation; if visitation is not allowed after the 24-hour warning period, a civil penalty of no less than \$500 for each instance on each day the nursing or combination home was found to have a violation is to be imposed;
- establish that if circumstances require the complete closure of a nursing or combination home to visitors, the nursing or combination home must use its best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible and set up the same penalty as described above;
- require giving notice of the patient and resident visitation rights in this act to patients and residents and, when possible, their family members; sets out contact information that must be included in the notice;
- establish the same requirements as hospitals for nursing and combination homes related to compassionate care visits;
- remove the proposed language concerning patient visitation rights for residents of hospice care facilities, adult care home residents, special care units residents and residents of residential treatment facilities, and replace them with provisions that are substantively similar to those proposed for hospitals;
- remove the requirement for DHHS to adopt rules to implement the provisions of this act, and set out additional provisions governing those rules by October 1, 2021; and
- change the effective date to November 1, 2021.

Approved by the House and pending approval by the Senate.

LEGISLATION ENACTED

HOUSE BILL 351, Clifford's Law, was signed into law by Governor Cooper. The bill requires the Secretary of the Department of Health and Human Services to establish visitation protocols that would be in effect during declared disasters and emergencies and when a facility suspends or restricts normal visitation. The protocols would provide visitation rights for patients in nursing homes, combination homes, and adult care homes, including family care homes, and would allow each resident to receive a visit at least twice per month from one preapproved visitor or

preapproved alternate visitor. The protocols must be in place by June 15, 2022. **Effective: Most of the provisions are effective April 1, 2022. The provisions regarding requiring the Secretary of DHHS, by June 15, 2022, to implement the visitation protocols and to, at least 30 days prior to implementation of these visitation protocols, submit a report summarizing the visitation protocols to the chairs of the Joint Legislative Oversight Committee on Health and Human Services are effective September 10, 2021.**

SENATE BILL 228, Allow Employers to Offer EPO Benefit Plans, was signed into law by Governor Cooper. The bill allows insurers to offer exclusive provider benefit plans where out-of-network services would not be covered unless they were emergency services or medically necessary services provided when an in-network provider was not reasonably available. Insurers are required to allow any provider to participate in the EPO and furnish the Commissioner of Insurance with the criteria used to select participating providers. They are required to document all requests for payment from non-participating providers and create an appeals process to ensure those insured have reasonable access to providers near their homes or workplaces. Finally, insurers are required to notify those insured and employers about changes in the provider network and to provide a clear statement that out-of-network healthcare services would not be covered, except in the case of emergency care or when an in-network provider was not reasonably available.

No insurer can offer an EPO without also offering a preferred provider benefit plan. Any employer offering an EPO to its employees must also offer a preferred provider benefit plan. Providers who are members of one insurer's exclusive network would be permitted to participate in networks with other insurers. The existing insurance rules for preferred provider organizations would also apply to exclusive provider organizations.

The bill also includes continuity of care provisions, ensuring that those newly covered by the EPO or whose provider left the EPO can access care during the transition. The bill requires reimbursement contracts between insurers and providers to contain a provision that reimbursement payments be issued directly to the providers. Insurers are also required to accept assignment of benefits agreements executed by those insured. **Effective: October 1, 2021.**

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