



INTRODUCTION

Last week the checkered flag was supposed to be in sight, with a budget expected to be voted on and passed by both chambers by the end of the week. Fairly abruptly, that goal post was moved and it seemed that a budget agreement was further away than ever as leadership of both the House and Senate exchanged personal barbs and the atmosphere at the General Assembly was tense to say the least. Speaker Moore sent the House members back to their districts with his certainty that there would be no budget agreement. There was one issue that appeared to be holding up progress: casinos.

The Senate has sufficient support from Senate Republicans to add language to the budget to create three new casino sites in the state, presumably in Anson, Rockingham, and Nash counties. While the Senate is prepared to move forward with this expansion, the House isn't. With numerous hours spent debating this issue in caucus, the House Republican caucus is nearly evenly split on the issue. It appears at this point the House Republican caucus might've tipped the scales to over half of the caucus voting in support. That's enough for Senate leader Berger, but not for Speaker Moore. Speaker Moore said that he does not want to move forward with adding the casino language to the budget if he can't get the support of at least 61 members of his caucus. Calling it a math problem, the Speaker said he'd need 19 Democrats to vote for the budget at that point to make up for the 30 Republican votes in opposition. "I don't have 19 Democratic votes for the budget," said Speaker Moore. "No speaker is going to put a bill on the floor that he does not think he has the votes for," Speaker Moore continued. "I don't know if we get to a point where we decide that somehow that's a good idea. But I'm not convinced that's a good idea."

That's moving the goal post, according to Senate leader Berger, who told reporters that the agreement was that the gambling language would be included if House Republicans could get the support of half of their caucus. Senate leader Berger proceeded to tell reporters that there will not be a budget until the House holds up their end of the deal on the casino language. "The budget, as you know, is a series of compromises and those compromises result in the final product," Senate leader Berger said. "If the compromises that have been reached in the past fall apart, then I think everything



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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is subject to further conversations." Speaker Moore has expressed his interest in moving a prior budget agreement forward without the casino language. It seems given Senate leader Berger's comments to the media that that is unlikely to happen, at least for now. The chambers' differences are beginning to impact other legislative work, as well. House bills were removed from the agenda during Senate session and Senate bills were dropped from House committee meetings. It's likely that their differences will impact negotiations on other matters of the budget, as well. The Senate is rumored to be drafting new versions of the budget that strip out provisions primarily supported by House members. It seems the House will be taking matters into their own hands, too, likely producing their own version of a budget that is expected to model the previously agreed upon budget language without casinos.

After completing our legislative report to you covering the last few weeks on Monday and just prior to sending out to you – a draft budget proposal was released by the House without the necessary language to allow casinos in North Carolina. It was rumored that a separate bill would be filed that would include the casino language and pair it with Medicaid Expansion. It was not clear if this was the deal that the House and Senate negotiated or if this was the Houses version. Rumors continued throughout the day and into Tuesday that Medicaid Expansion was in jeopardy and the House and Senate could not reach agreement, again due to the casino language. Democrats were very upset and sent a letter to leadership about their opposition to pairing Medicaid Expansion with the authority to open casinos in North Carolina and many Republicans were also opposed to this arrangement. Many other rumors swirled around the General Assembly about Medicaid Expansion being in jeopardy, the budget not being completed this year, etc.

Then on Tuesday night came the word that the House and Senate had agreed on the final budget that would include Medicaid Expansion and would NOT include any language to allow casinos in North Carolina. The final budget language was released today and we expect the votes on Thursday and Friday of this week.....finally. We have not included any budget provisions in this report - we will go through the final budget closely and summarize the items that are important to you next week. Here are some other items of interest.

FORMER NC SUPREME COURT JUSTICE MIKE MORGAN ANNOUNCES GUBERNATORIAL RUN

Former State Supreme Court Justice Mike Morgan has officially jumped into the gubernatorial race, giving Attorney General Josh Stein some real competition in the Democratic primary. Some thought that Gov. Cooper's recent endorsement of Stein meant that other high-profile Democrats wouldn't be joining this race, but that was not the case. In fact, Morgan addressed this in his exclusive interview announcing his candidacy over Democrats choosing a front-runner so soon. "It's unusual and even disheartening that there would be such an early backing of anyone, because the field has yet to be filled, in terms of those that would potentially run," Morgan said. Morgan has not steered away from comments on the current Democratic front-runner Josh Stein, who he said "may have the superior treasury, but I have the superior candidacy." Regarding the Democratic ticket, Morgan told a reporter, "I will be the most qualified, and the best qualified, and certainly the most electable to be governor."

LOBBYING FIRMS UNDER FIRE FOR PPP LOANS

Some North Carolina lobbying and political consulting firms are under fire for receiving Paycheck Protection Program (PPP) loans, which were designed to help businesses whose revenue suffered during the pandemic. These types of federal loans specifically prohibit firms "primarily engaged" in lobbying and political activities from qualifying.

The fact that some lobbying firms did receive these funds, which were later forgiven without repayment, came to light in a recent series of articles in the Raleigh News & Observer. Former Governor Pat McCrory went so far as to call for investigations into firms he feels improperly received funds from the program. Some of the firms defended their decision to apply by saying lobbying and political work were not their primary source of income.

We're not passing judgement on whether or not these firms were right to apply, but given that this is subject of conversation we do want to let you know that our firm - which *is* primarily engaged in lobbying and political consulting - did not seek any PPP or other pandemic assistance loans.

BILL UPDATES

SENATE BILL 512, Greater Accountability for Boards/Commissions. This bill to change the appointment structure of various public boards and commissions was vetoed by Governor Cooper on August 24th. In his veto, the Governor wrote that, "This legislation will hurt the effective and efficient use of taxpayer money by impairing the Governor's constitutionally required duty to execute the laws passed by the legislature. The bill interrupts the critical work of boards and commissions to protect public health, provide clean air and water, recruit new jobs, lower electric bills and more. Fundamentally it violates the separation of powers enshrined in the state Constitution. The courts have consistently rejected these legislative power grabs in *McCrorry v. Berger* and other cases. Legislative efforts to seize executive power are unconstitutional and damage vital state work." The bill was referred to the Senate Rules Committee on August 28th.

SENATE BILL 747, Elections Law Changes. This bill to enact a variety of changes to the State's elections laws was vetoed by the Governor on August 24th. Governor Cooper's veto says, "This legislation has nothing to do with election security and everything to do with Republicans keeping and gaining power. In working to erect new barriers for younger and non-white voters, many of whom use early voting and absentee ballots, this bill also hurts older adults, rural voters and people with disabilities. It requires valid votes to be tossed out if the post office delivers them even one minute after 7:30 p.m. on Election Day or if a computer rejects a signature. It encourages voter intimidation at the polls by election deniers and conspiracy believers. North Carolina has conducted fair and secure elections but this bill will block voters and their ballots unnecessarily." The bill was referred to the Senate Rules Committee on August 28th.

SENATE BILL 749, No Partisan Advantage in Elections, was amended in the House Rules Committee to:

- specify that the State Board of Elections must be supported administratively by the Department of Secretary of State, and require that the Board exercise its statutory powers, duties, functions, and authority independently from authority of the Secretary of State;
- require that the list of nominees for members of the Board be submitted by the state party chairs by April 1 immediately following each election of the members of the Council of State (previously no deadline was specified), and provide that a person filling a vacancy is to serve the remainder of the unexpired term (was, fill the unexpired term);
- require the list of nominees to fill a vacancy in the State board to be submitted within five business days of the occurrence of the vacancy, and allow the office of chair to be filled by legislative appointment if a chair is not elected within 30 days after taking the prescribed oath (was, within 30 days after new appointees take the prescribed oath) or within 30 days of the occurrence of a vacancy in the office of chair, and amend who is the appointing

- authority for chair vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs;
- require the term of the Board's Executive Director to begin May 15 of the year after each even-year election, unless removed for cause (was, after the first meeting held after the appointment to the Board are made, unless removed for cause, until a successor is appointed), and amend the appointing authority for Executive Director vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs;
 - require the eight Board members appointed to serve until May 1, 2029 (was, 2025); make those members eligible to serve one additional (was, serve two) full consecutive terms; and no longer specify that chairs of the two political parties having the highest number of registered affiliates may submit a list of names to the NCGA; and require the chair and Executive Director of the State Board to be appointed upon the eight members of the State Board taking the oath of office (was, upon their appointment);
 - remove the provision regarding the criminal history record check for any prospective Executive Director;
 - amend the statute regarding appointments to the county boards of elections to:
 - require that the recommendations for appointment to the board of elections for a county by the State chairs of the two political parties with the highest number of registered affiliates be submitted by April 1 of each odd-numbered year (previously no deadline was specified);
 - reduce the number of individuals that can be recommended from three to two;
 - allow the office of chair to be filled by legislative appointment if a chair is not elected within 15 days after the first meeting in July or within 30 days of the occurrence of a vacancy (was, only when a chair is not elected within 15 days after the first meeting in July).; and
 - amend the appointing authority for chair vacancies, varying from the President Pro Tempore of the Senate and Speaker of the House depending on the year within which the vacancy occurs;
 - provide that if the county board of elections is unable to agree on a person to recommend to fill a vacancy for the county director of elections, the State Board Executive Director must designate a qualified person to serve as acting county director until the county board nominates someone;
 - allow the Department of Public Safety to provide the criminal history record check report on prospective appointees for the Board Executive Director to the chair of the Board, and allow the same report to be given to the chair or chairs of each standing committee handling the legislation regarding the appointment of the Executive Director;
 - remove provisions concerning criminal record checks for employees of county boards of elections;
 - no longer include the provision allowing chairs of the two political parties having the highest number of registered affiliates to submit a list of names to the NCGA; no longer require that the county director of elections be appointed upon appointment of the four members of the county board of elections;
 - require the State Board's rules to include a process for a voter without acceptable photocopies of forms of readable identification to complete an alternative affidavit applicable to the three specified exceptions, that includes inability to attach a physical copy of the voter's identification within the returned application and voted ballots (was, with the
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written request) as a reasonable impediment to compliance with the identification requirement;

- require the county board of elections or the State Board (was, the county board of elections only) to maintain a database that contains the photos of registered voters taken for the purpose of issuing voter photo id cards; and make photos for voter photo identification confidential and specify that they are not considered public records;
- allow the \$5 million appropriated in SL 2021-180 for 2021-22 to the State Board for a mobile voting program to also be used by the State Board for any photo identification implementation efforts and to implement the requirements of Senate Bill 747, Elections Law Changes, if it becomes law;
- allow the chairs of the two political parties having the highest number of registered affiliates to submit a list of names to the NCGA by March 1, 2024, for appointments to be made effective July 1, 2024, and specify that if a chair is not elected within 30 days after taking the prescribed oath in 2024 or within 30 days of the occurrence of a vacancy in the office of the chair in 2024, the office of the chair may be filled by legislative appointment as if the chair is a member of a board or commission by the President Pro Tempore of the Senate;
- allow the chairs of the two political parties having the highest number of registered voters to submit a list of names to the NCGA by March 1, 2024, for appointments to be made effective July 1, 2024. Specifies that if a chair is not elected within 15 days after the first meeting in July 2024, or within 30 days of the occurrence of a vacancy in 2024, the office of the chair may be filled by legislative appointment as if the chair is a member of a board or commission by the President Pro Tempore of the Senate; and
- provide that if an Executive Director is not selected by July 15, 2024, or within 30 days of the occurrence of a vacancy in 2024, the position may be filled by legislative appointment as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

The bill as amended was approved by the House Rules Committee and will be considered by the full House on September 19th.

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