What Businesses Should Know About the 2017 North Carolina Legislative Session

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The North Carolina General Assembly has left Raleigh after enacting a biennial budget and considering hundreds of bills during a six-month session. Legislators will return in August and September to consider other matters such as conference committee reports, veto overrides, and redistricting. Here are some highlights of interest to businesses from this year's session.

Tax changes continue.

Since obtaining control of the Legislature in 2011, the Republican majority has substantially rewritten the State tax code with a focus on reducing the personal and corporate income tax rates, broadening the base of the State sales tax to cover more services, and reducing or eliminating tax credits and tax preferences. This year's changes continue this trend with reductions totaling over $500 million for the biennium.

Effective January 1, 2019, personal income tax rates will fall from 5.499 percent to 5.25 percent, the corporate income tax rate will fall from 3 percent to 2.5 percent, and the franchise tax rate for S corporations is reduced. The standard deduction (the amount on which people pay no income taxes unless they itemize) is also increased.

Effective July 1, 2018, the sales and use tax on "mill machinery" (equipment and parts used by a variety of businesses listed in State law) is eliminated. Many of these items had previously been taxed at a 1 percent rate with an $80 per item cap.

Other tax changes that were discussed, but not enacted, include amending the State Constitution to cap the personal income tax rate at 5.5 percent, allowing local governments to increase their sales tax rate to fund infrastructure and economic development projects, and changing how sales tax revenues are distributed to help rural counties. A number of these ideas may continue to receive attention.

Additional funds were invested in education.

Legislators increased K-12 educator salaries by an average of 3.3 percent (9.6 percent over two years) and funded enrollment growth at K-12 schools, UNC and Community Colleges. The budget increases funds for more need-based scholarships ("Opportunity Scholarships") for certain K-12 private school students. Governor Roy Cooper stated that he vetoed the budget bill in part because he thought the educator salary increases should have been larger and he opposes the Opportunity Scholarships program. Legislators voted to override his veto.

State employee salaries and retirement pay were increased.

Most state employees will receive a pay increase of $1,000 and State retirees will receive a 1 percent cost-of-living increase. State employees hired beginning in January 2021 will no longer qualify for State health insurance when they retire, which is part of an effort to reduce State government's long-term retirement costs.

HB 2 was repealed.

HB 2, which was enacted in 2016 and directed public agencies and schools to require multiple-occupancy bathrooms be for persons based on their biological sex, was repealed in March. The repeal bill preempts regulation of multiple occupancy restrooms, showers, or changing facilities except in accordance with an act of the General Assembly and prohibits local governments from enacting ordinances on private employment practices or public accommodations until December 2020.

Leaders are in disputes over separation of powers.

Governor Cooper and the Legislature clashed over a number of separation of powers issues and are in litigation on some of them. These include whether the Senate can confirm appointment of his Cabinet Secretaries and the merging of the State Board of Elections with the Ethics Commission. The budget bill also cuts the Governor's office budget and limits his ability and that of Cabinet agencies reporting to him to hire private legal counsel to challenge legislation. In addition, the State Board of Education and the Superintendent of Public Instruction are in litigation related to their authority over operation of the Department of Public Instruction.

Additional funds were invested in economic development.

The budget bill increases funding to promote tourism and economic development. It also provides funds for a new Ready Sites program to help develop infrastructure for large publicly-controlled manufacturing sites, and creates a new sales tax refund to lure "transformative projects" bringing at least 5,000 jobs and $4 billion in investment. It reduces funding for some other economic incentives, such as the Job Development Investment Grants and the One North Carolina Fund. The grant program for the film industry received $46 million over the biennium. Two programs were shifted out of the Commerce Department—the budget bill moved the Industrial Commission to the Department of Insurance and the Apprenticeship Program to the Community College System.

Transportation funding increased.

Additional funds were appropriated for a variety of transportation needs. Over the biennium, these include $100 million for immediate need construction projects, $115 million for commercial airports, and $241 million for bridge preservation and replacement.

North Carolina is waiting on health care decisions in Washington.

Legislators discussed a number of bills related to health care, health insurance and Medicaid during the session, but held off some policy changes due, in part, to decisions yet to come from Washington on the Affordable Care Act and Medicaid. Federal policy changes could impact North Carolina's current path toward Medicaid managed care and its Medicaid waiver pending at the federal Centers for Medicare and Medicaid Services (CMS).

Renewable energy was debated.

The Legislature enacted a bill that rewrites North Carolina's renewable energy laws. Among other things, it allows third-party leasing for rooftop solar systems, allows Duke Energy to offer a limited community solar program to its customers, reinstates the green source rider program, opens a competitive bidding process on renewable energy projects, and establishes a solar rebate program. The bill, which was the result of a nearly year-long stakeholder process, passed through the House with strong bipartisan support. The Senate advocated for a moratorium on wind projects to be added to the bill. The final version contains an 18-month moratorium on the granting of wind energy permits without any grandfathering provisions.

Opioid abuse gets attention.

State leaders are focused on the misuse of opioids. A new law addresses the issue in a number of ways such as improving prescribing practices, strengthening the controlled substances reporting system, and allocating funds for treatment and the purchase of antidote drugs.

Local governments can authorize Sunday morning alcohol sales.

A new law will allow local governments to enact ordinances authorizing restaurants and retail stores to sell alcohol beginning at 10 am on Sundays. Current law prohibits such sales before 12 noon on Sundays. Some local governments, such as Raleigh, Hendersonville, and Atlantic Beach, have already adopted ordinances to allow these sales.

House is investigating Secretary of State Marshall.

The House Rules committee approved a resolution to open an investigation into the grant of certain Notary Public commissions by Secretary of State Elaine Marshall. Representative Chris Millis of Pender County was the chief proponent of the resolution, which alleges that Marshall's office improperly granted Notary commissions to over 300 non-citizens. Marshall's office has indicated that it has followed State law on this matter. The resolution was sent to the House floor but later returned to the Rules committee for additional consideration.

There will be at least two more sessions in 2017.

Legislators have scheduled two more sessions in 2017. The session beginning on August 3 will include consideration of conference reports on various bills and any vetoes from the Governor. The focus of the September 6 session will be congressional, legislative and judicial redistricting.

For more information, contact a member of the Brooks Pierce Government Affairs Team at 919-839-0300 or 336-373-8850.

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