

NC Legislative Update for May 22, 2020

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The legislature returned to Raleigh this week to continue the 2020 short session. While the previous session focused primarily on COVID-19 response, this session is open to general issues. Senate leadership has indicated that they will wait for further guidance from the federal government before appropriating additional COVID-19 funds. The State is facing a significant budget shortfall, and legislators are hoping to be able to use federal funds to fill budget gaps. The Senate has filed 18 “mini budget” placeholder bills, indicating that they may pass a series of small funding measures rather than a full budget. The House went home on Wednesday, while the Senate left town on Thursday morning. Both chambers will return Tuesday next week. The House expects its Select Committee on COVID-19 to wrap up its business next week. The legislature also extended their bill filing deadline to May 26.

Executive Order

Governor Cooper has issued Executive Order 141, which lifts the stay at home order and moves the State into Phase II of his three-phase reopening plan. Under this Order, restaurants will be able to offer dine-in service, but will be limited to 50% capacity and must follow social distancing guidelines. Personal care salons and barber shops will also be allowed to open, but must follow capacity restrictions and social distancing guidelines as well. Retail businesses were allowed to open in Phase I, but still must restrict occupancy and follow social distancing protocol. Mass gatherings are limited to ten people indoors and 25 people outdoors. Swimming pools are allowed to open, but must follow guidelines. Gyms, fitness facilities, playgrounds, entertainment venues, bars, and clubs will remain closed under this order. The order becomes effective Friday, May 22, 2020 and lasts until June 26, 2020. Governor Cooper emphasized that while the stay at home order was rescinded, it is still safer to stay at home, and to work from home when possible.

Tax Bills

Several finance bills began moving through the legislature this week. The first, House Bill 1079, has three parts that do the following: expands the

definition of livestock for sales tax purposes, broadens the large fulfillment facility sales and use tax exemption to attract more companies, and exempts various education related digital property from sales tax. This bill has passed the House and is scheduled for a floor vote in the Senate next week. The second piece of legislation, House Bill 1080, contains the following parts: IRC Update, excise tax changes, sales and use tax changes, personal income tax changes, corporate tax changes, and tax enforcement and administrative changes. The bill updates the State Tax Code to reflect changes to the federal code, and adopts most of the federal code, but decouples from certain provisions. This bill has received some controversy and one section that would allow payments from the federal Paycheck Protection Program to be taxed as income has been removed. Member have also raised concern over a section that would allow businesses deduct 100% of their net operating losses over five years instead of instead of a single year. This bill has passed the House Finance Committee, but still has to go through the Rules Committee before it gets a vote on the House Floor.

WRAL: House weighs mixed bag of business tax changes due to pandemic

Senate Transportation Hearing

The Senate Transportation Committee held a hearing this week to have State Auditor Beth Wood present a recent audit her office conducted of the Department of Transportation (DOT). The performance audit claims that DOT overspent their budget by \$742 million. The audit blames poor budgeting practices and lack of accountability for the overspending. The Auditor recommends more oversight and spending tracking. She also points out that the Department has a 4.8 billion advanced construction fund, which it uses to levy more federal funds, but does not have measures in place to monitor spending. DOT has faced budgetary pressures over the last year with hurricane recovery costs and litigation of the State Map Act, and the General Assembly has had to take steps to help keep them above their minimum cash floor. With the travel restrictions in place from COVID-19, they have seen significant reductions in the gas tax, which is their main source of revenue. The Senate Transportation Committee plan to hold another meeting next week to have DOT address the audit's findings. Legislators have commented that DOT needs structural reform to avoid continued budgetary problems.

WRAL: Auditor urges more oversight, better forecasting at DOT

COVID-19 Regulation Relief

The Senate Commerce Committee unveiled two bills this week aimed at assisting restaurants, breweries, wineries, distilleries, bars, and clubs, by adding flexibility to Governor Cooper's COVID-19 restrictions. The bills would allow those establishments to serve up to 50% of their occupancy capacity outdoors. The legislation would make public areas, like streets, sidewalks, and parking lots available for outdoor seating. Businesses utilizing this flexibility would have to get permission from the property owner in which the outdoor seating will be located, and local governments have to approve the policy. Businesses must also follow guidelines on social distancing and virus spreading mitigation practices. The flexibility would be temporary, and expires 30 days after the state of emergency is lifted. The bills were heard in committee for discussion only, and a committee vote is expected next week.

NC DHHS Guidance

The Department of Health and Human Services (DHHS) has released guidance for business to follow when reopening. Below are links for various businesses and establishments.

- [Interim Guidance for Restaurants](#)
 - [Interim Guidance for Large Venue Settings](#)

 - [Interim Guidance for Retail Businesses](#)
 - [What Phase 2 Means for North Carolina](#)
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