

NC Legislative Update: May 31, 2019

Related Professionals

David P. Ferrell
919.573.7421
dferrell@nexsenpruet.com

Michelle L. Frazier
919.573.7433
mfrazier@nexsenpruet.com

Practices

Legislative & Regulatory
Public Policy & Governmental Affairs
Governmental Litigation
Government Contracts

Industries

Public Sector and Government

05.31.2019

The General Assembly returned to Raleigh after Memorial Weekend to continue official business. The Senate released its proposed budget on Tuesday and moved the legislation through the chamber, passing the bill on Friday. The budget will now go to the House, where they will almost certainly vote not to concur, and then the two chambers will conference to work out the differences in each chambers' proposals. The Senate voted to hold their session in the old Senate chamber in the State Capitol next Thursday in honor of the 75th D-Day anniversary. A ceremony honoring veterans will be held as well.

Senate Budget

The Senate released their proposed \$23.9 billion budget this week, and voted 30 – 16 on its approval. The vote was largely on party lines, with two Democrats joining the Republicans in support.

The budget changes themes in state compensation compared to previous years by shifting focus from teachers to other state employees. Under the Senate's plan, state employees will receive a 2.5% raise in both years of the budget, while teachers will get a total 3.5% over the course of the two year budget. Senate Budget Chair Senator Harry Brown noted that over the last five years, teachers have received a 20% raise, while other state employees have received an on average 7.6% raise.

Environmentalists are concerned with a section of the budget delaying the Department of Environmental Quality's (DEQ) rewrite of their existing animal waste permits. The Department is required to rewrite the permit rules every five years, but this year's rewrite has drawn criticism from agriculture groups, including a lawsuit filed by North Carolina Farm Bureau, which claims that the Department violated the Administrative Procedure Act because it incorporated settlements with the N.C. Environmental Justice Network, Rural Empowerment Association for Community Help, and Waterkeeper Alliance in its new rules.

The Senate Budget also steps into a battle between the UNC System and Vidant Health. Recently the Pitt County Commissioners voted to remove the UNC Board of Governors' appointments to the Vidant board. The

Senate budget contains a provision that would repeal Vidant's exemption from paying a supplemental fee, a move that Vidant says will cost it \$35 million. The exemption is for teaching hospitals, and proponents of the provision claim that Vidant ended the relationship that allowed them that benefit with the vote to remove UNC's appointments to their board.

The Senate Budget also includes a partial repeal of the controversial Certificate of Need (CON) law. CON laws regulate where hospital and other health service providers can operate, and is intended to insure that the healthcare demand is high enough to sustain the services offered in particular areas. Section 9E.4.(a) of the Senate budget repeals the CON requirement for ambulatory surgery facilities, operating rooms, dialysis centers, and psychiatric hospitals. The Senate has long pushed for a full repeal of the CON laws, but their efforts have met opposition in the House.

Under a provision in the Senate Budget, the Department of Health and Human Services (DHHS) would be instructed to move their headquarters to Granville County. This follows a similar provision in last year's budget that led to the Division of Motor Vehicles (DMV) planning a move to Rocky Mount. Granville County is excited about the potential investment and jobs, while many state employees are opposed to the move and associated increased commute.

After hearing heavy opposition to staff cuts to the Supreme Court Chief Justice's office, the Senate voted on third reading to remove the cuts, and choose to cut vacant positions elsewhere.

In the Education Section of the budget, Senate leadership added a provision to give teachers more flexibility in what school supplies they buy. The Senate also added a provision to add a financial literacy requirement to high school graduation. Both bills had previously been filed as standalone bills.

Democrats objected that the proposed budget does not include Medicaid expansion, a cost of living adjustment (COLA) for retired state employees, and does not restore masters pay for teachers. Democrats tried to add these items into the budget with amendments, but were unsuccessful.

Money Report: https://www.ncleg.gov/Sessions/2019/Budget/2019/Committee_Report_Senate_Appropriation_Base_Budget_PCS_as_amended_May_29_2019.pdf

WRAL: <https://www.wral.com/senate-budget-flips-script-on-raises-for-teachers-state-workers/18415480/>

WRAL: <https://www.wral.com/senate-budget-wades-into-ecu-hospital-fight/18418046/>

WRAL: <https://www.wral.com/senate-puts-hospital-certificate-of-need-reforms-in-budget/18416149/>

News & Observer: <https://www.newsobserver.com/news/politics-government/article230913638.html>

2019 Farm Act

The Senate Agriculture Committee heard a proposed committee substitute for the 2019 Farm Act. The bill largely deals with hemp production, and is in response to relaxed federal laws. However, law enforcement and prosecutors have expressed worries that the bill is a backdoor path to legalizing marijuana. They claim that a provision that includes a presumption that what farmers are growing is hemp and not marijuana will make it hard for them to charge

or prosecute those with marijuana. Hemp industry leaders say that tests are easily available to differentiate between hemp and the controlled substance. The Farm Act also contains provisions to help the livestock industry, with one section exempting certain renewable energy operations from odor control permits, and another section allowing hog farms to expand if the expansion is for the purpose of bio gas. Environmental groups view the hog lagoon language as an exemption to the State's moratorium on new or expanded hog farms, but bill supporters say that the expansion does not let the farm increase the number of animals and only clarifies existing practice. The bill also allows shooting ranges to qualify as agritourism, which would exempt them from local zoning regulations. The committee heard from landowners near potential shooting sites who worry that noise, and potentially bullets, could trespass onto their property. Bill sponsor Senator Brent Jackson indicated that he does not intend for high-power rifles to qualify for the exemption. The Committee is expected to vote on the bill next week.

WRAL: <https://www.wral.com/law-enforcement-fears-nc-s-effort-to-boost-hemp-industry-could-essentially-legalize-marijuana/18421082/>

WRAL: <https://www.wral.com/bill-opens-farms-to-skeet-shooting-aids-hog-lagoon-changes-hides-records-from-public/18420355/>

Immunizing Pharmacists

House Bill 388 was sent to Governor Cooper this week for his approval. The bill allows pharmacists to administer certain vaccinations and immunizations. They will be able to administer meningococcal vaccines, the Human Papillomavirus vaccine, and the Hepatitis A vaccine to people over the age of 18. Pharmacists will be allowed to administer the influenza vaccine to children 10 or older. A standard screening questionnaire and safety procedures must be completed before the bill will become effective.

2019 Session Laws

The following 18 bills have become law this session:

- SB 7: Bipartisan Ethics Appointments
- SB 75: Restore Ct. of Appeals Membership
- SB 77: Ag Disaster Fund/Certain Counties
- SB 214: Ensure Orderly 2019 Elections
- SB12: Fill Certain Vacancies/Alexander & Burke Co.
- SB 56: Revenue Laws Technical Changes
- SB 4: Extend Terms of 2 Members/Coastal Carolina CC
- SB 272: Zoning for University Facilities-Durham
- SB 6: Dare County/CC Construction Funds
- SB 162: Loan Origination/Late Payment Charge Changes

- HB 263: Fill Vacancies/Modify 2018 Appointments
 - SB 63: City of Kannapolis/Annexation
 - HB 130: Allow Game Nights
 - SB 505: Rural Job Retention Act
 - SB 605: Highway Storm Recovery Act
 - HB 1014: 2020 Census VTD Verification Program
 - SB 310: Electric Co-Op Rural Broadband Services
 - HB 363: Craft Beer Distribution & Modernization Act
-

More about Nexsen Pruet's North Carolina Public Policy Team

In addition to providing Government Affairs Services, the Nexsen Pruet Public Policy team provides attorneys and clients with a newsletter summarizing the week's activities and conveying the inner workings of the legislative process and state government in Raleigh during the legislative session. Please feel free to pass this along to your clients or other interested parties. If you would like to receive the update in your inbox, please email shernandez@nexsenpruet.com to be added to the list. If you are interested in learning more about how Nexsen Pruet can help you achieve your public policy goals and acquiring legislative representation in North Carolina or South Carolina, please reach out to Sandy Sands at ssands@nexsenpruet.com or Ross Barnhardt at rbarnhardt@nexsenpruet.com.