

North Carolina Public Policy & Governmental Affairs

2013 North Carolina Legislative Report

When the 2013 General Assembly convened, it was with great anticipation. This was the first time in over 100 years that the Republicans had control of the Governor's mansion, the Senate, and the House, and with a super majority of members in both bodies also. This was one of the most active sessions in recent years. The results of the six months of effort may depend on the point of view.

On July 30, 2013, Maya Rhodan from Time.com observed:

“Since the State’s legislative session began in January, lawmakers have blocked a Medicaid expansion under Obama’s Affordable Care Act, reduced access to federal unemployment benefits, cut the corporate tax rate, trimmed public education funding, passed a bill that allows concealed weapons in bars and restaurants, tackled welfare reform, proposed a ban on Shari’a, restricted access to abortion, and enacted stricter voting laws.”

Local columnist Rob Christensen wrote in the News and Observer on July 27, 2013:

“Not since the 1930s, when North Carolina was staggered by the Great Depression has a legislature performed such radical surgery on the state’s body politic. The legislature moved to a flat tax and away from a graduated income tax first enacted in 1921, cut unemployment benefits to 1951 levels, turned down federal health insurance for the poor and made voting more difficult. The changes were so stark they precipitated a social movement, with the kind of weekly mass demonstrations and civil disobedience usually reserved for causes such as civil rights or national independence. The unrest focused unwanted national attention on North Carolina, a state that has long prided itself on its level headed moderation.”

On the other hand, many observers thought this was a very successful session, with many accomplishments that had been too long in coming. Civitas Institute commented on the session on July 30, 2013 as follows:

“As the dust settles on the landmark 2013 North Carolina legislative session, conservatives can look upon the accomplishments of the state legislature and find much to celebrate. A catalog of policies that conservatives have for years been advocating for finally became reality. The number of reforms and improvements implemented in just one session may be unprecedented for any state government in the modern era. Even consistently “red” states typically take years to accomplish what North Carolina did in the span of six months.

With Republican majorities in both legislative chambers combined with a Republican Governor for the first time in roughly 150 years, the time was right to begin unraveling

generations of big-government, liberal policies that had become the norm in the Tar Heel State.

Conservative policies spanning taxation, education, health care, elections and criminal justice were passed this year, much to the chagrin of liberal elites that now see their stranglehold on power slipping away. While left-wing extremist protesters and liberal media outlets like the New York Times, and MSNBC cry out that North Carolina moved “backwards,” it is indeed those liberals who wanted to preserve the failed policies of the past.”

Following is a brief summary of some of the legislation that was addressed during the past session. Obviously not every action can be included, and no in depth analysis is attempted. If there are any questions, suggestions, or observations, please contact one of the members of the North Carolina Public Policy and Government Relations Team.

The Nexsen Pruet Legislative Report is published as a service to our attorneys, clients, and friends. It is intended to be a high level overview of the activity at the North Carolina General Assembly and does not constitute legal advice regarding any specific situation. Firm clients who wish to receive individualized legislative updates, bill monitoring, or lobbying services may discuss options with Sandy Sands, NC Public Policy & Governmental Affairs Chair.

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TAX REFORM

Individual Tax

- Eliminates the three-tiered personal income tax rates of 6, 7 and 7.75 percent and sets a flat rate at 5.8 percent rate in 2014 and 5.75 percent in 2015.
- Eliminates personal exemptions; increases the standard deduction but puts a cap on the deduction on mortgage interest and property taxes on itemizing taxpayers.
- Eliminates credits for child care, permanent and total disability, property taxes paid on farm machinery, education expenses and charitable contributions for those who do not itemize their deductions.
- Itemizing taxpayers may continue to claim unlimited charitable contributions.
- Eliminates a deduction for contributions to North Carolina 529 college savings plans.
- Eliminates the estate tax.

Business Tax

- Eliminates in 2014 a \$50,000 deduction on certain business-related income approved in 2011.
- Reduces the corporate income tax rate of 6.9 percent to 6 percent in 2014 and 5 percent in 2015. It could fall to 4 percent in 2016 and 3 percent in 2017.
- Cuts approximately 50 “loopholes” and preferences out of 300, and allows a number of other credits and exemptions, which have been used for business recruitment, to expire in the future, as under existing law.

Sales Tax

- Expands the sales tax to include service contracts and tickets to certain attractions.
- Repeals current 3 percent franchise tax on electricity sales, replacing it with 6.75 percent combined state and local sales tax rate.
- Makes piped natural gas subject to combined rate of 7 percent, and ends excise tax.
- Places a cap of \$45 million on sales tax refunds for individual nonprofit hospitals, universities and other charities.

See HB 998 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H998v8.pdf>

HEALTH CARE

Medicaid

- Elects not to expand Medicaid under the federal Affordable Care Act (ACA).
- Opts not to operate a state-run Health Benefit Exchange, which defaulted to the federally run exchange.
- Provides another \$434 million for the expected increase in Medicaid expenses.
- Appropriates \$1 million to study reform of the Medicaid system.

See SB 4 <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S4v5.pdf>

Certificate of Need

- Several issues were introduced to relax CON laws, including measures to increase monetary thresholds for capital expenditures, to exempt specialty surgery centers and continuing care facilities from CON requirements. None passed.
- Provisions contained in Appropriation Acts allow replacement of some existing equipment exempt from CON laws, in certain instances.
- CON issues to be studied in interim prior to May 14, 2014 session.

See HB 83 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H83v3.pdf>

See HB 177 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H177v2.pdf>

See HB 900 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H900v2.pdf>

See HB 112 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H112v4.pdf>

Miscellaneous

- Mandates that the NC Health Information Exchange (HIE) give to the Department of Health and Human Services real time access to their data and information, as long as this agreement complies with the Health Information Portability and Accountability Act of 1996 (HIPPA).
- Establishes state wide Telepsychiatry program and authorizes a study of Telemedicine.
- Cuts 15 positions in the oral health section of the state Department of Health and Human Services.

EDUCATION

- Eliminates teacher tenure and additional pay for teachers who earn advanced degrees.
- Provides 5 bonus vacation days but no pay raise.
- Raises teacher-student ratios.
- Provides a voucher program for private schools.
- Increases tuition for community colleges and out-of-state undergraduates.

TRANSPORTATION

- Redesigns transportation funding formula by consolidating funding sources and by allocating 40% of the funding to statewide projects, 40% of the funding to regional projects, and 20% of the funding to local projects.
- Eliminates priority to previously designated toll roads.
- Caps the state gas tax at 35.7 cents per gallon
- Levies a \$100 annual fee on plug-in electric cars and a \$50 fee on hybrids that are not plug-in.
- Eliminates funding for bicycle and pedestrian projects, but does allow for continued local funding.

REGULATORY REFORM

- Requires periodic review of agency rules.
- Removes sitting members from certain commissions, including the Coastal Resources Commission and the Environmental Management Commission. Legislative leaders and the Governor made the replacement appointments.
- Modifies certain landfill rules.
- Amend rules for local control of billboards and for cutting of vegetation around billboards.
- Allows insurance companies to deliver legal notice to insureds by electronic means in many instances.
- North Carolina right-to-work law to prohibit purchase of agriculture products based on producer's union or non-union status.

See HB 74 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H74v4.pdf>

ELECTION LAWS

- Requires voters to show government issued ID cards.
- Eliminates straight ticket voting.
- Outlaws paid voter-registration drives.
- Allows any registered voter of a precinct to challenge the eligibility of any other voter in that precinct.
- Eliminates same day registration, and pre-registration for 16-17 year olds.
- Shortens early voting by one week while eliminating early voting on Sunday.
- Prohibits counties from extending poll hours by one hour on Election Day even in extraordinary circumstances.
- Increases the maximum allowed campaign contribution per election from \$4,000 to \$5,000. The cap will be adjusted for inflation every two years, starting in 2015.
- Loosens disclosure requirements in campaign ads paid for by independent committees.
- Repeals the publicly funded election program for appellate court judges.
- Repeals the requirement that candidates endorse ads run by their campaigns.
- Prohibits lobbyists from making a contribution to a candidate, as well as, collecting any contributions; prohibits also transferring or delivering a contribution to the candidate.
- Eliminates requirement that the Governor must appoint replacement District Court judges from a list submitted by the local bar.

See HB 589 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf>

MISCELLANEOUS

- Oversight of local government activities picked up substantially this year, and the legislature became involved in local issues in Charlotte, Durham, Asheville, Wake County and Guilford County among others.
- Reduces unemployment benefits and increases unemployment insurance tax paid by employers in order to accelerate the payment of the federal debt.
- Expands the flexibility of the Treasurer to invest in the State’s \$81 billion pension fund.
- Relaxes restrictions on gun owners, including allowing concealed weapons in bars, restaurants (which may be prohibited by individual owners), public parks, parades, funerals and school property (as long as locked in a motor vehicle). Also allows silencers to be used when hunting
- Push to repeal Renewable Energy Portfolio standard, which required utility companies to acquire a certain percentage of their power from renewable sources, did not succeed.

Some of these bills have not been signed by the governor, who has until August 25, 2013 to veto any of these bills.

See SB 402 <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S402v7.pdf>

See HB 112 <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H112v4.pdf>

2013 Legislative Session of the North Carolina General Assembly

❖ **House of Representatives**

- 120 Members
- 77 Republicans
- 48 Democrats
- 45 New Members
 - 31 Republicans
 - 14 Democrats

❖ **Senate**

- 50 members
- 33 Republicans
- 17 Democrats
- 16 New Members
 - 9 Republicans
 - 7 Democrats

❖ **House Leadership**

- Speaker Thom Tillis
Republican
- Speaker Pro Tempore Paul Stam
Republican
- Majority Leader
Rep. Edgar Starnes
- Minority Leader
Rep. Larry Hall

❖ **Senate Leadership**

- President of the Senate
Lt. Governor Dan Forest
- President Pro Tempore
Sen. Phil Berger
- Majority Leader
Sen. Harry Brown
- Democratic Leader
Sen. Martin L. Nesbitt, Jr.

The Regular Session of the 2013-2014 biennium of the North Carolina General Assembly convened on January 9, 2013.

- 1,751 bills were filed in the 2013 Regular Session; 1023House bills and 728 Senate bills.
- 403 bills were enacted into law.
 - As of August 6, 2013 there are 38 bills still on the Governor's desk waiting to be acted upon.
 - Should Governor McCrory decide to veto a bill, he has until August 25, 2013 to do so.

On July 26th, 2013, The General Assembly adjourned to reconvene on May 14th, 2014 at 12:00 noon. Bills that may be considered during that session include:

- Bills that directly affect the budget. (Must be submitted to Bill Drafting by May 16th)
- Bills amending the Constitution of North Carolina
- Bills that passed one house in the 2013 session.
- Bills recommended by Study Committees. (Must be submitted to Bill Drafting by May 14th)
- Local bills (Must be submitted to Bill Drafting by May 21st)
- Appointments and confirmations
- Matters approved by 2/3 of each body
- Redistricting and election laws
- Bills to disapprove Rules