

Weekly North Carolina Legislative Update for June 9th

Article By:

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This week the Senate acted on several big matters, attended a funeral for Senator Harris Blake and perhaps ended up at the U.S. Open. The House was focused on its budget.

The House

As we wrap up the week the House is still debating its budget proposal and preparing for the final vote. Historically, when the budget debate goes late into the evening on 2nd Reading the members just stay past midnight and crank out a vote on 3rd Reading between midnight and 1:00 a.m.; the late hour naturally curtails repetitive debate. Then everyone leaves with that day's work done. That's what we were expecting last night -- you've never seen so many comfortable shoes in the workplace -- but the House wrapped up debate on 36 amendments and voted on 2nd Reading hours before midnight. So the Speaker just sent everyone home and came back for an early start Friday; the Members are rested and loquacious.

Notable efforts to amend the House budget included rolling in:

- the "Puppy Mill Bill" which is yet another bill regulating dog breeders and is supported by the Governor and is a main priority of the First Lady,
- replacing the state's film incentives with a grant program despite the industry's effort to simply extend the current credit program including, I am told, introductions to Robert Downey Jr.,

And fighting off:

- an effort to defund the Opportunity Scholarship school vouchers (which survived a Court challenge defended by Womble's Bob Numbers),
- the reinstatement of the earned income tax credit,
- keeping the SBI in the Attorney General's Office.

The House and Senate Budgets are vastly different this year. The Budget Conference process which reconciles the differences will be unlike any in recent history -- *and this casts doubt on our earlier prediction of adjournment by July 4th.*

The Senate

The Senate got moving on its bill to modernize the Business Court. On Tuesday the bill was considered by the Senate Finance Committee which considered only the filing fee increase from \$1,000 to \$1,500 then moved the bill on to a Judiciary Committee for debate of its substantive sections.

A new version of SB 853 was presented to the Senate Judiciary Committee on Wednesday that added two new items. The title was amended to include the new sections: An Act to Modernize the Business Court by Making Technical, Clarifying, and Administrative Changes to the Procedures for Complex Business Cases and to Streamline the Process of Corporate Reorganization Utilizing Holding Companies, and to Create a Three-Judge Panel to Rule on Claims that an Act of the General Assembly is Facially Invalid Based upon the North Carolina or United States Constitution.

The new version is [here](#).

Senator Barringer presented the bill to the committee with input from her co-sponsor Senator Rucho. Barringer said the goal of the bill was to add clarity and predictability to NC's Business Court with the new jurisdictions modeled somewhat after the Delaware Court of Chancery; the new section on holding companies is modeled after Delaware's law and is intended to make NC more competitive by offering flexibility in how companies incorporate themselves within our state. She also said that stakeholder suggestions had been incorporated into the committee substitute, including those from the NC Chamber, the NC Association of Defense Attorneys, Advocates for Justice, the Administrative Office of the Courts, and Professors Tom Hazen and John Coyle from the UNC School of Law.

Senator Rucho added his now-familiar mantra that he plans "to make NC the leading economy in the U.S." He invited Judge Jolly, who presides in business court in Raleigh, to the committee hearing today but he wasn't able to make it. Rucho said the long term plan is to add 2 more judges.

Now for political intrigue: Section 7 is new to this bill *but not new to legislative watchers*. It provides that in the event an action of the General Assembly--- not just redistricting -- is challenged as unconstitutional the Chief Justice of the Supreme Court would appoint a 3-judge panel in Wake County to handle the claim, the bill then makes conforming changes to Rule 42 and Rule 62. *We saw this section as a provision in the Senate-passed budget last week.*

Some democratic committee members suggested this was partisan politics and shouldn't be included but Committee Chair Sen. Buck Newton said this section would be the law by adjournment. In a belt-and-suspenders approach, this is the third time this language has appeared in a Senate bill this session.

The bill was calendared for full Senate action June 16th. Still no word on whether the House will take up the bill, but the recent spadework by Rucho and Barringer have ginned up stakeholder interest.

Next Week

Next week the Senate takes up SB 729 -
Governor's Coal Ash bill

(here: <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S648v4.pdf>). And the House will begin
looking at SB 648 - NC Commerce Protection Act of 2014
(here: <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S648v4.pdf>)

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