

What Businesses Should Know About the 2016 North Carolina Legislative Session

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The North Carolina General Assembly has completed its 2016 "short" session. A number of bills considered by Legislators will impact businesses of all types. Here are some highlights from this year's session.

Additional funds were invested in education.

Legislators raised K-12 educator salaries to just over \$50,000 with an average increase of 4.7%. Additional funds for instructional materials, textbooks, and digital materials were also appropriated. The budget increases funds for more need-based scholarships for certain K-12 private school students. It also guarantees no in-state tuition increase for a standard four-year undergraduate term at the State's public universities.

Both the income tax and sales tax were changed.

During the last five years, Legislators have substantially rewritten the State tax code with a focus on reducing the personal and corporate income tax rates, broadening the coverage of the State sales tax to more services, and reducing or eliminating tax credits and tax preferences. The State personal income tax rate will fall next year from 5.75% to 5.499% with a likely reduction in the corporate income tax rate from 4% to 3% based on meeting revenue collection targets.

During this year's session, the standard deduction for personal income tax was raised for 2016 by \$1,000 for taxpayers married and filing jointly in 2016, and increased an additional \$1,000 to . It was raised by an additional \$500 for 2017, bringing the cap to \$17,500 for 2017.

Legislators in 2015 expanded the State sales tax to cover repair, installation and maintenance of tangible personal property and certain motor vehicles. During this year's session, they clarified the coverage of that expansion and enacted a grace period for taxpayers subject to the tax.

Tax changes could be coming for multi-state companies.

The Legislature chose to postpone a decision on the issue of "market-based sourcing" this year, directing the Department of Revenue to adopt rules as if legislation had passed to enact it. The rules, however, cannot be effective unless the Legislature takes affirmative action on the issue in a future session. If adopted, market-based sourcing would signify a change in the State's approach to calculating how much income is allocated to North Carolina for corporate income tax purposes.

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Currently, North Carolina allocates income based on where the income-producing activity occurs. Under market-based sourcing, this would change to consider instead where the benefit of the service is received – often determined by the location of the customer. This potential change would only affect companies doing business in multiple states.

Additional funds were invested in economic development.

The budget includes \$3.75 million for the Commerce Department to use for marketing and advertising to promote economic development and \$1 million for a new International Recruiting Coordination Office in the Department. The \$30 million grant for the film industry was also extended for a year.

Another bill on coal ash cleanup was enacted.

The State has worked for a number of years on bills related to the cleanup and safety of coal ash ponds filled with waste from coal-burning electric power plants. This year's bill allows Duke Energy to cap half of the ponds at the State's power plants, instead of excavating them and moving their contents to lined storage. Neighbors of the plants who have drinking water wells will be connected to municipal water or given filtration systems by the fall of 2018. Duke will have to establish three centers to process coal ash into concrete and other material for reuse.

Transportation funding grew and development restrictions were changed.

About \$32 million in new funds were allocated for the Strategic Transportation Investment law, which governs transportation funding. This money is in addition to changes made last year to stop using money from the Highway Fund for general purpose spending and stabilizing the motor fuel tax rate.

Legislators also reacted to a recent State Supreme Court decision, which struck down State law restricting development along the paths of future road projects. By implementing that law, the Court held that by implementing the law, the Department of transportation (DOT) was effectively taking private property without paying for it. Action by Legislators repeals transportation corridor maps, prohibits additional maps protecting routes until July 1, 2017, and charges DOT with developing recommendations for a new policy balancing property rights with road building needs.

Medicaid reform continues.

One of the largest parts of the budget is the State share for Medicaid (16% in FY 2017). In order to bring more budget certainty to this program, Legislators enacted a reform bill in 2015 to create a hybrid model in which commercial plans (typically insurance companies) and provider-led entities (hospitals and physician groups) will compete to run the program. The Department of Health and

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Human Services has submitted a waiver request to the federal Centers for Medicare and Medicaid Services (CMS) as a key step in this process. The move to full capitation—that is, when the commercial plans and provider-led entities bear the financial risk for Medicaid—will be 18 months after approval of the plan from federal authorities. That could be in 2018 or even 2019.

A restriction on State court lawsuits for employment discrimination was removed.

Legislators took action on the final day of session to restore the right to sue in State court for employment discrimination, which had been initially eliminated following the passage in March of HB 2. Employees will now have one year to file a State claim (versus a three-year period prior to the enactment of HB 2). No change was made to the provisions related to local governments enacting ordinances related to bathroom use.

The November 2016 elections affect nearly every aspect of State leadership.

All 170 Legislative seats are on the November ballot. Although some incumbents are retiring, most observers expect the Republicans to retain significant majorities in both houses. Ten statewide Council of State positions are on the ballot with the race between Governor Pat McCrory and challenger Attorney General Roy Cooper gaining the most attention. Offices in which incumbents are running for reelection include Lieutenant Governor, Agriculture, Auditor, Insurance, Labor, Public Instruction and Secretary of State. There will be a new Attorney General and State Treasurer.

The next session will be in January 2017.

Legislators are scheduled to next return to Raleigh on January 11, 2017. In the interim, a number of lawmakers will be focused on their reelection campaigns. Some will be in Raleigh periodically working on various oversight committees covering areas including education, health and human services, justice and public safety, and transportation.

For more information, contact a member of the Brooks Pierce Government Affairs Team, linked below.

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