



REVIEW OF STATE AND FEDERAL LEGISLATION

Bruce Thompson

Parker Poe Adams & Bernstein, LLP

N.C. General Assembly 2010 Short Session



Tax on Multi-State Corporations

- State budget provides fairness and certainty in the administration of North Carolina's tax code.
- NCDOR had been levying hefty penalties against major NC employers in cases when corporations did not file combined returns
- State budget contains provision making it clear that these penalties cannot be assessed.

Keep NC Competitive Act

- Included a number of critical economic development provisions.
- Extended the Article 3J tax credits.
- Clarified current law so that minor environmental violations do not inadvertently disqualify a taxpayer that would otherwise be eligible for tax incentives for job creation.

State Environmental Policy Act (SEPA)

- SB 778 makes it clear that private economic development projects DO NOT require broader and more burdensome environmental review (“SEPA”) simply because they received state and local government incentive funds.
- Response to recent court decision related to a planned cement plant in eastern North Carolina.

Permit Extensions

- The legislature enacted a permit extension law last year that would allow any development permit from January 1, 2008 through December 31, 2010 to be considered current and valid.
- SB 683 adds to the current law by lengthening the period of time for permits to be valid by one year, from December 31, 2010 to December 31, 2011

Transportation

- The General Assembly created the “Mobility Fund,” an account that will fund transportation projects of statewide significance to relieve congestion.
- The first project to receive monies from this fund is the widening of I-85 on either side of what will be the new Yadkin River Bridge

Tort Liability

- HB 813 passed the House in 2009.
- Purpose of the legislation was to end contributory negligence standard in North Carolina.
- “Coalition to Protect NC’s Legal Climate” put forward a compromise proposal that the plaintiffs’ bar was unwilling to accept so the legislation was not heard in the Senate.

United States Congress



Dodd-Frank Wall Street Reform and Consumer Protection Act

- **Consumer Financial Protection Bureau**
- **Financial Stability Oversight Council**
- **Whistleblower Protections -**
Strengthens the protection provisions contained in the Sarbanes-Oxley Act.

Dodd-Frank Wall Street Reform and Consumer Protection Act

- **Diversity in the Workplace** - Provides for the creation of a new diversity "czar" for each of the major federal financial regulatory agencies, and directs each agency to create an Office of Minority and Women Inclusion.
- Authorized to take action if an employer is not making a good-faith effort to comply with diversity provisions of the new law.

Dodd-Frank Wall Street Reform and Consumer Protection Act

- **Executive Compensation and Corporate Governance** - This addresses issues such as recovery of erroneously awarded compensation, executive compensation disclosures, and other matters related to operational transparency.
- Provides greater say on pay to shareholders.

HIRE Act

- In an ongoing attempt to stimulate the economy and create jobs, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act on March 18.
- The Act establishes tax incentives for businesses to hire new workers.

HIRE Act

- Employers who hire individuals (between the dates of February 3, 2010 and January 1, 2011), who have been out of work for more than 60 days, will be eligible for an exemption on their Social Security payroll tax for those employees.

HIRE Act

- Employers who have the newly-hired employees on their books from March 19, 2010 through December 31, 2010, will be able to reduce their OASDI portion of the FICA taxes by 6.2 percent.

HIRE Act

- The Act also provides an income tax credit of up to \$1,000 for every new employee who is employed for 52 weeks.

HIRE Act

- The Act permits small business owners to write off equipment investments of up to \$250,000 this year, instead of taking years to depreciate.
- This is a doubling of the previous amount of \$125,000.

Patient Protection and Affordable Care Act

- Many health care reform provisions impact employer-sponsored group health plans
- “First wave” of changes effective in 2010, will continue through 2018
- Hot topic for plan years beginning on or after September 23, 2010: whether the plan will retain “grandfathered” health plan status

Patient Protection and Affordable Care Act

- “Grandfathered” health plans are those group health plans in effect as of March 23, 2010.
- If a company follows certain requirements (including broad prohibitions on plan changes), its plan will be exempt from certain provisions of health care reform as long as “grandfathered” status is maintained.

Patient Protection and Affordable Care Act

- Companies which provide early retiree benefits for individuals aged 55–64 are eligible to participate in a temporary program which reduces premium costs.

Patient Protection and Affordable Care Act

- Employers must disclose the value of the benefits they provided beginning in 2011 for each employee's health insurance coverage on the employees' annual Form W-2's

Patient Protection and Affordable Care Act

- Effective January 1, 2013, earned income of individuals above \$200,000 annually or couples above \$250,000 annually will be subject to Medicare Payroll withholding of 2.35%
- Effective January 1, 2013, investment income of individuals above \$200,000 annually or couples above \$250,000 annually will be subject to new Medicare Payroll withholding of 3.8%

Patient Protection and Affordable Care Act

- Effective in 2014, the Act imposes a \$2000 per employee tax penalty on employers with more than 50 employees who do not offer health insurance to their full-time workers.
- Tax applied on a monthly basis, discounting the first 30 FTEs

Patient Protection and Affordable Care Act

- Effective in 2014, the Act increases a current tax credit for qualified small businesses.
- To receive the full benefit of a 50% premium subsidy, the small business must have an average payroll per FTE employee, excluding the owner of the business, of less than \$25,000 and have fewer than 11 FTEs.

Patient Protection and Affordable Care Act

- The subsidy is reduced by 6.7% per additional employee and 4% per additional \$1,000 of average compensation.
- A 16 FTE firm with a \$35,000 average salary would be entitled to a 10% premium subsidy

Patient Protection and Affordable Care Act

- In 2018, a new 40% excise tax on high cost ("Cadillac") insurance plans comes into effect.
- The tax is on the cost of coverage in excess of \$27,500 (family coverage) and \$10,200 (individual coverage)
- The threshold is increased to \$30,950 (family) and \$11,850 (individual) for retirees and employees in high risk professions.

Patient Protection and Affordable Care Act

- The dollar thresholds are indexed with inflation.
- Employers with higher costs on account of the age or gender demographics of their employees may value their coverage using the age and gender demographics of a national risk pool.

State Issues on the Horizon

- Who will be in control?
- Renewable Energy
- State Revenues and Budget

Federal Issues on the Horizon

- Who will be in control?
- Bush tax cuts
- Energy legislation
- Small business legislation
- Healthcare adjustments?

Links

- www.realclearpolitics.com
- www.politico.com
- www.FiveThirtyEight.com
- @BTpolitics on Twitter