

ECNC Legislative Wrap Up

The 2005-2006 NC General Assembly Session began with threats of a minimum wage hike and promises of appointments to the Workers' Compensation Study Committee. The former, after what seemed like imminent demise, rose from the ashes and became law. The later, after grand promises from the General Assembly leadership, died a quiet death when the session ended sine die on July 28, 2006.

Minimum Wage HB 2174

The minimum wage in North Carolina increases from \$5.15 per hour to \$6.15 per hour effective January 1, 2007. ECNC opposed the minimum wage increase due to its negative impact on small business owners. The increase not only ratchets up wages for those employees currently making minimum wage but also has a domino effect on the entire payroll due to wage compression issues.

One possible unintended result of the new law is the impact it will have on what are called in the restaurant business "tipped" employees. Currently a "tip credit" of \$3.02 per hour provided for under the Fair Labor Standards Act can be deducted from the minimum wage the employer is required to pay these tipped employees. Those employees are now paid \$2.13 per hour by the employer ($\$5.15 - \$3.02 = \$2.13$). The new legislation adopts the FLSA tip credit of \$3.02, thus the employees will now be paid \$3.13 by the employer ($\$6.15 - \$3.02 = \3.13), effective January 1, 2007. Some discussion had taken place about fixing this oversight, but as of yet, nothing has happened. And it most likely will be forgotten by the leadership when the new General Assembly convenes in January, 2007.

Workers' Compensation Reform HB 99

The new bill allowed for the appointment of a Study Committee to look into much needed reforms, level and duration of benefits, employment related issues (suitable employment), how the workers' compensation system functions in collaboration with social security and private disability, and compensation for asbestos and silica exposure. The bill called for the committee to be made up of 12 members, six appointed by the speaker of the House and six appointed by the president pro tempore of the Senate. Although expectations were that the committee would be appointed, the leadership of the General Assembly has failed to do so.

ECNC continues to press for reform in Workers' Compensation, most especially in the areas of suitable employment and the level and duration benefits. that are extended to injured employees. We will keep you updated on any changes.

Junk Faxes SB 1295

Effective September 1, 2006, receivers of unsolicited junk faxes now have recourse against such due to Senate Bill 1295, *An Act to Increase Protections for Consumers Who Receive Unsolicited Facsimiles*. Under the recently enacted bill, anyone who receives faxes meeting the criteria of an unsolicited fax can seek action to recover \$500 for the first violation, \$1000 for the second violation and \$5000 for the third and any subsequent faxes received from the party, once the recipient has requested the sender cease and desist sending the faxes. Faxes that are sent based upon an established business relationship are not considered unsolicited faxes unless recipients of such notify the sender to cease and desist sending the faxes. Persons or entities under this act sending faxes are required under this law to clearly mark in a margin at the top or the bottom of each transmitted page or on the first page of each transmission the date and time sent, an identification of the business, other entity, or person sending the message, and the telephone number of the sender.

Responding to Unemployment Claims HB 2885

Effective October 1, 2006, the time employers have to respond to unemployment claims was reduced from 15 days to 10 days as a result of the passage of HB 2885, *An Act Relating to the Filing Period for Employers to Protest Unemployment Insurance Claims*. ECNC was successful in lobbying the Employment Security Commission (ESC) to amend this legislation to ensure that employers were informed of their right to appeal for an extension to the 10 days if the employer is able to prove "excusable neglect" (an inability to respond in a timely manner due to circumstances beyond the employer's control). The ESC also added language to the bill that enables the ESC to fax the NCUI 500AB (*Notice of Claim and Separation*) to an employer if the ESC has the employer's fax number on record. ECNC recommends that employers contact the ESC to ensure their fax number is on record to assist in expediting their response to the NCUI 500AB.

Other Bills of Interest

Other bills of interest to the business community include HB 2744, *Economic Development Program Modifications* and HB 2170, *Bill Lee Changes*. Both bills make changes to the original William S. Lee Act (commonly known as the Bill Lee Act) of 1996, which sought to lure businesses to North Carolina by offering tax credits for

created jobs. The bill has undergone changes nearly every session, and 2006 was no exception. HB 2744 expands part of the act pertaining to sales and use taxes; and HB 2170 more narrowly focuses the credits for job creation and business investment.

To more completely view these and any bills considered by the North Carolina General Assembly, please go to www.ecnc.us and click on the "NCGA" link. There is also a link through which you may print a PDF of all bills passed into law during the 2005-2006 session.