

November 30, 2016

SUMMARY OF THE ECONOMIC IMPACT OF HB2 PREPARED BY ATTORNEYS BRIAN SCHOECK AND JIM MCLEOD

Read below to learn more about the economic impact of HB2.

OVERVIEW

- Historical background – City of Charlotte approved LGBT non-discrimination ordinance.
- Actual name of HB2 is “An Act to Provide for Single-Sex Multiple Occupancy Bathroom and Changing Facilities in Schools and Public Agencies and to Create Statewide Consistency in Regulation of Employment and Public Accommodations.”
- Most well-known provision of HB2:
 - 1) Requires bathrooms and changing rooms in public facilities to only be used by people based on the gender listed on their birth certificate.
- Also has two other parts:
 - 2) Supersedes and preempts local government anti-discrimination ordinances which would include/add transgender individuals as protected class.
- HB2 only prohibits discrimination of individuals based on their “biological sex” (i.e. – what is listed on their birth certificate).
 - 3) Prohibits local governments from regulating wage levels, hours of labor or benefits of private employers.
- Municipalities are now forbidden from setting a higher minimum wage, stricter overtime requirements, or mandatory employee benefits.

ECONOMIC IMPACT

- Several businesses and organizations have backed out on scheduled events and plans to expand operations into North Carolina due to the law’s discriminatory provisions.
- PayPal canceled its planned global operations center in Charlotte, a \$3.6 million investment that would have created 400 jobs with an annual payroll of \$20.4 million.

- Deutsche Bank froze its plans to create 250 jobs in Cary, which would have been a \$9 million investment with estimated annual payroll of \$21.4 million.
- CoStar decided to relocate to Richmond instead of Charlotte, stating their concerns about HB2. (Estimated – 730 jobs and 100,000 square feet of office space leases.)
- The NBA moved the 2017 All-Star game out of Charlotte, which cost the city an estimated \$100 million.
- The NCAA announced seven cancelations for the current academic year, including the Division I Women's Soccer Championship and the first-and second-round games of the men's NCAA basketball tournament in March.
- The ACC announced ten cancelations, including (i) the football championship in Charlotte, which last year generated \$32.4 million in revenue, (ii) the first-and secondround games of the men's basketball tournament in Greensboro, with estimated revenues of \$14.6 million, (iii) men's and women's tennis championship and women's soccer championship in Cary (\$2 million), and (iv) baseball championship in Durham (\$5.2 million).
- Notable music performers including Bruce Springsteen, Pearl Jam, Ringo Starr, Jimmy Buffet and others have either canceled shows or promised to cancel future events in the state because of their concern with HB2.
- Some small businesses surrounding coliseums and convention centers in North Carolina have stated that their revenues largely depend on these events, and that their sales are down as a result of the cancelations.
- We know of a local small business that lost a contract with a customer in San Francisco due to HB2.

ANALYSIS OF IMPACT

- The Williams Institute at UCLA School of Law (in conjunction with Out Leadership) recently released a report which estimated that HB2 could cost North Carolina up to \$4.8 billion per year based on HB2's potential violation of nondiscrimination requirements of several federal laws including Title IX of the Education Amendment, Title VII of the Civil Rights Act and the Violence Against Women Act¹.
- However, more recently, several economists have found HB2's economic impact to be much less significant than originally portrayed by the media.
- Commerce Secretary John Skvarla, the top economic official in Governor McCrory's administration stated that the law has basically had zero effect on the state economy.

- North Carolina's gross domestic product (GDP) is around \$510 billion, so even a \$500 million loss would only represent a 0.1% decrease in GDP.
- Also, the now-canceled jobs (including 400 at PayPal, 250 at Deutsche Bank, 730 at CoStar) would not have had much of an impact on North Carolina's unemployment rate.
- Andrew Heath, Governor Pat McCrory's state budget director, is routinely asked by credit rating agencies and various groups to give updates on North Carolina's economy.
- Heath stated that questions regarding HB2 are often fueled by a false narrative that the law is having a devastating economic impact, which narrative has been pushed by the media and advocacy groups.
- Heath further states that any purported economic fallout from HB2 pales in comparison to the actual economic impact of the pro-growth policies that have led to the creation of 300,000 net new jobs since 2013.
- Heath maintains that HB2 is an election-year political issue, rather than an economic issue.
- Here are some relevant facts presented in support of Heath's views on HB2:
 - (1) Nearly 5,000 new jobs have been announced in North Carolina since March.
 - (2) Moody's reported that North Carolina's year-to-date revenue growth has outpaced the 20 largest states' average by more than 2-to-1.
 - (3) North Carolina's unemployment rate returned to pre-recession levels at 4.9 percent and is down in all 100 counties since 2013.
 - (4) S&P, Moody's and Fitch affirmed North Carolina's AAA credit rating, citing the state's continued diverse economic expansion.
 - (5) CNBC moved North Carolina from #9 to #5 in the ranking of best states for business.
 - (6) North Carolina ended the fiscal year with a \$425 million revenue surplus.
- Dr. John Connaughton from UNC Charlotte, in his quarterly forecast for the North Carolina economy, said he believes that HB2 has had only a limited impact on the state's overall economy, citing a falling unemployment rate and steady economic growth.
- Julie White from NC Coalition of Metropolitan Mayors said she believes the key to NC economic growth is a focus on incentives for business relocating to NC rather than HB2.

PERCEPTION OF NC

- We do not know the economic impact of this, but we are aware of the hit on the perception of NC. At least five states and multiple cities placed a ban on public travel to NC. Tourism from out of state, and out of country, has seen some softening based on reports from visitor bureaus.
- Dennis Donovan, a business location consultant from NJ, stated “Personal beliefs don’t matter. If a company thinks being in NC will hurt its brand, or its ability to hire and keep the best employees, it’s an easy business decision to go elsewhere.”
- On the other hand, we are representing clients that are engaged with foreign investors that are eager to invest in real estate in NC.

CONCLUSION

- David Dorsch, Senior VP of Cushman & Wakefield’s Charlotte office, stated “CoStar not coming to Charlotte is a commentary on Governor McCrory and Mayor Roberts.” Governor McCrory was not reelected in November.
- Interestingly, we were not able to find one article written after the November election on the economic impact of HB2. Nonetheless, legislators are hearing from their constituents about lost revenues and jobs. Newly elected Governor Roy Cooper has stated the repeal of HB2 is a top priority. We anticipate the NC Legislature will seek to amend or repeal HB2 in conjunction with the City of Charlotte, but Mayor Roberts has been staunch in her position and has given no indication that she will compromise. This political football game is still being played out.

¹ It must be noted that the collaborating partner who worked with the Williams Institute on the report—Out Leadership—describes itself as “a global LGBT business advisory that partners with the world’s most influential companies to build business opportunities, cultivate talent, and drive LGBT equality forward.”

Please note that the above JAH article does not constitute legal advice nor does it create an attorney-client relationship. Should you be in need of legal services regarding a particular matter, please reach out directly to one of our attorneys. [Click here for our full website disclaimer.](#)