



Bulletin #14-02

Friday, May 23, 2014

## Lottery bill receives overwhelming, bi-partisan support

A bill that would restore the statutes directing a portion of lottery proceeds to counties for school construction needs and would increase the appropriation for 2014-15 received overwhelming support after it was filed last week. [H1107](#) (Restore Lottery \$ for School Construction), sponsored by Rep. Bryan Holloway of Stokes County, increases the appropriation of lottery funds to counties to 27 percent for 2014-15 and restores the full 40 percent allocation to counties by 2016-17. It also directs that counties receive any excess lottery revenues each year beginning with the 2014-15 fiscal year.

After a concerted push by counties to encourage House members to sign on to the bill, 69 Representatives affixed their name to the legislation – the most sponsors for any House bill during the 2013-14 session. The bill enjoys overwhelming bi-partisan support, with 27 of 43 House Democrats (62.8%) and 42 of 77 House Republicans (54.5%) signing on. No other House bill filed so far this Short Session has garnered a majority of House members to sign on as sponsors.

The bill was referred to the House Appropriations Committee, which will decide if this proposal is included in the House budget.

## Property tax revenue cap removed from fracking bill

Legislation to enable the development of the hydraulic fracturing industry in North Carolina passed the state Senate this week and has moved to the House for consideration. The original version of the bill ([S786](#)) contained a provision to limit county property tax revenue increases to no more than eight percent from the prior fiscal year. Concerns about the far-reaching implications of this provision from local government officials, the State Treasurer, and others led to that language being replaced with a directive for the legislative Energy Policy Commission to study how the development of the oil and gas industry in the state would affect the property tax revenues of local governments. As currently written, the study will consider how the presence of energy minerals will affect property in the present use value program, and ways to limit the growth of revenue from increased property valuations. Pieces that most directly affect local government are:

- The invalidation of local ordinances that prohibit or have the effect of prohibiting oil and gas exploration, development and production activities. This is the same pre-emption as in current law and mirrors the existing hazardous waste statutes. The bill specifically allows local zoning and land-use ordinances that are generally applicable to development and not specifically addressing oil and gas development.
- The additional value derived from energy mineral interests on property for which a permit to drill has not been issued is exempt from property tax.

Other components of the legislation include:

- Providing the Mining and Energy Commission three additional months to complete rulemaking;
- Exempting these regulations from certain phases of the state rule review and approval process;
- Requiring the state Department of Environment and Natural Resources to retain trade secret information and establishing parameters for disclosure of such to emergency responders; and

- Levying a state severance tax on the extraction of energy minerals from soil and water, and prohibiting local taxes on the same.

Amendments on the Senate floor added a bonding requirement to cover potential environmental damage caused by the drilling process, increased the number of tests required of nearby water supplies after commencement of drilling, and established a penalty for willful disclosure of trade secrets.

## **Senate tentatively approves regulatory reform bill**

A draft bill that emerged from one of the interim study committees expanded this week to become this year's Regulatory Reform Act. [S734](#), which contained in its original form the repeal of the partial moratorium on any local environmental ordinances more stringent than state or federal laws and rules, grew from a one-page bill to a 62-page piece of legislation addressing environmental, business, state agency, legal and miscellaneous issues. The bill was approved on second reading Thursday and is on Tuesday's calendar for third reading.

The moratorium repeal remains in the bill. In addition it:

- prohibits local government regulation of fertilizer;
- authorizes the Governor to waive by executive order environmental permit requirements for transportation construction along the coast during a declared state of emergency;
- allows community colleges with a brewing curriculum to possess and sell malt beverages produced as part of courses;
- requires fire inspectors to immediately report to the local health director all carbon monoxide violations in lodging establishments that pose an imminent hazard;
- transfers rulemaking authority for onsite wastewater, solid and hazardous waste management, and drinking water from the Commission for Public Health to the Environmental Management Commission; and
- requires local health departments with private drinking water well programs to use the standard forms created by DENR unless they receive permission from the Environmental Management to do otherwise.

## **Governor's budget gives counties option to provide tax credit for film production**

Governor McCrory's budget bill ([S842](#)) was filed Thursday, outlining the special provisions to direct his spending plan unveiled last week. As confirmed by the State Office of Budget and Management last week, the lottery proceeds set aside for county school construction remain at \$100 million; surplus lottery funding is directed at the Career Pathways teacher salary enhancement initiative, veterans' scholarships, and additional funds for pre-k slots and school textbooks. All told, \$525 million is available for lottery appropriations (if 40% of net proceeds still went to school construction, that would equate to \$210 million).

The legislation does contain the provision to shift state-paid school employee workers' compensation and tort claims costs to local education authorities and prohibits the use of state funds to manage these new mandates. A similar provision directs the community college boards of trustees to pay workers' compensation claims for all state-funded employees with non-state funds.

The childcare allocation formula would be adjusted to rely on the most current available Census data — any resulting changes in allocations will be phased in over four years. The state public health laboratory is authorized to charge well-testing fees for both existing and newly constructed wells — we are confirming whether these new and higher fees can be passed along to the well owners.

A special provision of interest would direct DENR to study and recommend the appropriate allocation of severance tax revenues from energy extraction and production to local governments to mitigate their infrastructure costs. The much-discussed movie tax credit would continue, but would be

augmented by authorizing counties to forego voluntarily their sales and occupancy taxes generated by movie production.

All misdemeanants serving time, including those with DWI offenses, would be sent to county jails through the voluntary Statewide Misdemeanant Confinement Program.

We anticipate that the Senate's budget proposal will be introduced next week.

## Legislation filed to require back-up PSAPs

Legislation was filed on Tuesday by Reps. Jason Saine, John Bell, and Joe Tolson that would require all primary Public Safety Answering Points (PSAPs) to have back-up PSAPs. [H1148](#) (911 Board/Back-up PSAP) originated out of the Joint Legislative Oversight Committee on Information Technology amidst reports of 911 outages occurring in several counties. The bill provides that "a PSAP must have a plan and means to serve as a back-up PSAP, and must maintain the plan and means for 911 call taking in the event 911 calls cannot be received and processed in the primary PSAP." Sen. Andrew Brock filed a companion bill, [S797](#), in the Senate.

Under the bill, a back-up PSAP is defined as "[a] facility equipped to operate as part of the 911 System and all other features of its associated primary PSAP." The definition also includes a "PSAP that receives calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP." If a primary PSAP fails to comply with the back-up PSAP requirements, the 911 Board may "reduce, suspend, or terminate" its 911 Fund distributions.

When the proposal was being discussed in the IT Oversight Committee, Richard Bradford, Assistant Attorney General representing the 911 Board, addressed the back-up requirement and stressed that the proposal does not mandate a separate brick and mortar facility. He explained that the back-up requirement may be satisfied through the use of another PSAP, a regional PSAP, or a simple plan providing some means for rerouting 911 calls.

[H1148](#) has been referred to the House Appropriations Subcommittee on Information Technology. [S797](#) has been referred to the Senate Finance Committee.

## Pension spiking bill introduced

[H1195](#) would set limitations on pension amounts for employees earning more than \$100,000, should the employee be awarded an extraordinary salary increase immediately prior to his or her retirement, unless the employer or the employee paid the actuarial impacts of the salary enhancement. In an effort to maintain the integrity of the states' public retirement systems, NCACC worked with the N.C. League of Municipalities, the Retirement Division of the Department of State Treasurer, and the City/County Management Association's retirement committee to craft a workable and reasonable solution to the pension-spiking cases that rarely arise in the local government arena.

## This Week at the General Assembly resumes broadcasting

The NCACC is once again creating a weekly video report that summarizes county issues at the General Assembly. This Week at the General Assembly is available on the Association's YouTube channel ([www.youtube.com/ncacc1908](http://www.youtube.com/ncacc1908)) every Friday afternoon. The program is also provided to PEG channels across the state.

## Bills of Interest

**Bill:** **HB1191**

**Sponsors:** Dixon (R4); Langdon (R28)

**Title:** AUTHORITY TO ADOPT LOCAL ORDINANCES

**Position:** Oppose

**Comments:** This bill would take away a local government's authority to adopt any ordinances regulating "the removal, replacement, and preservation of trees on private property within its jurisdiction." The bill is based on the recommendations of the Agriculture and Forestry Awareness Study Commission.

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**Bill:** SB814

**Sponsors:** Hunt (R15)

**Title:** PREQUALIFICATION UPDATE

**Comments:** The bill defines "prequalification" and clarifies the circumstances under which units of government may prequalify contractors for purposes of bidding on public construction or repair contracts.

- Johanna Reese, Government Relations Director
- David F. Thompson, Executive Director

