



Bulletin #14-03

Friday, May 30, 2014

Commissioners swarm Legislature on County Assembly Day

More than 200 county officials from around the state gathered in Raleigh on Wednesday to hear from Speaker of the House Thom Tillis and lobby their legislators on behalf of counties' No. 1 priority for 2014 – increasing the lottery appropriation and restoring the statutes that designate counties as a beneficiary of lottery funds. Commissioners spent the afternoon walking the halls of the Legislature to meet with their Senators and Representatives and discuss county issues.



Speaker Tillis addressed attendees during the morning session and spent several minutes answering questions from county commissioners on topics ranging from the disposal of coal ash to the preservation of the film tax credits to the House's plan to provide a pay raise for teachers. Attendees also heard from a panel of political observers – N.C. State University Professor Dr. Andy Taylor, and Joe Stewart and Matt Bales from the N.C. Free Enterprise Foundation.

Dr. Taylor told attendees that the pending U.S. Senate race between Speaker Tillis and Sen. Kay Hagan would be the most expensive race in the United States this fall. He estimated the campaigns and outside groups would spend as much as \$75 million on the race. Bales projected that very few seats in the General Assembly would change hands in the fall, with Republicans expected to hold onto super majorities in both the N.C. House and Senate.

Executive Director David F. Thompson thanked county officials for their efforts so far and pointed to two examples – the gathering of 69 sponsors for [H1107](#) (Restore Lottery \$ for School Construction) and the removal of a cap on property tax revenue growth that was contained in a Senate bill. Thompson said that both of those successes occurred because county commissioners contacted their legislators on the issues. "We are barely two weeks into the session, and already there are two shining examples of the importance of county commissioners getting involved in our advocacy efforts," said Thompson. "We will be calling on you again."

Photo: NCACC First Vice President Glen Webb (left) takes a "selfie" with Rep. Brian Brown (Pitt).

Senate rolls out budget; maintains lottery funding at \$100M

The Senate rolled out [S744](#) (Appropriations Act of 2014) Wednesday night, moved it quickly through the committee process on Thursday and Friday, and scheduled its two required votes for late Friday and just after midnight on Saturday. If approved, the budget would then move to the House of Representatives.

The Senate's \$21.2 billion plan did not address counties' top priority of increasing lottery funds for school construction and reinstating the statutes that direct 40 percent of lottery proceeds to counties. The Senate maintained the county share of lottery funds at \$100 million for the fourth straight year and did not reinstitute statutory language directing a portion of proceeds to counties.

The Senate's top priority was a massive teacher pay increase plan that features an average pay raise of \$5,800, or 11 percent, for teachers who give up their tenure rights. All told, nearly \$470 million in new and repurposed state recurring dollars are directed at teacher salaries, including all excess lottery proceeds.

The Senate proposal would also begin phasing out the 2007 Medicaid Relief Swap's guaranteed \$500,000 benefit to all counties. Please note that the Senate did not change the hold harmless provision of the Medicaid swap. Rather, it steps down in \$125,000 increments over four years the additional state dollars needed to ensure every county benefited by at least \$500,000. For the 2014-15 budget year, the benefit would be reduced to \$375,000, to \$250,000 for 2015-16, to \$125,000 for 2016-17 and finally to \$0 for 2017-18 and beyond. The NCACC estimates that 48 counties could eventually be impacted by this elimination.

The Senate's plan largely protected county budgets. Other budget impacts to counties include:

- The Senate rejected the governor's recommendation to transfer workers' compensation funding responsibilities for school and community college personnel to local agencies. School bus tort claims would remain a state responsibility as well. The N.C. School Boards Association estimated the cost for providing workers' compensation coverage for school employees would be from \$66 to \$98 million annually, and the costs to insure school buses would be from \$4.8 to \$8.1 million a year.
- The Senate budget shifts all misdemeanants with sentences of more than 90 days and all DWI offenders to county jails to be supported by the Statewide Misdemeanant Confinement Program.
- State funds for school nurses would be limited to school districts in Tier 1 counties.
- Counties would be responsible for a greater share of forest ranger salary costs, and the county share would be dependent upon the level of county property tax values.

House, Senate take different approaches to regulatory reform

The House and the Senate this week moved forward on various independent regulatory reform efforts. The Senate has rolled many of its pieces of legislation in this category into [S734](#) (Regulatory Reform Act), which passed the chamber Thursday and now goes to the House for consideration. Amendments to the bill since the last vote include:

- [Softening the prohibition on local governments](#) regulating fertilizer use by allowing the adoption of ordinances to protect water quality as long as they are part of a local plan or NPDES permit application and do not exceed the state's minimum requirements;
- [Allowing an applicant for a permit for any type of development](#) who submits the application between the time a state rule or local ordinance changes to choose which version of the rule or ordinance applies to the permit;
- Limiting the frequency and number of times the owner or operator of a facility who voluntarily discloses a violation of environmental laws may [exercise the privilege of immunity](#).

The House has adopted the strategy of moving individual bills with a reform theme. Its Regulatory Reform committee approved 11 of these bills during the first meeting of the session, most of them recommended by legislative interim study committees. Among other changes, these bills address state and local government review of plans sealed by a professional engineer, the shifting of responsibility of erosion and sedimentation control programs to local governments, requirements for carbon monoxide alarms in lodging facilities, and changes to the state rulemaking process.

As all of these bills progress, the two chambers will have to reach agreement on how to handle duplicative or near-duplicative language in multiple bills.

Legislature sends energy bill to Governor

The legislature this week passed [S786](#) (Energy Modernization Act), which addresses the hydraulic fracturing industry in North Carolina. In three days this complex piece of legislation arrived in the House, received approval from two House committees, passed two votes in the House on two separate days, and was sent back to the Senate, which then approved the House changes.

The House adopted seven amendments, rejected seven, and blocked votes on five. Changes made by these amendments include:

- Modifications to the appeal process when a party is dissatisfied with a Mining and Energy Commission decision on whether a local ordinance is permissible by law;
- Creation of a Class I misdemeanor for injection of waste into surface or groundwater;
- Making the state geologist an ex officio non-voting member of the MEC; and
- Several technical and clarifying changes.

The bill awaits the Governor's signature.

Drone bill glides out of committee

A bill that would establish regulations for the use of Unmanned Aircraft Systems (UAS) in North Carolina was heard yesterday by the House Government Committee. **H1099** (Unmanned Aircraft Regulation) originated out of a legislative research committee that was charged with examining the issue during the interim. The bill would establish the right to bring a civil cause of action against a person, entity, or state agency that conducts surveillance of an individual or an individual's dwelling through the use of UAS without that person's written consent. An action could also be brought for using UAS to photograph an individual without his or her approval and for the purpose of publishing or otherwise publically disseminating the photo.

The bill authorizes the use of UAS for specific law enforcement purposes. Under the bill, state and local law enforcement agencies would be allowed to use UAS to conduct surveillance if a warrant is obtained, or if the surveillance could be done by a manned aircraft without obtaining a warrant. In addition, law enforcement agencies would be permitted to use UAS to counter a potential terrorist attack, to search for a missing person, to thwart an escape by a suspect, to photograph public gatherings, and to prevent "imminent danger to life or serious damage to property." The bill does not define the term "public gathering," and a few members of the committee expressed concerns about how that term may be interpreted. The bill sponsor, Rep. John Torbett (Gaston), took note of those concerns and stated that he and staff would give additional thought to the use of that term as the bill moves forward.

H1099 also establishes criminal penalties for certain uses of UAS. It creates a Class H felony for use of UAS to interfere with or damage a manned aircraft and creates a Class I felony for possession or use of UAS that have weapons attached. The bill also creates a Class 3 misdemeanor for use of UAS to hunt or fish, except where authorized by federal law or regulation.

The bill requires the Aviation Division of the Department of Transportation to develop a knowledge and skills test for operating UAS, which all operators would be required to successfully complete, by Feb. 1, 2015. The Division is also directed to create a program for licensing commercial UAS operators that would comply with Federal Aviation Administration (FAA) guidelines when issued. The Division must be prepared to implement the licensing program within 60 days of the FAA lifting the ban on commercial operation.

The committee voted to report H1099 without prejudice to the House Judiciary Committee, which will examine any legal issues regarding the bill.

Movement on Jail Dormitory Standards and State Health Plan goals

Some progress was made on two other NCACC legislative goals this week. **S463** (Jail Dormitory Minimum Standards) would allow all counties, regardless of population, to house up to 64 inmates in a dormitory located within a county detention facility. The bill made the crossover deadline in 2013 but was placed in the House Rules Committee late last session. On Friday of last week, the bill was moved out of Rules and into the House Government Committee, where it is expected to receive a hearing. The bill would accomplish the NCACC Justice and Public Safety goal to "Request the reduction of detention center space requirements in existing and new detention center facilities in all counties in North Carolina, consistent with the language in N.C. G.S. 153A-221."

H1213 (Local Governments in State Health Plan) was filed last week by Reps. Nathan Ramsey (Buncombe) and Tim Moffitt (Buncombe) and would accomplish the NCACC goal to "Allow county participation in the State Health Plan." The bill provides that a local government unit may enroll its employees, retirees and dependents in the State Health Plan, provided certain conditions are met.

The local government unit must pass a resolution expressing its desire to participate in the plan. It must enter into a memorandum of understanding with the plan acknowledging the conditions of eligibility. In addition, the local government unit must give the plan at least 45 days' notice prior to entering the plan and must complete all other eligibility requirements within 30 days prior to entry. The eligibility for participation established in the bill would sunset January 1, 2018. The bill passed first reading and has been referred to the House Government Committee

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

