



Bulletin #14-04

Friday, June 6, 2014

Senate approves budget; House gets to work

After completing its initial budget work shortly after midnight last Friday, the Senate formally submitted its proposal, [S744](#), to the House for its consideration. While House appropriations subcommittees met on Tuesday to review both Senate and gubernatorial funding priorities, no official action was taken this week, but plans for next week's House budget action were rolled out on the House floor on Thursday. House appropriations subcommittees are expected to complete work on their individual spending plans by Wednesday, followed by full Appropriations and stops in Finance and Pension and Retirement. A House floor vote will convene at noon on Thursday, with third reading scheduled on Friday. Significant points of difference between the House, the Governor, and the Senate are likely to include plans for Medicaid reform and the level of teacher salary increases.

The NCACC is encouraging county officials to continue to work with their House members and get the language included in [H1107](#) (Restore Lottery \$ for School Construction) in the House budget. The bill, which has 70 sponsors, calls for an increase in the county lottery appropriation for 2014-15 and would restore the statutes that designate counties to receive 40 percent of lottery proceeds for school construction needs. The Senate budget maintained the \$100 million appropriation to counties for 2014-15.

House, Senate take action on privatizing economic development

The state House and Senate this week both acted on bills that would implement Governor Pat McCrory's plan to move much of the state's economic development activities from the Department of Commerce (DOC) to a public-private partnership. The substantially similar bills, [H1031](#) and [S743](#), each were approved in committees and passed initial votes in their respective chambers. The bills will likely be approved in final votes next week and move to the opposite chambers, at which point legislators promoting the change will have to agree on the contents and vehicle for the final package. The major difference in the two bills is the Senate made additions concerning film incentives.

The bills authorize the DOC to contract with a private non-profit entity to perform its business development, marketing, international trade, and travel and tourism promotion activities. They establish an Economic Development Accountability and Standards Committee to oversee the PPP, monitoring its performance, reviewing complaints, ensuring enforcement of the contract, auditing records, and coordinating grant programs between the departments of Commerce, Transportation, and Environment & Natural Resources. The oversight committee would be made up of appointees from the executive and legislative branches with the Secretary of Commerce as chair.

The contract between DOC and the non-profit corporation requires that before being awarded the contract, an entity receive from sources other than state funds at least \$250,000. Once it has been awarded the contract, it must raise at least \$750,000 in its first year of operation and \$1.2 million in each subsequent year of the contract. Upon dissolution of the corporation, its assets and funds must be returned to the state. All officers of the corporation must follow state ethics laws, and their severance pay is limited. The contract prohibits comingling of state and private funds.

The legislation requires that the state continue responsibility for providing incentives and other state funding to businesses, specifically prohibiting the non-profit corporation from making those decisions. The DOC will also continue oversight of employment security programs and boards and commissions under its purview, including the Utilities Commission, Industrial Commission and Alcoholic Beverage Control.

In addition to restructuring economic development activities, the bills create eight geographic regions, called “prosperity zones,” to facilitate regional economic development activities. The DOC, DOT and DENR, as well as the community college system and local school districts, must each provide at least one liaison in each zone to coordinate permitting, infrastructure and educational needs of businesses potentially locating or expanding in the state. The makeup of the zones can be found in Section 3.2 of the current versions of each bill.

Pension Spiking bill moves forward

A bill to reign in the rare occurrences of public pension spiking, [H1195](#), was reported favorably in House State Personnel and re-referred to House Appropriations, where it may become a special provision in the budget. Sponsored by Reps. Jeff Collins (Nash) and Stephen Ross (Alamance), the bill reflects collaboration between NCACC, the N.C. League of Municipalities, the State Treasurer’s Retirement Division and the N.C. City/County Management Association’s retirement committee with a goal to preserve the public pension funds’ fiscal integrity while honoring the hard work and dedication of public employees receiving appropriate salary increases and promotions.

[H1195](#) would set a contribution-based pension benefit cap triggered by excessive salary increases and imminent retirement. These two factors may create an actuarial liability to the pension funds, since the pension spike has not been actuarially funded by employee and employer contributions during the employee’s work history. The cap would only apply to state and local employees who make \$100,000 or more and who retire Jan. 1, 2015, or later. The pension funds’ Boards of Trustees must set the cap to capture no more than 0.75 percent of retirement allowances. Again, the \$100,000 compensation does not trigger the cap — the cap is triggered by an employee who is on the cusp of retirement and who receives an excessive salary increase.

The Retirement Division will report monthly to each employer the names of employees who may trigger the cap if they were to retire within one year from the salary increase. Should the employee retire and trigger the contribution cap, the Retirement Division will notify both employee and employer that the contribution will be reduced absent payment of the estimated liability. For current employees, the employer must pay the estimated liability to avoid benefit reduction; for new employees, the employee must pay the estimated liability.

The bill would also provide that the return of non-vested contributions would include interest and would reset TSERS vesting back to five years.

Prequalification bill approved by committee

[H1043](#) (Prequalification Update) received a favorable report in House Government on Thursday, beginning its journey to clarify how local governments might prequalify contractors under alternate bidding methods. Sponsored by Rep. Dean Arp (Union), this bill sets forth recommendations from the Purchasing and Contract Study Committee called for in [H857](#) (Design-Build/PPP Construction), which was approved in 2013 and fulfilled a county goal to authorize all counties to consider design-build as a contracting option. Wake County Commissioner Paul Coble served as the county representative on the study committee.

[H1043](#) would require a local government using contractor prequalification to adopt a prequalification policy and assessment tool. Prequalification may only be used for construction at risk, design-build, and public-private partnership projects. [H1043](#) would define prequalification standards to be uniform, consistent and transparent, and a local policy must allow all eligible contractors meeting the standards to be prequalified. The bill would prohibit limiting prequalification only to those contractors who have previously been awarded a contract by the bidding entity.

Of particular note to counties, the proposed committee substitute for [H1043](#) would establish a Blue Ribbon Commission to Study Building and Infrastructure Needs of the State through 2025. The committee’s charge would include studying the needs of counties for water and sewer and schools. It would study a priority process within each category and the feasibility of a fund with a dedicated revenue stream. The committee would also explore funding options for meeting anticipated capital needs until 2025.

Jail Dormitory Standards bill passes out of committee

A bill that would accomplish one of the counties' legislative goals in the area of justice and public safety cleared another hurdle this week. **S463** (Jail Dormitory Minimum Standards), sponsored by Sens. Mike Woodard (Durham) and Floyd McKissick (Durham), was heard in the House Government Committee. The bill would reduce detention center space requirements in existing and new detention center facilities in all counties in North Carolina. Currently, by administrative rule, counties with populations of less than 300,000 may only house up to 56 inmates in each jail dormitory. The law, however, provides an exception for counties with populations in excess of 300,000. The counties that meet this population threshold are authorized to house up to 64 inmates in a jail dormitory, provided that the minimum space and amenities requirements set out in G.S. 153A-221(d) are met. **S463** allows all counties, regardless of population, to house these additional inmates in jail facilities as provided in G.S. 153A-221(d). This change in the law will establish uniformity with respect to jail dormitory standards for all 100 counties and will allow them to achieve cost-savings when constructing new detention center facilities. The bill reported favorably out of the House Government Committee and is expected to be heard in the House early next week.

Bills of Interest

Bill: **H1099**

Sponsors: Torbett (R108); Setzer (R89)

Title: UNMANNED AIRCRAFT REGULATION

Comments: This bill would establish regulations for the use of Unmanned Aircraft Systems (UAS) in North Carolina. 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 also establishes criminal penalties for certain uses of UAS and 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 bill has been referred to a subcommittee of House Judiciary B, but due to its highly complicated subject matter, it is not expected to move this session.

Bill: **S78**

Sponsors: Hartsell (R36)

Title: LAW ENFORCEMENT AND DA PRIVACY/TAX WEBSITES

Comments: This bill would allow law enforcement officials and district attorneys to request that their personal information be removed from tax websites. It is intended to prevent the sort of incident that occurred when the father of an Assistant District Attorney for Wake County was kidnapped in retaliation for her successful prosecution of a criminal defendant. The bill directs counties to develop a process by which law enforcement officers and district attorneys may seek removal of personal information, such as their address and phone number, from a website maintained by the county, which is available to the public and displays local tax records. When a specific request is made pursuant to this process, the county would be required to remove the information. The information would continue to be a public record under Chapter 132 of the General Statutes. The bill received a favorable report from the Rules Committee and was re-referred to the House Judiciary Subcommittee C.

- David F. Thompson, Executive Director

