



Bulletin #05-29

Friday, Aug. 12, 2005

ADJOURNMENT PLANS DRIVE QUICK CONSIDERATION AND ACTION ON PENDING BILLS

With the budget behind them and the Conference of State Legislators' Annual Conference before them, lawmakers are making plans for adjournment. Rumor has it that all activity may wrap up on Tuesday, Aug. 23. This week saw a flurry of bills heard, amended and enacted as committees began clearing their dockets in earnest.

2005-07 STATE BUDGET ADOPTED

The General Assembly completed work on the state's biennial budget Aug. 11. [S622](#), "Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets," sets in place a spending plan that appropriates \$17.2 billion for the first year. Fueled by additional taxes, fees and over \$681 million in unexpected revenues from 2004-05, the budget contains a little something for everyone, except Medicaid relief for counties.

On a brighter note, the county Public School Construction Fund (ADM Fund) remains intact. Preliminary Senate and House plans would have taken \$50 million and \$13.3 million from this fund, respectively; however, the final version of the budget kept the ADM funds at current levels.

- Lottery

A projected \$161.5 million in additional school construction dollars could be available in 2006-07 if the Senate adopts [H1023](#), the House-approved lottery bill, and lottery ticket sales meet expectations. [S622](#) effectively rewrites [H1023](#), setting aside 40 percent of the lottery's net proceeds for school construction and school debt service (incurred on or after Jan. 1, 2003), while easing restrictions on lottery advertising. Of the 40 percent, 65 percent would be allocated on an average daily membership basis, with the remaining 35 percent allocated by ADM for those counties whose effective tax rates are above the statewide average. No county match is required.

- State Employee Raises

Despite last minute attempts to increase state employee raises, the House and Senate concurred in the greater of 2 percent or \$850, with an additional week of vacation thrown in for good measure. Teachers will see a 2.24 percent increase on average, although an \$85 million reserve fund coupled with a special provision enables the governor to bump teacher pay by an additional 2 percent. The state continues its commitment to raise community college faculty salaries closer to the national average by providing an additional 2 percent increase above the regular 2 percent for all other state employees. State retirees get a 2 percent increase, while local retirement benefits go up 2.5 percent.

- Cigarette Taxes

The budget increases cigarette taxes by 25 cents on Sept. 1, 2005, with an additional nickel increase next July. The personal income upper income tax bracket remains in place for two more years, as does the half-cent sales tax.

- School Funding

The budget also establishes a new “State Civil Penalties and Forfeitures Fund” to receive state fines and forfeitures owed to local education authorities pursuant to a recent court decision finding in favor of the N.C. School Boards Association. The budget reduces the state’s general fund appropriation to the state public school fund by \$102 million to account for these additional receipts. The General Assembly adopted the House’s plan to budget LEA state sales tax refunds in 2006-07, further reducing state K-12 general fund dollars by \$33.3 million. Public school enhancements include an additional \$20 million for low wealth supplemental funding and \$22.5 million for the 16 school districts cited in the Leandro lawsuit.

- Medicaid

The House prevailed in its attempts to prevent the loss of Medicaid coverage for certain blind, elderly and disabled clients. Medicaid provider rate freezes, greater managed care and utilization management, increased co-pays and a revised Medicaid cost forecast reduce anticipated growth in the state’s Medicaid costs by \$137.5 million, similarly reducing county Medicaid costs by \$24 million. A shift in coverage for children 5 and under from Health Choice to Medicaid and an increase in dental rates increase state and county Medicaid costs by \$9 million and \$1.6 million, respectively.

- Other miscellaneous items

A monthly rate increase for adult care homes raises county and state costs by \$3 million each for the state/county special assistance program. A special provision incorporates [H685](#), “Animal Shelters/Uniform Regulation,” Rep. Pryor Gibson (Anson). The provision authorizes the Board of Agriculture to adopt rules on animal euthanasia and appropriates funds to the Department of Agriculture to set up a program of technical assistance and support to the counties. Another provision limits using Criminal Justice Partnership Program monies for pre-trial release to 25 percent of the grant in 2005-06, and eliminates pre-trial release programs as eligible activities thereafter.

BUILDERS’ INVENTORY EXEMPTION (S508) DELAYED THIS SESSION

[S508](#), “Exempt Builders’ Inventory,” Sen. Walter Dalton (Rutherford), was given a brief hearing by the Senate Finance Committee on Aug. 10, although no action was taken. The bill’s sponsor asked that the bill be displaced until possibly next session. Sen. Dalton also distributed a proposed committee substitute to [S508](#), which would exclude constructed or placed buildings from the property tax exemption. **Thanks again to all of you who made calls and sent letters and e-mails to your delegates in opposition to this bill.**

ELECTION LEGISLATION SETS GRANT AMOUNTS

[S223](#), “Public Confidence in Elections,” Sen. Ellie Kinnaird (Orange), passed second and third readings in the House on Aug 11, after being amended in House Appropriations Committee to allocate federal grant funds to counties to help implement the requirements of the national Help America Vote Act (HAVA) and to comply with legislative requirements that voting equipment create a paper trail. As amended, **S223** allocates to counties federal grants up to \$12,000 per polling place and one-stop site (two backup units also permitted per county) and a grant equal to \$1 per voter (minimum of \$10,000 and maximum of \$100,000) to be used for central administrative software tabulation. The bill was also amended to require that the State Board of Elections certify optical scan voting systems, optical scan with ballot markers voting systems and direct record electronic voting systems, if these systems meet federal and state requirements. The bill has now passed second and third readings in the House and will be sent to the Senate for concurrence in the House amendments.

MOTOR VEHICLES PROPERTY TAX PAID WITH VEHICLE REGISTRATION SENT TO GOVERNOR

The Senate passed [H1779](#), “Property Tax Paid with Vehicle Registration,” Rep. Dale Folwell (Forsyth), on its third reading Aug. 11 and immediately returned it to the House for concurrence in a committee amendment changing the vehicle appraisal appeal deadline to any time before the taxes become delinquent. The House voted to concur. The bill has now been sent to the governor for his signature. **This legislation accomplishes one of the NCACC’s Legislative Goals. Many thanks to those county tax administrators whose time and efforts made this law a reality. It is important to thank Rep. Folwell for his work.**

E-911 LANDLINE FEE STUDY EMBEDDED IN E-911 WIRELESS BILL

Senate Commerce inserted much of [H1638](#), “Allowable 911 Expenditures/Cap Charge/Study,” Rep. Drew Saunders (Mecklenburg), into [H1261](#), “Wireless Service Changes,” Rep. Alice Underhill (Craven). Our readers may recall that the original Saunders bill would have replaced the 911 local surcharge system with a locally levied “special use” tax. **H1261**, now a Senate Committee Substitute for the original bill, was favorably reported by Senate Commerce and re-referred to the Senate Finance Committee. With help from Sen. John Kerr (Wayne) and Sen. Fred Smith (Johnston), the bill was amended to allow local governments that have already initiated increases in their e-911 landline fee to proceed with the increase. The amended language caps e-911 landline fees at rates effective July 1, 2005, unless a governing board adopted a fee increase resolution on or before Aug. 15, 2005, and the effective date of the increase is on or before Dec. 15, 2005. **The NCACC supports the study of the 911 system. Thanks to Sens. Kerr and Smith for sponsoring and guiding passage of this amendment.**

COUNTY CONTROL OF NOXIOUS AQUATIC WEEDS AWAITS HOUSE CONCURRENCE

[H1281](#), “County Control of Noxious Aquatic Weeds,” Rep. Lucy Allen (Franklin), was reported favorably from Senate Finance. After passing third reading in the Senate on Aug. 11, the bill now returns to the House for concurrence.

AMENDMENT TO REGULATION OF FORESTRY ADDRESSES WILLFUL VIOLATIONS

The House Committee on Environment and Natural Resources heard our plea and amended [S681](#), "Clarify Regulation of Forestry," to allow a county or city to delay site development and permitting approval for five years after timber harvest, if the harvest was a willful violation of city or county development regulations.

IMPROVED ATTORNEY WORK PRODUCT BILL ADVANCES

The House passed an amended version of [S856](#), "Access to Trial Preparation Records," Sen. Dan Clodfelter (Mecklenburg), on Aug. 11. The bill was sought by the NCACC and the N.C. League of Municipalities to restore to local government attorneys the same privilege that private attorneys have to deny access to their trial preparation documents. A recent court decision ruled that work products of public attorneys are public records, making legislation necessary to give equal protection to public attorneys' documents. The Senate version included a provision requiring public bodies to pay attorneys' fees (including costs of appeals) of a prevailing party in any action to enforce the public records law. The House version revised this to provide that the court shall make an award of attorneys' fees, unless it finds certain mitigating circumstances.

ECONOMIC INCENTIVES MADE PUBLIC RECORDS

The House Commerce Committee gave a favorable report to a compromise version of [S393](#), "Economic Development Public Records," Sen. David Hoyle (Gaston). The committee substitute allows public access to most records regarding state and local economic development incentive deals within 25 days of the announcement that a business has committed to expand or locate a specific project in the state. The bill clarifies that the announcement of a commitment to expand or locate in the state does not require disclosure of local government records relating to the project if the business has not yet selected a specific location for the project. Once a specific location for the project has been determined, the local government records (including records maintained by the state related to the local government's efforts to attract the project) must be disclosed upon request.

PLANT REGULATION PREEMPTION MODIFIED

The Senate Agriculture and Environment Committee gave a favorable report to a committee substitute for [H671](#), "Plant Regulation," Rep. Dewey Hill (Columbus). Originally this bill would have preempted county and municipal authority to regulate plants and plant pests. As amended, the bill now focuses more narrowly on its intended target. The bill gives sole authority for the regulation of genetically modified or genetically engineered plants to the Board of Agriculture. It also adds representatives of consumers and organic farmers to the board and establishes a study commission on genetically engineered organisms.

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