



Bulletin #05-30

Friday, Aug. 19, 2005

CALM BEFORE THE STORM

After the Senate's lengthy Friday and Saturday sessions, the General Assembly is operating on a skeleton crew this week, as many lawmakers are visiting with their out-of-state counterparts at the National Conference of State Legislatures annual meeting in Seattle. Neither the House nor the Senate is voting on legislation this week. House and Senate members will return full throttle next week with the intent of closing out the long session of 2005-06.

GAMBLING ON THE LOTTERY

Passage of the state lottery hinges on a one-vote turn around, as five Democratic senators are said to oppose [H1023](#), "North Carolina State Lottery Act," Rep. Bill Owens (Pasquotank), and no Republicans have agreed to support it. As reported Aug. 12 in Legislative Bulletin [#05-29](#), a projected \$161.5 million in additional school construction dollars could be available in 2006-07 if the lottery is approved. An ongoing stream of additional school construction dollars in excess of \$200 million per year is expected thereafter.

[S622](#), "2005 Appropriations Act," sets aside 40 percent of the lottery's net proceeds for school construction and school debt service (incurred on or after Jan. 1, 2003). 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 with effective tax rates above the statewide average. No county match is required.

The NCACC Board of Directors considered the lottery issue at its Feb. 23, 2005, meeting and voted to support local option lotteries with a substantial portion of the proceeds to be dedicated to local school construction. **If the statewide lottery school construction dollars are of importance to your county, you may wish to contact your senators and ask for their support.**

IT'S TECHNICAL IN NATURE, NOT

[H327](#), "2005 Technical Corrections Act," Rep. Bill Culpepper (Chowan), includes a substantive policy change (Section 71) that would remove video programming service from the G.S. 153A-137 definition of cable television systems. This would in turn allow certain telecommunication providers and other utilities to bypass city and county franchising authority. [H327](#) will be considered by the Senate Judiciary I Committee on Monday, Aug. 22. The NCACC and the N.C. League of Municipalities have sent letters to members of the committee, urging their opposition to this substantive policy change.

We encourage all counties to contact the following Senate Judiciary I Committee members and ask that Section 71 be removed from H327.

Judiciary I

Chairman

[Sen. Daniel G. Clodfelter](#)

Vice Chairman

[Sen. R. C. Soles, Jr.](#)

Vice Chairman

[Sen. Philip E. Berger](#)

Members

[Sen. Charles W. Albertson](#), [Sen. Julia Boseman](#), [Sen. Andrew C. Brock](#), [Sen. Harry Brown](#), [Sen. Janet Cowell](#), [Sen. Hamilton C. Horton, Jr.](#), [Sen. David W. Hoyle](#), [Sen. Clark Jenkins](#), [Sen. Jeanne H. Lucas](#), [Sen. Vernon Malone](#), [Sen. Martin L. Nesbitt, Jr.](#), [Sen. Keith Presnell](#), [Sen. Tony Rand](#), [Sen. Richard Stevens](#), [Sen. Jerry W. Tillman](#)

I KNOW IT WHEN I SEE IT

The Senate amended and passed [H105](#), “Motor Fuel Tax Changes & Revenue Laws Technical Changes,” Rep. Paul Luebke (Durham), and sent it to the House for concurrence. **H105** would authorize the N.C. Department of Revenue (DoR) to provide local sales tax refund information to cities in addition to counties, and such refund information would be made available on all refund claimants. Current law excludes certain businesses eligible for sales tax refunds. **H105** would also direct DoR to report the local food sales tax within the correct sales tax article.

While the Association supports these changes in the sales tax refund and reporting requirements, **a last minute provision was inserted in H105 which would exempt yet another group from property taxation.** Section 59 would exempt “cultural purpose” organizations and defines these as “one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.” The House is expected to consider concurrence with Senate changes early next week, possibly at its Monday evening session.

We ask that you call your House members and ask them not to concur with H105. We will then work with members of the conference committee to strip out this “surprise” exemption.

TRASH TO TREASURE

The Senate amended and passed [H1465](#), “Disposal in Landfills/Additional Bans,” Rep. Joe Hackney (Orange), to prohibit disposal of oyster shells in landfills but permit disposal of wooden pallets in construction and demolition landfills only. These changes are in addition to **H1465**’s prohibiting motor vehicle oil filters and plastic containers from being disposed of in landfills. If the House concurs with Senate changes, **H1465** becomes effective Oct. 1, 2009. **H1465** also authorizes counties and cities to petition the N.C. Department of Environment and Natural Resources for a waiver of these newly banned products based on economic hardship.

FAIR AND SQUARE

Technical changes to the state's property tax laws moved forward with the ratification of [H116](#), "Property Tax Changes," Rep. Harold Brubaker (Randolph), a bill sought by county tax administrators and recommended by the General Assembly's Revenue Laws Study Committee. **H116** allows a longer tax period than 12 months during the transition period for vehicles that are converting from annual registration to staggered registration and applies the same penalty that currently applies to payments by worthless check to property tax payments made by electronic payments. **H116** also makes clarifying changes to the present-use statutes and sets a 60-day appeal period for taxpayers to appeal a present-use value or qualification.

VOTING MONEY

The Senate concurred with House amendments and ratified [S223](#), "Public Confidence in Elections," Sen. Ellie Kinnaird (Orange). As reported Aug. 12 in Legislative Bulletin [#05-29](#), the House incorporated an allocation mechanism of federal grant funds to help counties implement the requirements of the national Help America Vote Act (HAVA) and comply with legislative requirements that voting equipment create a paper trail. Counties will receive 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.

THANKS BUT NO THANKS

The Senate failed to concur with House changes to [S393](#), "Economic Incentives Made Public Records," Sen. David Hoyle (Gaston), and appointed a conference committee to work out differences.

WELCOME TO THE FAMILY

The General Assembly ratified [S682](#), "Add Agencies to Set-Off Debt Collection," Sen. Robert Holloman (Hertford), to include public health authorities created under Part 1B of Article 2 of Chapter 130A, metropolitan sewerage districts created under Article 5 of Chapter 162A, and sanitary districts created under Part 2 of Article 2 of Chapter 130A.

HELLO, HELLO

The Senate passed [H1261](#), "Wireless Service Changes," Rep. Alice Underhill (Craven), which as amended by the Senate embedded **H1638**, "Allowable 911 Expenditures/Cap Charge/Study," Rep. Drew Saunders (Mecklenburg).

ATTORNEY-CLIENT PRIVILEGE

The Senate concurred with the House's amended version of [S856](#), "Access to Trial Preparation Records," Sen. Dan Clodfelter (Mecklenburg), adding yet another bill to the ratified category. 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.

SOYLENT GREEN

The Senate passed its committee substitute for [H671](#), “Plant Regulation,” Rep. Dewey Hill (Columbus), which gives sole authority for the regulation of genetically modified or genetically engineered plants to the Board of Agriculture.

I WAS ONLY TRYING TO HELP

The Senate passed [H1029](#), “Local Government Stream Clearing/Clarify Liability,” Rep. Winkie Wilkins (Person), which included a Senate amendment on stormwater fees applicable only to Clemmons and Kernersville, and then sent the bill to the House for its concurrence. The bill clarifies that counties and cities may remove natural and man-made obstructions in stream channels, but local government action to clear these obstructions does not create or increase their responsibility for clearing or maintaining the stream or for stream flooding. Such local government actions also do not create any local ownership in the stream or obligation to control the stream, or affect any otherwise existing private property right, responsibility or entitlement regarding the stream.

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