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Legislative Bulletin #08-09

Thursday, July 10, 2008

SENATE AMENDMENT TO HOUSE BILL TAKES AWAY COUNTY AUTHORITY TO IMPOSE MORATORIUM

A local government's ability to enact a building moratorium to give the local government time to update or adopt a local ordinance would be limited in **H2313** (Permitting and Building Code Changes). The bill was changed by the Senate on Tuesday to include the ban on building moratoria "on the sole basis that an existing ordinance is outdated or in need of amendment or that there is a need for a new ordinance." The bill has been placed on the Senate calendar for Monday, July 14. County officials are encouraged to call their legislators and request that the new portion of this bill be removed.

BUDGET PASSES HOUSE, SENATE

The General Assembly approved its spending plan for 2008-09 after two weeks of conference deliberation and compromise. The adopted budget contains a number of appropriations and special provisions that are both important and advantageous to counties. Legislators should be expressly thanked for their support of county programs and services.

Conferees rejected the House's recommendation to appropriate \$21.3 million from the lottery reserve to give all counties the same ADM allotment of lottery school construction monies on a one-time basis, but budget writers did devise a strategy to set aside \$14.2 million of lottery revenues for counties whose effective tax rate falls below the state average. The 2008-09 budget appropriated \$154.2 million to counties for school construction. A special provision directs that lottery revenues of \$140 million – set at 2007-08 school construction lottery funding levels – be distributed via the statutory formula. The remaining \$14.2 million – if realized – goes to those counties with effective tax rates that fall below the statewide average. Another provision sets aside lottery revenues in excess of 2007-08 appropriated levels for all educational purposes for school construction; the state budget office reports that the average slightly exceeds \$12,000.

The budget did include several county priorities: elimination of the unfunded mandate that counties begin paying for courthouse telephone systems maintenance and enhancements; restoration of recurring funding for the Criminal Justice Partnership Program and the Juvenile Crime Prevention Councils; and additional funding for mental health services.

DROUGHT BILL TAKING SHAPE

Local government officials made a compelling argument to capitalize on the newly minted local water conservation plans and not throw the baby out with the bathwater. The House Committee on Environment and Natural Resources agreed to allow local water shortage response plans to set increasingly stringent water conservation measures in response to increasingly severe water shortages, based on locally established triggers of shortage. Earlier versions of the drought bill would mandate specific water savings requirements based on the U.S. Drought Monitor map. Conforming local water shortage response plans would have to be submitted by July 1, 2009, and would require DENR approval. Under the drought bill draft under consideration by the House, DENR would also be authorized to require local water systems to step up their water conservation measures should their less stringent measures not produce adequate water savings. Local systems without plans would have to implement the default conservation measures currently required by state administrative rules in the event of extreme or exceptional drought. Failure to implement the drought measures contained in the default or locally derived plan when triggered could result in monthly civil penalties of up to \$10,000.

H2499 (Drought/Water Management Recommendations) directs the Environmental Review Commission (ERC) to study whether – and to what extent – private groundwater wells should be regulated by state or local governments as a part of ERC’s ongoing study of water resource allocation. The bill would also shift responsibilities underlying the gubernatorial declaration of a water shortage emergency from the Environmental Management Commission (EMC) to the DENR secretary. Currently, the EMC initiates emergency investigation upon behest of the local government and then oversees the required action during the emergency. H2499 shifts the responsibility to the DENR secretary to consult with the affected local government and then provide written comments substantiating the emergency. Required action under the emergency declaration would also fall to the DENR secretary. H2499 would limit state or federal water infrastructure funds allocated by the General Assembly to those entities that have adequate water system efficiencies in place. The EMC would be directed to adopt rules to promote acceptable uses of reclaimed water. The House deferred action on the bill until Monday, July 14, when a series of amendments is expected to be offered.

NEW BILL FOR TIPPING TAX CHANGES; DELAY NOT INCLUDED

A Senate committee took up a new Solid Waste bill on Thursday that makes several administrative changes to the landfill legislation that was passed last year, but it will not include a six-month delay that was sought by many counties. Several of the changes will help counties administer the new \$2 per ton tipping fee that went into effect July 1 and also changes how the funds are distributed back to eligible local governments. The new bill, **H2530**, Solid Waste Tax Changes, was approved by Senate Finance on Thursday.

SENATE FAILS TO CONCUR WITH HOUSE CHANGE TO REVAL SCHEDULE

The Senate objected to a House change to **S1878** (Property Tax Modifications) that changes the trigger for a county to advance its scheduled revaluation. In the Senate version, once a county’s sales/assessment ratio dips below .90, a county has to schedule a revaluation before Jan. 1 of the third year following notification that their sales/assessment ratio was below .90. This change would likely force some counties to revalue property more often than the current eight-year schedule requires. An amendment from Rep. Bill Owens (Pasquotank) changed this trigger from .90 to .70. The House and Senate will appoint conferees to work out the differences between the two bills.

NEW AND IMPROVED STORMWATER BILL APPROVED BY SENATE

S1967 got a new name (Improve Coastal Stormwater Management) and a passing vote this week. The bill passed the Senate on Wednesday after a lengthy negotiation process with various stakeholders, including representatives from the 20 coastal counties that were impacted by the original proposed rules. The version that passed the Senate was considerably less restrictive than the original rules. The amount of runoff that has to be contained by developers is smaller than what the original rules called for. Some projects that have already received state and local permits would be exempted from the rules, and existing homes and businesses could be replaced without having to conform to the new rules. Boards of Commissioners in 10 of the 12 counties that have been actively working on the legislation approved resolutions Monday night in support of the compromise bill, which now goes to the House. The House Environment Committee approved the revised bill Thursday.

WILDLIFE MANAGEMENT BILL APPROVED

H1889 (Present-Use Value System Modifications) was approved by the Senate Finance Committee on Thursday. The legislation creates a new property tax deferral program for landowners who manage their land for wildlife conservation purposes. The Association, in conjunction with the N.C. Farm Bureau, N.C. Forestry Association and the N.C. Tax Assessor’s Association, succeeded in narrowing the intrusion into the county property tax base. It is anticipated that the bill will be on the Senate floor on Monday night.

BILLS OF INTEREST

The Association has created a section on its Web site to track bills of interest to county officials. Visit www.ncacc.org/legislation/about.html for updates on key legislation, including the bills listed below.

Bill: **S2056**

Sponsors: McKissick (D20)

Title: COURT FEE EXEMPTION

Position: Support

Comments: This bill, which has passed the Senate, would repeal a special provision included in the 2007-09 budget passed last session that forces counties to pay various court fees up front. The provision went into effect July 1 and particularly affects child support services personnel, who sometimes in the interest of an abused child, for example, require a court action late in the night and do not have funds in hand. The bill passed the House Local Government I Committee and has been re-referred to the House Finance Committee.

Bill: [S2064](#)

Sponsors: Hoyle (D43)

Title: OPEN GOVERNMENT ACT

Position: Oppose

Comments: The bill would require local governments to pay "reasonable" attorneys' fees for the opposition if a local government is sued because it refused to grant a public records request and ordered to turn over the public records. It creates a Department of Justice "Open Government Unit" that would mediate public record and open government disputes. The bill was passed by Senate Finance on Thursday and is expected to be taken up by the Senate on Monday, July 14. If it becomes law, the rules would take effect Oct. 1, 2008.

– NCACC Legislative Team