



Bulletin #09-12

Thursday, April 16, 2009

## FOOD FOR THOUGHT

*Here's a report card your parents wouldn't be too thrilled with: The American Society of Civil Engineers graded North Carolina in nine subjects in its 2009 update to its Report Card for America's Infrastructure, and the state's grades ranged from a B-minus in drinking water infrastructure to a D-minus in roads. Schools and storm water infrastructure each received C-minus grades; wastewater fared a little better with a C-plus. Overall, the state graded out with a C-minus. Condition and capacity factor into the grades, which are cause for concern given the state's projected boom in population over the next couple of decades. Everyone's homework assignment, of course, is to figure out how to pay for new infrastructure and renovations. At the county level, revenue sources such as local option sales taxes, impact fees and real estate transfer taxes could be part of the solution.*

## THE EYE OF THE STORM

Activity in the Legislature slowed on one front this week and picked up on another. The House deadline for public bills passed last Wednesday, slowing the introduction of new bills to a crawl. The House deadline for appropriations and finance bills is April 22, so bills will continue to trickle in, but the flurry of bill activity that marked recent weeks is largely over. As filings slowed, activity in committees picked up. House Appropriations subcommittees have begun reviewing the Senate's budget but have yet to receive spending targets from House leaders. The House is waiting for the final April tax return numbers are so it will have a better grasp on the expected revenues for the biennium before issuing any spending targets.

## BILL TO GIVE LME AUTHORITY TO STATE IS DISPLACED

The House Mental Health Reform Committee on Wednesday displaced [H1188](#), Improve LME Accountability, an agency bill that would restructure local mental health director approval and board appointments. Specifically, the bill would authorize the DHHS Secretary to approve any local mental health director's appointment – in county programs and area authorities. Currently, single-county program directors are appointed by the county manager, multi-county program directors are appointed via an interlocal agreement with the participating counties, and area directors are appointed by the area authority board, subject to the approval of the boards of county commissioners within the area program. H1188 would also allow the governor to appoint one-third of the members of the area authority board, including that of a single-county area authority. Currently, the board of county commissioners appoints the single-county authority board, with multi-county boards having one commissioner from each participating county, and those members appointing the other members. Per H1188, the governor would make all appointments for vacancies occurring after July 1, 2009, until these appointees represent one-third of board members.

## ELECTIONS GOVERNANCE BILLS POP UP

Two bills that would impact how elections are governed have been introduced in recent weeks. [H1281](#), Election Director Oversight, is sponsored by Reps. Melanie Goodwin (Montgomery) and Alice Graham Underhill (Craven). It specifies that local elections directors shall "comply with all orders of the State Board and all directives issued by the Executive Director under G.S. 163-132.4." [H1421](#), Election Amendments, sponsored by Rep. William Wainwright (Craven), transfers to counties the responsibility for annually maintaining the warranty of its voting equipment and for coding its voting machines. It also requires county boards of election to receive approval from the state Board of Elections before repairing or replacing any voting equipment. Currently, the State Board of Elections is responsible for ballot coding.

## THE WAITING IS THE HARDEST PART

Sen. Dan Clodfelter (Mecklenburg) has long been a proponent of modifying the state's tax structure to make it more accurately reflect a 21st century economy. The current economic recession has apparently made some of his

colleagues more interested in the concept as well. When the Senate passed its version of the budget last week, it had a gap of approximately \$500 million that needed to be filled with new revenues. Typically, the Senate would have passed its finance package prior to adopting its budget, but unusual times call for unusual actions. Several reports have surfaced that the Senate is considering a proposal to raise the additional \$500 million in revenue by making significant changes to the state's tax structure that would impact personal income taxes, corporate taxes and the sales tax. The state has long examined the possibility of broadening the sales tax base to include more services, which would enable an overall lowering of the rate. Initially, the Senate was expected to have unveiled its package this week, but nothing has emerged as of yet. Anticipation – and hype – are building. Newspaper editorial boards across the state are weighing in on the prospect of overhauling the state's taxation system, and the Institute for Emerging Issues at N.C. State University, led by former Governor Jim Hunt, released its own report earlier this week urging a modernization of the state's tax system. The Association is monitoring the issue to make sure that county sales taxes and other local revenues are not impacted negatively by any modernization effort.

## **TRANSPORTATION FUNDING BILL GETS A BOOST**

The House Finance Committee approved a transportation funding bill Wednesday that would give every county in the state, except Mecklenburg, the option to levy either a half-cent or quarter-cent sales tax for transportation – if voters approve in a referendum. **H148**, Congestion Relief/Intermodal Transport Fund, is sponsored by Reps. Becky Carney (Mecklenburg), Deborah Ross (Wake), Bill McGee (Forsyth) and Lucy Allen (Franklin). Forsyth, Guilford, Wake, Durham and Orange counties would be given the option for a half-cent sales tax for transportation, similar to the one already in Mecklenburg County. The other 94 counties would be given the option for a quarter-cent sales tax for transportation, provided that the county or at least one municipality within the county operates a public transportation system. Only local governments that operate public transportation systems can receive revenue from the sales tax, which is divided up on a per capita basis amongst all qualifying local governments in a county.

## **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](http://www.ncacc.org/legislation/about.html) for updates on key legislation, including the bills listed below.

**Bill:** [\*\*HB1235\*\*](#)

**Sponsors:** Gibson (D69)

**Title:** RESIDENTIAL/NONRESIDENTIAL BLDG. INSPECTIONS

**Status:** 04/09/2009 – First reading in the House

**Comments:** This bill takes away a county's right to inspect buildings and instead requires a county to have "reasonable cause" before it can inspect "residential and nonresidential buildings." Reasonable cause is defined as: "(i) the landlord or owner has a substantial history of noncompliance with the county's ordinances on unsafe buildings; (ii) there has been a report that substandard conditions exist within the building or an occupant has requested that the building be inspected; or (iii) the inspection department has actual knowledge of unsafe conditions within the building that was acquired as a result of routine business activities conducted by the county." It does make an exception if a county is using an area designated for a Community Development Block Grant to try to improve a blighted area.

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**Bill:** [\*\*HB1263\*\*](#)

**Sponsors:** Alexander, K. (D107); Mackey (D99)

**Title:** KEEP RECORDINGS OF CLOSED SESSIONS

**Status:** 04/09/2009 – House Committee On Local Government II

**Comments:** This bill would require cities or counties with populations of at least 50,000 to record closed sessions. The recording could be withheld as long as the release of the recording would frustrate the purpose of the closed session. Currently, the law requires all local governments to keep a record of any closed session, but does not require it to be recorded.

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**Bill:** [\*\*HB1266\*\*](#)

**Sponsors:** Jones, Earl (D60); Hall, L. (D29); Mackey (D99)

**Title:** LAW ENFORCEMENT OFFICER PROTECTION ACT

**Status:** 04/09/2009 – House Committee On State Government and State Personnel

**Position:** Oppose

**Comments:** This bill would grant law enforcement officers "the right to representation by a representative of the officer's chosen employee organization, or the designee of such organization, during an interrogation or questioning by a

member of the employing law enforcement agency when the law enforcement officer is the subject of an internal or administrative investigation that may result in disciplinary action." The officer would have up to 24 hours to secure representation.

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**Bill:** [HB1268](#)

**Sponsors:** Stam (R37); Lewis (R53); Blue (D33)

**Title:** EMINENT DOMAIN

**Status:** 04/09/2009 – House Committee On Judiciary II

**Scheduled:** 04/16/2009 – House Committee On Judiciary II, 10:00 a.m., 421 LOB

**Comments:** This bill would require a constitutional amendment to prohibit a unit of government from using eminent domain to take property and then give it to another party for economic development. It would also give property owners the authority to ask for a trial by jury to determine compensation for land seized through eminent domain. It sets the date of the constitutional amendment as Nov. 3, 2009. A similar bill passed the House in May 2007, but the Senate did not take any action.

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**Bill:** [HB1382](#)

**Sponsors:** Jones, Earl (D60)

**Title:** ANNEXATION - VOTE OF CITIZENS

**Status:** 04/13/2009 – House Committee On Judiciary II

**Comments:** This bill would require that citizens who are being annexed be given an opportunity to vote on the annexation. It applies to municipalities with a population of at least 5,000 and less than 150,000, according to the last decennial census. The annexation could not occur unless at least 50 percent plus one of the citizens voting in the special election approve.

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**Bill:** [HB1452](#)

**Sponsors:** Howard (R79); Justice (R16); Allen, L. (D49); Harrison (D57)

**Title:** LOCAL GOVERNMENT CODE OF ETHICS

**Status:** 04/13/2009 – House Committee On Ethics

**Scheduled:** 04/22/2009 – House Committee On Ethics, 2:00 p.m., 1425 LB

**Comments:** This bill would require each county to adopt a code of ethics for its board of commissioners, and for each commissioner to receive two hours of training on ethics within 12 months of being elected or appointed as a commissioner.

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**Bill:** [HB1480](#)

**Sponsors:** Allen, L. (D49); Bryant (D7)

**Title:** EXPAND PERMITTED 911 FUND USES

**Status:** 04/13/2009 – House Committee On Public Utilities

**Position:** Support

**Category:** Legislative Goal

**Comments:** This bill expands the uses for which 911 fees can be used to include the following: "the lease, purchase, operation, and maintenance of consoles and communications equipment owned or operated by the PSAP and physically located within and for the use of the PSAP, and radio or microwave towers and equipment with lines which terminate in the PSAP." This bill would accomplish a long-standing Association legislative goal.

**James B. Blackburn, III, General Counsel**  
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