



Bulletin #09-13

Thursday, April 23, 2009

FOOD FOR THOUGHT

A House bill that would allow local governments to post notices of public hearings on their Web sites instead of being forced to purchase expensive ads in newspapers would help local governments keep up with a trend on how citizens receive news. According to a recent survey by the Pew Research Center for the People and the Press, the number of people who get their news from a printed version of a newspaper dropped from 58 percent in 1993 to 27 percent in 2008 (a historic presidential election year). The same poll found that the number of people who read the news online had jumped from 13 percent in 1998 to 37 percent in 2008. If the trends continue for two more years, by 2011 fewer than 20 percent will get their news from a printed newspaper, while nearly 50 percent – or more – will be using the Internet as their primary news source.

ACTIVITY PICKS UP AS CROSSOVER DEADLINE LOOMS

Activity in committees is picking up as the May 14 crossover deadline is getting nearer. Bills that do not impact the state budget must pass either the House or Senate by May 14 in order to be considered during the remainder of the 2009-10 biennium. The Association will pay particularly close attention to House and Senate committee calendars over the next two weeks, as bills are being added to the calendar at the last minute in some committees.

SENATE FINANCE COMMITTEE LEADERSHIP UNVEILS TAX OVERHAUL PLAN

Senate Finance leadership this week released its much-anticipated plan to restructure the state's tax system. The complex plan impacts almost every one of the state's existing revenue streams, including state and local sales taxes and individual and corporate income taxes. Sen. Dan Clodfelter, the plan's chief architect and proponent, asked Senate Finance Committee members on Wednesday – when he unveiled the plan – to receive the proposal with an open mind and to offer any feedback on how they can improve the plan. The Senate's budget included a \$500 million revenue gap, and Sen. Clodfelter's plan is one way to address the revenue shortfall. Sen. Clodfelter met with NCACC and NCLM staff Tuesday to outline local government impacts. Sen. Clodfelter emphasized that one of the underlying objectives of the revenue restructuring is to disentangle state and local revenues. The plan would largely eliminate state-shared local revenues, leaving the revenues at the source of the levy. For example, beer and wine revenues would no longer be shared with participating counties and cities. Sen. Clodfelter stated he believed this would help protect local revenues during a state fiscal crisis. The plan calls for extending the sales tax to a number of "end point" services, especially those services where like tangible goods are already subject to sales taxation. For example, plumbing maintenance and service would be taxed, along with the current tax on plumbing supplies. The combined general sales tax rate would be lowered from 6.75 percent to 6 percent, with the local rate at 1.9 percent (0.1 percent ceded to state) and the state rate at 4.1 percent. The corporate tax would be lowered over two years, from 6.9 percent to 4.25 percent, and county ADM funds would be eliminated entirely. The restructuring plan would also eliminate the public agency sales tax refund provision and restrict nonprofits to refunds less than \$5 million. Business sales tax exemptions and exclusions would also be constrained. Per Sen. Clodfelter's calculation, local governments would have a net gain of \$131 million in 2009-10 and \$177 million in 2010-11 as a result of the sales tax changes. County-by-county impacts are not yet available. No action is anticipated in the immediate future as members of the Senate Finance Committee will take some time to digest the complex changes included in this proposal.

SENATE BUDGET IN VIOLATION OF ARRA GUIDELINES FOR SCHOOLS SPENDING

The House Appropriations Subcommittee on Education was told during a presentation Tuesday that the Senate's budget was apparently in violation of rules regarding the use of Education Stabilization Fund (ESF) monies from the American Reinvestment and Recovery Act. Guidelines from the U.S. Department of Education had not been finalized when the Senate was putting the finishing touches on its budget, and so Senators were not aware of the restrictions that accompanied the use of the ESF monies. In essence, the Senate's budget did not properly restore funding to Public Schools and Higher Education. According to Recovery Act guidelines, the state must spend on education what

it spent in 2005-06, and it must use the \$1.16 billion made available through the ESF to restore funding to the higher of either the 2008-09 or 2007-08 levels. The Senate's plan spent half of the ESF in each of the two years of the biennium, or roughly \$581 million per year. For 2008-09, the state's revised budget for public schools is \$8.3 billion, meaning that the state has to spend at least that much in 2009-10. The Senate budgeted only \$7.7 billion for public schools. In addition, the Senate's spending plan actually included more for both the community college system and the university system than what it spent in 2007-08 (the higher of the two years for those two systems), which also put it in violation of the ARRA guidelines, which say that a state cannot use ESF monies to increase spending in one area at the expense of another.

For the Senate's budget to come into compliance with ARRA guidelines, spending on community colleges would have to be reduced by \$32 million and spending on the university system would have to be reduced by about \$150 million while spending on public schools would have to be increased by about \$500 million for 2009-10. Assuming all the extra spending comes from the state's ESF monies, only \$302 million would be left for 2010-11, which would leave the state with a gap of almost \$600 million for 2010-11. This assumes that the state decides to match its 2005-06 spending based on total money spent instead of money spent per pupil. If the state decides to match its per pupil spending, then it would cost approximately \$500 million more in each year of the biennium and would require the state to spend almost its entire ESF allotment in 2009-10, leaving a gap of almost \$900 million for 2010-11. Fiscal research staff emphasized that there were still some unanswered questions about how the ESF can be used, which could impact the state's education spending obligations.

WHEN IS UNANIMOUS NOT ENOUGH?

In 2005, both the House and Senate unanimously passed a bill that required motor vehicle property taxes to be paid at the same time as a vehicle's registration fee. The change would help counties increase their collection rates on vehicle property taxes and would result in as much as \$80 million for cities and counties each year. Since then, the General Assembly has made numerous efforts to repeal or delay the implementation of the bill. During the last biennium, the Legislature decided to push back implementation for a year amid concerns by car dealers that collecting the additional taxes during a sale was too difficult for them to figure out how to do. Now, legislators in both the House and Senate have introduced bills yet again to undo the entire bill, which would once again make North Carolina the only state to collect property taxes on automobiles in arrears. [S996](#) (Repeal Combined MV Registration/Tax System) is sponsored by Sen. Clark Jenkins (Edgecombe), while [H1434](#) is sponsored by Rep. Nelson Cole (Rockingham). County officials are urged to contact their legislators and let them know how important it is to counties that the combined motor vehicles registration/taxes system be allowed to proceed as scheduled so that counties will have the tools necessary to collect all taxes that are owed. Each year the system is delayed costs counties almost \$50 million in uncollected property taxes.

SOME COUNTIES MAY BE GIVEN A REVALUATION MULLIGAN

A bill has been introduced in the House that would allow some counties that have a revaluation that went into effect Jan. 1, 2009, an opportunity to rescind that revaluation and use the previous year's property tax values if the Board of Commissioners so chooses. [H1530](#), Rescind Advanced Property Tax Appraisal, is sponsored by Reps. Nelson Cole (Rockingham), Bryan Holloway (Stokes), Justin Burr (Stanly) and Edgar Starnes (Caldwell). The bill impacts only counties that advanced its revaluation earlier than the eight-year cycle required by the state. The Board of Commissioners could choose to rescind the revaluation and use the values from the last valuation provided that the board "adopts a resolution rescinding advancement of the general reappraisal and promptly forwards a copy of the resolution to the Department of Revenue." The resolution must also state that the Board will conduct its next reappraisal no later than the eighth year after the previous reappraisal. In addition, counties must take action before a budget has been submitted to the governing board, meaning counties must decide whether or not to delay implementing the new tax values before June 1.

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: [H63](#)

Sponsors: Grady (R15); Tucker (D4); Cleveland (R14)

Title: MODIFY ONSLOW COUNTY SALES TAX DISTRIBUTION

Related: 2009:S81

Status: 04/22/2009 – Reported by Senate committee

Comments: This bill would create a third way for Onslow County to divide sales tax revenue with its municipalities. The

"Combined Method" would allow for the "net proceeds of the tax collected in a taxing county shall be distributed to that county and to the municipalities in the county by using both the per capita and the ad valorem methods with neither method being used to distribute less than forty percent (40%) of the net proceeds of the tax." The bill passed the House on March 30 and has been approved by the Senate Finance Committee.

Bill: [H148](#)

Sponsors: Ross (D38); Carney (D102); McGee (R75); Allen, L. (D49)

Title: CONGESTION RELIEF/INTERMODAL TRANSPORT FUND

Related: 2009:S151

Status: 04/22/2009 – Passed in the House

Comments: Identical to S151, this bill attempts to address the state's public transportation needs and represents the recommendations of the 21st Century Transportation Committee. Among the bill's components is a local-option sales tax for counties to address public transportation needs. The bill allows Wake, Durham, Orange, Forsyth and Guilford to hold a referendum on a half-cent sales tax for public transportation. The tax can only be levied by a county if approved by the voters in its county and if the board of commissioners and the relevant local transportation authority – Triangle Transit Authority or Piedmont Authority for Regional Transportation (PART) – has adopted a financial plan for the proceeds. The bill also allows Alamance, Davidson, Davie, Randolph, Rockingham, Surry, Stokes and Yadkin counties, which are also members of PART, to hold referendums on a quarter-cent sales tax for public transportation. The referendums must pass in each county before the tax can be adopted by a Board of Commissioners. The bill also gives any other county the authority to hold a referendum on a quarter-cent sales tax for public transportation, provided that the county or at least one municipality within the county operates a public transportation system, and gives to all counties the ability to institute a county vehicle registration tax, not to exceed \$7, provided that either the county or at least one municipality in the county operates a public transportation system. Only local governments that operate public transportation systems can receive funds from the registration tax, which is divvied up on a per capita basis amongst all qualifying local governments in a county.

Bill: [H1268](#)

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

Title: EMINENT DOMAIN

Status: 04/16/2009 – House Committee on Appropriations

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 either side 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 action. It was given a favorable report by the House Judiciary II Committee on April 16 and re-referred to the House Appropriations Committee.

Bill: [S117](#)

Sponsor: Hoyle (D43)

Title: CLARIFYING DEVELOPMENT MORATORIA AUTHORITY

Status: 04/22/2009 – Passed in the Senate

Comments: This bill would prohibit a county from imposing a building moratoria while it develops or revises a development ordinance, such as an Adequate Public Facilities Ordinance. The bill passed the Senate 41-8 on April 22 and has been sent to the House.

James B. Blackburn, III, General Counsel
David F. Thompson, Executive Director