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Bulletin #10-03

May 21, 2010

FOOD FOR THOUGHT

If the Senate having its budget out the chamber door just barely a week after convening isn't enough proof that legislators are serious about getting out of town soon this summer, then chew on this: Gerry Cohen, the director of the General Assembly's Bill Drafting Division, reports that requests for bills through the first week of the session were down 31 percent from a similar period during the 2008 short session. Cohen also reports that requests to the Research Division experienced a 21 percent increase, which he attributes to the high number of study committees that met during the interim. Leadership in both chambers has made it clear it intends to get out of town quickly. Rank and file members appear to have gotten the message.

BUDGET SAILS THROUGH THE SENATE

Exactly one week after convening, the Senate took the first floor vote on its budget proposal Wednesday and saw the measure pass with an overwhelming 32-17 margin that included three Republicans backing the spending plan. The Senate passed its budget in third reading on Thursday. The Senate proposal does not shift some of the Local Management Entities' administrative costs to counties, restores \$40 million in state-funded community mental health services and continues investing in local in-patient bed capacity. All of these items were in Governor Beverly Perdue's budget proposal as well.

The Senate did make changes to the way the county share of the lottery money could be distributed. The Senate appropriated the full 40 percent of lottery proceeds to counties, but gave counties the flexibility to use the funds for classroom support. This is part of the Senate's plan to help protect teaching jobs. Current statutory language limits these funds to school capital facility expenditures. The budget also includes a special provision that allocates all the county school construction lottery funds on a straight per pupil basis, setting aside the statutory formula that reserves 35 percent of these monies for counties with effective tax rates greater than the statewide average.

The Senate budget also raised fees related to filing for elective office, including County Commissioner. The new fee will be 1.5 percent of the salary. The additional revenues would go to the State Board of Elections and the State Ethics Commission to help cover operating costs for those two agencies. The change also impacts the filing fees for statewide elections as well.

The House will take up the budget next week, and in fact, House Appropriations committees were meeting before the Senate finished with the budget to get a jumpstart on their spending plan. All signs are pointing to a speedy House budget process as well.

COMMISSIONERS CONVERGE ON CAPITAL FOR COUNTY ASSEMBLY DAY

More than 200 county officials from across North Carolina gathered in Raleigh on Wednesday for the Association's annual County Assembly Day. President Pro Tempore of the Senate Marc Basnight (Dare) and Speaker of the House Joe Hackney (Orange) addressed attendees. Rep. Hackney jokingly – we hope – told the crowd that he had come to “give Medicaid back to the counties.” Sen. Basnight, a longtime proponent of environmental issues, discussed the possibilities of wind energy and urged counties to consider alternatives to oil.

Veteran political reporter Scott Mooneyham, editor of The Insider, and Hunter Bacot, director of the Elon University Poll, participated in a panel discussion about the state of North Carolina politics and the factors that will influence the General Assembly in 2010 and the fall elections. Bacot told the audience that he expects some changeover in the Legislature after the elections in the fall, but he does not think a lot of the anti-incumbency anger will show up at the polls. He noted most of the anger appears to be directed to the federal government and predicted a very low turnout. For more on County Assembly Day, check out the Association's weekly legislative review video, This Week at the General Assembly. The video report will be posted on the Association's YouTube channel (www.youtube.com/ncacc1908) by 3 p.m. Presentations and issue papers from the session are also on the Association's Web site at www.ncacc.org/countyines/2010/06/countyassemblyday.html.

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.

Bill: H524

Sponsors: Luebke (D30); Starnes (R87); Goforth (D115); Jones, Earl (D60)

Title: ANNEXATION - OMNIBUS CHANGES

Progress: 2nd Chamber: Reported from Committee

Status: 05/17/2010 – Senate Committee On Rules and Operations of the Senate

Position: Support

Category: Legislative Goal

Comments: H524 represents the House's vehicle for omnibus changes to the state's annexation laws. The current version of the proposed committee substitute accomplishes a large part of the Association's annexation goal in that it increases the standards for urbanizing areas, it establishes June 30 as the effective date for an involuntary annexation, it includes a provision for a referendum, and it requires the provision of water and sewer services within three years. The bill was amended by the House Appropriations committee to include joint utilities planning. It was pulled from the Senate Finance Committee and re-referred to the Senate Rules Committee on May 17.

Bill: H813

Sponsors: Blust (R62); Ross (D38); Glazier (D45); Stiller (R17)

Title: UNIFORM APPORTIONMENT OF TORT RESPONSIBILITY

Related: 2009:SB679

Progress: 2nd Chamber: Referred to Committee

Status: 05/19/2009 – Senate Committee On Judiciary I

Position: Oppose

Category: Defense

Comments: This bill, which passed the House last summer, would change our state legal system from contributory negligence to comparative fault. If enacted in its current form, H813 would expand personal injury and other tort lawsuits dramatically in North Carolina. Currently under contributory negligence, a plaintiff who is partially at fault for his own injury is barred from recovery from defendants. Under the proposed legislation, a plaintiff could recover for damages from a defendant even if the plaintiff caused up to 50 percent of his own harm. This would likely result in an increase in cases being filed against counties and related agencies and increased insurance premiums. In addition, after the jury trial is over, the plaintiff would be permitted to ask the court to reapportion the share of a defendant who is unable to pay to a solvent defendant. This would further increase the potential exposure for counties and further tie up our court system, lengthening the time a lawsuit takes to resolve.

Bill: H1870

Sponsors: Goforth (D115); Whilden (D116)

Title: SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT

Progress: 1st Chamber: Referred to Committee

Status: 05/20/2010 – House Committee On Environment and Natural Resources

Comments: The Association has concerns about the degree to which this bill, if approved, would preempt local ability to regulate development, impose costs within planning departments that would not be covered by authorized fees and discourage development in western and northwestern counties. The bill would make the determination by the State Commission of "affected areas ... conclusive in the absence of fraud," and thus all but impossible to challenge. The combination of the Commission's authority to develop a "model safe artificial slope construction ordinance," and its authority to review each local ordinance and then "notify the local government submitting the ordinance that the ordinance has been approved, approved

with modifications, or disapproved," gives the state commission the authority to dictate and modify the language of a "local" ordinance.

Bill: S1325

Sponsor: Dickson (D19)

Title: HOMEBUILDER PROPERTY TAX DEFERRAL CHANGE

Progress: 1st Chamber: Referred to Committee

Status: 05/20/2010 – Senate Committee On Finance

Comments: This bill would expand the eligibility for a home builder to qualify for the temporary tax deferral granted to finished but unsold houses that passed last session (H852 - Defer Tax on Builders' Inventory). This bill would make any unsold, finished house "owned by the builder or a business entity of which the builder is a member, as defined in G.S. 105-277.2" eligible for the property tax deferral program. The legislation that passed last session is written in such a way that only an individual builder who is also the sole owner of the property can qualify for the deferral.