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Bulletin #10-06

June 11, 2010

THIS WEEK AT THE GENERAL ASSEMBLY

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the General
Assembly

Brought to you by the
North Carolina Association
of County Commissioners

For a video report on ABC system reform, the state budget, use of 911 funds, commercial animal breeding regulations and e-recycling, be sure to watch "This Week at the General Assembly" on the Association's YouTube channel (www.youtube.com/ncacc1908).

911 BILL GETS UNANIMOUS REPORT FROM HOUSE COMMITTEE

The House Public Utilities Committee on Wednesday unanimously passed [H1691](#) (Use of 911 Funds), which recommends expanding the ways that counties can use money collected from the 911 service charge and provides a one-time window to use up to 50 percent of the reserves built up in the fund for any public safety need. NCACC Director of Government Relations Kevin Leonard testified in favor of the bill to the committee. He told committee members that allowing the additional flexibility would enable counties to upgrade their systems and ultimately provide an even better service to citizens. The bill also equalizes the representation on the state 911 Board by adding two local government representatives to the board. The bill now goes to the House Finance Committee.

STATE BUDGET CONFEREES GET THEIR MARCHING ORDERS

Legislative leadership appointed [conferees](#) for [S897](#), the State Appropriations Act, to begin the three-week process of hammering out money and policy differences between the two chambers. Whether the conference report includes the Senate proposal for county lottery funding, which would continue the 40 percent set aside of net lottery proceeds to counties, or the House proposal, which would use \$46.5 million in county funds to backfill state classroom cuts, is clearly an important issue for conference committee chairs to deliberate. Both House and Senate proposals would permit counties to use any or all of their lottery proceeds to protect classroom teachers.

A joint appropriations committee meeting on Thursday set spending targets – the total budget allowed within a subject area. At quick glance, the education spending target basically splits the difference between the House and Senate plans. Health and Human Services is much closer to the Senate's total spending; Justice and Public Safety is at the Senate's spending level; and Natural and Economic Resources would need cuts of roughly \$40 million from either plan.

Still pending is the much-anticipated – and currently budgeted – enhanced federal Medicaid funding being debated by Congress. If Congress fails to pass an extension of the enhanced funding, it would leave state budget makers with a \$500 million hole to fill in a \$19 billion budget – in addition to the \$800 million gap caused by slower growth and fewer revenues.

Legislative leadership also announced that any changes within the spending targets can be considered – a departure from historical practice that allowed only those items in controversy between the two chambers to be changed by the conference committee. This means that cuts not included in either chamber’s proposal could reappear, which places county issues at greater risk. During last year’s budget conference (in the 11th hour of deliberations), counties lost the \$18 per day jail fee for state prisoners housed in county jails and two-thirds of local beer and wine revenues. Neither of these cuts had been included in either chamber’s proposal.

Conferee subcommittees have already begun to meet or have announced meetings for Monday. At Thursday’s Health and Human Services joint subcommittee meeting, the House and Senate came to agreement on a few items, most notably for counties the inclusion of \$5 million to ease the transition on eliminating state immunization funding. The subcommittee deferred decisions on the more contentious items such as the personal care services restructuring, and did not address the differences in community mental health funding. Counties have asked that \$40 million in cuts be restored, along with additional investments in local in-patient bed capacity.

Subcommittee chairs are to report to the full chairs next week. With another week for deliberation by committee chairs, the schedule calls for a conference report vote on June 29.

REVISED ABC BILL TAKES STEP FORWARD

On Wednesday, the House ABC Committee met, adopted amendments, and favorably reported the amended version of the Proposed Committee Substitute (PCS) for [H1717](#) (Modernization of the State ABC System). The NCACC supports this amended version of the bill because it better empowers counties – as the appointing authorities for many of the ABC boards – to monitor and address potential problems within the ABC system. In this version of the bill, ABC boards and employees are covered under the Local Government Ethics Act and must comply with a gift ban and anti-nepotism provision. Unlike earlier versions of this bill, there are no provisions to take additional profits from ABC boards to fund state efforts.

In addition, the bill has been refined to allow the State ABC Commission to promulgate rules regarding operating efficiency and solvency, but not profitability standards that may be unattainable for many smaller local boards. If an ABC board is not in compliance with the performance standards that are set, the current version of the bill also gives more than a year for the county and the State ABC Commission to work together to develop an improvement plan to get the system back on course to try to avoid insolvency. If problems are not corrected during that time, the ABC Commission must notify the appointing authority prior to taking action, and it allows the ABC Commission to merge an insolvent local board with another local board, create a joint store operation or close single stores, instead of just having the option of closing an insolvent system. This bill also requires local ABC boards to prepare an annual balanced budget and provide copies of reports to appointing authorities.

This legislation would limit local ABC general manager salaries to the same as the local clerk of superior court, but allows the appointing authority to alter this if warranted. Similarly, the legislation limits local ABC board member compensation to \$150 per meeting, but the appointing authority has the authority to decide differently and to notify the State ABC Commission of that change. The legislation requires ABC board members and employees to follow the same travel reimbursement procedures as state employees, unless the appointing authority establishes a different travel policy and notifies the ABC Commission. The current bill focuses upon fixing problems with the ABC system without impacting the autonomy of counties, and allows additional oversight from county appointing authorities. The bill is scheduled to be heard in the House Committee on State Government and State Personnel on Tuesday, June 15.

COMPARATIVE FAULT TILTS BALANCE TOO FAR IN FAVOR OF PLAINTIFFS

Earlier this week, a new version of [H813](#) (Uniform Apportionment of Tort Responsibility) was released. The NCACC is opposed to this PCS because it lacks sufficient balancing provisions and dramatically changes tort law in North Carolina by allowing for more personal injury claims to be filed and likely resulting in increased insurance premiums and court facility costs for counties. This version of the bill still includes a broad reallocation provision, which allows plaintiffs to reassign the fault of one defendant to another defendant if the judgment is not “reasonably collectible” from a defendant that is assigned fault for the damages.

In addition, this version of the bill contains a section that retains joint and several liability, which would force a county to be liable for damages it did not cause. That provision would place the full burden of any judgment jointly on a local government if a plaintiff asserted that the local government failed to prevent the intentional act of another defendant. In other words, a county could be held responsible for the entire amount of damages if a plaintiff alleged the county failed to prevent a shooter from entering a public building and harming people, if the shooter could not pay his share of the damages. In another example, a local government could be held responsible for the entire amount of damages if an uninsured drunk driver collides with another vehicle but the drunk driver claims that a shrub on county property obstructed his view and contributed to the accident.

A provision regarding medical expenses was added to the bill to attempt to balance these harmful blame-shifting provisions and the dramatic change to comparative fault, but it does not provide a sufficient balance. As a result of these provisions, the current PCS shifts the tort system too far in favor of the plaintiff and would be very costly to counties, and significant changes to the bill are needed. The NCACC opposes this version of H813.

BILLS OF INTEREST

The Association maintains 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: [H1249](#)

Sponsors: England (D112); Harrell, T. (D41)

Title: HOMEBUILDER PROPERTY TAX DEFERRAL CHANGE

Status: 06/07/2010 – House 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. The Senate passed the bill June 2 but the House did not concur. The bill has been assigned to the House Finance Committee.

Bill: [H1659](#)

Sponsors: Stam (R37); Lewis (R53)

Title: EMINENT DOMAIN

Comments: This bill would require a constitutional amendment to prohibit a unit of government from using eminent domain to take property and 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 was given a favorable report by the House Judiciary II Committee on June 10 and re-referred to the House Appropriations Committee. The referendum would be held Nov. 2, 2010, during the general election. A similar bill passed the House in May 2007, but the Senate did not take action.

Bill: [H1744](#)

Sponsors: Crawford (D32); Owens (D1); Gillespie (R85); Tarleton (D93)

Title: MODIFY WATER FUNDING PRIORITIES

Scheduled: 06/15/2010 – Senate Committee On Agriculture/Environment/Natural Resources, 11 a.m., 544 LOB

Comments: This bill attempts to standardize the criteria for loans or grants. It adds a regionalization criteria to give additional priority points to a project that provides "for the orderly coordination of local actions relating to public water and wastewater systems, or to help realize economies of scale in regional public water and wastewater systems through consolidation, merger, or interconnection of public water and wastewater systems." In cases where regionalization is not practical due to topography or other factors, systems "shall be given the same priority for regionalization as a project that includes regionalization." The bill also clarifies that "leaking waterlines are a priority for both water quantity and water quality purposes." This bill passed the House on June 9 and has been referred to the Senate Committee On Agriculture/Environment/Natural Resources.