

If you are having problems viewing this e-mail, please visit our Web site to view [this bulletin](#).



Bulletin #10-08

June 25, 2010

THIS WEEK AT THE GENERAL ASSEMBLY

This week at
the General
Assembly

Brought to you by the
North Carolina Association
of County Commissioners

Be sure to watch "This Week at the General Assembly" on the Association's YouTube channel (www.youtube.com/ncacc1908). This week's edition includes an interview with Director of Government Relations Kevin Leonard. Video updates are posted each Friday afternoon and are accessible anytime.

STATE BUDGET EXPRESS TRIES TO STAY ON SCHEDULE

The state budget express is reported to be back on schedule, with a draft version expected on Friday for weekend reading by members and hard-copy publishing by staff. Sources indicate that Senate and House budget conferees agreed earlier this week to reduce the county share of lottery proceeds by \$63.5 million for 2010-11 – a number that is much higher than what was included in either chamber's adopted budget. The Senate's budget plan appropriated the full share of county lottery funds – estimated at \$176.5 million – to counties, but added a provision that counties could use the funds on classroom teachers if they wanted. The House budget gave counties the same flexibility but reduced the appropriated amount to \$130 million. The conferees have apparently settled on an appropriation of \$113 million for counties – a reduction of \$63.5 million. We have been assured this reduction is for 2010-11 only and are continuing our conversations with state leadership to minimize county impacts and ask that our members do the same with their legislative delegation. More than half of the counties have already adopted their budgets for 2010-11, and many included the full lottery share in their budgets to pay for existing debt service. Losing any lottery revenue will create a hole in these counties' budgets that will have to be filled by either savings from elsewhere in the budget or the use of reserve funds. In other budget news, discussions with subcommittee chairs and members suggest few other monetary impacts to county budgets. What's still uncertain is the fate of the \$500 million in additional federal Medicaid assistance and the state's reliance on those dollars to offset next year's Medicaid cost increases. With Congressional attempts failing to secure these dollars for North Carolina and for the 30+ states budgeting these enhanced federal funds, state legislative leaders are drafting contingency plans should these funds fail to materialize. Reserve fund balances, across the board cuts, and employee furloughs may be in the offing.

911, ABC BILLS SAIL THROUGH HOUSE

Two bills of interest to counties sailed through the full House this week. **H1691** (Use of 911 Funds), passed Tuesday and Wednesday by a unanimous vote each day. The bill would accomplish two Association legislative goals – to expand the ways counties can use money collected from the 911 service charge and to equalize the representation on the state 911 Board by

adding two local government representatives to the board. It has been referred to the Senate Rules Committee. The ABC reform bill ([H1717](#) – Modernization of the State ABC System) passed second and third reading in the House Tuesday with only one dissenting vote and has been referred to the Senate Committee on Judiciary II.

ETHICS, OPEN GOVERNMENT, PUBLIC RECORDS BILL EMERGES IN SENATE

A broad-ranging ethics bill was on the fast-track in the Senate earlier this week but was eventually derailed when legislators complained that the bill was trying to do too much too fast. [H961](#) (Government Ethics and Campaign Reform Act of 2010) passed the House in May 2009 and attempted to regulate political contributions by state contractors. The Senate tried to add sections that would extend the state's public financing system to four additional statewide seats, increase the amount of information that is considered public records for state and local government employees and establish a mediation process for public records disputes. The bill passed the Senate Judiciary I Committee on Tuesday and was on the Senate calendar for Wednesday but was pulled and re-referred back to the Senate Judiciary I Committee after several Senators complained about expanding the public financing campaign program. The committee amended the bill to remove the expanded public financing option. Counties have several concerns with the new sections being considered by the Senate. Under current law, only the current salary and the "most recent" salary increase or decrease given to a government employee is considered public record. The bill would make each employee's complete employment history (promotions, transfers, salary adjustments, disciplinary actions such as suspension or demotion, etc.) a public record. This would require local governments to compile a database of this information, which is not currently tracked. The provision would not be made retroactive. The bill also establishes a mediation process for public records disputes and directs a court to allow attorneys' fees to a party seeking disclosure of public records if that party "substantially prevails." Currently, the courts have discretion about when to award attorneys fees in public records cases. The bill would eliminate the discretion and instead provide for only specific instances when attorneys fees cannot be awarded, such as if a unit of government or state agency relied on an opinion from the Attorney General's office. The bill would not allow a local government to avoid legal fees if it relied on its own counsel to deny a request.

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: [H1870](#)

Sponsors: Goforth (D115); Whilden (D116)

Title: SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT

Status: 06/23/2010 – House Committee On Finance

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: [H1921](#)

Sponsors: Weiss (D35); Dollar (R36); Jackson (D39); Heagarty (D41)

Title: WAKE EMAIL ADDRESS LISTS/ELECTRONIC ACCESS

Status: 06/23/2010 – Passed in the House

Comments: This is a local bill that applies only to Wake County and its municipalities, but it has statewide interest. Currently, if a local government maintains a list of e-mail addresses used to communicate with citizens, those lists are considered public records and can be requested by citizens. Public records laws require the government to provide the list in electronic format, making it easy on the person who is making the request to send an unsolicited e-mail to the names on the list. This bill changes the requirement so that the government has only to make the list available for inspection and does not have to make the list available in any format. It also clarifies that a local government can only use the list for the purpose for which it is intended or

in case of a public health or public safety emergency. The bill passed second and third reading in the House on June 23.

Bill: [S1177](#)

Sponsor: Clodfelter (D37)

Title: REV. LAWS TECHNICAL & ADMIN. CHANGES

Status: 06/24/2010 – Reported by House committee

Scheduled: 06/28/2010 – House Calendar, 7:00 p.m., House Chamber.

Comments: The House Finance Committee approved its version of the revenue laws technical corrections bill on June 24. The bill allows counties to begin collecting a locally approved sales tax on the first day of a calendar quarter. Current law allows the collection to begin on either Jan. 1 or July 1. At the request of the Department of Revenue, House Finance kept in place the current time frame of 90 days for the county to give notice of its intent to levy the tax to the department. The Senate's version lessened this to 60 days. To protect those counties who had planned on an Oct. 1 implementation, the department worked with Association staff to permit a 75-day notice for calendar year 2010 and is seeking an amendment to allow this exception.

– David F. Thompson, Executive Director

– Kevin Leonard, Director of Government Relations

– Sharon Scudder, Executive General Counsel