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Bulletin #10-11

July 16, 2010

## LEGISLATIVE REPORT OUT IN AUGUST

This edition of the Legislative Bulletin marks the final weekly edition of the 2010 Short Session. The Association will publish a comprehensive final report on the 2010 Short Session that will be distributed to county officials during the annual business session at the NCACC Annual Conference, which will be held Aug. 26-29 in Pitt County. The report will also be posted on the NCACC Web site after the conference. Electronic subscribers to the Legislative Bulletin will be notified when the report has been posted.

### PUBLIC RECORDS ACT ALTERED BEHIND CLOSED DOORS

During a closed door meeting in the early morning of the session's final day, language was unexpectedly added to the [H961](#) (Government Ethics and Campaign Reform Act of 2010) that significantly expands the Public Records Act regarding county personnel records. This is a significant change for counties and makes information about each promotion, demotion, transfer, suspension, separation or other change in position a matter of public record.

The language in this bill also makes a copy of the written notice of the final decision of the county to dismiss an employee, along with the specific acts or omissions that are the basis of the dismissal, to be a matter of public record. Also of concern is the bill's effective date – Oct. 1, 2010 – because the bill's language does not clearly state that the law only implicates employee personnel records created after that date.

Section 5 of H961 has created a new classification of lobbyist – "Local government liaison equivalents." If a county employee whose principal duties – in practice or as set forth in their job description – include lobbying for legislative action, that employee must register under the state's lobbying statute. Legislators did limit the scope of the provision to legislative action only and to the reporting requirements, and waived the registration fee. The statute containing specified exemptions was also clarified to make sure that persons such as county managers, county attorneys and elected officials who are acting in their official capacity are not captured by this new statute.

### COMPARATIVE FAULT, DOG BREEDERS INCLUDED IN STUDIES BILL

Two issues that directly impacted counties and that saw plenty of activity during the short session but were eventually not acted upon have been included in the annual studies bill. On the last day of session, the House and Senate each passed [S900](#) (Studies Act of 2010). Part XXXV of the bill creates authority for a Joint Study Committee to continue to consider the adoption of comparative fault and other tort law reform. This issue will likely continue to be a hotly debated topic during the 2011 long session. A House bill to change North Carolina's system of tort liability from one of contributory negligence to comparative fault was not heard in the Senate this session. [H813](#) (Uniform Apportionment of Tort Responsibility) passed the House in 2009 and was poised

this session to be passed by the Senate. The NCACC opposed the House version of the bill because it lacked needed balancing provisions to avoid significant spikes in insurance rates and to avoid significant demands upon court facilities.

A Senate bill that attempted to regulate commercial dog breeders failed to advance in the House. [S460](#) (Commercial Dog Breeder Regulation) would have required commercial dog breeders with at least 15 female dogs used for breeding and 30 puppies to register with the N.C. Department of Agriculture and to adhere to standards developed by the State Board of Agriculture. Earlier discussions contemplated making counties responsible for inspecting commercial breeding operations. The NCACC worked with the bill sponsor to revise the bill to avoid this unfunded mandate and instead would have given counties more authority to respond to complaints. This issue was also included in studies bill.

## TIME TO GIVE THANKS

The efforts of county officials, particularly on the ABC and 911 bills, were critical this session, and the Association would like to thank all those commissioners who responded to our many calls for assistance. With the General Assembly adjourned for 2010, the Association also encourages county officials to reach out to their legislators and thank them for any issues they worked on this year that were beneficial to your county or to counties as a whole.

## 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](http://www.ncacc.org/legislation/about.html) for updates on key legislation.

**Bill:** [H683](#)

**Sponsor:** Crawford (D32)

**Title:** PERMIT EXTENSIONS

**Comments:** This bill extends by one year, to Dec. 31, 2011, the Permit Extensions Act of 2009 that was passed last year. The 2009 act stopped the clock on development permits for the period between Jan. 1, 2008, and Dec. 31, 2010, meaning that no development permit that was valid at any point during that time period could expire until after Dec. 31, 2010. The bill adopted on the last day of the 2010 session extends that window of time to Dec. 31, 2011, but also allows counties to "opt out" of the extension if the board of commissioners adopts a resolution stating its intent to do so. The original act was approved by the General Assembly because many developers had stopped working on projects when the real estate market began to slow down and did not want to have to reapply for the permits when the economy rebounded. The homebuilders Association had originally sought a two-year extension.

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**Bill:** [H1743](#)

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

**Title:** IMPROVE RIVER BASIN MODELING

**Comments:** This bill asks the Department of Environment and Natural Resources and the Local Government Commission to take several steps to monitor the fiscal soundness of each public water and wastewater treatment system by making sure that each system generates "sufficient revenue to cover the costs associated with proper operation of the system, including the costs of maintenance, repair, and replacement of collection, treatment, and distribution infrastructure." The agencies would specifically be charged with reviewing grant applications to make sure that any required local matches are being paid for with local funds and not another grant. The agencies could conceivably order a water system to increase its rates if it determines that the system is not generating sufficient revenue to cover costs. The House concurred with Senate revisions to the bill, and it has been presented to the governor.

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**Bill:** [H1744](#)

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

**Title:** MODIFY WATER FUNDING PRIORITIES

**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 "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

and Senate and has been presented to the governor.

– David F. Thompson, Executive Director  
– Kevin Leonard, Director of Government Relations  
– Sharon Scudder, Executive General Counsel