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Bulletin #11-10

Friday, April 1, 2011

## OUR TAKE

*"The governor's representatives must think counties should be penalized for following prudent fiscal policies by allowing our fund balances to serve as the silver bullet to fix the state's budget crisis." – David F. Thompson, NCACC Executive Director.*

## COUNTY FUND BALANCES IN QUESTION

The governor's legislative agent this week circulated to the House and Senate Appropriations chairs a chart of counties' 2009-10 fund balances to illustrate that counties have sufficient reserves on hand to withstand financial shifts as detailed in the [governor's budget proposal](#). The chart being circulated references an 8 percent statutory set-aside based on county general fund revenues, and indicates that based on this number counties only need \$799 million of their \$2 billion fund balance availability. What was edited out of the chart was a disclaimer by the Local Government Commission that reads as follows: "The figures presented include a county's working capital, which is needed to meet daily expense and maintain a favorable bond rating, as well as funds being banked for specific school construction and other infrastructure projects."

As a primer on local government finance: There is no statutory fund balance requirement. The 8 percent figure represents reserves of one month's expenditures, or 1/12 of a fiscal year. This is the bare minimum needed to prevent a county or city from receiving a letter of warning from the Local Government Commission (LGC) indicating fiscal problems. The LGC also alerts a county if its fund balance deviates materially from the county's population grouping, a statewide amount of 21 percent, or less than three months of reserves.

During the "Great Recession," counties have had to rely more on banked reserves – since 2005, statewide county fund balances on average have dropped from 24 percent to 21 percent. It is also important to remember that using one-time reserves for ongoing recurring expenditures is fiscally irresponsible. Most county boards of commissioners formally adopt a fund balance policy stating the amount of reserves needed in their county to manage cash flow between the time property tax bills are distributed and the actual receipt of property tax payments in January, to cover any unforeseen calamities such as hurricanes and floods, and to set aside funds for specific capital projects. Nationally, bond rating agencies are placing greater importance on adequate fund balance levels; a rapid decline in reserves can trigger a rating downgrade and, with it, higher interest rates and debt costs.

Most counties had to use their fund balances this fiscal year to balance revenues with anticipated expenditures. Many counties were forced to use fund balance to pay for school debt service when the General Assembly reduced the county's lottery share by approximately \$63 million for 2010-11. House and Senate budget writers have asked us to confirm whether the 2009-10 fund balances noted on the chart they received are representative of expected fund balance levels for 2010-11. Early reports indicate that counties are spending down reserves to manage their own budget shortfalls. Counties have acted in a fiscally responsible manner; they have cut spending and programs to reflect lower revenues.

State budget discussions are coming to a head in the next several weeks. We understand major decisions, such as county lottery

funds and state prisoners in county jails, are being finalized. Now more than ever we need to have the county voice heard.

## NEW BUDGET CALENDAR

Early in the 2011 legislative session, budget writers released a budget calendar calling for House action by April 22, Senate action by May 13, and final action by June 1. Now Appropriations chairs are looking at April 29 for final House action with the other deadlines intact. An extra week avoids conflicts with the Easter observance and provides more time to calculate the financial impacts of the “April surprise” – better known as Tax Day.

## ANNEXATION REFORM BILL FILED IN HOUSE

The first of what could be several comprehensive annexation reform bills was filed in the House on Thursday. [H531](#) (Involuntary Annexation Reform) is sponsored by Reps. Larry Brown (Forsyth), Nelson Dollar (Wake), Stephen LaRoque (Lenoir) and Harry Warren (Rowan) and proposes several changes to the state’s annexation laws. Among its major components is a referendum option that kicks in if at least 5 percent or 500 of the registered voters of the proposed annexation area – whichever is less – sign a petition asking the annexation be placed on the ballot. The legislation also requires that municipalities cannot annex across county lines without the consent of the Board of Commissioners of the county in which the property to be annexed is located (this satisfies part of the Association’s legislative goal for annexation). The bill also requires county commissioners to hold a public hearing on a proposed annexation “prior to the adoption of any resolution approving annexation.”

Other legislators continue to work on other approaches to annexation reform. The Association expects a bill to be introduced soon that will address all elements of our proposed goal, including allowing a Board of Commissioners to request a referendum on any proposed involuntary annexation.

## SUNSHINE BILL YET TO SEE LIGHT OF DAY

A bill that would give voters a chance to amend the N.C. Constitution and provide a constitutional right to government public records and open meetings has been sent to the House Rules Committee after failing to muster enough support to pass the House. Because the bill includes a constitutional amendment, it needs 72 votes to pass the House. [H87](#) (Sunshine Amendment) was added to the House calendar several times the past few weeks but was pulled each time.

In its current form, the bill provides that the amendment would be voted on in the November 2012 general election. Several legislators expressed concern about making the change a constitutional amendment and instead argued for making any needed changes through General Statutes.

Before it was sent to the House Rules Committee, the House did amend the bill to allow a unit of government to charge a “reasonable” fee for the costs incurred when copying or compiling records to satisfy a request.

## ELECTRONIC NOTIFICATION BILLS FILED IN HOUSE

Cities and counties would be allowed to publish notices of public meetings and hearings on their website instead of being forced to purchase ads in newspapers if a bill introduced by Rep. Chuck McGrady (Henderson County) becomes law. [H472](#) (City/County Electronic Notice) would allow a board of county commissioners to enact an ordinance to publish all required public notices on a county’s website.

Counties that pursue this option must create and maintain a notice book that includes a hard copy of all electronic notices. This bill would accomplish an NCACC legislative goal to “authorize electronic notice of public hearings and other legal notices.” According to estimates obtained by the NCACC, the bill could save counties more than \$1 million per year. Besides the cost savings, publishing the notices on the county website makes it easy for citizens to find them and makes them available to citizens 24 hours a day, seven days a week from any place in the world with Internet access.

A Senate bill would require cities and counties to post notices of their meeting schedule, agenda meetings and minutes of meetings on a public website. [S420](#) (Municipal Sunshine Act) would require city and county governing boards to designate a website to publicize the information. The publisher of the website could not charge the board to post the notices and could not charge a fee to the public to access the information. A city or county could designate its own website as the site to post the notices if it could not find a suitable third-party website.

The bill also would require a city or county governing body to conduct a review each quarter of all of the closed session meetings it had held within the previous three years to determine whether the minutes or recordings from those closed sessions can “now be disclosed to the public.” The bill also requires a governing body to create an inventory and status report of all “minutes, tape recordings or other records of the closed session” each time it goes into closed session.

## CHECK US OUT ON YOUTUBE, TWITTER AND FACEBOOK

The Association has several ways members can receive up-to-date legislative information. The NCACC’s Twitter feed has more than 450 followers. Sign up to follow us at [twitter.com/ncacc](https://twitter.com/ncacc). You can also view our latest Twitter posts on the NCACC Web site ([www.ncacc.org](http://www.ncacc.org)). If you are on Facebook, search for “NCACC” and click on the “Like” button to receive our updates. The Association posts breaking news on both the Twitter and Facebook pages. The Association is also creating weekly legislative video reports for the NCACC’s YouTube Channel ([www.youtube.com/ncacc1908](https://www.youtube.com/ncacc1908)). “This Week at the General Assembly” will be posted each Friday afternoon and will feature interviews with legislators and NCACC staff, reports on legislation impacting counties and updates on county legislative priorities.

## BILLS OF INTEREST

The Association maintains a section on its website 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 these and other bills we are tracking. Bills added this week include:

Bill	Title	Committee
<a href="#">H486</a>	Tryon Deannexation	Local bills of interest
<a href="#">H489</a>	Mechanics Lien And Bond Law Changes	Intergovernmental Relations
<a href="#">H492</a>	Stormwater/Isolated Popl. Growth In County	Environment
<a href="#">H531</a>	Involuntary Annexation Reform	Intergovernmental Relations
<a href="#">H544</a>	Local Government Email Lists	Intergovernmental Relations
<a href="#">H549</a>	Counties May Require Solid Waste Services	Environment
<a href="#">H580</a>	Local Human Services Administration	Health and Human Services
<a href="#">S433</a>	Local Human Services Administration	Health and Human Services
<a href="#">S437</a>	Enact First Evaluation Program	Health and Human Services
<a href="#">S439</a>	ABC Permit Issuance	Intergovernmental Relations
<a href="#">S440</a>	Presidential Primary In March	Intergovernmental Relations
<a href="#">S443</a>	Remove Restriction/Leo Disability Benefits	Justice & Public Safety and Tax & Finance

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**Bill:** [H111](#)

**Sponsors:** Hilton (R96); Barnhart (R82); Steen (R76); Hastings (R110)

**Title:** HANDGUN PERMIT VALID IN PARKS & RESTAURANTS

**Status:** 03/30/2011 – Passed in the House

**Comments:** Rep. David Guice (Transylvania) sponsored an amendment to this bill to allow a local government to adopt an ordinance banning concealed handguns from local government recreation facilities, including athletic fields, playgrounds, swimming pools and parks. The ordinance would not prohibit someone with a concealed carry permit from securing their weapon in their car if they are parked at a recreation facility. The amendment passed, and the bill has been sent to the Senate.

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**Bill:** [H248](#)

**Sponsor:** Rhyne (R97)

**Title:** ESTABLISH TAX MODERNIZATION COMMISSION

**Status:** 03/09/2011 – House Committee On Finance

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**Bill:** [H544](#)

**Sponsors:** Samuelson (R104); Cotham (D100); Iler (R17); Tolson (D23)

**Title:** LOCAL GOVERNMENT E-MAIL LISTS

**Status:** 03/31/2011 – First reading in the House

**Position:** Support

**Category:** Legislative Goal

**Comments:** Without this legislation, for-profit businesses, individual citizens and other marketing groups can request electronic copies of email lists maintained by local governments. Residents provided their emails to local governments with the belief that their email addresses would be protected. Passage of this bill would accomplish an Association legislative goal.

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**Bill:** [S183](#)

**Sponsor:** Brown, H. (R6)

**Title:** SELECTIVE VEGETATION REMOVAL/STATE HIGHWAYS

**Status:** 03/03/2011 – Senate Committee On Transportation

**Comments:** This bill would override local ordinances that restrict the location and appearance of billboards and whether or not billboards can be converted to digital billboards. It would give billboard owners a wider buffer from which they could remove vegetation and trees near their billboards.

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**Bill:** [S430](#)

**Sponsors:** Berger, D. (D7); Jones, Ed (D4)

**Title:** LRC/STUDY URANIUM MINING NEAR ROANOKE RIVER

**Status:** 03/28/2011 – Senate Committee On Rules and Operations of the Senate

**Position:** Support

**Category:** Legislative Goal

**Comments:** This bill would accomplish an NCACC legislative goal to "create study commission on horizontal drilling, hydraulic fracturing and uranium mining." The bill authorizes the Legislative Research Commission to "study the impacts on North Carolina" if the State of Virginia ends the state's current moratorium on uranium mining and allow a company to "conduct uranium mining in an area in Virginia that is located in the center of the Roanoke River Basin. The Legislative Research Commission shall specifically consider the impacts on that portion of North Carolina that would be most directly affected, since almost the entire portion of the Roanoke River Basin that is downstream and downwind of the proposed mining site in Virginia is located in North Carolina, spanning the Virginia/North Carolina border and extending to the Albemarle Sound."

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**Bill:** [S433](#)

**Sponsor:** Hartsell (R36)

**Title:** LOCAL HUMAN SERVICES ADMINISTRATION

**Status:** 03/29/2011 – Senate Committee On Health Care

**Scheduled:** 04/06/2011 – Senate Committee On Health Care, 11 a.m., 544 LOB.

**Position:** Support

**Category:** Legislative Goal

**Comments:** This bill would accomplish an NCACC legislative goal to "allow county flexibility to organize local human services" by eliminating the stipulation that only counties with populations of at least 425,000 can merge their human services functions into a consolidated board.

