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Bulletin #11-16

Friday, May 13, 2011

SENATE STARTS BUDGET PROCESS

The Senate Subcommittees on Appropriations met earlier this week to consider the House's recommendations regarding budget priorities ([H200](#)). Each subcommittee took a slightly different tack. For example, Health and Human Services undertook a line-item review whereby members flagged cuts of concern. Education received some new spending targets that not only lowered overall spending by \$40 million but recommended a reallocation among K-12, community colleges and UNC system that would reduce K-12 spending by \$106 million below the House's recommendations. Overall, K-12 would face a 10.1 percent reduction over the base 2011-12 budget level, or 3.2 percent below the certified 2010-11 budget. Justice and Public Safety reviewed the House's recommendations and asked questions regarding the shift of state misdemeanants to county jails issue.

Association staff have met with Senate leadership and Senate budget writers and communicated with all Senators via a letter from NCACC President Joe Bryan to request county lottery dollars sufficient to cover outstanding debt service payments estimated at \$120 million, or at least at the level recommended by the House (\$98.7 million). Counties are encouraged to contact their Senators again, to reemphasize the importance of lottery dollars on local budgets. Please also thank your Senate and House members for their continued resolve to avoid shifting state costs or responsibilities to counties. We believe this commitment also applies to sufficient county lottery funding.

The original budget calendar called for the Senate to have completed its work by May 13 (today). Now the latest rumor has it that the Senate Appropriations Committee will meet to consider any amendments to the House's recommendations, with its report available for viewing over the Memorial Day weekend. Final floor action could happen the first week of June.

BILL EXTENDS TIME FOR ZONING CHALLENGES TO 2 YEARS

[H806](#) (Zoning St. of Limit./Ag. Dist. Change) was heard on the House floor this week. This bill makes significant changes to zoning laws and specifically overturns an N.C. Court of Appeals case that upheld a Pasquotank County zoning ordinance. The bill, as amended on second reading by Rep. Glazier (Cumberland County), increases the statute of limitations to challenge the validity of any zoning or unified development ordinance from two months to one year. Prior to amendment, the original bill increased the statute of limitations from two months to two years. Of great significance to counties is the fact that the bill, in addition to increasing the statute of limitations, provides that the statute of limitations shall begin to run when a party first has standing to challenge the ordinance. Thus, the action could potentially accrue years after the zoning ordinance passes, when a new owner comes into possession of property. This change could significantly open the door to challenges to zoning ordinances.

In addition, Section 5 of H806 specifically overturns the N.C. Court of Appeals decision in the case of Tonter Investments, Inc. v. Pasquotank County. The bill limits counties' ability to manage single-family residential use on large lots. It also prohibits county adoption of an ordinance that would require lots greater than 10 acres to have frontage on a public road or county approved private road, or be served by public water or sewer lines. The bill passed third reading and will now move to the Senate.

ELECTRONIC NOTICE BILL FAILS IN COMMITTEE

The House Government Committee voted down an effort to give counties the flexibility to post legal notices electronically on their websites. The committee was presented a Proposed Committee Substitute for [H472](#) (City/County Electronic Notice) that included changes incorporated by the sponsor to address concerns about accessibility of information that were raised by critics of proposed legislation. If a county were to adopt the new ordinance to post notices electronically, the new version of the bill would have required three additional options to be provided by the county: 1) the county would be required to provide copies of the notices at public libraries within the county, 2) the county must provide an option to citizens who request a hard copy of the notice to be mailed, and 3) the county must publish an ad in the newspaper for 12 months that must state where the citizen can access public notices, including the Internet, public libraries, how they can sign up for mailed copies, and at the clerk's office. The committee debate lasted 80 minutes. Opposition to the bill centered mainly on two areas. Members were concerned about elderly citizens who rely on the newspaper as their sole source of information as well as citizens who do not have Internet access mainly in rural areas. A second area of focus was the negative economic impact that such a change would have on smaller newspapers. The Association and the League of Municipalities, through member surveys, concluded that cities and counties spend over \$6 million annually in taxpayer dollars for public notice advertisement costs. At this time it is undetermined whether other electronic notice legislation will move in the House this session. Legislation pending in the Senate has yet to be heard in committee. The Association would like to thank Rep. Chuck McGrady (Henderson), Rep. Paul Stam (Wake), Rep. Bill Owens (Pasquotank), and Rep. Darren Jackson (Wake) for sponsoring the legislation.

STATE RETIREMENT PLAN CHANGES OFFERED UP

The House plan to amend the Teachers' and State Employees' Retirement System (TSERs) was introduced last week via [H927](#). The state recently concluded a year-long Future of Retirement Commission study to investigate recommendations to shore up the state's pension fund. The Commission agreed to send forward a minimum retirement age of 55, but the Boards of Trustees for TSERs and the Local Government Employees' Retirement System (LGERs) elected not to recommend a minimum retirement age for the General Assembly's consideration. Like its Senate counterpart ([S687](#)), H927 sets a minimum retirement age of 60 (unreduced or reduced benefits) for any state employee or teacher who becomes a member on or after Aug. 1, 2011. Law enforcement officers would be eligible to retire at age 55. Unlike S687, which lengthens the average final compensation to 10 years, H927 maintains the average to the four consecutive years of highest compensation, but the annual compensation could not exceed the salary of the governor in calculating the retirement benefit. Neither of these minimum retirement ages would apply to LGERs. What would apply to LGERs is a limit to sick leave credit conversion to 12 days of sick leave for each year of service. It would also address any concerns about salary spiking by limiting local employee salary increases to 10 percent per year for the four consecutive years which derive the average final compensation. Finally, H927 would establish as a Class I misdemeanor receipt of a decedent's retirement benefit.

In other "employee benefit" news, the General Assembly ratified [H323](#) this week to set appropriations to the state health plan and to establish for the first time an employee premium. The Governor vetoed a similar bill ([S265](#)) that set forth an employee premium.

ANNEXATION BILL PASSES SECOND READING IN HOUSE

The House's attempt at annexation reform ([H845](#)) passed second reading in the House on Thursday and is scheduled for third reading on Monday, May 16. This bill would make numerous changes to the state's annexation laws. Specifically, the bill would require cities to provide water and sewer services within three and a half years (the Association's goal sought a three-year limit). H845 requires municipalities to provide the installation of water and sewer connections to annexed residents at no charge if at least 50 percent of the property owners in the area to be annexed sign up for the service within 65 days of receiving notice of the annexation. It also provides a petition process by which citizens who live in the area to be annexed can protest the annexation. If 60 percent of the property owners within the annexed area sign the petition within 130 days of the adoption of the resolution, the annexation is stopped and the municipality must wait three years before it can try to annex the area again.

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 525 followers. Sign up to follow us at twitter.com/ncacc. You can also view our latest Twitter posts on the NCACC website (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). "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 for updates on these and other bills we are tracking.

Bill: [H348](#)

Sponsor: Randleman (R94)

Title: OFFENDERS/NO ACCESS TO PERSONNEL RECORDS.-AB

Status: 05/10/2011 – Reported by House committee

Comments: This bill denies access to personnel records that are public records to "inmates, probationers, parolees, and post-release supervisees" in order to protect the safety of the employees. The bill has passed the House Judiciary Subcommittee A and has been sent to the House, where it has been placed on the House calendar for May 17.

Bill: [H366](#)

Sponsors: Warren, H. (R77); Cleveland (R14); Brawley (R103); Bradley (R49)

Title: SPECIAL ELECTION DATES

Status: 05/12/2011 – Reported by House committee

Scheduled: 05/16/2011 – House Calendar, 7:00 p.m., House Chamber

Comments: This bill would eliminate a county's ability to hold a special election on any date other than a regular general election date, unless the Local Government Commission has determined there is a state of emergency endangering public safety or public health and the referendum is for a bond issue to finance a health and sanitation system, or if the election is to replace a sheriff. This bill means that elections for other general obligation bonds or any other purpose, such as a referendum for a local-option revenue or an ABC referendum, can only be held on the date of any state, county or municipal general election. In instances where there is a vacancy in an elected office and the Board of Commissioners appoints the replacement, the legislation would allow the board the option to call for a special election to fill the vacancy if it so chooses. This bill passed the Elections Committee on May 12 and has been placed on the House calendar for May 16.

Bill: [S380](#)

Sponsor: Jackson (R10)

Title: ETJ/DEFINITION OF BONA FIDE FARM PURPOSES

Status: 05/12/2011 – House Committee On Agriculture

Position: Support

Category: Legislative Goal

Comments: This bill would mean that land being used for farming is exempt from a municipality's extraterritorial jurisdiction authority as long as the land remains in use as a "bona fide" farm. This bill would accomplish an NCACC legislative goal. It has been passed by the Senate.

– Kevin Leonard, Director of Government Relations
– David F. Thompson, Executive Director

