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Bulletin #11-20

Friday, June 10, 2011

PERDUE CONSIDERING VETO OF STATE BUDGET

As expected and reported last week, the House completed its budget action on [H200](#) (State Appropriations Act of 2011), by a 73-45 vote to concur on third reading at 12:15 a.m. on June 4. Five Democrats stayed with the House Republican majority to make the final vote veto-proof. As a reminder to our readers, the budget process and its adoption were historic in nature, in that the Senate amended its version of the budget bill to accommodate the priorities of the House and those of the five Democrats who voted for the budget, including restoration of funding for teachers' assistants. The House then voted to concur with the Senate version instead of sending the budget to a joint conference committee in what's generally normal practice. Now all eyes are on Governor Perdue, who has expressed her dissatisfaction with the budget and has until Tuesday to veto the budget plan. Again, should the House tally remain, there are sufficient votes to override the governor's veto, and the spending plan will become law July 1.

Speculation is also rampant that the General Assembly is close to adjourning – at least temporarily. The pace of activity quickened this week as hundreds of bills were heard in various committees and shuffled through the process. Leadership has suggested that the General Assembly may adjourn as early as Friday, June 17. However, the Legislature has not yet addressed one of its primary issues – redistricting. It appears that the General Assembly is considering adjourning and then reconvening in several weeks to address the redistricting issue.

SCALED BACK CHARTER SCHOOLS BILL APPROVED

The General Assembly on Thursday approved a highly streamlined version of [S8](#) (No Cap on Number of Charter Schools). The bill enjoyed overwhelming support by both chambers and is expected to be signed into law by the governor. In essence, the bill eliminates the cap on charter schools (currently limited to 100) and grants authority to the State Board of Education to adopt criteria for adequate performance standards. Regarding the standards, the legislation does give the board direction in addressing low or non-performing charter schools by mandating that a strategic improvement plan be adopted if student performance standards are not achieved within five years. If a school is judged to be inadequate after five years, the charter is to be terminated or not renewed. This version is in stark contrast to earlier versions of the bill, which included provisions that would have given permissive authority to boards of county commissioners to approve capitol funds for charter school projects, created a separate board to oversee all charter schools, and mandated transportation and food requirements to be provided by the charter schools. All of these provisions were deleted. The final version of S8 is very favorable to counties.

PRETRIAL UPDATE BILL MOVES FORWARD

[S756](#) (Amend Bail Law/Pretrial Release Programs) received a favorable report from Senate Judiciary II this week and passed the Senate with a vote of 33-16. The bill, sponsored by Sen. Debbie Clary (Cleveland), amends current pretrial release procedures in

several ways. First, S756 eliminates unsecured appearance bonds. It also expands how electronic monitoring may be used and requires the execution of at least a \$1,000 secured appearance bond if electronic monitoring is imposed as a condition of pretrial release. Current law only allows electronic monitoring to be used with house arrest. S756 further provides that a person may be placed in a pretrial program only if the execution of a secured bond is a condition of pretrial release and only if a judicial official finds that at least 72 hours has elapsed from the date and time on the defendant's release order. The bill specifically states that a pretrial release program shall not contact or otherwise attempt to gain access to a defendant prior to the expiration of the 72-hour period. Several groups spoke in opposition to this bill in committee, including the NCACC, which voiced concerns that these changes in pretrial programs have the potential to put additional burdens on already over-capacity jails. In addition, it is unclear how S756 will work in conjunction with the Justice Reinvestment Act ([H642](#)). S756 is now in the House and has been referred to House Judiciary Subcommittee C.

HUMAN SERVICES BILL SCHEDULED IN HOUSE COMMITTEE

County commissioners and managers from across the state have made known their interest in completing action this session on [S433](#) (Local Human Services Administration), leading the House Health and Human Services Committee to schedule the bill for consideration next Tuesday. This bill would permit all counties the option to restructure their human services based on community need. Current law permits counties in excess of 425,000 to do so, and Mecklenburg and Wake have implemented this model successfully for 20-plus years. Both counties report lower administrative costs and – more importantly – improved client services, as data sharing and client referrals treat the whole client, not just agency-specific parts. The General Assembly's own staff, finishing a year-long study of social services administration, concludes that the state should remove the population cap. All other states with county-administered human services permit county flexibility in organizing locally, and given that there are such few state dollars in the system, telling counties what to do with their money is a bit heavy-handed.

Call to Action: Now is the time to talk with your House members, confirming their support of county flexibility and lowered administrative expenses. Say "Yes" to S433!

PUBLIC HEALTH RESTRUCTURING TAKES NEW SHAPE, MOVES FORWARD

Because of concerns voiced by county health departments, Sen. Fletcher Hartsell (Cabarrus) has removed the population threshold (first 100,000, then 75,000) from the earlier version of [S552](#) (Incentive Program for Public Health Improvement). The revised language still requires a county to be either a single or multi-county health authority (Cabarrus and Hertford would qualify currently), be part of a district health department configuration, or be Wake or Mecklenburg under the consolidated human services model. All other county health departments would be precluded from receiving state or federal health funds come 2014 unless they became or join a health authority or a regional health district. Participating counties would continue to have a maintenance of effort requirement of either total 2010-11 appropriations or \$15 per capita, whichever is greater. With removal of the population threshold, S552 passed third reading and was sent to the House for its consideration.

TAXPAYER PROTECTION ACT BILL FAILS

After lengthy debate, [H315](#) (Taxpayer Protection Act) failed to receive enough votes for a favorable report during the House Finance Committee meeting this week. The bill would have required counties and cities to list on any bond referendum the interest rate and the amount to be paid in interest over the life of the bond. Bill sponsors explained to committee members that the intent of the bill is to give voters access to both the bond amount and the interest to be paid, which would show the taxpayer the ultimate amount of the bond repayment. The Local Government Commission, along with outside bond counsel, testified that passing this type of legislation would actually invalidate any bond agreement, effectively paralyzing local governments' ability to issue debt for large construction projects. Unlike traditional loans, bonds are issued at various intervals over a 10-20 year period, making the actual interest rate an unknown variable until the issue date. Counsel argued that placing an estimated amount on the ballot would technically void the "contract" – or referendum – between the county and the taxpayer.

STATEWIDE MENTAL HEALTH RESTRUCTURING ENACTED

Senate consideration of [H916](#) (Statewide Expansion of the 1915 (b)/(c) Waiver) moved swiftly, with committee consideration on Wednesday and Thursday and floor action Thursday, culminating in overwhelming support and enactment. This bill would set a minimum population catchment area of 300,000 by July 2012 and 500,000 by July 2013 in order to meet the economies of scale

needed to support the capitated model of care. All current local management entities, including area authorities and single county programs, would need to merge or implement interlocal agreements to designate a lead LME to meet the population requirements. Further, the “waiver” lead LMEs must meet specified managed care strategies, including care coordination and utilization management, to control costs while ensuring medically necessary care. All LMEs have submitted a response to the state’s request for application to meet the waiver requirements. County concerns focused on the possibility of ultimate financial liability, should capitated costs exceed state and federal dollars. The bill sponsor, Rep. Jeff Barnhart (Cabarrus), inserted language to make clear that counties, either through area authorities or single county programs, were not financially liable for cost overruns. Counties also questioned the unwieldy size of area authority boards as mergers progressed. [S465](#) (Behavioral Health Management) in its new form directs the General Assembly’s Program Evaluation Division to study the waiver expansion’s impacts on the current governance model. Counties have been assured that they will have a voice in those governance deliberations.

LEGISLATORS PROMISE NO ACTION ON COUNTY PROPERTY TAX EROSION BILLS

As the 2011 long session winds down, we have been assured – and reassured – that none of the numerous property tax exclusion and exemption bills introduced throughout the year will be considered for action, perhaps in acknowledgement of the repeal of the county land transfer tax authority early in the session. Take time to thank your members for protecting counties and their main revenue source available to fund critical public services.

Two property tax issues did emerge this week and last — one to clarify what conservation properties qualify for the conservation land exemption ([H350](#), sponsored by Rep. Chuck McGrady), and one to shield unsuspecting buyers from tax delinquencies owed by the parent parcel owner without eliminating an important tax collection tool ([S486](#), sponsored by Sen. Josh Stein). Both bill sponsors asked NCACC staff early on to convene county tax assessors with the other stakeholders to reach a workable compromise that reflects everyone’s interests and concerns. H350 restructured an ambiguous property tax exemption program into a more clearly defined tax deferral program with a five-year clawback should the conservation lands ever lose conservation status. S486 would release buyers from a potential tax lien on the parent parcel after all current taxes are paid and no delinquencies are outstanding on the parent parcel. However, if the parent parcel owner has an unsavory history of tax payments, the county tax collector may decline to release the tax lien.

LAND USE BILL CONVERTED INTO STUDY

[H652](#) (Property Owners Protection Act/Study) as filed raised a number of concerns regarding a county’s ability to regulate land use. Rep. Tim Moffitt was very receptive to our concerns and met with us on several occasions to discuss potential changes to H652 and ultimately agreed to an amendment offered by Rep. Chuck McGrady (Henderson) to turn H652 into a study bill. The Association greatly appreciates Reps. Moffitt and McGrady working with the NCACC on H652.

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 575 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: [H320](#)

Sponsors: McGee (R75); Ross (D38); McComas (R19); Carney (D102)

Title: CONTINUE P3 STUDY

Related: 2011:S278

Status: 06/08/2011 – Senate Committee On Rules and Operations of the Senate

Comments: This bill would establish a 16-member Legislative Study Commission on Public-Private Partnerships. The NCACC would be among several groups that would be consulted by the commission during its deliberations. The Commission would be charged with studying "issues related to Public-Private Partnerships (PPPs), including examination of the appropriate authority for State, regional, and local government units to engage in PPPs for public capital projects through a regulatory framework. As part of its study, the Commission may study infrastructure banks and any other relevant issues it deems appropriate." The commission would report its recommendations prior to the 2012 Short Session. The bill passed the House on June 7.

Bill: [H384](#)

Sponsors: Howard (R79); West (R120); Rapp (D118); Wilkins (D55)

Title: REGISTER OF DEEDS/FEES

Status: 06/06/2011 – Senate Committee On Finance

Position: Support

Category: Legislative Goal

Comments: This bill increases some fees collected by the Registers of Deeds. It addresses the Association's legislative goal to simplify registers of deeds fees. It passed the House on June 3 and has been referred to the Senate Committee on Finance.

Bill: [H609](#)

Sponsors: McGrady (R117); Stam (R37); Gillespie (R85); Carney (D102)

Title: PROMOTE WATER SUPPLY DEVELOPMENT

Status: 06/06/2011 – Senate Committee On Agriculture/Environment/Natural Resources

Scheduled: 06/13/2011 – Senate Committee On Agriculture/Environment/Natural Resources, 2 p.m., 544 LOB.

Position: Support

Category: Legislative Goal

Comments: This bill allows one or more water systems to jointly plan for a regional water system and also directs the Department of Environment and Natural Resources to work with local governments in identifying water supply sources to accommodate future population growth. This would accomplish the Association's legislative goal to "streamline water supply reservoir permitting." It passed the House on June 2 and has been referred to the Senate Committee on Agriculture/Environment/Natural Resources.

Bill: [H796](#)

Sponsor: Moffitt (R116)

Title: STUDY PROPERTY TAX VALUATION PROCESS

Status: 06/09/2011 – Senate Committee On Rules and Operations of the Senate

Comments: This bill would establish a study committee to examine "the current exemptions and deferral programs that affect property tax liability, the use of true value as a standard for valuation, current bases for altering a determined property tax value, and differences that exist or are permitted to exist between county procedures that affect property taxation." The committee would make its report to the 2012 Short Session. It passed the House on June 8 and has been referred to the Senate Rules Committee.

Bill: [H822](#)

Sponsors: Holloway (R91); Hilton (R96); Blackwell (R86); Langdon (R28)

Title: DROPOUT RECOVERY PILOT PROGRAM

Status: 06/09/2011 – Senate Committee On Education/Higher Education

Position: Support

Category: Legislative Goal

Comments: This bill authorizes the state Board of Education to implement a pilot program to address high dropout rates in four school systems. This bill would help accomplish an NCACC legislative goal to improve the state's high school graduation rate. It passed the House on June 8 and has been referred to the Senate Education/Higher Education Committee.

Bill: [H916](#)

Sponsors: Barnhart (R82); Dollar (R36); Burr (R67); Insko (D56)

Title: STATEWIDE EXPANSION OF 1915(B)/(C) WAIVER

Status: 06/09/2011 – Passed in the Senate

Comments: This statewide expansion of the 1915 (b)(c) waiver program would further consolidate Local Management Entities, which would be forced to meet a population threshold of 300,000 by July 2012 and 500,000 by July 2013. Full implementation would be in place prior to January 2014, when major components of the federal healthcare reform initiative become effective. Counties would not be financially liable for waiver cost overruns. The bill was passed by the House on June 1 and was approved by the Senate without any changes on June 9.

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

