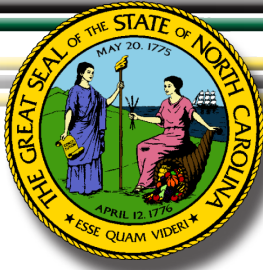


100 Counties



One State

Counties Enjoy Strong Session 2013 Legislative Report



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Hectic session marked by protracted debate over tax reform

After a session marked by protests, numerous attempts to reduce local government authority, and a very active legislature promoting many sweeping pieces of legislation, the N.C. General Assembly adjourned Friday, July 26, three days after the state budget was adopted and four weeks after the start of the fiscal year. It marked the first time in the three years since Republicans had taken over both the House and Senate that the General Assembly did not have a state budget in place prior to June 30.

The much-discussed and long-anticipated attempt at tax reform was responsible for the delay as the House and Senate could not agree on a comprehensive tax reform package. The tax reduction plan that passed will actually benefit counties by eliminating several sales tax loopholes and expanding the sales tax base slightly. While legislators initially considered eliminating the local sales tax on food, the final package did not include any reductions in the local revenue base. This result was due in large part to the response by county commissioners from across the state who lodged their objections to any plan that reduced county revenues.

Other issues that dominated the headlines during the spring and summer included bills that revised the state's elections laws to include the controversial Voter ID requirement, that put further restrictions on abortion, and that put the future of The Rural Economic Development Center into question. Fortunately, counties were able to steer clear of the more controversial issues, and many NCACC legislative goals were realized.

Efforts that dominated the NCACC advocacy work included protecting counties in the state budget and in unemployment insurance changes, allowing counties to cap costs for providing medical coverage to inmates in county jails, battling for local government ability to use electronic means for required legal notices, lobbying to limit regulatory reform unfavorable to counties, and ensuring the combined Tag & Tax Together program was not derailed. This report has details on these and many other pieces of legislation.

The session would not have been nearly as productive for counties without the active involvement of so many county commissioners from across the state. Many commissioners traveled to Raleigh during the session to meet with their legislators, or made phone calls and sent emails on behalf of NCACC legislative goals when asked. This engagement has helped transform the NCACC into one of the most highly respected and effective lobbying organizations in North Carolina and has helped create an atmosphere of partnership and cooperation with key legislative leaders.

County Caucus provides voice to county concerns at Legislature

A group of former county commissioners turned legislators met regularly during the session after being formally recognized by the N.C. General Assembly as a formal legislative caucus in 2013. The caucus has two co-chairs each from the House and Senate – Reps. Chuck McGrady and Becky Carney and Sens. Jim Davis and Earline Parmon. There are currently 26 former county commissioners in the N.C. General Assembly, including nine new House members and one new Senator. The NCACC relies on the county caucus to be a conduit for disseminating information about legislation that could impact counties, said NCACC Director of Government Relations Johanna Reese. “Members of the caucus can quickly understand the pros and cons of any legislative proposals that could impact counties, and we will rely on them to help educate other

members of the Legislature,” said Reese. “It is a huge benefit to counties to have so many former commissioners in the General Assembly.”

The caucus replaces the County Coalition, which had been meeting informally for several years but was never officially recognized by the House or Senate.

County Goals achieved in state budget

The General Assembly finalized its 2013-15 biennial spending plan three weeks into the new fiscal year, setting total state spending at \$20.6 billion for 2013-14. S402 (State Appropriations Act) largely protects county budgets as legislative leaders kept their pledge to not shift unfunded mandates to counties, a priority county goal. No shifts in transportation responsibilities were discussed or considered, another priority goal for all counties.

The legislature continued county lottery funds at prior years’ levels, appropriating \$100 million in lottery funds for county school construction needs. A budget special provision rewrote existing lottery language and eliminated the original statutory guarantee of 40 percent of net lottery proceeds for school construction, despite counties voicing their concerns over this change.

Counties worked to convince the Legislature to remove an earlier proposed mandate for counties to fund workers’ compensation benefits costs for non-county volunteer fire and rescue squads if insurance surcharge proves insufficient.

County legislative goals realized include continuation of the Article 44 hold harmless for one year—funding was set at 50% of prior years’ levels. The budget provides state funds needed to draw down \$4 million in federal HAVA funds in year two of the biennium.

While no new community mental health dollars were made available, a county priority goal, the budget appropriates funds to manage inappropriate institutional placement of the mentally ill, redirects reserve funds for additional local psych beds, creates a statewide telepsychiatry program to alleviate Emergency Room wait times for involuntary commitments, and sets aside funding for adult-care group home transition issues.

Federal block grants are largely used to support county-administered programs, another county legislative goal. Lottery funds are used to increase pre-k slots, and childcare subsidy funding is maintained at 2012-13 levels. County food and lodging inspections fees are increased by \$20, and no additional requirements are set forth to outsource nonemergency Medicaid transport.

Additional state dollars are made available to fund the Justice Reinvestment Act by hiring additional parole and probation personnel, to equip and enhance state lab and toxicology testing capabilities, and to provide substance abuse treatment for repeat offenders, three county goals in the Justice and Public Safety arena. The legislature excluded the governor’s proposal to restore drug treatment courts, another county legislative goal.

The state budget maintains state responsibility for school bus replacement but does postpone replacement based on higher mileage and age of service in an attempt to extend the fleet life. The community college system receives additional funding for workforce training programs through the N.C. Back to Work initiative.

Agricultural research stations would receive additional equipment funding, and the Ag Development and Farmland Preservation Trust fund is maintained at 2012-13 levels. A statewide dredging fund is established, in keeping with another county legislative goal.

County revenues protected in tax reform measure

After debating a number of tax reform proposals that could have significantly reduced county revenue streams, the General Assembly settled on a tax simplification plan that not only protects county revenues but provides a few extra local sales tax dollars that benefit all 100 counties. H998 slightly broadens the sales tax base by applying sales taxes to service warranties and amusements and movies. It eliminates sales tax holidays and restructures some private refund and exemption policies. It leaves intact the county sales tax rate and county authority to seek refunds for sales taxes paid on county purchases. All told, counties can expect \$10 million extra in sales taxes in 2013-14, with \$30 million extra when all tax changes are fully implemented.

H998 greatly restructures the corporate tax system, permanently eliminating the ADM set aside for school construction and substantially lowering the corporate tax rate over time, from 6.9 percent to as low as 3 percent if certain revenue targets are met. The bill also eliminates most of the corporate income tax credits and lets most of those with sunset dates expire as scheduled, including Article 3J credits due to expire Jan. 1, 2014.

Likewise, H998 substantially revises the personal income tax structure, jettisoning the graduated rate schedule for a flat tax rate of 5.8 percent in 2014 and 5.75 percent thereafter. The legislation sets a \$20,000 limit on mortgage interest and property tax for itemized deductions but keeps an unlimited charitable amount. The personal exemption is eliminated, along with some deductions and most credits, except for a more generous childcare credit. A more generous standard deduction, \$15K for married, filing jointly, is also included in the new tax structure. The reform measure permanently eliminates the estate tax and caps the gas tax at 37.5 cents for two years.

Active session sees several legislative goals accomplished

County inmate medical costs contained: S321 (Inmate Costs/Ct.Appt./Notaries) accomplished a goal that the counties have sought for several years and will create significant taxpayer savings to the counties. The bill caps the rate at which counties are required to reimburse medical providers for costs of medical care provided to inmates to the lesser of 70 percent of the then-prevailing rate or twice the Medicaid rate for the particular service. However, the bill does not prevent counties from negotiating more favorable rates than the statutory cap or rates that are less favorable but ensure continued access to care. In addition, the bill allows counties to use Medicaid coverage for inpatient hospital services provided to inmates who are Medicaid eligible. Language was added at the request of a hospital to require counties to equitably distribute prisoners among health care facilities in the county, and to post on their Web sites reports detailing compliance with this requirement. We extend our sincere appreciation to Sen. Jim Davis (Macon), the bill sponsor, for his patience and steadfastness in moving this legislation through a lengthy and arduous process.

Triple play: S372 (Omnibus County Legislation) addressed three legislative goals. It requires the Department of Environment and Natural Resources to notify a county board of commissioners and give the county an opportunity to comment before issuing a permit for land application of bio-solids in the county. The bill raises the Department of Transportation's informal bid limit for smaller infrastructure projects approved at the local level from \$1.2 million to \$2.5 million. Finally, it establishes a State Payment In Lieu of Taxes Study Commission to study issues related to the development of a state PILT program for state lands. The commission must submit a final report by the convening of the 2015 General Assembly. Thanks goes to bill

sponsor Sen. Jim Davis (Macon) and Rep. Pat McElraft (Carteret), the sponsor of the House companion bill who shepherded the Senate bill through her chamber.

Design-Build authority provided to counties: H857 (Public Contracts/Construction Methods/DB/P3) applied statewide an authority that several local governments had received over the past few years. Counties now have authority to use the design-build method of construction for specific and time-limited projects. Design-build combines the design and construction responsibilities under a single point of contract, which may minimize local government risk while accelerating project completion by overlapping the design and construction phases. As a part of the 2013-15 legislative agenda, counties sought broad and ongoing authority for design-build through statewide legislative action. The bill also adds public-private partnership construction as a new financing option. Rep. Dean Arp (Union) was instrumental in convening and sustaining a broad stakeholders' coalition of builders, architects, engineers and local governments to develop the intricate processes needed to ensure ongoing project success for these new construction methods. To enhance transparency in bidding and contracts, H857 includes an increased focus on the current reporting requirements to demonstrate why one of the newer methods was selected over the more traditional construction contracts.

State sticks with original fracking plan: S76 (Domestic Energy Jobs Act) made several changes to the state's laws and procedures for fracking, the controversial method used to drill for natural gas. The bill requires legislative approval of all rules concerning oil and gas operations, exempts state agencies from preparing fiscal notes for such proposed rules, modifies the appointment requirements to the State Mining and Energy Commission, removes market demand as a factor in determining limitations on how much of the resource may be produced statewide, and establishes bonding requirements to protect the state and private landowners. It also requires studies of a state permitting program to establish a single permit for all oil and gas-related activities, the appropriate rate of a severance tax on the industry as well as other needed funding, and registration requirements for landmen (those who negotiate with landowners during the exploratory stage of the industry).

Hydraulic fracturing is also included in S127, described below with bills eligible for the 2014 session.

Solid waste planning requirements updated: H321 (Amend Local Solid Waste Planning) repealed the requirement that local governments develop a ten-year solid waste management plan. To ensure continued necessary planning for waste management, several requirements were added to the annual report local governments make to the Department of Environment and Natural Resources, including descriptions of disaster debris management programs, scrap tire disposal procedures, white goods management procedures, and information on litter prevention and management. Several other components of the ten-year plan were moved to the annual report. Bill sponsor Rep. Chuck McGrady ably moved this legislation through the process and warded off a last-minute amendment that threatened to derail the bill.

County advisory board established for LME/MCOs: S208 (Effective Operation of 1915(b)/(c) Waiver) creates a county commissioner advisory board for each LME/MCO area, consisting of one county commissioner from each county in the area, designated by the board of commissioners of each county. The county commissioner advisory board will meet on a regular basis and will serve as the chief advisory board to the area authority and to the director of the area authority on matters pertaining to the delivery of services for individuals with mental

illness, intellectual or other developmental disabilities, and substance abuse disorders in the catchment area. The increased size of many LME/MCOs had made it difficult for each county to have a representative on the LME/MCO board. S208 also sets up criteria should individual counties choose to transfer from one LME/MCO to another, removes authority for county programs, and sets standards for LME/MCO certification and procedures for terminating contracts with non-compliant area authorities.

New plan for Mental Health Clients in adultcare homes: S553 (LME/MCO Enrollee Grievances & Appeals) implements a number of recommendations of the Blue Ribbon Commission on Transitions to Community Living, a 2011 task force whose Housing Subcommittee investigated a series of strategies to develop supportive community housing for mental health clients choosing to leave adultcare home placements. Wayne County Chairman Steve Keen served as NCACC's representative on this committee. In keeping with a U.S. Department of Justice settlement agreement to provide community housing alternatives to institutional placement, the General Assembly set aside \$3.8 million in 2014 and \$9.4 million in 2015 to build new community capacity. Specifically, S553 sets forth the requirement that NC-DHHS develop a plan to establish a state funded and administered tenant-based rental assistance program (TBRA) specifically designated for the 3,000 persons who must be transitioned to community-based housing per the DoJ settlement, and establishes required transition plans and services for mental health clients moving into the TBRA. By no later than October 1, 2013, each LME/MCO must transition at least 15 eligible individuals to community-based supported housing slots available through this new program.

Regulatory reform, elections reform among bills that impact counties

Counties required to prepay unemployment benefits: One of the first major legislative initiatives to be enacted in the new biennial session was H4 (UI Fund Solvency & Program Changes), a proposal to return the state's Unemployment Insurance fund to solvency. The lengthy and painful economic recession with its high unemployment costs necessitated a \$2.5 billion federal loan to the state to honor UI benefits claims. Per federal law, outstanding UI loan balances trigger annual escalations in private employer federal taxes. To accelerate repayment of the federal debt, H4 fundamentally restructures North Carolina's UI system. Of note to counties is a new requirement to compel prepayment of county unemployment benefits charges, in lieu of repaying these benefits in arrears. Beginning July 1, with the first payment due October, all counties must establish a UI benefit account equal to 1 percent of taxable wages (\$20,900 per employee). The last payment in arrears also occurs in fiscal year 2014, leading to a double hit this first year of implementation. H4 also increases private employers' tax obligations, while substantially reducing the benefits structure due eligible unemployed workers. The maximum weekly benefit is reduced from \$535 to \$350, the maximum duration for benefits is reduced from 26 weeks to 20 weeks and tied to the state's unemployment rate, the good cause provisions for leaving employment voluntarily are largely eliminated, and suitable work requirements are strengthened. Since these benefits changes became effective July 1, North Carolina was disqualified from receiving the federally-funded extended UI benefits re-enacted by Congress last December—a federal requirement for continuing the extended benefits was a state maintenance of effort for state-set benefit amounts.

Courts fee bill a plus for counties: H343 (Courts/Procedure and Fee Amendments) was filed on behalf of the Administrative Office of the Courts (AOC) and contains several provisions that directly impact counties. The bill requires counties to pay costs and fees due to the court at the

time of filing; however, the clerk of superior court may consent to allow counties up to 45 days to pay costs and fees owed. The bill also requires the clerk of superior court to withhold facilities fees due to be remitted to the county if the county fails to pay costs and fees due to the court within 90 days of the filing of an action. The bill also provides that no costs, including attorneys' fees, will be assessed to a motion filed by a child support enforcement agency established under the Social Security Act, and provides that no fees be assessed to such an agency for alias and pluries summons issued and endorsements issued on an original summons in civil matters. These provisions codify a 2011 budget provision that expired on June 30, 2013. Bill sponsor Rep. Rena Turner, the AOC, and the Governor's Office working with the Association to include language advantageous to the counties and to ensure that the bill was signed into law by June 30, 2013.

Instructions to juries in school funding disputes clarified: H765 (Jury Instructions for School Budget Dispute) codifies the N.C. Supreme Court's decision in Beaufort County Bd. Of Educ. v. Beaufort County Bd. Of Com'rs., 363 N.C. 500 (2009), in which the court concluded that the trial court's instruction to the jury with regard to the amount "needed" was too expansive and failed to preserve the discretionary authority of the county commissioners under the State Constitution. Accordingly, the bill requires that the judge or the jury find facts as to the amount of money legally necessary from all sources and from the board of county commissioners in order to maintain a system of free public schools as defined by state law and state Board of Education policy. In making this finding, the judge or the jury must consider several factors, including "the financial resources of the county and the local board of education" and "the fiscal policies of the board of county commissioners and the local board of education."

Comprehensive regulatory reform bill passed: Regulatory Reform was a main theme of this year's legislative session, including a sub-theme of limiting local government authority. The final product was one of several pieces of comprehensive legislation that followed a long, circuitous path to its end point. Several bills contained various provisions – some were a part of the bill that passed, others were variations on earlier provisions, and some new language appeared later in the process. H74 (Regulatory Reform Act of 2013) makes changes to the state rule-making process, puts restrictions on local government regulations, changes some private entity laws, changes numerous business and labor regulations, modifies a variety of environmental regulations, merges the state divisions of Water Quality and Water Resources, and, in a last-minute move, includes some solid waste regulatory changes from a different bill that was not progressing. The provisions of the bill that affect counties are as follows:

- Establishes a moratorium until October 2014 on local governments enacting environmental ordinances in areas regulated by state or federal agencies unless the vote by commissioners to approve the ordinance is unanimous. A legislative environmental committee will study the enactment of environmental ordinances more stringent than state or federal regulations and report back to the 2014 session of the General Assembly.
- Prohibits local governments from regulating the repair or reconstruction of billboards with a valid DOT permit as long as the square footage of the advertising space is not increased.
- Prohibits a county from bringing a zoning violation against a property owner if the use causing the violation was in effect before the zoning requirement was in place, the grandfathered status of the use is terminated, and the county does not initiate enforcement of the violation within 10 years of the termination of the grandfathered status.

- Directs the Commission for Public Health to amend its smoking ban rules to clarify the definition of “enclosed areas” of restaurants and bars.
- Directs a legislative environmental committee to study the various models of organizations that provide water and sewer service in the state to consider whether these statutory models should be reduced or consolidated.
- Provides that a third party, which could include a local government, may contest an air or water quality permit decision of the Department of Environment and Natural Resources.
- Clarifies that violators of sedimentation and erosion control regulations administered under a local program may contest a civil penalty under local procedures as opposed to state procedures, that the substance of local ordinances may be considered in determining the amount of a penalty, and that penalties paid under such programs shall be credited to the state Civil Penalty and Forfeiture Fund.
- Requires the Commission for Public Health to modify its rules concerning low-flow wastewater systems.
- Requires local health departments to make a determination on a private well application within 30 days, or the application is deemed approved; and directs the Commission for Public Health to adopt rules providing for notice when an application is for a private well within 1000 feet of a known source of contamination.
- Requires law enforcement and animal control officers to consult with the N.C. Museum of Natural Sciences or the N.C. Zoological Park in most circumstances before seizing reptiles, and clarifies that euthanasia of venomous reptiles for which antivenin is not readily available is allowed.
- Amends the development agreement statutes providing that developable property that is subject to an executed brownfields agreement does not have to meet minimum acreage requirements.
- Prohibits local governments from regulating the height or setback of non-hazardous recyclable material stockpiles that are outside 200 yards of residential districts.
- Changes the definition of “built-upon area” in the stormwater rules to exclude wooden slatted decks, water area of swimming pools, and gravel.
- Allows public water systems with expired authorizations to obtain new authorizations (for the same amount of withdrawal from the same water body) without preparing an environmental assessment or environmental impact statement.
- Requires the state departments of Environment and Natural Resources, Transportation, and Health and Human Services, along with local governments with delegated programs under these departments, to study their review of applications and plans submitted for approval to ensure that staff who are not professional engineers are not unduly involved in the review process, and to ensure that staff are not requiring revisions that go beyond statutory or rulemaking authority.
- Removes the minimum distance restrictions between landfills and new state gamelands established after July 1, 2013.

- Removes the requirement that landfill leachate collection lines be cleaned once a year.
- Allows the approved use of an alternate daily cover on an individual landfill to apply statewide.
- Directs research into alternate disposal techniques and waste-to-energy technology.
- Requires that vehicles and containers used to transport solid waste be “leak-resistant” as opposed to “leak-proof,” and amends the term “leaking” to exclude rainwater accumulation into a vehicle.
- Allows a county to attach a surcharge to the fee charged to other local governments for use of the county’s landfill, and allows the surcharge to be used for purposes other than operating the landfill.
- Prohibits local governments from requiring private contractors to meet any restriction that the county would not impose on all employers in the county as a condition of bidding on a contract.
- Clarifies that no building permit is required for routine maintenance on fuel dispensing pumps.

Voter ID bill restricts special elections: While most of the publicity surrounding H589 (VIVA/Election Reform) focused on the Voter Information Verification Act and the identification requirements it established, the bill also includes a number of other election changes. Beginning with elections in 2016, voters will be required to present to local elections officials a government-issued photo identification card, and elections officials must determine if the photo identification bears a reasonable resemblance to the voter. Local special elections, such as for a bond referenda or a local-option sales tax, may only be held at the same time as general or primary elections, with exceptions made for elections to address public health or safety issues. Voting machines that do not use paper ballots are prohibited beginning with the 2018 elections. The bill also calls for a study of second primaries (the NCACC has a legislative goal to allow for more cost-effective methods) and eliminates straight-party ticket voting, among numerous other provisions.

Abortion law restricts local governments: S353 (Health and Safety Law Changes) modifies various laws pertaining to abortion. Of specific relevance to counties is the provision that limits abortion coverage under health insurance plans offered by counties to their officers and employees. The bill states that a county shall not provide abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees, which covers abortion procedures only where the mother’s life is in danger or where the pregnancy is the result of rape or incest. S353 applies to insurance contracts or policies issued, renewed, or amended on or after October 1, 2013.

Ethics requirements amended for RPO/MPO members: A budget provision from 2012 caught a number of county elected officials and staff in new ethics requirements that were more extensive than intended. S411 (Ethics Requirement for RPOs/MPOs) made adjustments to that law, establishing more appropriate criteria for those involved in Rural Transportation Planning Organization and Metropolitan Planning Organization activities. Existing local government ethics training will cover all required training, eliminating the duplicative state ethics training mandate. MPO and RPO members with voting authority must recuse themselves from taking

action on a matter on which the member or family members have a financial interest, and must file a Statement of Economic Interest and a real estate disclosure with the State Ethics Commission. Sen. Kathy Harrington was the force behind making these changes critical to a number of local government officials.

Governor's transportation funding plan approved: H817 (Strategic Transportation Investments) revamps the state's transportation funding structure, replacing the Equity Formula established by the legislature in 1989 and implementing Governor Pat McCrory's transportation plan. The new law divides transportation construction projects into three categories for purposes of determining revenue allocation from the Highway Trust Fund and specifies which types of projects are included in each. The statewide category will receive 40 percent of funding, regional projects 30 percent, and division (or local) projects 30 percent. Rural Transportation Planning Organizations and Metropolitan Planning Organizations will be involved in determining which projects are included in each category and are responsible for assigning points to regional and division projects. The Department of Transportation must report to the legislature on the prioritization formula for highway and non-highway projects developed in consultation with stakeholders, which include local governments, RPOs and MPOs. Criteria to be used in developing the highway formula include benefit cost, safety, congestion, and economic competitiveness.

Unpaved secondary road paving projects will be funded from the Highway Fund, not the Highway Trust Fund. The law eliminates the requirement for DOT to present to each board of commissioners and receive input on the secondary road plan for a county, and replaces it with an annual report to the board of the secondary road construction and paving program. The bill establishes incentives for local funding of highway transportation projects by allowing DOT to revise selection ratings based on local contributions. In addition, half of the amount of the local contribution will be allocated to other projects that serve the local government in addition to already allocated funding.

In other provisions, the legislation requires DOT to study the Highway Fund and Highway Trust Fund components to realign maintenance activities in the Highway Fund and construction and capital activities in the Highway Trust Fund and recommend changes to redistribute tax revenues accordingly. H92 (GSC technical corrections 2013) directs DOT to study the restructuring of maintenance operations.

Counties to pay higher property tax collection fees to DMV: With the implementation in July of the new Tag and Tax Together program, local governments will be paying DMV and its contract license plate agencies a fee for the collection of property tax. Under the earlier law, this fee was \$.48 per transaction. S305 (DMV Commission Contract Changes) increases the fee for vehicle property tax collection to \$1.06 for the first six months of the program and to \$.71 thereafter. It also adds a \$1.27 fee for the issuance of a limited registration plate when property tax is not collected. The intent of the bill was for higher fees only to apply to the contract agents. However, the bill was written so that DMV also collects the additional fees. Since this wasn't clear in the bill's language, it took some discussion between legislators, legislative staff and stakeholders to clarify this was the case. NCACC received approval from the bill sponsor and a transportation budget chair to rectify the unintended consequence in the technical corrections bill. However, the additional receipts to DMV had already been included in the state budget act and allocated to DOT's budget, and the legislature was unwilling to reduce the department's budget at that late stage. We are working to calculate the cost of counties of this new legislation.

Software customizations exempted from property tax base: Despite early objections from the Association, the Senate moved forward in a near unanimous decision to approve S490 (Exclude Custom Software from Property Tax), which specifically exempts customization of software from the property tax base. While off the shelf (OTS) software is still taxable, S490 excludes software externally developed (was internally only and excluded capitalized software system assets) or any modifications to OTS software to meet the customer's specified needs. Based on a survey by the N.C. Department of Revenue, counties generally reported including customized software as a part of the property tax base, but only a few counties could quantify what these values were. NCACC, with the help of the N.C. Tax Assessors Association, was able to negotiate a delay in the implementation of this tax base loss to the next fiscal year.

Further restrictions put on local governments for cell towers: H664 (Cell Tower Deployment Act) was requested by the telecommunications industry to facilitate the deployment of mobile broadband communications services by streamlining the process local governments use to approve the placement of wireless facilities in their jurisdictions, in accordance with the federal Middle Class Tax Relief and Job Creation Act of 2012. The bill, which makes identical changes to county and municipal state statutes, divides the application and approval process into two categories: (1) construction of new facilities and substantial modification of existing facilities; and (2) collocation and eligible facilities requests. The bill establishes certain criteria that must be met to qualify as a “substantial modification” and prohibits a local government from requesting certain information concerning the specific need for the facility or any proprietary, confidential or business information when reviewing the application. The legislation also prohibits a local government from denying a “collocation” or “eligible facilities request” unless the local government notifies the applicant within 45 days that the application is incomplete. Notice of an incomplete application must identify the deficiencies which, if cured, would make the application complete. Local governments may impose a fee to review applications for collocation or eligible facilities requests, but the fee must be based on actual administrative costs of review and may not exceed \$1,000.

Immigration bill converted to study: After much debate and many changes, H786 (RECLAIM NC Act) was converted to a study requiring the Department of Public Safety to coordinate with other state departments, industry and stakeholders to study measures relating to illegal immigration, including the issuance of a temporary driving privilege. Findings and recommendations are due by March 2014. The bill also requires any contractors who preform work for counties to use E-Verify for their employees and subcontractors. The term “employee” does not include an individual whose employment is less than nine months in a calendar year.

Service District authority: Boards of county commissioners may now remove a territory from a service district if 100 percent of the property owners within the district have petitioned to be removed, if the territory no longer requires the services within the district, or if the service district was created only to provide the services. H552 (Area From County Service District) requires the board to prepare a report outlining the proposed change for the public at least 10 days prior to a public hearing, and the report must be published not less than seven days prior. The owners located within the area to be removed must be notified by mail of the proposed change at least two weeks before the hearing. If the resolution is passed, the new boundaries of the service district will take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

Public assistant clients must undergo new checks: The General Assembly enacted new screening and eligibility processes for public assistance benefits with the adoption of H392 (Warrant Status/Drug Screen Public Assist.), which combined both House and Senate priorities for stiffening eligibility requirements. The House sponsor, Rep. Dean Arp (Union), sought to clarify that fleeing felons or probation/parole violators would be denied food stamps and TANF benefits per current federal restrictions. New DSS procedures will require a criminal background check of public assistance clients to verify criminal status, either through an automated check of the state’s criminal history database, or at the option of the DSS agency, a federal background check if allowed by law and paid for by the requesting agency. The Senate sponsor, Sen. Jim Davis (Macon), through his original bill S594, sought to require drug testing of TANF applicants and recipients suspected of illegal drug use to prevent drug users from accessing public monetary benefits. The N.C. Social Services Commission is to establish procedures and screening tools to implement the drug testing requirement. Neither new requirement will affect the benefit status of the applicant’s family or children. NCACC worked with both sponsors to ensure that county coffers would not be impacted.

Landfill permit payments adjusted: The Regulatory Reform Act of 2012 adopted rules to allow applicants to apply for a new permit to construct and operate a landfill or transfer facility for a period of 10 years. Prior to the 2012 statute, the duration of new permits was five years. Permit fee revenue will not increase from H135 (Adjust Landfill Permit Fee Timing), but the timing of payments will be different to reflect the new 10-year permit option.

State revises human resources management: As part of a major rewrite of the state personnel system, H834 (Modern State Human Resources Management/RTR) moves the Office of State Personnel, now the N.C. Office of State Human Resources, out of the Department of Administration and places it in the Office of the Governor. The bill affects a number of changes to the state’s management of human resources processes, which are relevant to counties to the extent they have employees who are subject to what is now named the N.C. Human Resources Act. The legislation provides that for the purposes of the act, a “career state employee” is a permanent employee of the state or a local government entity who has been continuously employed in a position subject to the human resources act for the immediate 24 preceding months. The legislation significantly revamps the process by which an employee may grieve an employment action or disciplinary decision and streamlines the grounds for grievances to include only (1) discrimination or harassment, (2) retaliation, (3) just cause for dismissal, demotion, or suspension, (4) veteran’s preference, (5) failure to post or give priority consideration, and (6) whistleblower. This legislation also establishes price reporting and charity care requirements for hospitals and ambulatory surgical facilities and requires DHHS to post that information on its website.

New disclosure requirements on debt documents: After negotiations with the Local Government Commission, the State Treasurer’s Office, bond counsels and local government officials, a compromise was reached on H248 (Taxpayer Debt Information Action). The bill provides greater transparency on local government debt documents without endangering the validity of local government bond referenda results. Under the leadership of Rep. Debra Conrad, a former Forsyth County Commissioner, stakeholders came together to agree on new reporting requirements to disclose estimated interest payments for the proposed indebtedness and new bond ballot language that speaks to required interest and that additional taxes may be levied for bond principal and interest repayment. The bill originally required the estimated interest due on

the indebtedness to be included in the ballot language, raising concerns from local government debt professionals that if such interest estimates are subsequently challenged, the referendum results could be in jeopardy.

County jail medical care plans: S368 (County/Sheriff Fee Changes/Felony Escape) was introduced at the request of the Sheriffs' Association and amends the requirement for a local confinement facility to adopt a plan for providing medical care for inmates in the facility. The bill provides that as part of the plan, a jail facility may charge a \$10 co-pay for prescriptions for inmates. The bill has been ratified and awaits the Governor's signature.

Animal control laws amended: S626 (Recodify Animal Shelter Law) requires photo identification from everyone to whom an animal is released, strengthens the requirement for animal control officers with access to scanners to scan for micro-chips, and sets limitations on reimbursements from the Spay/Neuter Account. Emergency responders who believe that an animal is confined in a motor vehicle under detrimental conditions are now allowed to retrieve the animal by whatever means necessary after making a reasonable effort to find the person responsible for the animal.

Many goals remain eligible for 2014 Short Session

Bill revised economic development functions and fracking: Early versions of S127 (Economic Development Modifications) were limited to restructuring economic development functions in the state, with language evolving so that the Department of Commerce would hold the majority of responsibility. In the last week of session, a new version emerged that included some hydraulic fracturing provisions. It would repeal the requirement that permitting of fracking activities is prohibited until further legislative action and authorize the Department of Environment and Natural Resources to issue permits beginning July 1, 2015. It also would levy a severance tax on the extraction of energy minerals from the land or water of the state, and detail the means of calculating the tax and allocating the revenue. The legislation allocates 10 percent of the revenue from the severance tax to counties from which the tax was collected, and prohibits local governments from imposing any taxes on the industry (aside from property taxes). The second to the last day of the session, both chambers placed the compromise bill on their respective calendars, but neither took a vote. It remains on the House calendar for the short session, while the Senate has referred it to the Rules committee for the interim.

Bill to provide for more cost-effective second primaries passes House: The current version of H648 (Vote Centers for Second Primaries) allows a county board of elections to only open sites for a second primary that were used for early voting during the first primary. It passed the House and has been sitting in the Senate Rules committee since early May. The larger elections reform bill contains a study of second primaries, and House Bill 648 may be used to implement the recommendations of that study next year.

Jail dormitory standards applied statewide: S463 (Jail Dormitory Minimum Standards) would allow all 100 counties to house 64 inmates in a county detention facility dormitory as long as certain specified conditions are met. Current standards limit a county to 40 inmates unless its population exceeds 300,000. This bill successfully made crossover, and the NCACC advocacy team is committed to continue working on this issue in the 2014 Short Session.

School ownership bill converted to local bill: North Carolina's unique financing structure for public school construction, with school boards owning the facilities and showing them as assets

while counties incur the debt and report the liability, leads to an asset/liability mismatch. For this and other reasons, counties sought legislative authority to assume ownership of school facilities, which may include overseeing new construction and repair and renovation of existing buildings. Sen. Neal Hunt (Wake) introduced S236 (Counties Responsible for School Construction), to provide all counties this option, but it was eventually changed to a local bill affecting Wake and several more counties. After passing the Senate, the bill did not receive a favorable report in House Government Committee and was moved to House Rules, which stripped the school construction language and replaced it with an entirely unrelated matter. Sen. Hunt then resurrected the legislation through a rewrite of an unrelated House bill, H726, and limited the expanded authority to Wake County alone. The House voted not to concur with the House bill rewrite, and the Senate failed to concur in the rewrite of S236. While conference committees were appointed to hash out S236 differences, the General Assembly adjourned prior to committee consideration, leaving S236 eligible for consideration in the 2014 Short Session.

Office hours for Registers of Deeds up for debate: H593 (Register of Deeds Hours) as originally introduced would have required county register of deeds offices to observe the same office hours and holidays as that set for the clerks of court. Current law authorizes boards of county commissioners to set the hours for the Register of Deeds office. Because of budget issues, several counties have initiated employee furloughs through office closings, and the original language would have precluded county authority to reduce operating costs. Some counties recognize fewer holidays than that of the state, but H593 would have required these counties to incur additional safety, staff and operating expenses by keeping open only certain county offices or facilities. Rep. Leo Daughtry agreed to amend the bill to require only the posting of regular office hours and notice of proposed closings on the county government website and that established by the Secretary of State. The revised bill passed the House and has been sent to the Senate Rules committee.

County jails may be required to conform to federal mandate: The Prison Rape Elimination Act (PREA) was passed in 2003 to eliminate sexual abuse in confinement facilities. In 2012, the U.S. Department of Justice issued standards for compliance. The question many wrestled with this legislative session is whether and to what extent these PREA standards, which are clearly applicable to federal and state prisons, apply to local jail facilities. H585 (PREA Compliance) would explicitly provide that at least as a matter of legislative policy, local confinement facilities should comply with federal standards and regulations applicable to them under PREA. The bill passed the House, but lingering concerns regarding the potential impact to local governments caused it to be parked in the Senate Rules committee. In the interim, further study can be done to determine the cost to counties of fully implementing PREA standards.

Changes to commissions, state boards being considered: S10 (Government Reorganization and Efficiency Act) made extensive changes to numerous state boards and commissions and eliminated some Superior Court judicial positions. It passed the Senate early in the session and was revised by the House in April, but the two chambers could not agree on a compromise plan. It sat without action for three months, and was again considered during the waning days of session. However, the House and Senate could not come to agreement, and it will be eligible for further negotiations in the 2014 session.

Electronic notice bill converted to local bill: Because of the significant expense associated with publishing notices in the newspaper and the desire to provide greater access to information regarding local government activities, counties sought the option to provide notice of public

hearings and other legal notices through electronic means in lieu of required newspaper advertisements. S287 (Notice Publication—Certain Local Governments), sponsored by Sen. Trudy Wade, began as a statewide bill, but was later turned into a local bill applying only to a group of counties that requested to be included and had the support of their legislative delegations – Burke, Graham, Guilford, Haywood, Jackson, Macon, Mecklenburg, Swain, Union, and Wake. S287 authorizes the governing board to adopt an ordinance allowing it to publish notices on its website, in lieu of or in addition to publication in the newspaper or other statutorily required publication, provided that the existing deadlines for publication are met, the website contains links to all notices on its main page or a link to another page with links to all notices and the notices must be maintained on the website for at least one year after publication. Despite opposition from the N.C. Press Association, the bill passed the Senate.

Rep. Chuck McGrady (Henderson) filed a substantially similar bill in the House (H504), which applied to Buncombe, Guilford, Henderson, Mecklenburg, Mitchell, Perquimans, Stanly, Surry, and Wake and any municipality located wholly or partly within those counties. After a contentious debate on the House floor and the threat of an unfavorable amendment that would have gutted the bill, H504 was pulled from the floor and re-referred to House Rules, where no further action was taken, and the bill failed to meet the crossover deadline.

The Senate bill was amended by the House to apply only to Guilford County and any municipality located therein but when it made it to the House floor, S287 succumbed to the same hostile amendment that would have kept the existing laws in place. The Senate failed to concur with the House changes, and the conference committee restored the Senate version of the bill and expands its application to include Mecklenburg County and any municipality located therein. The Senate adopted the conference report, but the House did not take it up before adjourning. The report remains to be voted on in the 2014 Short Session. Sen. Trudy Wade, Rep. Chuck McGrady, and Speaker Thom Tillis worked tirelessly to advance this contentious issue.

Legislative Goals Update

Agriculture

AG-1: *Adequately fund agricultural research and extension services.* State budget appropriates \$2.5 million each year for research station renovations.

AG-2: *Support and promote conservation of working lands and farmland preservation.* The state budget maintained Agricultural Development and Farmland Preservation Trust funding at current levels.

Environment

ENV-1: *Restore state funding and responsibility for river basin monitoring, streamline rulemaking, and enhance regional cooperation.* DENR filled the vacant position and monitoring activity was restored to previous levels.

ENV-2: *Eliminate requirement for a 10-year solid waste management plan and add a requirement in the Solid Waste Management and Facilities annual report for long-term planning.* H321 (Amend Local Solid Waste Planning) fulfills this goal.

ENV-3: *Authorize some county oversight of bio-solids application.* S372 (County Omnibus Legislation) achieved this goal

ENV-4: *Modify spray irrigation systems classification for volunteer fire departments.* The situation that initiated this goal has been resolved.

ENV-5: *Monitor and protect counties from negative environmental and fiscal impacts caused by natural resource extraction.* Final legislation is not harmful to counties. NCACC continues to monitor the issue.

Health and Human Services

HHS-1: *Ensure adequate mental health funding.* The budget did not restore the \$20 million for community mental health services. Funds are appropriated to transition mental health clients to supportive community housing. The budget redirects \$9 million for additional local psych beds, creates a statewide telepsychiatry program to alleviate Emergency Room wait times for involuntary commitments, and sets aside \$4.6 million for adultcare group home transition issues.

HHS-2: *Retain county management of nonemergency Medicaid transport.* A bill was introduced to allow counties to opt out of a statewide system, but N.C. DHHS has not moved to establish a statewide system.

HHS-3: *Preserve federal block grants and state aid to counties for county-administered programs and oppose unfunded workload mandates.* The state budget largely preserves federal block grants for county-administered programs.

HHS-4: *Restore Local Autonomy to LME/MCO governance structure.* S208 (Effective Operation of 1915(b)/(c) Waiver) ensures county input into LME decisions.

HHS-5: *Oppose weakening of smoke-free restaurant and bars law.* H74 (Regulatory Reform Act of 2013) mandates clarification of enclosed areas.

HHS-6: *Increase Nursing Home Community Advisory Committee membership flexibility.*

No legislation was introduced; state agency agreed to increase notice and advertising for volunteers.

HHS-7: *Increase childcare subsidies to reduce waiting lists and support funding for Smart Start and NC Pre-K.* The state budget increases Pre-K slots by 2,500 but uses lottery funds to offset additional costs and maintains childcare subsidies at 2013 levels.

HHS-8: *Increase Medicaid rates to cover costs.* The state budget restructured some provider fees schedule to manage a \$484 million Medicaid deficit.

HHS-9: *Support an increase in food and lodging inspection fees to cover costs.* The state budget increases fees from \$75 to \$120, with counties receiving an additional \$20 per inspection.

HHS-10: *Restore state funding of public health accreditation.* No legislation was introduced.

Intergovernmental Relations

IGR-1: *Oppose any shift of state transportation responsibilities to counties.* Gov. McCrory's revision of transportation funding did not shift any costs or responsibilities to counties.

IGR-2: *Allow more cost effective methods for second primary and run-off elections.* H648 (Vote Centers for Second Primaries) passed the House and is eligible for the short session and H589 calls for a study of the issue.

IGR-3: *Maintain current requirements for county commission approval of ETJ designations and expansions.* No legislation was passed.

IGR-4: *Implement combined motor vehicle registration and property tax collection system by July 1, 2013.* Efforts to delay or restructure program were stopped, but S305 (DMV Commission Contract Changes) became law, increasing costs to counties.

IGR-5: *Allow county participation in state health plan.* No legislation was introduced.

IGR-6: *Support legislation to grant counties the option to provide notice of public hearings and other legal notices through electronic means in lieu of required publication in any newspaper.* S287 (Notice Publication by Some Local Govs.) and H504 (Local Electronic Notice) ran into opposition. S287 applying to Guilford and Mecklenburg counties only is eligible for the Short Session.

IGR-7: *Increase informal let bid threshold for NCDOT local projects.* S372 (County Omnibus) accomplishes this goal.

IGR-8: *Oppose collective bargaining for public employees.* No Legislation was introduced.

IGR-9: *Support maintaining local control of the NC ABC System and preservation of local ABC revenues.* No legislation was introduced.

IGR-10: *Support release of Help America Vote Act (HAVA) funds to assist counties with election costs.* The state budget includes \$391K in 2014-15 to draw down HAVA funds.

Justice and Public Safety

JPS-1: *Seek legislation to limit the amount that providers can charge counties for inmate medical care to no more than what is allowed by the Department of Correction.* S321 (Contain Counties' Inmate Medical Costs) accomplishes this goal.

JPS-2: *Seek legislation to expand county governments' use of 911 funds, protect and enhance current funding streams and maintain full operational flexibility and autonomy.* No legislation passed.

JPS-3: *Oppose legislation that would limit a county's ability to operate a pretrial release program.* H768 (Pretrial Release/No Unsecured Bond) would have removed unsecured bonds as a condition of release but did not pass.

JPS-4: *Support legislation to fully fund the Justice Reinvestment Act of 2011.* The state budget includes funding for the Justice Reinvestment Act.

JPS-5: *Provide greater funding of state crime labs.* The state budget includes \$2.7 million for crime lab upgrades.

JPS-6: *Preserve current county authority for local electronic offender monitoring.* No legislation was introduced.

JPS-7: *Provide funding for gang prevention, adolescent substance abuse and domestic violence prevention, intervention and treatment.* The state budget includes \$2 million for substance abuse recidivism grants.

JPS-8: *Request the reduction of detention center space requirements in existing and new detention center facilities in all counties in North Carolina, consistent with the language in N.C.*

G.S. 153A-221. S463 (Jail Dormitory Minimum Standards) would achieve this goal; it is eligible for consideration in the Short Session.

JPS-9: Restore state funding for drug treatment court. The state budget did not include funding for drug treatment courts.

Public Education

PE-1: Reinstate ADM and lottery funds for school construction. The budget appropriates \$100 million for school construction for 2013-14 but eliminates statutory requirements for lottery funding. The tax reform package permanently eliminated the corporate tax set-aside for school construction needs (ADM Fund).

PE-2: Maintain state responsibility for replacement and risk management exposures for operation of school buses. The state budget maintains state responsibility for school bus replacement.

PE-3: Provide sufficient funds for community college workforce training programs. The state budget appropriates \$4.8 million to community colleges for the N.C. Back to Work program.

PE-4: Restore local control of school calendar. Numerous statewide and local bills were introduced, but none saw any action.

PE-5: Authorize the option for counties to acquire, own and construct traditional public school sites and facilities. S236 (Counties Responsible for School Construction), a local bill for several counties, and H726 (Wake County Commissioners Responsible for School Construction) are eligible for consideration in the Short Session.

Tax and Finance

TF-1: Preserve the existing local revenue base. H998 (Tax Simplification and Reduction Act) protects county revenues and provides some additional local sales tax dollars.

TF-2: Oppose unfunded mandates and shifts of state responsibilities to counties. The state budget protected counties from unfunded mandates and shifting of state responsibilities.

TF-3: Authorize local revenue options. No legislation was introduced.

TF-4: Protect county revenues in tax reform consideration. H998 (Tax Simplification and Reduction Act) protects county revenues and provides some additional local sales tax dollars.

TF-5: Repeal moratorium on contingency fee audits. No legislation was introduced.

TF-6: Improve and maintain incentive programs, workforce development and job creation programs, NC's tax credit programs, and increase access to tax credit financing for smaller economic development projects. H439 (Economic Development Jobsites Program) provides funds for JDIG grants and other economic development programs; the state budget contains JDIG and JMAC funding.

TF-7: Explore and authorize use of alternate, sustainable revenue options and funding sources for beach, inlet and waterway maintenance. The state budget establishes a shallow channel dredging fund with gas tax and boat registration fees.

TF-8: Replace current non-profit sales tax refund process with a revenue-neutral exemption. The complexities of the tax reform discussion did not allow for this goal to progress.

TF-9: *Replace current refund sales tax process for public institutions with a revenue-neutral exemption.* The complexities of the tax reform discussion did not allow for this goal to progress.

TF-10: *Extend Article 44 hold harmless.* The state budget includes a one-year extension of the hold harmless at 50 percent of the funding level.

TF-11: *Allow counties to provide triple credit toward renewable energy portfolios.* No legislation was introduced.

TF-12: *Authorize greater county oversight of legal electronic gaming operations and support legislation to authorize counties to levy privilege license taxes on these operations.* The N.C. Supreme Court has held that the current sweepstakes ban is constitutional. No legislation was introduced.

TF-13: *Promote county property tax system modernization.* This goal was put on hold due to the timing of tax reform.

TF-14: *Authorize design build option for all counties.* H857 (Public Contract/Construction Methods/DB/P3) achieves this goal.

TF-15: *Require payment of property taxes on manufactured homes and other titled properties before transfer of title.* This issue was partially resolved administratively.

TF-16: *Clarify centralized listing and assessing of cellular and cable companies.* NCACC is working with the Department of Revenue to find an administrative fix.

TF-17: *Support local county law enforcement and rehabilitation services through an increase in the beer and wine tax revenues.* No legislation was introduced

TF-18: *Preserve scrap tire disposal tax proceeds.* County scrap tire fees remain in place. The state budget redirected state scrap tire fees to the general fund and appropriates \$500K for grants and operations.

TF-19: *Compensate counties for property acquired by the state and removed from the ad valorem tax base.* S372 (County Omnibus) sets up a study commission for a state PILT (Payment in Lieu of Taxes Program).

Grassroots efforts continue to grow advocacy capacity

County Connections is the NCACC grassroots program that encourages county commissioners to take an active role in advocating for county interests at the General Assembly. Born from board leadership and the NCACC strategic goals process, this growing program continues to pay dividends for North Carolina counties.

During the 2013 legislative session, the grassroots efforts were in full swing. The NCACC Constitution states that “counties must band themselves together and work for the common good.” County Connections enhances that effort and provides effective and efficient strategies to do so.

After the Legislative Goals Conference in January, the NCACC staff prepared a meeting-in-a-box that was sent to all 100 counties. These customized boxes contained materials for counties to host a meeting with their legislators for the purpose of discussing the NCACC legislative priorities. Sixty three counties reported the outcomes of their discussions with their legislators at the NCACC district meetings in April. Each legislative meeting was unique, and the details provided by the county managers and county commissioners were extremely helpful to the association. The participation and follow-up by counties greatly helped advocacy efforts in 2013.

Shortly after the district meetings, more than 200 county officials traveled to Raleigh for County Assembly Day in May. The large number of attendees had a substantial presence at the Legislature. The county involvement on this day is crucial to our efforts during this biennium.

Approximately 100 county volunteers serve on quick response teams (QRTs). The NCACC reaches out to QRTs to inquire about specific legislation within 10 priority subject matters. The teams consist of professional county staff in various departments including environment, finance, human resources, jail administration, planning and zoning, pretrial, public health, social services and tax assessment. The volunteers have helped the government relations team better understand pending legislation and are invaluable to our grassroots program.

Walk the Halls Wednesdays is a new program that debuted this year. County commissioners come to Raleigh to spend the day with the Government Relations team. Each attendee visited their legislators, attended committee meetings and observed sessions in the House and Senate. Commissioners also advocated for counties during encounters with various legislators.

County 101 was an educational program targeted at new legislators interested in learning the fundamentals of county government and the importance of the state and county relationship. The NCACC worked with the UNC School of Government to create the program. Legislators, legislative staff and state agency employees attended.

The Public Relations team did an excellent job keeping members informed throughout the Long Session through several means, including personalized emails from executive director David Thompson, legislative alerts, the County Manager’s webinar held each Wednesday, and weekly “Legislative Bulletin.” Two video “Legislative Updates” were sent to counties to be played at a board of commissioners meeting, and a new episode of “This Week at the General Assembly” was added to the NCACC YouTube channel weekly and distributed to PEG channels across the state. Updates were also posted on Facebook and Twitter.