North Carolina League of Municipalities

Upper Coastal Plain COG
Broadband Task Force
October 15, 2019
Outline

• Session Overview
• Budget
• Legislation of Interest
• Questions & Discussion
Session Overview

Legislature lacks supermajority
  • House: 65 Republicans, 55 Democrats
  • Senate: 29 Republicans, 21 Democrats

Pace
  • Lawmaking mostly on 1-2 busy days each week, with intermittent breaks
Session Overview

• Overriding discussion: budget/Medicaid expansion
• War of words between Governor, legislative leaders
  • Media statements (i.e., disaster recovery spending)
  • Strongly-worded letters released to media (i.e., Atlantic Coast pipeline)
• Partisan-motivated bills/veto showdowns
  • Abortion
  • Immigration enforcement
Cities asked to COMPROMISE

• Biggest difference from past several sessions
• Years of engagement, building relationships by local officials = a seat at the table
• Lack of legislative supermajority means more consensus was needed
Legislative Focus on Cities

• Town & State Dinner Feb. 20

• Municipal Caucus: legislators w/prior municipal service
  • 23 House members
  • 9 Senate members

• In nearly every discussion, legislators ask how legislation affects the municipalities in their districts → they care what you think!
Redistricting

• Consensus to redraw four Wake County N.C. House districts using special master’s maps → will be used in 2020 election

• U.S. Supreme Court ruled no federal court jurisdiction for partisan gerrymandering claims → power is only with the state legislatures and the Congress
  • Means current N.C. district lines for U.S. House are constitutional
  • Reaffirmed that racial gerrymandering was unconstitutional
    • *Rucho v. Common Cause*

• N.C. panel found partisan gerrymandering violates N.C. constitution
  • Affects majority of N.C. state legislative district lines
  • Legislators given two weeks to redraw maps for 2020 elections, according to court’s criteria, or court would take on the task
  • Two briefs, each asking for maps to be overturned, filed by high-profile state politicians (Cooper/Stein and 4 former governors)
  • *Common Cause v. Lewis*
NCLM Priorities

• Infrastructure
  • Transportation
  • Broadband
  • Water/wastewater/stormwater

• Jobs & community
  • Housing
  • Economic development investments
    • Downtowns
    • Historic buildings
    • Industry incentives
    • Entrepreneurs

• Financing
  • Increased revenue options
  • Repeal school funding authority
Budget Provisions
Budget Watch

• House passed budget May 3

• Senate passed budget May 31

• Conference report adopted June 27
  • 64-49 in House
  • 33-15 in Senate
  • Partisan Breakdown: 65-55 House; 29-21 Senate

• Governor vetoed June 28

• Continuation Budget in Effect as of July 1 - G.S. 143C-5-4

• “Mini” budget bills late August-October

• House veto override September 11

• Senate veto override ???
Conference Budget Report

Municipal Highlights

• Marketplace facilitators collecting sales, occupancy taxes
  • Online retailers (e.g., Amazon)
  • Online booking agents (e.g., AirBnB)

• Historic tax credit extension

• Increased Powell Bill funding; only for cities under 200,000 in population –mini-budget

• Viable Utility Reserve
Municipal Highlights

• Disaster recovery funds
  • $9 million for cash flow assistance to local governments
  • $4.5 million to Golden LEAF for local government infrastructure repairs

• $15 million to GREAT program for broadband grants – mini-budget

• $37.7 million in direct grants for projects in 116 municipalities
Legislation of Interest
Transportation funding

- Budget, mini-budget bill contain NCLM advocacy goal items
  - Powell Bill
  - State Maintenance Assistance Program (SMAP/transit $$)
  - Commercial airport funding
- Utility line relocation: NCDOT pays costs for mid-size cities
  - S.L. 2019-197 (SB 68 Relocation of Water/Sewer Line Costs)
Housing funding

• Budget
  • State housing trust funds → workforce housing fund is non-recurring
  • Disaster funding

• Rental/relocation assistance
  • **HB 557 Municipal Omnibus Bill**
Water/wastewater funding

• Viable utility reserve
  • SB 553 Regulatory Reform Act of 2019 (conference reports) → VETOED
  • HB 570/SB 536 Water/Wastewater Public Enterprise Reform
  • HB 777 Various Retirement Chngs/Wastewater Reform (editions 1-3)
  • SB 433 DNCR Omnibus & Other Changes (ed. 4-5, Section 11)
  • Senate Budget - Section 12.15

• Budget appropriations, including disaster-related funding
  • Kerr Lake regional water system → VETOED
  • SB 320 Regional Water Systems and State Grants
  • Governor said local governments should resolve differences with water agreements themselves, without legislation
Economic development

• Historic tax credit: extension through January 1, 2024
  • Included in both House & Senate budgets
  • **HB 399 Historic Preservation Act of 2019**

• Public hearings for economic development expenditures
  • **S.L. 2019-112 (SB 378 Local Economic Development Modifications)**
Local employee training

SL 2019-19 (HB 233 State Auditor/Local Finance Officer Amendments)

• Authorizes LGC to establish minimum qualifications for finance officers and require training in certain circumstances;
• LGC could require contracting with outside entity, like CPAs or COGs, following a unit assistance letter
Retirement

• NCLM advocacy goal: support fiscal integrity of LGERS and its defined benefit structure, promotes reasonable pension reforms
  • Variety of bills filed at request of the Treasurer’s Office that make incremental changes

• NCLM’s legislative education about the retirement benefits local government employees receive helped with perennial issues we typically see that would increase employer’s pension costs
Public safety employee benefits

- Firefighters special separation allowance → study
  - HB 278 Study Parity for First Responders
- Worker’s comp - cancer presumption, PTSD
  - HB 520 Firefighters Fighting Cancer Act
  - HB 622 Provide WC for PTSD in First Responders
HB 348 Protect City Employees From Retaliation

- As filed, it granted additional legal protections for municipal law enforcement officers from retaliation
- Current version requires a municipality that does not have a policy protecting employees from retaliation to adopt one
Law enforcement recordings

- NCLM advocacy goal: disclosure to manager, council members, citizen review boards subject to confidentiality agreements
  - HB 791 Law Enforcement Agency Recordings
- Expansion of LEO reasons for release of recordings (not NCLM goal)
Immigration enforcement

HB 135 Enjoin Sanctuary Cities

- Nullifies any local "policy, ordinance, or procedure" that limits or restricts the enforcement of federal immigration laws
  - Local governments are already prohibited under existing sanctuary prohibitions from having those policies

- Provides the ability to bring action for an injunction against the local government, claiming the government isn’t complying with § 160A-205.2/§ 153A-145.5 (existing sanctuary prohibitions) and recover attorneys fees
Alcohol & gaming regulation

• Alcohol
  • Spectrum of bills, none directly related to NCLM advocacy goal
  • Limits on new ABC boards \(\rightarrow\) merge w/existing boards in **S.L. 2019-182 (SB 290 ABC Regulatory Reform Bill)**
  • Most ambitious: complete privatization in **HB 971 Modern Licensure Model for Alcohol Control**

• Gaming
  • Fantasy sports, online lottery, internet sweepstakes under regulation of new N.C. Gaming Commission in **HB 929 Gaming Commission**
  • Sports betting, including horse racing, allowed on Cherokee tribal lands with **S.L. 2019-163 (SB 154 Allow Sports/Horse Race Wagering Tribal Lands)**
Elections

SL 2019-22 (HB 646 Voter ID Implementation/One-Stop Voting)

- Extended deadline for submitting local government employee IDS to State Board of Elections for approval from March to Nov. 1, 2019
- Removed penalty of perjury requirement
- Revised criteria for ID card
- Allowed a county elections board to establish an early voting plan in odd-numbered years by unanimous vote
Ordinance enforcement

• Decriminalization
  • **S.L. 2019-198 (SB 584 Criminal Law Reform)**
  • Initial proposal would decriminalize all local ordinances → local government interests negotiated improvements
  • Must submit reports!

• Minimum housing enforcement
  • **SB 571 Local Governments/Unsafe Buildings**
  • Did not advance, due to input from local officials
  • Would take away key minimum housing enforcement tools
Broadband

• Local government authority to build broadband infrastructure & lease to private internet service provider
  • HB 431 FIBER NC Act
• Electric co-operatives’ authority to build and operate broadband systems
  • S.L. 2019-17 (SB 310 Electric Co-op Rural Broadband Services)
• GREAT grants: budget, mini-budget bill
• NCDOT authority to enter public-private partnerships
  • S.L. 2019-199 (HB 206 Various Transportation Changes)
Land Use

• Litigation: compromise w/NC Home Builders Association
  • S.L. 2019-111 (SB 355 Land-Use Regulatory Changes)

• Performance guarantees: compromise w/NC Home Builders Association
  • S.L. 2019-79 (SB 313 Perf. Guar. to Streamline Afford. Housing)

• Billboards: compromise w/NC Outdoor Advertising Association
  • HB 645 Revisions to Outdoor Advertising Laws → VETOED

• Planning statute rewrite: compromise w/NC Bar Association
  • S.L. 2019-111 (SB 355 Land-Use Regulatory Changes)
Land Use

- Tree ordinance preemption: bill withdrawn
  - **SB 367 Clarify Property Owners’ Rights**
- Short-term rental ordinance preemption: late-session attempt to gut-and-amend
  - **S.L. 2019-73 (SB 483 Vacation Rental Act Changes)**
- Annexation of NCDOT ROW in voluntary annexations
  - **HB 557 Municipal Omnibus Bill**
Development omnibus

  - NCLM negotiated modifications
  - Residential plan review: 15-day turnaround
  - No minimum square footage for residential units
Electric Scooters

HB 77 Electric Standup Scooters
• Defines electric standup scooters → negotiated by NCLM
• Same definition also included in early versions of **SB 553 Regulatory Reform Act of 2019**, but removed in conference reports

SB 620 Electric Standup Scooters
• Includes same definition of electric standup scooters
• Directs study of standup scooter regulations
Contracts w/designers

S.L. 2019-92 (HB 871 Fair Contracts)

• Significantly shifts allocation of risk on these contracts
• Sought by design interests b/c they couldn’t get insurance for these liabilities
• As originally proposed, would have eliminated ability of local governments to require indemnification and “duty to defend” clauses in certain contracts with contractors or design professionals (engineers, architects, land surveyors, geologists, and soil scientists), which was a longstanding practice
• Final language
  • Maintains old law, which prohibited indemnification if in any way at fault for bodily injury, death, property damage (but note: could require indemnification for economic damages)
  • Keeps old law, but adds a fault requirement to allowable indemnification: contractor/designer (or their subs) must be “a proximate cause” of economic damages
  • Disallows “duty to defend” clauses for designers
• Changes exceptions
  • Adds lien/bond claims to insurance/worker’s comp exceptions
  • Removes railroad, public utilities, and NCDOT exceptions
• Practice tip: Include a severability clause, or whole contract is at risk
• Practice tip: Place savings clause (“to greatest extent allowed by law”) before indemnity clause
• Effective date: applies to new contracts + change orders and other amendments to contracts that existed before law took effect
Cybersecurity

S.L. 2019-200 (HB 217 DIT Changes)

• Requires local governments to report cybersecurity incidents to N.C. Dept. of Information Technology
• Defines “cybersecurity incident” and “significant cybersecurity incident”
• Protects information shared under this requirement from public records requests
Local Revenues

• 17 local bills for increased revenues

• System development fees: tweaks to 2017 law
  • HB 557 Municipal Omnibus Bill
  • HB 873 System Development Fee/Clarify Time of Charge
Sales tax

**HB 557 Municipal Omnibus Bill**
- Extension of notification for county’s switch in sales tax distribution (NCLM advocacy goal)

**SB 650 Simplifying NC Local Sales Tax Distribution**
- Proposed several changes to current method of local sales tax distribution
- Would move state distribution of sales taxes to counties to 50-50 per capita-point of delivery split
How to Keep Up?

- Weekly email publications
  - Bulletin
  - League Letter
- Bill tracker
- Call or email us!
Questions & Discussion