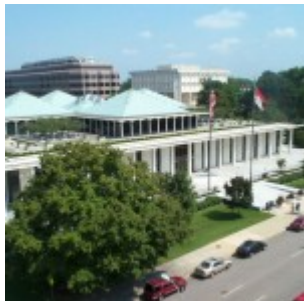

Coates' Canons Blog: No Legislative Surprises in Community and Economic Development as General Assembly Adjourns

By Tyler Mulligan

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Following the 2010 session of the North Carolina General Assembly, local governments will

see an essentially unchanged statutory landscape for community and economic development. Some of the highlights are discussed below.

What's the Same

North Carolina's economic development incentive framework remains virtually unchanged. The General Assembly ratified several bills related to economic development incentives, all of which have been signed or are expected to be signed by the Governor. Two are of interest to local governments generally. The first, **H 1973**, extends the sunset for the controversial Article 3J tax credits, which were set to expire at the end of the year. Article 3J provides businesses with state income tax credits for capital investment and job creation. Credit amounts are larger in distressed "Tier One" counties (for an explanation of the tier system, click **here**) in hopes of encouraging businesses to locate in those counties. A 2009 report from the UNC Center for Competitive Economies (executive summary found **here**) questioned the effectiveness of the credit, but Tier One counties maintain that the credits are an integral part of their incentive toolbox. The second item of general interest is found in **S 1215**, which provides local governments with reports of the revenue they have foregone as a result of sales tax exemptions granted to certain businesses (such as internet datacenters and motorsports teams). Reports are to be furnished only upon formal request by a local government. This new report might come in handy, because the General Assembly also enacted a series of targeted tax breaks for specific industries (see, for example, **S 1171** and **H 1973**).

No amendment pertaining to eminent domain for economic development. A **prior post** describes the North Carolina constitutional and statutory framework for exercising eminent domain for economic development purposes. In short, there is no existing statutory authority for local governments to exercise eminent domain solely for economic development, but at the same time, the North Carolina Constitution does not prohibit the General Assembly from enacting new authority. A **bill** was proposed during the 2009 session to place a constitutional amendment on the ballot that would prohibit the use of eminent domain for that purpose. Sponsors hoped to revive the bill during the 2010 session, but the bill never made it out of committee.

Municipal broadband survives intact. **Supporters of municipal broadband** beat back efforts to curtail local government broadband initiatives. The outcome may be important whether or not your local government is interested in establishing public broadband. Why? Because many North Carolina local governments are exploring ways to *partner* with private broadband providers—not compete with them—and in some cases are willing to subsidize a private provider's operations in order to expand broadband service in their jurisdictions and reduce its cost (as supporters **assert** was the City of Wilson's original plan before it established a public broadband service called **Greenlight**). As these local governments negotiate with private providers over the amount of subsidy required to expand service, their relative

bargaining position may be improved by the fact that they possess authority to create a public broadband service if an agreement cannot be reached with private providers.

What's New

Local Government Authority to Finance Energy Projects is Clarified (somewhat). In 2009, the General Assembly granted authority to local governments to finance energy efficiency and renewable energy projects on private property through revolving loan funds and special assessment programs. For more detail on those programs, see my colleague Kara Millonzi's blog post [here](#). As federal stimulus money rolled in, however, a question remained. Were local governments permitted to make *grants* (as opposed to loans) as part of their energy programs? Limited authority to make grants is provided within existing community and economic development statutes (using authority described [here](#)), but otherwise the power to make grants was lacking. **H 1829** settled the issue by clarifying that local governments are permitted to make grants for which federal funding is provided. The language is not as clear as it could be, so you may hear more about this in future blog posts.

More foreclosure protections enacted. As noted in a [post on the School of Government's Community and Economic Development blog](#), home foreclosures this year are on track to exceed last year's record number. The General Assembly responded in two ways. It enacted the **Homeowner and Homebuyer Protection Act** (S 1015) to prohibit predatory foreclosure rescue transactions. In these transactions, unscrupulous actors gain title to a home at less than half its fair market value by promising that the transaction will prevent or postpone foreclosure; then the home is rented or leased back to the original owners. These transactions drain homeowner equity before legitimate foreclosure remedies are applied. Complementing this measure is **S 1216**, which, among other things, extends eligibility for assistance under the Commissioner of Bank's emergency foreclosure program to all home mortgage foreclosures, whereas previously only subprime mortgages were eligible for assistance. The program enables the Commissioner to delay foreclosure proceedings while foreclosure counseling and other measures are applied in an attempt to prevent foreclosure of a home.

Electronic sweepstakes parlors are no longer an economic development option. You've probably already heard about the General Assembly's **ban** on electronic sweepstakes, but you might not have heard about the economic development approach that will die along with it. An interesting look at this approach can be found [here](#).

Laying the groundwork for regional collaboration around sustainable practices. The new **HUD-DOT-EPA Interagency Partnership for Sustainable Communities** promises to be a significant source of grant funding for local governments over the next several years. In preparation, the **Appropriations Act of 2010** establishes a North Carolina Sustainable Communities Grant Fund to encourage regional planning efforts that integrate housing and transportation decisions, to improve land use and zoning, and to provide matching funds for regional partnerships seeking federal funds related to sustainable development. The Fund will be administered by a 13-member task force that is directed to identify federal sources of funding for its activities.

Were you following any other community and economic development legislation that should be mentioned here?

Links

- www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H1973v7.pdf
- www.nccommerce.com/en/BusinessServices/LocateYourBusiness/WhyNC/Incentives/CountyTierDesignations/
- www.ncleg.net/documentsites/committees/JSCEDI/Center%20for%20Competitive%20Economies%20Incentives%20Executive%20Summary%201-21-09.pdf
- www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S1215v3.pdf
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