

TRANSformations

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A summary of legislative, regulatory and grassroots information affecting NC Public Power communities

State Legislative Issues

A Final Budget... Sort Of



After five weeks of operating on a modified and temporary spending plan, North Carolina lawmakers and the Governor have

agreed upon a budget for the next two years. Characterized by heated negotiations, long hours and a last-minute interjection by Governor Perdue, this year's budget process has yielded a product many legislators dislike, but deem necessary in our current economic state.

Despite the expressed chagrin from many North Carolinians, certain revenue-generating provisions in this budget were dismissed that could have had dire consequences on electricity consumers throughout the state. At one point in these negotiations the concept of increasing electricity taxes upwards of 3 percent was addressed. Luckily, this provision was removed from consideration.

Significant revenue-generating aspects of the budget include: a sales tax increase of 1 percent for the next two years, surcharges on the tax liability for certain "high-income" individuals and households, increased corporate tax liability, and higher taxes on alcohol and cigarettes. Even with these measures, cuts to state agencies and programs were needed to bridge the massive budget gap.

Though the plan for this biennial budget has been approved and is in effect, leadership in the Senate has indicated the potential for a special legislative session to address a major restructuring of North Carolina's tax policy.

Creating a Market for Renewables

In a previous edition of Transformations, a seemingly stimulus-unrelated provision in SB 960 was discussed. **SB 960—Ensure Accountability Re: Stimulus Funds** – introduced by Senator Nesbitt (D-Buncombe), is an act to facilitate expedited use and expenditure of Federal funds provided under the American Recovery and Reinvestment Act of 2009. In Section 14 of this bill, a mechanism for tracking and trading renewable energy certificates (RECs) was proposed. A significant lobbying effort by staff and the other utility lobbyists, coupled with negotiations in conference committees

yielded a compromise that allows the NCUC to "develop, implement, and maintain an Internet web site for the online tracking of renewable energy certificates in order to verify the compliance of electric power suppliers with the REPS requirements of this section by" July 1, 2010. The NCUC has been instructed to study and design an internet trading system and report back to the short session the projected costs of the trading system for RECs. Staff will continue to monitor the progress of this project and report on this study as it moves forward.

Water Woes

After weeks of consideration in the House Water Resources and Infrastructure Committee, **SB 967 – Creation of Yadkin River Trust**, was taken up in House Public Utilities. Introduced by Senator Fletcher Hartsell (R-Cabarrus), this bill sought to create the Yadkin River Trust, an entity that sought to acquire and operate the Yadkin Project, an existing hydroelectric facility owned by Alcoa Power Generating Inc.

The facility was licensed to operate on a 50-year permit beginning in 1958 and is regulated by the Federal Energy Regulatory Commission (FERC). On the promise of bringing hundreds of jobs to the region, the project was approved and Alcoa funded the acquisition of land and completion of the facilities with private funds.

With the permit expiring last year, various groups of individuals, legislators, and even the governor have organized in an attempt to prevent Alcoa from receiving a Federal renewal of this license. Senator Hartsell and supporters of this measure fought tooth-and-nail in heated discussions in an attempt to persuade the legislature that this bill dealt with water rights and not the acquisition of a private enterprise. Repeatedly heard were the lamentations concerning PCB toxins in fish, job loss and poor interaction with the areas surrounding these facilities.

Representing Alcoa, Gene Ellis responded to the accusations with Ivy League studies concerning the toxins, area residents attesting to Alcoa's benevolent community interaction and noting that "no CEO would promise the existence of jobs for 50 years".

After passing the House committee process by slim margins, the bill was debated heartily on the House floor. The

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measure failed to pass second reading by a vote of 39 to 66. Despite the fact that this bill died on the House floor, the Attorney General's office has indicated that such a bill is not required for the state of North Carolina to acquire the license in question.

Energy Conservation Tax Credits

In response to an extremely difficult economic climate, legislators have chosen to table most provisions in **HB 512 – Incentives for Energy Conservation** – introduced by Representatives Holliman (D-Davidson), Harrison (D-Guilford) and Leubke (D-Durham). This was an omnibus bill addressing various methods to incent the use of renewable and energy efficient technologies. All provisions in the original bill have been removed with one exception. An extension of a tax credit for investing in renewable energy property was left in the legislation. This tax credit was slated to sunset in 2011 but has been extended to 2016. HB 512 was ratified on August 7th, 2009.

Eminent Domain

Hoping to resurrect **HB 1268 – Eminent Domain** from certain death in this legislative long session, Minority Leader Representative "Skip" Stam (R-Wake) attempted to use parliamentary procedure to pull his bill from committee and onto the floor for consideration. The House voted to sustain Speaker Hackney's ruling that Rep. Stam's motion was out of order by a vote of 62-48. Speaker Hackney noted that the bill had already been considered on the floor before being sent back to committee for further discussion. HB 1268 is an act to amend the Constitution of North Carolina to prohibit condemnation of private property to convey an interest in the property for economic development and to provide for the payment of just compensation with right of trial by jury in all condemnation cases. After the failure of Rep. Stam's motion, the bill remains in the House Judiciary II Committee.

HB 1389 – Finance Energy Improvement with Assessments – introduced by Representatives Fisher (D-Buncombe), Harrison (D-Guilford) and Rapp (D-Haywood), allows cities and counties to designate areas within which local government

officials and free and willing property owners may enter into loan agreements whereby the loans are repaid by contractual assessments, to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to real property. The bill has been ratified and presented to the Office of the Governor.

HB 1481 – Energy to Commerce; OEO to Energy – introduced by Representatives Bryant (D-Halifax) and Harrison (D-Guilford), is an act to move the State Energy Office from the Department of Administration to the Department of Commerce. The bill also moves the Office of Economic Opportunity from the supervision of the Department of Health and Human Services to that of the State Energy Office. This bill has been ratified, signed by the Governor and is now Session Law (**S.L. 2009 – 446**).

SB 962 – Small Business Assistance Fund - Introduced by Senator Clark Jenkins (D-Edgecombe), is an act to establish the Small Business Jobs Preservation fund in the Department of Commerce with related programs coordinated by a technical assistance provider. The main priority of the fund is to protect existing jobs rather than create new ones. Money will be distributed in the form of a loan, or loan guarantee to qualifying small businesses. The task of advising the Department of Commerce on funding allocation will be assigned to the Small Business Advisory Commission. The bill is currently in conference committee.

Federal Legislative Issues

Reminder – The U.S. Congress is in recess until September 8, 2009. Many Congressional Leaders are holding meetings in their districts on healthcare in an attempt to educate constituents. Contact your local congressional office for further information.

Please remember to support your Electricities Public Power Political Action Committee (EC PAC). The EC PAC accepts all size donations. If you have questions regarding the EC PAC, please contact Estherine Davis at 800.768.7697 ext. 6310.

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