CHARLOTTE.

CITY MANAGER'S OFFICE
M E M O R A N D U M

July 13, 2010

TO: Curt Walton, City Manager
Ron Kimble, Deputy City Manager

FROM: Dana Fenton, Intergovernmental Relations Manager

SUBJECT: **2010 Final State Legislative Report**

HOT TOPIC

House and Senate agreed on FY 2011 State budget (SB 897) on Wednesday June 30, and Governor signed the bill into law that evening. Provisions in the State budget include:

- Budgets and appropriates $519 million in anticipated federal funds from the proposed extension of higher Federal Medicaid Assistance Percentage (FMAP); budget also sets out like amount of reductions in the event the FMAP is not extended
- Creates the Joint Broadband Task Force for education and economic development purposes; task force is substantially different than what the Senate included in its proposed broadband study (SB 1209) in that it does not call for a moratorium of approval of certificates of participation for broadband purposes by local governments while the work of the task force is in progress; there is also authorization in SB 900 to study Broadband Smart-Grid issues involving some of the same topics
- Creates the North Carolina Mobility Fund with the first project being the portion of I-85 north of the Yadkin River Bridge; NCDOT is required to submit annual report showing schedule of all projects to funded including the selection criteria
- Exempts federal funds for Appalachian Development Highway System and GARVEE bonds issued for Phase I of the Yadkin River Bridge project from the Equity formula
- Creates the Sustainable Communities Task Force and Sustainable Communities Grant Fund to help match federal dollars provided through the federal Sustainable Communities Initiative; council received briefing on the federal program from CCOG on June 28
- Authorizes cities and counties of over 300,00 population to supplement the compensation of nonelected judicial department officers and employees

DEVELOPING ISSUES

Broadband (SB 1209 – Hoyle, Substitute HB 1840)

- As introduced SB 1209 imposed prohibition on use of non-public approved debt for the purchase, construction, maintenance of broadband systems by local governments. Intent was for local governments to seek public approval for issuance of general obligation bonds for such projects when it was competing with private industry in providing cable television and Internet services. The definition of communications system in original bill was written so broadly it included internal government broadband networks of the type the City was considering for public safety services.
- City staff worked with Senator Clodfelter, NCLM, telecommunications industry and other local governments in drafting substitute version calling for a study of how local governments may compete with private telecommunications providers in the provision of cable television and internet services to businesses and residents. Substitute placed a moratorium on local governments using debt not requiring a vote of the public to finance the purchase, maintenance and repair of a "communication system" that enable cable television and Internet service to be provided to residents and businesses. The definition of a "communication system" was written to exclude internal governmental networks similar to what the City of Charlotte is envisioning for the proposed public safety broadband system. There were several exemptions from the moratorium for those localities that have already started to develop or have been operating such systems, and those that need the funding in order to match federal grants. The moratorium would be in place while the Revenue Laws Study Committee examines the issue and until a bill passed during the 2011 session becomes effective or if a bill is not enacted the adjournment of the 2011 session. Passed Senate and communicated to House.
- On June 23, Senate Rules and Operations amended HB 1840 to reflect SB 1209 in order to have a second vehicle ready in the event the House rejected the proposed moratorium as private telecommunications providers found House members are generally not supportive of a moratorium.
- <u>Neither SB 1209 nor HB 1840 was enacted. State budget (SB 897) and Studies Act (SB 900) includes language calling for study of broadband deployment without moratorium</u>

Towing from Private Lots (SB 1136 – Rucho)

- As introduced by Senator Rucho SB 1136 strengthens regulation of towing from private lots in certain localities, including Charlotte, and added Mecklenburg County to the list of localities covered by the statute. Bill was introduced in reaction to a vehicle parked without permission in a private lot in Huntersville that was subsequently towed to the towers lot in Shelby. Due to the distance, the owner was unable to pick up the vehicle for a considerable amount of time. Bill would require signs to display name and phone number of towing company, prevent transport of vehicle more than 15 miles away from place of removal and limit fees charged to those that are "reasonable".
- City staff worked with Senator Rucho to include language to clarify the legislation will not preempt the ability of local governments to maintain towing ordinances, including rates that towers can charge.
- <u>Final version of legislation sent to Governor includes City amendment</u>

911 (HB 1691 - Bryant)

- As introduced legislation calls for substantial changes to the 911 system governing how funds received from the State for the receipt of emergency calls may be used and their distribution methods. The expanded uses of funds for dispatch uses will be beneficial to the City. However another provision reverting from a statutory based method of distribution to a formula developed by the 911 Board would insert a level of uncertainty into the annual budgeting process. The City receives approximately $4.8 million per year from the fund.
- Amendment requested by the City requiring 911 Board to report to the General Assembly within 45 days of changes to the formula, which is designed to continue General Assembly interest in this issue in the future was included in the version that was reported out of committee.
- <u>Final version of legislation sent to Governor includes the City's amendment along with the expanded uses of the funds and extension of responsibility to the 911 Board to develop formula</u>

Interbasin Transfers (HB 1765 - Gibson)

- Bill introduced at the request of the Environmental Resource Commission to authorize the Department of Environment and Natural Resources to use injunctive relief to ensure compliance with Interbasin Transfer laws.
- City staff worked with sponsor to remove the proposed injunctive relief. It became apparent while meeting with staff from the City of Charlotte and Union County that DENR already possesses sufficient authority to enforce IBT statutes. Thus, sponsor agreed to drop this provision.
- <u>Final version of legislation sent to Governor does not include injunctive relief provision</u>

River Basin Modeling (Substitute HB 1743)

- Legislation requires Department of Environment and Natural Resources (DENR) to develop single hydrologic model for each of the river basins in the State, including the Catawba River. These models would eventually govern withdrawal limits from each basin, but is not required by the legislation.
- City staff worked with bill sponsors and stakeholders to ensure that the efforts expended to develop a Catawba River Basin model are recognized in the legislation by allowing DENR to use and modify hydrologic models developed by other groups.
- <u>Final version of legislation sent to Governor includes authority for DENR to use and modify hydrologic models developed by others</u>

ABC Reform (HB 1717 – M. Lucas)

- As introduced legislation reforms local Alcoholic Beverage Control system. The issues for the City are ensuring current streams of revenue from such activities and enforcement activities by CMPD continue. Mecklenburg ABC Board has local legislation (S.L. 1997-224) authorizing Board to enter contractual arrangements for additional law enforcement services. Bill does not impact local government revenues.
- City staff drew up amendment clarify S.L. 1997-224 is not amended or repealed by this legislation.
- Final version of legislation sent to Governor includes City amendment

Sales Tax on Accommodations (SB 1185 – Hartsell / HB 1828 – Luebke)

- As introduced legislation clarifies that the sales tax on hotel accommodations is based on the sales price paid by the consumer regardless of whether it is paid to the hotel or to a third party. Third party providers such as Hotel.Com charge and remit sales taxes on the amount the third party pays for rooms instead of the amount the consumer pays for rooms resulting in lower revenues remitted to local governments. The City would receive additional revenue if this legislation is enacted.
- State budget enacted includes language implementing legislation, which in its first full year of operation in FY 2012 could potentially result in approximately $1.0 million to $1.5 million of additional revenue

Internet Sweepstakes Café (Substitute HB 80)

- Senate inserted language into HB 80 to ban all Internet Sweepstakes Cafes, a move supported by the League of Municipalities.
- Final version of legislation sent to Governor prohibits Internet Sweepstakes Cafes effective December 1, 2010

Eminent Domain (HB 1659 – Stam)

- As introduced legislation calls for public vote to amend the State Constitution to ban the use of eminent domain for economic development for general economic development purposes, even though state statute already forbids such use.
- Passed House, and referred to Senate Rules where no further action was taken

Governmental Ethics Reform (HB 961 – Glazier)

- While this legislation was intended to address ethics issues at the State level, there are several sections impacting local governments. These include: amendment to Personnel Privacy Act requiring local governments to provide date and time of each increase and decrease in salary and promotion, demotion, transfer, suspension, separation, or other change in position classification instead of the most recent; establishment of process for mediation of public records disputes through the courts prior to lawsuits being filed; and extending requirement of most lobbyists to register and report expenses to those employed directly by local government.
- Final version of legislation sent to Governor

ReVenture (Substitute SB 886)

- Substitute version of SB 886 modified to create parameters for State to create Cleanfields Renewable Energy Demonstration Parks and authorizes utilities drawing power from the Parks to obtain three times the credits for alternative energies as normally authorized. Bill drafted specifically to make the ReVenture Park project feasible. Legislation was vetted with Governor, House and Senate leadership, environmental community which agreed upon final version.
- Final version of legislation sent to Governor

State Environmental Policy Act (Substitute SB 778)

- Legislation drafted by Governor's Office, economic development community, county commissioners and NCLM to correct court decision requiring detailed environmental analysis of sites where state funds are to be expended for economic development purposes. Court decision overturned 20 years of practice of not requiring detailed analysis in such cases.
- Final version of legislation sent to Governor

Studies Act of 2010 (Substitute SB 900)

Final version of legislation sent to Governor calling for interim studies of various topics by several entities

Legislative Research Commission:

- Allowing State Personnel Commission to Transfer Annual and Sick Leave From a city or County (S.B. 1386 – East) – Transfer of accrued annual and sick leave balances when local government employees shift employment between local units of government
- Televising House of Representatives and Senate Sessions (Stevens, McKissick)
- Efficient E-Commerce in State Government (S.B. 1425 – Brock)
- Ownerless Dogs and Cats, Commercial Dog Breeding (S.B. 1332 McKissick, Jones; S.B. 460 – Davis; H.B. 208 – Harrison, Wray, Cotham, Carney) – State's role in ensuring humane treatment of ownerless dogs and cats
- Use of Military Veteran Contractors (H.B. 912 – Killian) – The Commission may study methods to encourage State and local government to use military veteran contractors
- Supportive Housing Initiative (Insko) – The Commission may study the feasibility and cost-effectiveness of establishing a statewide supportive housing initiative for individuals with mental health, developmental, or substance abuse disabilities
- Broadband Smart-Grid (S.B. 1440 – Queen)

Joint Legislative Transportation Oversight Committee:

- Untitled Vehicles Removed and Sold for Scrap (Gibson) - Untitled vehicles being removed and sold for scrap without sufficient notice to owner
- Debt Agreements (H.B. 1800 – Crawford) – The Committee, as a part of the study authorized under Section 28.7(e) of Senate Bill 897, may study the issue of the appropriate scope of the power of the Department of Transportation to enter into debt and debt-like agreements pursuant to G.S. 136-18(39)
- Street Construction/Developer Responsibility (S.B. 761 – Brown, Cole) –Limitation of developer responsibility for cost of street and highway construction to the amount necessary to serve the development

Environmental Review Commission:

- Impact of Environmental Toxins on Human Health (S.B. 1416 –Bingham; H.B. 2015 – Harrison, Glazier, Fisher, Insko)
- Water Quality Cost Share (S.B. 1385 – McKissick) – The Commission may study the costs and benefits of improving water quality in reservoirs, rivers, and other water resources shared by local governments
- Issues Related to the Use and Storage of Reclaimed Water (H.B. 643 – Tucker) – The Commission, in consultation with the Department of Environment and Natural Resources, may study issues related to the use and storage of reclaimed water

Revenue Laws Study Committee:

- Ticket Resale (Gibson) – The Committee may study issues related to ticket resale, including the need for consumer protections in the primary market for event ticket sales; transparency of ticket distribution by artists, promoters, and their agents; freedom of transferability for tickets purchased by consumers; and open interoperability of ticket sale and resale market systems
- Local Cable Service Franchise Agreements (Fisher) – The Committee may study the issue of whether and to what extent cable service providers, who entered into local cable service franchise agreements with local governments, and their successors in interest, should be required to continue, maintain and operate institutional networks and electronic transmission facilities pursuant to the terms and conditions of the local franchise agreement as a condition of holding a State cable service franchise
- Local Government Owned and Operated Communication Systems – The Committee may continue its study begun in 2009 of local government owned and operated communication systems, including cable television systems

Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee:

- Unsecured Bonds (Love) – Committee may study the factors used in determining the release of defendants with unsecured bonds; the frequency of using unsecured bonds for the release of defendants; the failure to appear rates under unsecured bonds, when a failure to appear has occurred; the amount of time it takes and the entity most likely to apprehend the defendant after the bond is forfeited; and the likelihood of converting forfeiture or judgment to revenue

Executive Committee for Highway Safety in the Department of Transportation:

- Shall report to the General Assembly by April 30, 2011, its recommendations for additional legislation to address the causes of teen driving fatalities

Legislative Commission on Urban Growth and Infrastructure Issues:

- Extends the sunset date of the Commission on Urban Growth and Infrastructure to the beginning of the 2011 session

Joint Select Committee on Preservation of Biological Evidence:

- Extends the sunset date on the committee to the convening of the Regular Session of the 2011 General Assembly

Governor's Logistics Task Force, as established by Executive Order 32, shall study:

- Combining the operations and governing authority of the Global TransPark Authority, the North Carolina Ports Authority, and the North Carolina Railroad to create one entity and one governing body to oversee the combined infrastructure of air cargo, rail, and sea transportation, and
- Establishing service of a Class I Rail service by more than one railroad to both the Global TransPark and the State Ports

Legislative Study Commission on Public-Private Partnerships:

- Establishes the Commission on Public-Private Partnerships (PPP) to study issues related to the appropriate authority for State, regional, and local government units to engage in PPPs for public capital projects through a regulatory framework

Joint Select Committee to Study the Adoption of Comparative Negligence and Abrogation of Joint and Several Liability:

- Study issues related to the adoption of comparative negligence and the abrogation of joint and several liability, and any other issues related to tort liability

Railroads Study Commission

- Examine issues related to railroads in the State, including passenger rail, freight rail, and corridor issues

Study Commission on the Expansion of the Life Sciences Industry and related Job Creation:

- Need for additional sources of financing for life science companies
- Legislative proposals in SB 580 and HB 530 in the 2009 and 2010 legislative sessions

LEGISLATIVE AGENDA

Business Privilege License Tax

- Issue not addressed in 2010 session, thus City revenues are not impacted. However this and other tax issues are likely to be considered in 2011.

Annexation

- Issue not addressed in 2010 session, thus City annexation process underway is not impacted. However, this issue is likely to be considered in 2011.

Retention of State's Minimum 50% of Non Federal match on Transit Projects

- No action taken on this issue in 2010.

State Participation in Non Federal Transit Projects

- No action taken on this issue in 2010.

State Maintenance Funding on Rail Transit Projects

- No action taken on this issue in 2010.

Charlotte Firefighters Retirement System (HB 1934 – M. Alexander)

- City requested legislation signed by Governor June 21.

Law Enforcement Officers Emergency Fund (HB 1935 – M. Alexander)

- City requested legislation signed by Governor June 21.