

# **Joint Legislative Commission on Governmental Operations**

## **Subcommittee Reports**



**December 6, 2006**

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***Statewide/Capital/  
General Government  
Subcommittee***

**Statewide/Capital/General Government**  
**Governmental Operations Subcommittee Report**  
*December 5, 2006*

**Chairs: Senator Linda Garrou, Presiding, and Representative Thomas Wright**

Requests to Increase Fees per SL 2005-276, Section 6.8(b):

1. NC Hearing Aid Dealers and Fitters Board

Mary Beach Shuping

Allen and Pinnix, PA

**Committee Action:** The Board seeks to increase the examination fee from \$50 to \$75. This fee increase will cover costs of moving the testing responsibilities to an outside entity. The committee approved this request.

Requests to Establish Receipt-Supported Positions (SL 2001-221, Section 31.19A)

2. NC Board of Barbers

Kelly W. Braam

Executive Director

**Committee Action:** The Board seeks to establish an administrative assistant position using board fee receipts. The position will handle regular office support functions. The committee approved this request.

3. Department of State Treasurer

Pam Wortham

Deputy Treasurer for Financial Operations

**Committee Action:** The Department consulted on the establishment of one (1) Information and Communication Specialist II position to assist the Department's Communications Director with press calls. The Department will pay for the position with administrative fees charged to other divisions. The committee approved this request.

4. Office of Information Technology Services

David Rossi

Chief Financial Officer

**Committee Action:** The Office of Information Technology Services (ITS) requested a total of 11 new receipt-supported positions with the following purposes: to manage increased demand for telecommunications services, ITS requested five Network Specialists and three Network Analysts; three Business and Technology Application Analysts to support the IT Asset Management initiative. The Committee recommended approval of all the positions.

## Required Reports

### Department of Revenue

#### 5. Motor Fuels Tax Action Plan

Alan Felton

Assistant Secretary, Department of Revenue

**Committee Action:** The Department reported on the implementation of the Motor Fuels Tax Action Plan. The Department has collected a total of \$6.9 million in increased revenues as a result of this plan since its inception in July 2005. The program was established to collect \$15 million in increased revenues from July 2005 through June 2007. The committee accepted this report.

### Department of Cultural Resources

#### 6. Caring and Sharing Program Report

Mary Regan

Director, Arts Council

**Committee Action:** The Department reported on the Caring and Sharing initiative. The program's goal is to ensure that each school-child in North Carolina will have seen an opera, a ballet, a theatrical performance, and a symphony performance while in elementary school. The program also has a history component, a Bill of Rights tour throughout the state. The committee accepted this report.

#### 7. Tryon Palace Special Revenue Fund

Kay Williams

Tryon Palace Site Manager

**Committee Action:** The Tryon Palace Commission reported on the Tryon Palace Historic Sites and Gardens Fund. This fund was established as a special, interest-bearing, non-reverting fund. To date no expenditures have been made. The committee accepted this report.

### Office of State Budget and Management

#### 8. FEMA Paybacks: Hurricanes Ernesto and Ophelia

Sheryl Stevens

Budget Analyst

**Committee Action:** The Office of State Budget and Management reported on recovery efforts associated with Hurricane Ophelia and Tropical Storm Ernesto. The Governor has approved \$3,608,355 in spending to meet the 25 percent FEMA match for Hurricane Ophelia relief efforts. The Governor has approved \$527,970 in recovery costs and \$462,481 in initial response costs to be paid from the State Emergency Response Account for Tropical Storm Ernesto.

#### 9. Report on Budget Revisions in Capital Projects

Jim Lora

Budget Analyst

**Committee Action:** The Committee accepted the Office of State Budget and Management 's report on budget revisions to capital projects. There were nine (9) budget revisions that involved cost increases from receipts to be paid from various sources, including Golden Leaf grant funds, overhead receipts, UNC hospital receipts, parking receipts, gifts, and federal funds, and thirteen (13) budget revisions that involved transfers of funds between the 2000 Higher Education Bond projects. The full report will be presented to the Full Commission.

10. Report on Use of Contingency and Emergency Funds in Capital Projects

Jim Lora

Budget Analyst

**Committee Action:** The Committee accepted the Office of State Budget and Management's consultation to pay a \$5,000 reward offered by the Office of the Governor to confidential informants that led to the arrest and conviction in the murder of Paul Dejaun Willoughby.

11. Report on Capital Projects Using Non-General Fund Revenues

Jim Lora

Budget Analyst

**Committee Action:** The Committee accepted the Office of State Budget and Management's consultation on three (3) capital improvement projects funded from non-general fund sources. The total of the projects is \$3,353,580. The projects are for Agriculture (State Fair parking lot improvements), ECSU (residence hall renovation), and to replace a NCSU 4-H Center staff house in Swannanoa destroyed by fire in 2005. The projects will be funded from state fair receipts, housing receipts, and insurance proceeds and department receipts. The full report will be presented to the Full Commission.

Department of Administration

12. Request to Establish Receipt-Supported Position

Barbara Williams

Classification Analyst

**Committee Action:** The Department consulted on the establishment of one (1) Real Property Agent III position to assist in land acquisitions for the NC Wildlife Resources Commission (WRC). DENR will fund the position with agency receipts. WRC currently funds one additional Real Property Agent III position. The Subcommittee accepted the report.

13. Reports on Land Transactions Exceeding \$25,000 in Value (GS 143-341(4))

Alton Phillips

Manager, General Real Estate Section

State Property Office

**Committee Action:** The Committee accepted the Department's consultation on three (3) land transactions, eight (8) acquisitions by deed and land transfer between the DENR and Lewis Construction Company, Inc. for a new Pitt County Forestry Headquarters facility. The full report will be reported to the Full Commission.

14. Report on Green Square Project (SL 2006-221, Sec. 3, SL 2006-231 Sec 4-5)

Britt Cobb  
Secretary

**Committee Action:** The Council of State met this morning and agreed to transfer the land to the State Employee's Credit Union no later than December 31, 2006. If no agreement for land development is met within six months from date of transfer, the land will transfer back to the state. The committee approved the report.

15. Report on Gallant's Channel Land Transaction (GS 143-341(4))

Alton Phillips  
Manager, General Real Estate Section  
State Property Office

**Committee Action:** The Department of Administration reported on the transfer of land from the Friends of the Maritime Museum. The deed covering the 31 acres has been executed and recorded. The Friends of the Museum has two notes against the property that become due in January in the amounts of \$3.9 million and \$995,000. The Department of Cultural Resources expects to retire a portion of this debt from the sale of a right of way for a bridge over Gallant's Channel. In addition, the Friends are examining the use of dock fees to repay the remaining debt. When asked if the State will be responsible for the debt if the Friends default on the notes, a Cultural Resources representative could not affirmatively say that the State will not be held responsible for the debt. This report will be heard in the full Commission.

***Justice  
and  
Public Safety  
Subcommittee***



**JUSTICE AND PUBLIC SAFETY MEETING**  
**Governmental Operations Subcommittee Report**  
*December 5, 2006*

Senator John Snow was Chairman for the meeting. The Justice and Public Safety Subcommittee heard and accepted the following reports:

**Department of Correction/Department of Juvenile Justice & Delinquency Prevention**

The Department of Correction and Juvenile Justice & Delinquency Prevention reported to the Subcommittee on their proposal for the joint use of the Swannanoa property, currently owned by DJJDP. DJJDP will transfer the northern half of the property and facilities (and 41 positions) to DOC for use as a female correctional center. DJJDP will retain the southern half of the property to house 48 juvenile offenders. Gov. Ops. consultation was required before transfer of property or positions.

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations. The General Government/Capital Subcommittee accepted the proposed land transfer from DJJDP to DOC.

**Department of Crime Control and Public Safety**

**Request to Use Forfeiture Receipts:** The Subcommittee considered a request from the Alcohol Law Enforcement division to contract IT resources to develop and implement an Underage Drinking Mobile Data application (\$93,600) and to replace some Mobile Data Terminals (\$73,850.40).

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations.

**Receipt-Supported Position Requests:** The Subcommittee also considered a request from the State Highway Patrol requested a Social Research Specialist and the National Guard requested a Cartographic Production Manager.

The Subcommittee accepted the reports and recommended transmittal to full Governmental Operations.

**Department of Justice**

**Report on Lawsuits:** The Subcommittee received a report on cases challenging the constitutionality of state law, pending cases seeking \$1,000,000 or more in damages, and settlements of litigation or potential litigation for \$75,000 or more.

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations.

**Report on Settlement Agreements:** The Subcommittee received a report on the settlement agreements between Morcom Medical Consultants, PLLC and the Department of Justice regarding a \$544,133.33 Medicaid reimbursement. In addition, there was a report of a settlement between

Omnicare, Inc., and the Department of Justice regarding a \$575,710.68 reimbursement, of which the Medicaid program received \$287,855.34 in restitution and interest, the Civil Penalty Forfeiture Fund received \$282,213.38, and the Department of Justice received \$5,641.96 for the costs of collection.

The Subcommittee accepted the reports and recommended transmittal to full Governmental Operations.

**Receipt-Supported Position Requests:** The Subcommittee considered requests for a half-time Global Transpark Attorney (pay grade 86), a full-time DHHS Attorney (pay grade 86), a DENR Attorney (pay grade 82), and a DENR Paralegal II (pay grade 69). The subcommittee noted that the Department of Justice Attorney will cost \$30,000 less than the current cost for a GTA contractual attorney

The Subcommittee accepted the reports and recommended transmittal to full Governmental Operations.

**Request to Use Forfeiture Receipts:** The Subcommittee considered a request from the SBI to use forfeiture receipts to purchase \$484,082 in various types of equipment.

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations.

**Report on Use of Federally Forfeited Assets:** The Subcommittee received a report that the SBI will receive a 1999 Chevrolet Tahoe as part of their participation in the Federally Forfeited Property Program.

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations.

## **Judicial**

**Receipt-Supported Position Requests:** The Subcommittee considered a request to fund two drug treatment court case coordinators (pay grade 17) for the Cumberland and Guilford Drug Treatment Courts. In addition, the Subcommittee considered an Applications Analyst (pay grade 25) and a Systems Analyst II (pay grade 25) for the AOC Court Programs & Management Services.

The Subcommittee accepted the reports and recommended transmittal to full Governmental Operations.

**Court Information Technology Fund Report:** The Subcommittee received the Court Information Technology Fund report, which totals \$1,540,291.35 in receipts and interest. The AOC report generated a wide-ranging discussion of AOC and criminal justice technology issues that will be considered in the long session.

The Subcommittee accepted the report and recommended transmittal to full Governmental Operations.

***Transportation/Natural  
and Economic Resources  
Subcommittee***

**Transportation/Natural and Economic Resources  
Governmental Operations Subcommittee Report**  
*December 5, 2006*

Senator Charlie Albertson was the Chairman for the meeting. The Transportation/NER Subcommittee heard the following agenda items:

**New Receipt-Supported Positions/Consultation Requirement (G.S. 143-34.1)**

The departments reported on their proposed receipt-supported positions in the following divisions:

**Department of Environmental and Natural Resources** – Total of 8 positions

**Office of General Counsel**

- 1- Business Officer I position to be funded with receipts from the costs of collection retained from collected civil penalties. (Effective 01/01/07)

**Division of Environmental Health**

- 1- Public Health Program Consultant II position to be funded with receipts from a federal HUD lead hazard control grant. (Effective 01/01/07)
- 1- Environmental Health Regional Specialist position to be funded with receipts from a federal HUD lead hazard control grant. (Effective 01/01/07)

**Division of Waste Management**

- 1- Environmental Specialist II position to be funded with receipts from the dry cleaning fund. (Effective 01/01/07)

**Ecosystem Enhancement Program**

- 1- Processing Assistant V position to be funded with in lieu fees. (Effective 12/01/06)
- 1- Statistician III position to be funded with in lieu fees. (Effective 12/01/06)

**Parks and Recreation**

- 1- Computing Consultant II position to be funded with receipts from the Parks and Recreation Trust Fund. (Effective 01/01/07)
- 1- Facility Construction Engineer II position to be funded with receipts from the Parks and Recreation Trust Fund. (Effective 01/01/07)

## **Wildlife Resources Commission - Total of 2 positions**

### **Division of Engineering Services**

- 1- GIS Technician position to be funded through a contract with the Ecosystem Enhancement Program and motorboat registration receipts. (Effective 12/01/06)

### **Division of Conservation Education**

- 1- Natural Science Curator I position to be funded with receipts from an aquatic education grant (75%) and wildlife resources (25%). (Effective 12/01/06)

## **Department of Agriculture and Consumer Services – Total of 3 positions**

### **Division of Emergency Programs**

- 2- Business & Technology Application Analyst positions to be funded with a USDA grant for the NC Threat Reduction Project. (Effective 12/01/06).
- 1- Business & Technology Application Analyst position to be funded with a contract from Public Health concerning the Multi-Hazard Threat Database. (Effective 12/01/2006)

The Subcommittee recommended a favorable report on these receipt-supported positions to the Full Commission.

## **General Assembly Oversight of Agency Fees (G.S. 12-3.1)**

### **Department of Agriculture and Consumer Services (DACS)**

David McLeod, General Counsel at DACS presented a new fee schedule for rental or use of facilities at the following: Western North Carolina Farmers Market at Asheville, Western North Carolina Agricultural Center at Fletcher, Senator Bob Martin Eastern Agricultural Center at Williamston and the State Fairgrounds in Raleigh. Additionally, DACS presented a proposed increase in the price of adult gate admission to the State Fair from \$6 to \$7. Mr. McLeod stated that additional revenue would be used for operation, maintenance and improvement of the facilities.

### **Ports Authority**

Glen Carlson, Vice President of Business Development at the Ports Authority presented two new increases in Terminal Security and Tariff Rates effective October 1, 2006. The new rate for Fully Cellular Container Vessels will be \$4 per container; the new rate for Non-cellular and all other vessels, including barges will be \$2 per linear foot overall per call. In addition, the Ports reported a general rate increase of approximately 6% effective October 1, 2006.

### **Department of Environmental and Natural Resources**

The Ecosystem Enhancement Program (EEP) presented a new fee schedule for the voluntary in-lieu fee program. The new fee schedule would raise the stream fee for urban counties, riparian wetland fees for urban, rural, and coastal counties, and non-riparian wetland fees for urban, rural, and coastal

counties. The proposed fees would generate approximately \$3,356,400 in additional fee revenue. The earliest possible effective date for the new fees is May 1, 2007.

### **Budget Deviations/Consultation Requirement**

Cathy Hardy, Budget Director, presented a request for one budget deviation from the Department of Environment and Natural Resources.

- A \$460,000 deviation in Division of Land Resources, Land Quality section.

The Subcommittee recommended a favorable report on this budget deviation to the Full Commission.

### **Departmental Reorganizations**

#### **Department of Environmental and Natural Resources (DENR)**

Secretary William Ross presented plans for reorganization at DENR. Changes include: establishment of a position for Assistant Secretary for Natural Resources; revision of position of Assistant Secretary for Planning to Assistant Secretary for Environment; revision of position of Assistant Secretary – Operations and Development to Assistant Secretary for Information Systems and CIO. Additionally, the Division of Environmental Health will reassign the Public Water Supply section to report directly to the Division Director and the Public Health Pest Management section will report to the Deputy Division Director.

#### **Wildlife Resources Commission (WRC)**

Tommy Clark, Finance Director for WRC, presented information on the recent reorganization of the Division of Engineering Services. A new Deputy Director for Operations and Technical Services was created along with the realignment to allow project management from the design phase through construction to maintenance and operations.

### **Comparison of Brownfields Programs in North Carolina and Virginia**

Bruce Nicholson, Brownfields Program Manager, reported on the differences and similarities of the Brownfields Programs in North Carolina and Virginia. He highlighted three areas: developer interaction, assessments, and tax incentives.

#### **Developer Interaction**

The Virginia Brownfields Program (VBP) issues Certificate of Completion letters with conditions for appropriate care to developers when the site has been made safe for the intended use. The North Carolina Brownfields Program (NCBP) works with developers at the onset of their interest in applying for a Brownfields Agreement, at which time the developer may or may not know what environmental conditions are present at the site. Developers can secure liability protection upfront, rather than waiting until work has been done to make the site safe for the intended use.

**Assessments**

VBP uses its federal grant dollars to assess potential sites and operates a revolving loan fund. In North Carolina, the developer conducts the assessments. This leveraging of private sector dollars allows staff to work on a large number of sites. Virginia has completed 5 site assessments with their federal funds, while North Carolina has completed 87 Brownfields Agreements with another 102 currently in the pipeline.

**Tax Incentives**

Virginia does not have a statewide tax incentive, though a few local governments offer local tax incentives. NC has mandated statewide local property tax incentive over a five year period of time, which helps developers recoup assessment and other property transaction costs.

***Education/Health  
and  
Human Services  
Subcommittee***



**Education/Health and Human Services**  
**Governmental Operations Subcommittee Report**  
*December 5, 2006*

Senator Lucas called the meeting to order. Six items were presented to the Joint Subcommittee on Education/Health and Human Services.

**1. Department of Public Instruction – Receipt-Supported Positions**

The Department of Public Instruction submitted a plan to create six receipt-supported positions. Five of the positions are newly created to meet identified service demands. The sixth position establishes a permanent position to perform a function that has been contracted out previously. Total requirements for the six positions within the Department will be \$488,913.

These positions are being presented to the Full Commission through this subcommittee report in accordance with the consultation requirement before the establishment of these positions.

**2. Department of Health and Human Services**

**A. Health and Wellness Trust Fund Annual Report**

The Subcommittee received the Health and Wellness Trust Fund (HWTF) Annual Report. The HWTF has designed and implemented several programs to address the healthcare needs of underserved populations and improve the health and wellness of all citizens. These programs include prescription drug assistance and medication management; adolescent and youth tobacco use prevention; enhanced nutrition and physical activity for our young people to prevent obesity; and county, hospital and community efforts address persistent disparities in health status among racial and ethnic populations.

The HWTF is planning to address health insurance coverage for employees of small businesses and children from low-income families; how best to fill gaps in prescription drug coverage for the elderly, and methods of addressing disparities in access and quality of healthcare.

This report is being presented to the Full Commission through this subcommittee report in accordance with the annual report requirement.

**B. 2007 Mental Health Trust Fund Plan**

Spencer Clark of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services presented the plan to the Subcommittee. The planned expenditures for FY 2006-2007 include approximately 48% of the funds for community capacity associated with crisis services, children's services, and downsizing of state facilities. Approximately 24% of the funds will be spent on capital projects for Alcohol and Drug Abuse Treatment Centers (ADATC) and the new regional psychiatric hospital in Butner. The remaining funds will be used for LME System transition for provider

organizations; substance abuse services; ADATC detoxification capacity; training, planning, evaluation, and technical assistance; autism treatment and habilitation, research and evidence based practice improvement; and housing initiatives.

This plan is being presented to the Full Commission through this subcommittee report in accordance with the consultation requirement before the expenditure of funds from the Trust Fund.

**C. Study on the Rebasing of Skilled Nursing Facility Medicaid Reimbursement**

Dan Stewart, the Deputy Secretary for the Department of Health and Human Services presented this report. The study was required by Section 10.11(c) of Senate Bill 1741. The Department of Health and Human Services Office of the Internal Auditor (OIA) and Division of Medical Assistance (DMA) conducted the study to determine the need for rebasing the skilled nursing facility case-mix reimbursement system. After reviewing data provided by the skilled nursing facilities, DHHS has determined that it is advisable to validate cost and acuity data submitted by providers before developing new reimbursement rates. In order to use the most complete information available, the department will rebase using FY 2005 cost data upon completion of field audits. The field audits are anticipated to be completed during the latter part of 2007. It is also anticipated that the rebasing skilled nursing facility will be implemented effective October 1, 2007.

**D. Report on the NCRx Program**

Michael Keough of the Division of Rural Health and Community Care presented a report on the NCRx program. This program will begin in January 2007, and will assist Medicare beneficiaries pay for the premiums for Medicare Part D prescription drug coverage. The Health and Wellness Trust Fund Commission has indicated it will commit \$24 million of the Trust Fund's receipts, through June 2009, to assist up to 50,000 low-income seniors with paying their Medicare Part D premiums.

**E. Receipt-Supported Positions**

The Department of Health and Human Services presented a plan to create seven new receipt supported positions: One position is in the Division of Public Health and six positions are in the Office of Education Services. The total requirements for the seven positions within the Department will be \$253,556.

**Division of Public Health:** One Technology Support Specialist position to support the DPH Emergency Command Center operations, field deployment operations infrastructure, and the technology operational efforts in the Public Health Information Network. This position is supported with federal Bioterrorism funding.

**Office of Education Services:** Six Educational Developmental Aides to serve as Transportation Safety Assistants to provide support and supervision when special needs students are being transported to and from the two Schools for the Deaf and the Governor Morehead School for the Blind. These positions will be supported with funding from the Department of Public Instruction.

These positions are being presented to the Full Commission through this subcommittee report in accordance with the consultation requirement before the establishment of these positions.