New Rural Economic Development Division and Other 2013 North Carolina Legislation

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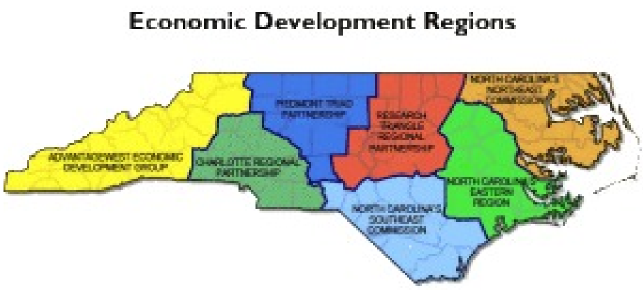


The North Carolina General Assembly wrapped up the 2013 session after approving several pieces of legislation related to community economic development (CED). This post summarizes some of the major legislation of interest to CED professionals.

Public-Private Partnership for Economic Development

In the Appropriations Act of 2013, as noted in a prior post, the Secretary of the Department of Commerce was granted flexibility to reorganize the department and to establish a public-private partnership, presumably with a new private nonprofit entity. No other details for the new nonprofit were included in the authorizing provision, as more specific requirements for the nonprofit were to be provided in a separate bill, SB 127, which was not taken up prior to adjournment. Although not enacted into law, SB 127 is worth a look because some variation of it will probably be taken up in the 2014 short session. The bill outlines the concept for the new nonprofit, which will perform a number of statewide economic development planning, marketing, and coordination functions. The bill also describes eight proposed “Collaboration for Prosperity Zones,” which are regional groupings of counties that are intended to supplant Commerce’s existing framework of seven economic development regions represented in the diagram at the top of this post.

Allocations of Community Development Block Grants

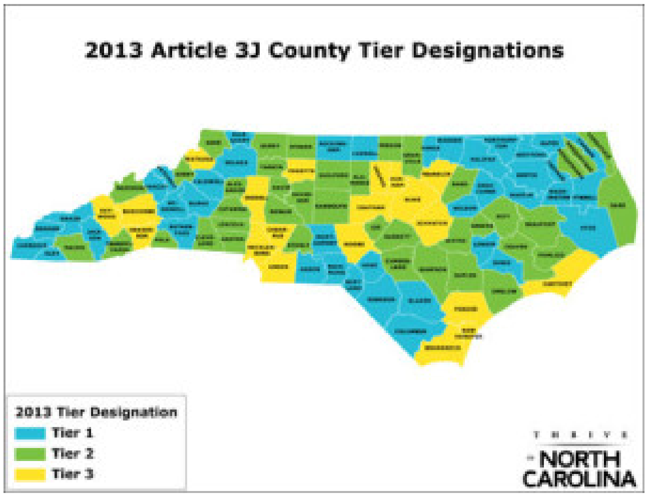
Community Development Block Grants (CDBG) are awarded by formula to each state through a program administered by the U.S. Department of Housing and Urban Development (HUD). The funds are to be used for the benefit of low- and moderate-income persons, for eliminating blight, and for meeting urgent community development needs. For North Carolina's share, a portion of the funds is allocated directly to North Carolina's most populous cities and counties, and the remainder is made available to the State for distribution. The amounts vary each year, but the expectation for the next several years is that the amount allocated to the State will be in the range of $42 – 43 million annually. The NC Department of Commerce, Division of Community Assistance, has traditionally administered the State's CDBG funds within categories established by the General Assembly in its budget.

This year marked a departure from recent practice, because the Appropriations Act diverted all CDBG funding from the categories of low-income housing, small business and entrepreneurship, and general community revitalization ("NC Catalyst") to the categories of Economic Development and Infrastructure. Furthermore, in a separate bill modifying the Appropriations Act (hereinafter the "Modifications Bill") the General Assembly transferred all of the CDBG funds designated for Infrastructure to the Department of Environment and Natural Resources (DENR), where those funds will be awarded by the State Water Infrastructure Authority and administered by DENR's Division of Water Infrastructure.

For more detail on how funds in the Economic Development category are used, see this presentation by Commerce officials for the Community Development Academy held at the UNC School of Government. The other category, Infrastructure, is further defined in the Modifications Bill as being "limited to critical public water and wastewater projects." The Modifications Bill also clarifies that Infrastructure funding is limited only by federal law and HUD regulations, not by state laws and rules. Presumably this divorces the Infrastructure category from the rules set forth in Title 4, Subchapter 19L of the North Carolina Administrative Code.

New Rural Economic Development Organization at NC Department of Commerce

Section 15.10 of the Appropriations Act established a new Rural Economic Development Division within the Department of Commerce to administer grants and loans to local government units, and the Modifications Bill clarifies that priority is to be given to units located in Tier 1 and Tier 2 counties. Tier designations for 2013 are displayed in the map below.



While the Rural Economic Development Division is tasked with administering grant and loan programs, it will not make award decisions. Rather, applications for grants and loans are reviewed by a separate "Rural Infrastructure Authority," which then awards the funds. The Rural Infrastructure Authority is a board comprised of the following political appointees: the Secretary of Commerce (nonvoting) and 15 other members appointed in equal shares by the Governor, the Speaker of the House, and the President Pro Tempore of the Senate. The appointed Rural Infrastructure Authority is also tasked with formulating policies and priorities for grant and loan programs administered by the Rural Economic Development Division.

The conference report on the budget devotes more than $11 million to this new division in fiscal year 2013-2014 and over $13 million in fiscal year 2014-2015. This can be compared with over $16 million eliminated from the budget in each of those periods for the Rural Economic Development Center (Rural Center). The Rural Center was cut out of the budget following a damaging report by the State Auditor.

The programs to be offered by the new division are codified at G.S. 143B-472.127 and are similar to some of the programs that have been offered by the Rural Center. The new division's programs will provide funds to local governments:

1. for construction of "critical water and wastewater facilities" (see this post by my colleague Jeff Hughes for more on how water finance is evolving in North Carolina);
2. to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail to sites where these facilities will generate private job-creating investment;
3. for "matching grants or loans" to a local government in an "economically distressed county" (one of the 65 most distressed counties) for productive reuse of vacant buildings or properties or to construct or expand rural health care facilities, with priority given to communities with populations under 5,000.

Local governments awarded funds must provide a 5% cash match from local sources which "may not be derived from other State or federal grant funds." This 5% match requirement is an independent requirement that applies to all recipients of funds through these programs. It is unclear whether this 5% match is sufficient to qualify for the "matching grants or loans" described in item 3 listed above. Grants (but not loans) are limited to no more than $12,500 per "projected" job created or saved. Preference is to be given to projects that "serve an economically distressed area" (undefined) and to projects involving a "resident company" that has paid taxes and maintains its "principal place of business" in North Carolina.

The Rural Infrastructure Authority, in addition to making awards for programs described above, also makes awards through a new "Industrial Development Fund Utility Account" (formerly the Industrial Development Fund under G.S. 143B-437.01) and for "economic development projects from community development block grant [CDBG] funds." Presumably, "economic development projects" include only those projects that are eligible for CDBG funds within the category of Economic Development, described previously in the section on CDBG allocations.

Economic Development Competitive Grant Program for Underserved and Limited Resource Communities

Section 15.10B of the Appropriations Act set aside over $2.5 million for the 2014-2015 fiscal year for an "Economic Development Competitive Grant Program for Underserved and Limited Resource Communities" administered by the NC Department of Commerce. Grants are to be awarded to local governments and nonprofit organizations to "encourage the development of economic development activities, services, and projects that benefit underserved populations and limited resource communities." Funds cannot be used for renting or purchasing real property or for financing debt. Priority is to be given to applicants that have "established community partnerships and business involvement," at least one other significant source of funding, and "prioritize independent fundraising to achieve financial sustainability apart from State-funded appropriations."

Statutory Framework for Regional Economic Development Commissions Repealed

The General Assembly followed through on its plans, openly discussed by leadership in the General Assembly and the Governor's administration, to dismantle the framework of regional economic development organizations that were created pursuant to Sections 8.1 - 8.8 and Article 4 of G.S. Chapter 158. Originally, the budget also repealed the statutory authority for locally-initiated city and county economic development commissions—authority that has existed since 1961 and has spawned local statutory commissions such as the commission established in Caswell County just weeks before the budget was approved. However, in the Modifications Bill, the General Assembly revised the repeal language so it affected only the larger regional entities, leaving locally-initiated statutory commissions intact.

One NC Fund and JDIG Economic Development Incentives Preserved

The General Assembly preserved two significant discretionary incentives for business recruitment administered by the State. The Appropriations Act set aside $9 million each fiscal year for the One North Carolina Fund and authorized up to $22.5 million in Job Development Investment Grants (JDIG) each fiscal year. No action was taken on the non-discretionary Article 3J tax credits for job creation and business investment, which will be allowed to expire for business activities "occurring on or after January 1, 2014." (G.S. 105-129.82)

Tax Deferral for Site Infrastructure Land

In order to encourage the preservation of potential industrial sites for future development and the installation of infrastructure improvements on those sites, Session Law 2013-130 establishes a property tax deferral for property designated as “site infrastructure land.” To qualify for this designation, property must consist of more than 100 contiguous acres of land, it must be zoned for industrial or office use, the land cannot have any primary buildings on it nor any building permits for such structures, and it must be formally designated as site infrastructure land. The property tax to be deferred is the amount attributable to the difference between the true value of the site infrastructure land and its value if it were classified under G.S. 105-277.3 as agricultural land. For more details on this tax deferral program, see this post by my colleague Chris McLaughlin.