



This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers [here](#) or use the "Reprints" tool that appears above any article. [Order a reprint of this article now.](#)

Orr says issuing bonds without public vote unconstitutional

By [Leigh Kelley](#)

Times-News Staff Writer

Published: Wednesday, June 23, 2010 at 4:30 a.m.

Local governments in North Carolina need to be more accountable to taxpayers, a retired judge said Tuesday.

Issuing bonds without approval from taxpayers and giving economic incentives to businesses hurts North Carolina's tax base and is unconstitutional, said Robert Orr, a retired judge with the N.C. Supreme Court and Hendersonville native. Yet it has been a practice of some governments across the state.



PATRICK SULLIVAN/TIMES-NEWS
Retired North Carolina Supreme Court Justice Robert Orr speaks at the Henderson County Republican Women's Club luncheon Tuesday at the Cedars.

Orr was the guest speaker at the Henderson County Republican Women's Club luncheon at the Cedars Tuesday.

As the executive director of the N.C. Institute for Constitutional Law, Orr challenges governments on state constitutional issues.

An increasing trend among municipalities throughout the state is to incur debt by issuing bonds without having a public vote, Orr said. This practice goes against Article Five of the North Carolina Constitution, which deals with state debt, he told the group.

"If a city or county wants to go into debt and issue bonds that they (taxpayers) will have to pay back, they have to make their case, put it on the ballot and the people must approve it," Orr said. "In 1991, there was a movement among some local governments to do away with asking the people to approve debt."

He referred to a case in which the court ruled that as long as the technical taxing power of government isn't being pledged to repay a loan, then the government does not need voter approval.

"As long as they don't use the magic words 'taxing power,' they (local governments) can do this," said Jeanette Doran, a senior staff attorney with the NCICL.

Orr cited the instance of Raleigh's mayor asking for \$480 million to build a Public Safety building and being "unwilling" to submit the financial request to the city's voters.

In the case of Raleigh's quest to build the 10-story, state-of-the-art building, the city



is not going to default on any loans once they get the money, Doran said.

"Public dollars will be used to repay those loans no matter how you slice it," she said. "It's very misleading."

In the past 10 years, there has been an "escalation of debt" among local governments across North Carolina, Orr said.

"About half of that has never been submitted to the public for a vote," he said.

Some municipal governments are "skirting" the state's constitutional requirement to get public approval to go into debt, he said, in spite of state treasurer Janet Cowell's warnings that North Carolina is risking its AAA rating.

"But they keep doing it, because they don't care," Orr said.

The retired justice also talked about the practice the state and many municipalities have of providing economic incentives to companies that agree to locate in North Carolina.

The situation of Dell Inc.'s decision to close its computer manufacturing plant in Forsyth County last fall, eliminating 905 jobs, is a case in point, he said.

State lawmakers approved a \$242 million package of tax breaks and other incentives in 2004 to lure the Texas-based computer maker to North Carolina, and Forsyth County and Winston-Salem kicked in another \$37 million in incentives.

The company has since relocated to Mexico, Orr said.

He also criticized the deal between Caldwell County and Google, in which the county gave the corporation the economic incentive of not having to pay any property taxes for several years in exchange for bringing the business and its 200 jobs to the area.

"So while the retired teacher has to pay taxes and the retired military veteran has to pay taxes, Google does not have to pay property taxes," Orr said.

"I will go to my grave saying it is unconstitutional. You are benefiting that company, and it's wrong. Most of these companies would be coming here anyway, so it's a farce."

Copyright © 2010 BlueRidgeNow.com — All rights reserved. Restricted use only.