

City Incentives in North Carolina: How Large Cities Are Using Taxpayer Dollars

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By Sarah Curry and Austin Pruitt

Executive Summary

Increasingly, city officials have been using municipal-level resources to participate in economic development activities. These efforts have replicated approaches utilized by state and federal officials, albeit on a smaller scale. This study surveys North Carolina's most populous cities and examines how each conducts economic development in its jurisdiction.

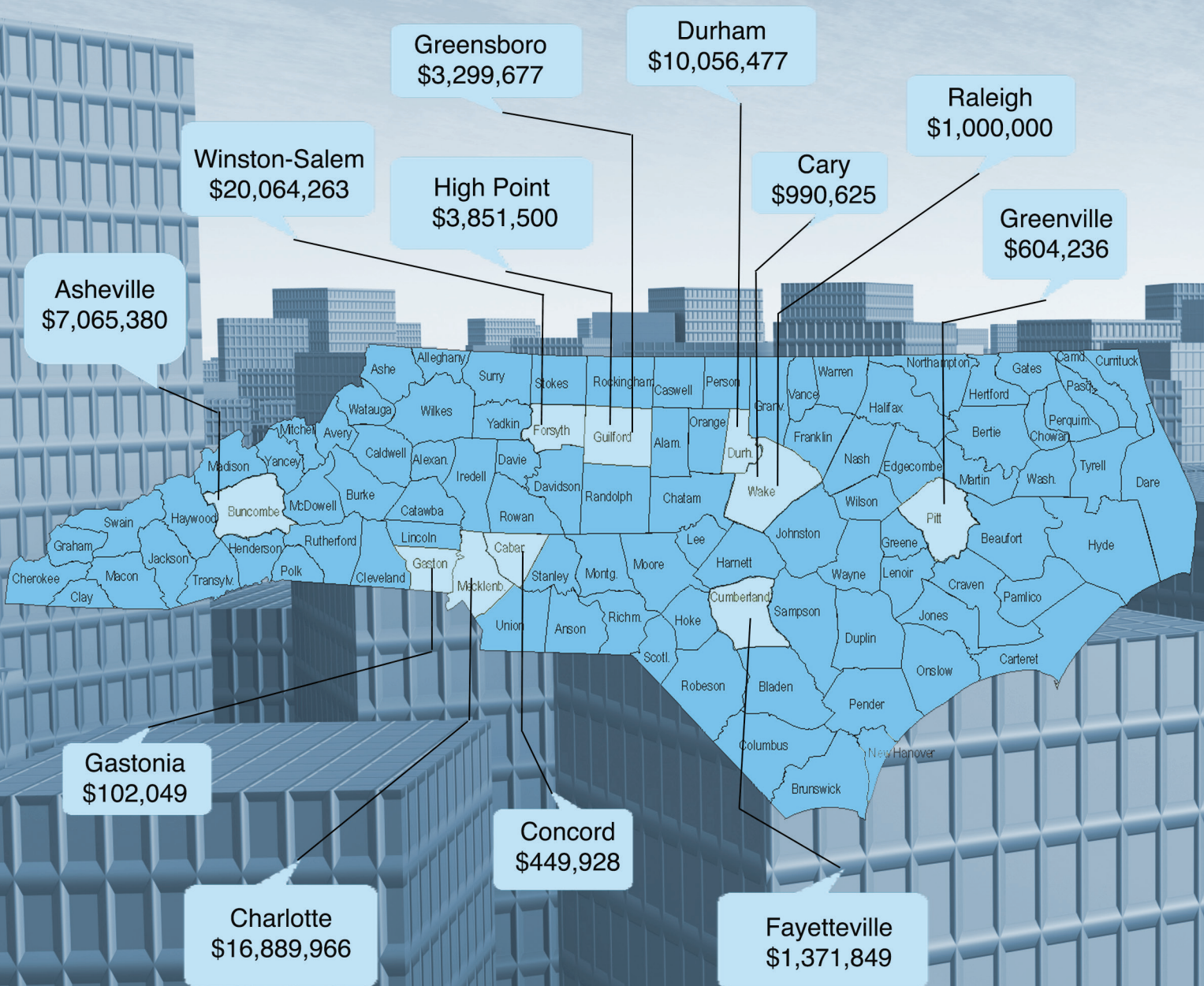
Currently there is no single data source that tracks the expenditure of tax revenue on economic development activities at the local level. To address this need, we collected and categorized economic development spending in cities with populations of 70,000 or more. Between FY 2009 and FY 2014, there were 13 such cities in North Carolina. All 13 cities participated in economic development activities. Collectively, they entered into 238 economic development contracts worth more than \$65 million over the five-year period. Actual payments, however, totaled \$20.2 million.

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Cities Approve Millions In The Name of Economic Development, With Little To No Transparency.



Legal Authority

North Carolina is home to 552 incorporated cities and towns, all of which derive their spending authority from the General Assembly. Cities in North Carolina are only legally required to provide a single service, building code enforcement, yet have been authorized by the state legislature to engage in economic development activities. Some of these include employing agents to meet, negotiate with, and assist businesses interested in locating or expanding in the community, distributing cash grants, developing strategic plans for economic development, and constructing public facilities.

Because municipalities are a creation of the state, they must be granted statutory authority by the state to engage in economic development. Actions required for a local government to offer incentive payments are broadly laid out in the North Carolina General Statutes. According to the UNC School of Government ,

When a North Carolina government turns funds over to a private entity for expenditure (through an incentive payment), the local government must give prior approval to how the funds will be expended by the private entity and “all such expenditures shall be accounted for” at the end of the fiscal year. Furthermore, the funds must be made subject to recapture in an incentive agreement. Additional procedural requirements are imposed when the expenditure involves the purchase or improvement of property, which is almost always the case for an economic development incentive that is contingent on making investments that increase the property tax base.

While state statutes lay out the process, the restrictions imposed by statute are not the final word. Economic development incentives are typically payments of public taxpayer funds to private entities, resulting in a mix of public and private benefits. Although the North Carolina general statutes give permission to counties to participate in economic development, local governments are not permitted to offer gifts of public property, legally referred to as “exclusive emoluments,” to private entities. The UNC School of Government gives a clear legal explanation of this problem,

Exclusive emoluments are permitted only “in consideration of public services.” That is, the public must get something in return – known as

“consideration” in contract law – for a payment to a private entity. A separate set of constitutional provisions requires that expenditures by local government and contractual payments to private entities must serve a public purpose. As long as a payment or expenditure serves a valid purpose, it satisfies not only the constitutional provisions regarding public purpose but the exclusive emoluments provision as well. The courts alone – not the legislature, not statutes – decide what is a valid public purpose under the constitution.

There are multiple forms of incentive activities, such as cash grant incentives that function as tax abatement. In this study, we found only one of the 13 cities, Raleigh, used this kind of incentive, which appears to be more popular at the county level. Each follows a similar pattern. The county or city offers to make annual cash grants over a number of years and the amount of the cash grant is tied to the amount of taxes paid by the company. For example, Raleigh determines the annual grant amount for Citrix by multiplying the project’s tax value each year by 2.25 percent and then divides by 12 (tax value x 2.25% ÷ 12). Many counties do the same, each using a different rate or formula determined by each local government.

For most states, tax abatement is an acceptable and widely used form of incentive, but the North Carolina Constitution does not permit it. According to Article V, Section 2 of the constitution, property tax exemptions and classifications may be made only by the General Assembly and only on a statewide basis. The UNC School of Government explains why similar forms of incentives, like those used in Raleigh, have not been deemed unconstitutional,

These (incentive) policies closely approach tax abatements but with two important differences: the company receiving the cash incentives has paid its property taxes, and the grant payment is contingent not solely on payment of property taxes but also on performance of some public benefit, such as job creation or construction of affordable housing. One note of caution: no court has directly addressed whether this sort of policy is an unconstitutional attempt to enact a tax abatement or whether it is simply a constitutionally permitted cash grant.

The issue of constitutionality was examined by the North Carolina Supreme Court in 1996, and as recently as 2010 by the North Carolina Court of Appeals. The legal discussions regarding local government incentives are far from over, and hopefully shedding light on where cities choose to participate in economic development activities will further that discussion.

Methodology

Economic development includes a variety of efforts made by cities to promote economic growth. In nearly all cases, the stated goal of economic development is to increase private investment and job creation, presumably broadening the local tax base. This study focuses on the distribution of cash grants and reimbursements by cities to private companies that have an interest in relocating operations or remaining in North Carolina. Currently, no government agency, trade organization, special interest group, or non-profit organization collects or publishes economic development data for North Carolina cities.

In order to gather the data, each city's manager and public information officer were sent public records requests asking for their county's economic development financial data for fiscal year 2009-10 through fiscal year 2013-14, that is, July 1, 2009 through June 30, 2014. Cities self reported the information to the John Locke Foundation. John Locke Foundation analysts conducted follow-up requests to obtain greater detail or clarification.

We requested that each city provide the following:

1. The amount approved for each agreement to be paid by the city to the named entity;
2. the stated justification for the incentive;
3. requirements to meet the incentive's objective (if applicable);
4. the duration of the agreement; and
5. outcomes associated with the terms of the incentive.

The data in this report reflects only agreements that committed the city to disburse its own earned tax revenue and those in which the city acted as a pass-through entity for funds from another source. Matching dollars required as a condition of a county, state, or federal grant have been included here. Many county and city governments work together in funding economic development. If a partnership was arranged for a

specific agreement, only the amount paid for by the city is reflected in this report.

Data were much more difficult to collect and interpret than was anticipated. Because there is no state reporting requirement, cities are free to maintain unique ways of documenting their economic incentive activities. Obviously, those differences make it extremely difficult to capture comparable data across jurisdictions. Some cities were able to summarize all requested information, while others sent in dozens of pages of original documents.

Findings

Between FY 2009 and FY 2014, there were 13 cities with populations of 70,000 or more in North Carolina. All of these cities participated in economic development activities. Collectively, they entered into 238 economic development contracts worth more than \$65 million over the five-year period. Actual payments, however, totaled \$20.2 million. The difference between contractual and actual payment amounts reflects the fact that many agreements are made in one year but are paid over multiple years. In addition, some payments are contingent on companies meeting particular terms or reaching performance goals and therefore may not be paid in full if those terms or goals are not met.

Of the thirteen cities included in this study, most lie within three large metropolitan areas linked by North Carolina's interstate corridors. The most populous metropolitan area includes Charlotte, Concord, and Gastonia. The communities in that area approved a total of \$17.4 million in incentives over five years. The next largest area was the Durham, Raleigh, and Cary metropolitan region, which approved \$12 million during the same period. The Triad, the least populated of the three major metropolitan areas, approved \$27.2 million in economic development contracts. This region also had the highest actual payments, \$6.6 million during the period under review.

The remaining cities fell outside of the three main metropolitan areas. Yet, cities like Wilmington and Asheville are anchors of economic activity for their respective regions. Asheville, in particular, had a considerable amount of economic incentive activity during the five-year span. Both Fayetteville and Greenville entered into economic incentive contracts

but did not exceed amounts offered by comparable cities.

There were few unexpected trends or extraordinary activities among cities analyzed during the five-year span. Economic incentives at the municipal level tend to be focused within the state's largest population centers and Asheville. Overall, Winston-Salem and Asheville approved economic development funding of over \$80 per resident, the highest per capita appropriation in the state. Durham and High Point approved a comparatively modest \$39.39 (Durham) & \$35.46 (High Point) per resident. When evaluating how much taxpayer money was actually paid to the private, public, or non-profit recipient, Concord led the pack by paying nearly \$29 per resident. The next highest payout figures were Winston-Salem at \$20.45, Fayetteville at \$15.31, and Asheville at \$11.65 per capita.

Outliers

There were a few notable outliers. Concord, Fayetteville, and Wilmington were the only cities to pay significantly more than was approved between FY 2009 and FY 2014.

- Concord paid \$28.86 per capita but only approved \$5.26 per resident. This large difference was due to payments totaling \$1.5 million to Great Wolf Lodge.
- Fayetteville paid out \$3.1 million but approved less than half that amount. Half of the payments recorded were from agreements that had multiple-year payouts and were approved before FY 2009.
- Wilmington was the only city that did not approve any incentives during the five-year period. Only two payments were made for agreements entered into prior to the evaluated time period, one to Cellco and the other to Wilmington Industrial Development.

High Point and Winston-Salem each approved one exceptionally large agreement that skewed their totals and exaggerated their economic development activity.

- High Point approved \$3.85 million with \$2.4 million earmarked for the Ralph Lauren Corporation.
- Winston-Salem entered into \$20 million worth of agreements. More than \$13 million of that total was approved for Caterpillar, Inc. alone.

The cities included in this study approved as few as two contracts and as many as 80. On average the 13 cities approved 18 agreements during the five-year period. There was no correlation between the number of contracts and the amount of money approved or paid by the cities. Overall, Caterpillar, Inc. in Winston-Salem was the recipient of the largest economic development contract, followed by 21st Century in Durham and Siemens in Charlotte. The highest amounts actually paid were \$3.8 million to Caterpillar, \$1.5 million to Great Wolf Lodge, and \$1.25 million to Broadwell Brothers in the Fayetteville military business park.

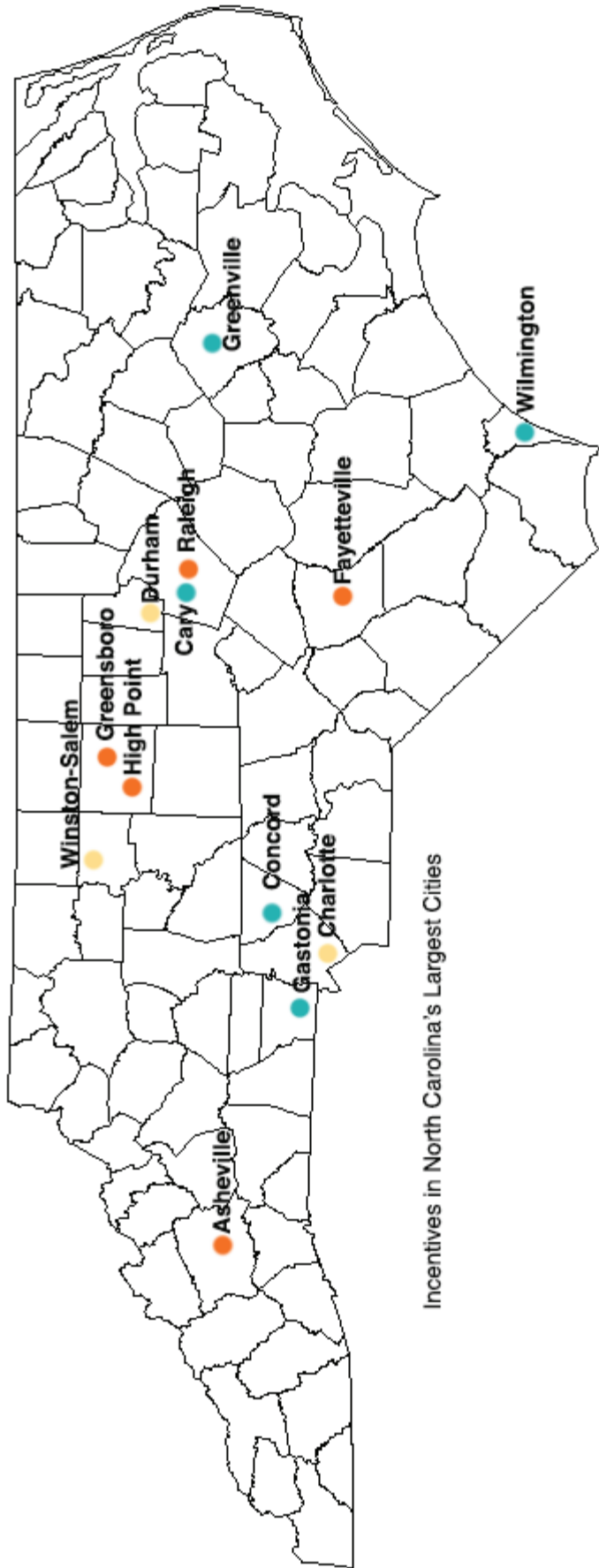
Recommendations

The North Carolina General Assembly should mandate that municipalities meet a standardized reporting requirement for all economic development activities.

In addition, legislators should require that all economic incentive data be collected by the Local Government Commission and published in a way that gives taxpayers access to aggregate and city-specific economic development expenditures and readable documents. Elected officials should then use this information to evaluate whether the costs of incentives outweigh the benefits. We suspect that, in most cases, there are much better uses of tax revenue and much more efficient ways to spur economic growth, such as lower tax rates and reduced regulation.

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Incentives in North Carolina's Largest Cities

City	County	Population and Revenue			Agreements			Paid	
		Population	Local Revenues	Local Revenues Per Capita	Total Number of Contracts	Approved	Per Capita	Paid	Per Capita
Wilmington	New Hanover	113,657	\$114,080,879	\$1,003.73	2	\$-	\$-	\$475,000	\$4.18
Gastonia	Gaston	73,698	\$50,727,744	\$688.32	22	\$102,049	\$1.38	\$117,759	\$1.60
Concord	Cabarrus	85,560	\$70,692,184	\$826.23	26	\$449,928	\$5.26	\$2,469,077	\$28.86
Greenville	Pitt	89,852	\$60,376,595	\$671.96	25	\$604,236	\$6.72	\$604,236	\$6.72
Cary	Wake	155,227	\$154,462,768	\$995.08	6	\$990,625	\$6.38	\$242,139	\$1.56
Raleigh	Wake	439,896	\$413,975,607	\$941.08	2	\$1,000,000	\$2.27	\$3,000,000	\$6.68
High Point	Guilford	108,629	\$115,969,066	\$1,067.57	8	\$3,851,500	\$35.46	\$1,107,333	\$10.19
Fayetteville	Cumberland	203,948	\$124,550,372	\$610.70	10	\$1,371,849	\$6.73	\$3,123,037	\$15.31
Greensboro	Guilford	282,586	\$268,493,118	\$950.13	15	\$3,299,677	\$11.68	\$610,925	\$2.16
Asheville	Buncombe	87,882	\$97,266,571	\$1,106.79	8	\$7,065,380	\$80.40	\$1,023,800	\$11.65
Durham	Durham	251,893	\$239,996,649	\$952.77	80	\$10,056,477	\$39.92	\$2,201,275	\$8.74
Charlotte	Mecklenburg	809,958	\$867,214,000	\$1,070.69	26	\$16,889,966	\$20.85	\$3,063,712	\$3.78
Winston-Salem	Forsyth	239,269	\$204,146,037	\$853.21	8	\$20,064,263	\$83.86	\$4,892,218	\$20.45