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South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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STATE DOCUMENTS

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Legislative Update

Special Order

The two following pieces of legislation have been set for special order on the House Calendar.

Regional Transportation Authorities (S.246). This bill would govern the creation and operation of regional transportation authorities (RTAs).

In order for an RTA to be created a plan would first have to be drafted showing the proposed service area (population of at least 50,000); the service method; capital and operating costs for the first five years and how any local money will be raised; and where money for the first year capital costs and operations will come from.

The general governments in the transportation area would have to agree to create an RTA and to approve the plan. Finally, the plan would have to be submitted to a public vote. The proposed local financing method would have to be voted on during this election.

The Governing Board of an RTA would be appointed by the governing bodies of the counties and municipalities in the service area. Each government would be guaranteed at least one member on the Board; other seats would be determined by population. Up to three members could be appointed by the Legislative Delegations from the counties involved. Terms would be for three years, and would be staggered so one-third of the Board was changed every three years.

Two funding methods are possible. A vehicle registration fee could be imposed on motor vehicles by counties and municipalities; the amount of this fee would have to be spelled out in the plan proposed to create the RTA. The second method is a public transportation tax millage which could be levied by the cities and counties and rebated to the RTA. Once again this would have to be explicitly outlined in the original proposal, and voted on by the public.

Capital Improvement Bonds (H.2809). This measure would authorize issuing some \$200 million in capital improvement bonds for various state agencies.

As introduced, the bill proposed issuing bonds to fund programs for such agencies at SLED (\$10 million); the Budget and Control Board (\$10 million); Lander College (\$10 million); the University of South Carolina (\$27 million); Technical Education (\$13 million); Corrections (\$67 million); Clemson (\$6 million) and Parks, Recreation, and Tourism (\$6 million).

S.C. Low in Federal Tax Burden?

Are the tax burdens in South Carolina low or high, compared to other states? The answer often depends on who you ask. A recent report from the Washington-based Tax Foundation, however, says South Carolina is among the five lowest states in per-capita federal tax burden.

As reported in the latest issue of *State Policy Reports*, here are the estimated per-capita federal tax burdens for the five highest and five lowest states in FY 1985:

HIGHEST		LOWEST	
Alaska	\$4,556	Mississippi	\$1,959
Connecticut	4,218	Utah	2,151
New Jersey	4,008	Arkansas	2,165
Massachusetts	3,519	South Carolina	2,207
Maryland	3,461	Idaho	2,250

Legislative Update tried, but was unable to contact the Tax Foundation before this issue went to press. However, more information about this particular story will be available in future issues.

Crime and Punishment, 1985

Background

Crime, especially violent crime, has become a major concern in South Carolina. A number of pieces of legislation have been introduced this session to grapple with the problem. One of the more sweeping--and controversial--is the "Omnibus Crime Bill," designed to relieve prison overcrowding by increasing use of local facilities and community corrections. A second bill, stiffening the penalties for burglary and housebreaking, is also on the agenda. The following *Research Report* examines these two measures.

Offenders at the Local Level: Where Do We Put Them?

The basic purpose of the Omnibus Criminal Justice Improvement Act of 1985--the Omnibus Crime Bill--as stated in the bill itself, is to put increased emphasis on victim restitution, public service work and community penalty programs by offenders. Over a five-year period, inmates serving less than one year would be transferred from state to local facilities.

The communities penalties program would put short-term, non-violent offenders in local programs. Local agencies would prepare plans for dealing with these prisoners, including supervision and type of punishment; these plans would be sent to the Department of Parole and Community Corrections which would distribute funds allocated by the General Assembly. According to the Governor's Office the estimated cost for FY 85-86 would be \$209,500.

Expanding local correctional facilities would require additional funding. The money for these expansions would come from bond issues recommended by the Budget and Control Board and approved by the Joint Bond Review Committee.

The amount required would be determined by state-wide needs assessments showing the present and estimated future number of prisoners in each county. The needs assessment would determine the costs, but a minimum of \$15 per inmate per day would be guaranteed to the counties. These would be inmates under local jurisdiction; for SC Department of Corrections inmates counties house, they would receive at least \$5 per day per inmate.

Where would the money come from? The Governor's Office maintains that new court fees will finance a \$14 million bond issue. The fees: \$7.75 on all convictions in magistrate and municipal courts; \$10 per month fee on General Sessions convictions on probation or 20% of fine imposed.

Offenders at the Local Level: When Do They Go There?

The bill proposes a gradual change in where inmates spend their time. Currently, the SC Department of Corrections takes inmates with sentences 90 days or more. The bill would change this to six months or more by January 1, 1989; and one year or more by January 1, 1990. After January 1, 1988, all magistrate, municipal and family court offenders will serve time locally, regardless of length of sentence.

Handicapped and chronically ill prisoners will be the concern of the Department of Corrections. The extra expenses involved in the care of such inmates has been a potential problem for local governments. In addition, if funds for inmates are not allocated, the localities do not have to accept custody.

How Much Will This Cost?

Cost--no man can tell. But the Governor's Office has estimated that the program will run \$2.2 million first year and increase each year thereafter until reaching \$8.1 million the seventh year.

Work, Supervision, Parole, Restitution

First, those not eligible: The bill offers a number of alternative punishment programs, but persons guilty of the following offenses are not eligible to participate: murder, kidnapping, voluntary manslaughter, assault and battery with intent to kill, criminal sexual conduct, armed robbery, arson, or serious trafficking in drugs.

Work/Punishment on the local level: Local communities would be permitted to establish voluntary work programs for inmates. Of their earnings at least \$5 must go to help pay costs of food, lodging and so forth. Other parts of the money can be sent to child or family support, or victim restitution, with the rest going into the inmate's account.

Persons who are placed on probation now pay a flat rate of \$120 a year. Under the bill, persons placed on "intensive probation" at the local level would pay \$10 per week while on the program.

Parolees can be ordered by the courts to pay restitution to their victims; garnishment of wages and liens on property can be used to enforce this provision. Five percent of all wages will go into a special account to supplement federal funds for victim assistance programs.

Parolees can perform public service work as an alternative to other forms of punishment. Criminal offenders can be required to perform such work. In addition, Section 19 allows counties to require inmate labor on the county public works projects.

"Good time" can be earned in some cases on the basis of one day's credit for two days served. "Work time" can be earned on a similar basis, and can include academic and vocational programs. Once again, serious offenders (see above) are not eligible.

Murder

Murder is divided into first and second degrees. First degree murder that includes a number of aggravating circumstances is punishable by either death, or life without parole. The circumstances include: murder committed during crimes such as rape, attempted rape, kidnapping, burglary, armed robbery, housebreaking; prior convictions for first degree murder; murder for hire; murder of law officers.

Second degree murder carries a punishment of prison for at least twenty years.

Crimes Committed with Firearms

If a person is convicted of certain crimes while in possession of a firearm, a five year sentence must be added to any other sentence. Under the Senate version of the bill, this five year term could not be reduced for any reason; amendments in the House Judiciary Committee proposed allowing reduction for "good time" credits. The crimes are: kidnapping or attempted kidnapping, armed robbery, voluntary manslaughter, assault and battery with intent to kill, criminal sexual conduct, first or second degree.

Toughen Parole Requirements and Procedures

Those convicted of first degree murder would be ineligible for parole, work release, extended work release, or earned work credits. Persons convicted of multiple violent crimes are also ineligible for parole; crimes are murder, criminal sexual assault, armed robbery, kidnapping, first degree arson, voluntary manslaughter, and first/second degree burglary.

Parole for persons convicted of major crimes must be approved by two-thirds of the Parole Board; in addition, if the Board said no, it would be two years (not one year) before the case came up for review again.

Tougher Penalties for Burglary

Bill S.258 proposes changes in the definitions of burglary and housebreaking, and would increase the punishments for those crimes. The bill received considerable debate in the Senate, where those who wanted stiff sentences clashed with others who were concerned about prison overcrowding. Finally, a compromise was struck, allowing the bill to come over to the House Judiciary Committee where it was further amended.

Current Crimes Involving Breaking and Entering

Under current South Carolina law, burglary is breaking and entering a dwelling at night with the intent to commit a crime. The maximum sentence is life; the minimum is five years. Parole is possible after serving one-fourth of a sentence.

Housebreaking consists of breaking into a home during daytime, intending to commit a crime, and carries a maximum penalty of ten years. Simple breaking and entering means entering or attempting to enter a building other than a dwelling to commit a crime. The maximum penalty is five years. Once again, parole is possible after serving one-fourth of the sentence.

Burglary by Degrees

First degree burglary would be entering a dwelling, without consent, to commit a crime, with any of the following aggravating circumstances being present: 1) participant or partner armed with a deadly weapon or explosive; 2) causing physical injury to resident; 3) using or threatening to use a dangerous instrument; 4) displaying "what is or appears to be" a knife or firearm; 5) prior record of two or more convictions or burglary and/or housebreaking; 6) occurrence of the offense at night. The punishment: maximum of life imprisonment, minimum of 15 years. There could be no parole before one-third of the sentence was served.

Second degree burglary would be entering a dwelling, without consent, to commit a crime; entering a building other than a dwelling, with the six aggravating circumstances listed above. Maximum sentence: 15 years. Once again, no parole before one-third of the sentence is served.

Third degree burglary is entering a non-dwelling building, without permission, to commit a crime. Maximum sentence: five years for first offense; ten years for offenses after that.