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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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CONTENTS

STATE DOCUMENTS

Post Session Report:

Significant Legislation Passed.....	2
Bills That Didn't Make It.....	23
Budget Highlights.....	24

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Significant Ratified Legislation

For the past two weeks, the Legislative Update has printed a running tally of significant ratified legislation. The following is a final tally on these new acts and laws. New bills added to the list include legislation passed in the final days of the session, such as Beachfront Management and Higher Education's "Cutting Edge," among others.

A final index to the Legislative Update for the 1988 session will be distributed to House members when they return to Columbia June 20 for the final wrap-up days of the session prior to sine die adjournment June 23.

A reminder: Later in the summer, the House Research Office will publish the 1988 Post Session report, which will have a more extensive list of bills passed.

Environmental

Beachfront Management

H.3713, signed into law 6/7/88.

This new law states that a 40-year retreat policy must be implemented along the South Carolina coast to restore the beach/dune system to its natural dynamic equilibrium. Critical provisions in the act deal with what may and may not be built or rebuilt along the beach. Here is an outline of those provisions, starting first with the establishment of the important baseline and setback line.

Establishment of the baseline and setback line:

- The baseline will be located at the crest of the ideal primary oceanfront dune or where the dune would have been had the shoreline not been altered. This line would be determined by professional geologists.
- The setback line will be located landward of the baseline at a distance of 40 times the annual erosion rate. All setback lines must be established no less than 20 feet landward of the baseline, even where the shoreline is stable.

- An interim baseline and setback line must be established by July 1, 1988. Both lines must be reestablished by July 2, 1990. After July 1, 1990, both lines will be reset within 10 years, with revisions made every 5 to 10 years after that.
- Nothing in the act allows for the seaward movement of the setback line after July 1, 1990. However, the act notes that renourishment may slow down or prevent the landward movement of the setback line.

Damaged existing habitable structures, seaward of the setback line, may be repaired if:

- The total square footage of the repaired structure does not exceed the total square footage of the original structure.
- The repaired structure's linear footage facing the coast does not exceed the linear footage facing the coast of the original structure.
- The repaired structure is not any farther seaward than the original structure.
- All repairs are permitted by local zoning and building authorities.

Existing habitable structure, seaward of the setback line, destroyed beyond repair, may be replaced if:

- The total square footage of the repaired structure does not exceed the total square footage of the original structure.
- The repaired structure's linear footage facing the coast does not exceed the linear footage facing the coast of the original structure.
- The repaired structure cannot be any farther seaward than the original structure.
- All repairs are permitted by local zoning and building authorities.
- Where possible the replaced structure must be moved behind the setback line. If this is not possible, then it must be moved as far landward as possible.
- Any erosion control device protecting the replaced structure must conform to the specifications of this section of the law. (See below.)

The owner must renourish the beach in front of the property with at least one and a half times the yearly volume of sand lost due to erosion. This would not apply if the property is undergoing federal, state or local renourishment.

In addition, if a structure is rebuilt:

- No rebuilding may be done in the 20 foot area landward of the baseline. This is the so-called "dead zone."
- No recreational amenity can be replaced seaward of the setback line.
- Rebuilding is allowed only if the original structure is destroyed beyond repair. If the owner decides not to repair the structure, he must remove it.
- Nothing in this section is intended to prevent normal maintenance.
- If a landowner is affected by the "dead zone" rebuilding prohibition, he may petition the circuit court to determine whether the "dead zone" prohibition prevents practical use of his land and is an unreasonable exercise of the police powers of the state. The burden of proof is on the state to prove that the prohibition is not an unreasonable exercise of police powers. If the state is unable to prove that there was not a "taking," then the state may either issue the construction permit or provide reasonable compensation.

If an erosion control device, seaward of the setback line, is damaged less than 50 percent, it maybe repaired if:

- Permitted by the local zoning and building authority.

If an erosion control device, seaward of the setback line, is damaged more than 50 percent, it may be replaced if:

- The device protects a habitable structure.
- The replacement device is not vertical.
- The replacement device is located as far landward as possible.
- If the erosion control device protects undeveloped land, it may be replaced at its original location in order to provide a continuous structure as existed before.
- If the erosion control device is replaced, the owner will be required to renourish the beach in front of the property on a yearly basis with an amount and type of sand approved by the Coastal Council. This amount may not be less than one and a half times the yearly volume of sand lost due to erosion. This would not apply if the property is undergoing federal, state or local renourishment.
- If the owner fails to comply with these requirements, the erosion control device must be removed immediately.

The law further states:

- Effective 30 years after enactment of the law, all vertical seawalls must be replaced with a device that conforms with requirements set by the Coastal Council unless a registered engineer certifies that removal of the existing vertical device would result in the immediate collapse or damage to an habitable structure.

Legislative Update, June 9, 1988

- If the owner decides not to repair or rebuild the device, he must remove it.
- Any device protecting an existing highway is exempt from these requirements.
- A provision in the act relating to Folly Beach would allow the local government there to exempt itself from the vertical seawall requirements; however, the town would not be eligible for any state beach renourishment funds if it chose to exempt itself. The town must notify the state of its decision by July 1, 1988.

New habitable structure, built along the coast, require that:

- No habitable structure bigger than 5,000 may be built seaward of the setback line. The owner must certify to the Coastal Council that the new habitable structure will be no larger than 5,000 square feet, inclusive of porches, decks, patios and garages, and will be located as far landward on the lot as practicable.
- No new construction of any kind is allowed seaward of the baseline.
- No new structure of any kind may be built in the area from the baseline to 20 feet landward. This is the so-called "dead zone."
- No new recreational amenities may be constructed seaward of the setback line.
- No new erosion control device may be built seaward of the setback line except those protecting existing highways.
- No erosion control device may be incorporated as an integral part of any new habitable structure.

Property already legally commenced seaward of the setback line may continue if evidenced by:

- All building permits, planned development, planned unit development or master plan approved by a local government by March 1, 1988, or
- If utilities and infrastructure has been installed by March 1, 1988.

Education

Higher Education's "Cutting Edge"

H.3983, signed into law 6/7/88.

The Commission on Higher Education's "Cutting Edge" law is a 27-point plan designed to promote research and academic excellence within the state's higher education institutions. This comprehensive bill addresses a wide spectrum of issues, including preparation, admission and retention of students; improvement of instruction and research and the strengthening of planning and quality assessment.

Here are some of the key provisions:

- Creation of a Research Investment Fund to establish or expand upon existing research programs at the state's public higher education institutions, especially those relating to economic development. The fund would be appropriated to and allocated by the CHE. With the exception of USC, Clemson and MUSC, the colleges seeking research money from the fund would have to submit proposals to the CHE for approval. None of the money could be used for capital projects.
- Creation of the Palmetto Fellows Scholarship Program for undergraduate students, awarded on the basis of scholarship and achievement. One of the aims of the program is to help retain in-state some of the South Carolina's brightest graduating high school seniors.
- Creation of the Governor's Professor of the Year program. The award, which would include a citation and a \$5,000 prize, would recognize a faculty member from a public or private college or university who has demonstrated exceptional teaching performance.
- Establishment of a competitive grants program for all public and private colleges and universities in the state. The program would be administered by the CHE with the aim of improving undergraduate instruction.
- Creation of a program of endowed professorships at the state's senior public colleges. The purpose is to enable the senior institutions to attract or retain productive faculty scholars.
- Creation of a salary enhancement program for outstanding faculty at the TEC colleges and USC's two-year campuses. As in the endowed professorships, the purpose of this program is to retain and reward outstanding faculty.

- Conversion of the TEC system from the quarter system to the semester system in order to help student transfer from other institutions and better coordinate the higher education system.
- Changes the make-up and authority of the commission. The CHE still would be composed of 18 members; however, two members will be appointed by the governor from each congressional district on the recommendation of a majority of the legislative delegation, and six members appointed at large by the governor with the advice and consent of the Senate. Members will serve four year terms, but no one could serve more than two four-year terms. No new program at any public institution may be undertaken without CHE approval. The commission also has the authority to terminate an existing program. Both the Senate Education and House Education and Public Works committees would have to vote against termination to overturn the recommendation of the CHE, if appealed by the trustees.
- The trustee boards will adopt admissions policies reflecting the desired in-state and out-of-state enrollment appropriate to each institution for submission to the CHE by July 1, 1989. In addition, the CHE, in consultation with the public colleges and universities, will conduct a study of in-state and out-of-state enrollments and tuitions in South Carolina and neighboring states. The report to the General Assembly is due January 1, 1989.
- \$5 million was included in the budget to fund the "Cutting Edge" initiatives.

Comprehensive Health Education

S.546, signed into law 4/18/88.

Here are highlights of this important education bill:

Instruction for Grades K-5:

Beginning with the 1988-89 school year, comprehensive health education must be taught in kindergarten through the 5th grade. Comprehensive health education include course work to promote wellness, health maintenance and disease prevention.

The law specifies that sexually transmitted diseases must be excluded from instruction on the prevention and control of disease in these grades. The bill does give the local school boards the authority to include age-appropriate reproductive health instruction. However, the law specifies that contraceptive methods may not be taught before the 6th grade.

Instruction for Grades 6-8.

Beginning next fall, students in grades 6-8 would receive instruction in comprehensive health education and reproductive health education. Reproductive health education includes instruction in human physiology, conception, prenatal care and development, child birth and postnatal care.

The law specifies that in addition to reproductive health education, information on sexually transmitted diseases are to be included as part of instruction on the prevention and control of disease and disorders.

Local school boards are given the discretion to decide whether instruction in family life education and/or pregnancy prevention would be included for these grades. If the school board approved instruction in pregnancy prevention for these grades, the instruction must be taught to separate classes of male and female students.

Instruction for High School Level Students

Beginning with the 1989-90 school year, students in grades 9-12 would receive at least 750 minutes of instruction in comprehensive health, including reproductive health education and pregnancy prevention. Pregnancy prevention instruction includes the methods of contraception and the risks and benefits associated with each method. The law states specifically that abortion cannot be included as a contraceptive method, and that contraception must be taught in the context of future family planning.

Instruction in pregnancy prevention must be taught to separate classes of male and female students.

Specific Areas of Instruction

- Contraception:
- Contraceptive information must be given in the context of future family planning.
 - No instruction in the methods of contraception may be made in grades K-5.
 - No contraceptive device or contraceptive medication may be distributed in or on the school grounds of any public elementary or secondary school.
 - No school district may contract with any contraceptive provider for distribution of contraceptives in or on school grounds.
 - Instruction in pregnancy prevention must be presented separately to male and female students.

Abortion:

- The bill specifically states that abortion may not be included as a method of birth control.
- School districts may not offer programs, instruction or activities including abortion counseling, information about abortion services, or assist in obtaining an abortion. The bill also prohibits material containing this information from being distributed in the schools. The exception is instruction relating to complications which may develop from all types of abortions.
- In grades 9-12, instruction must be given that adoption is a positive alternative to a crisis or unwanted pregnancy.

Homosexuality:

- Any discussion of homosexuality may only be made in the context of instruction dealing with sexually transmitted diseases. This stipulation also applies to any other sexual lifestyle alternative to heterosexual relationships.

Sexually Transmitted Diseases:

- Any course or instruction in sexually transmitted diseases must be taught within the reproductive health, family life or pregnancy prevention instruction, or it must be presented as a separate component.
- In grades K-5, sexually transmitted disease must be excluded from instruction in the prevention and control of disease and disorders.
- In grades 6-8, sexually transmitted diseases are to be included in instruction.

Local School Districts

Local school districts may use the materials developed by the department, or they may develop their own materials. Local school boards can appoint a 13-member local advisory committee to assist in the selection of curriculum and materials.

Parental Notification

Under the bill, all public school principals are required to notify parents of the content of the instructional materials used in teaching reproductive health, family life, pregnancy prevention and sexually transmitted diseases and that the parents have the option to exempt their child from this instruction. The notice must be given far enough in advance to allow the parents or guardians to preview the materials before the child is enrolled in the class.

A student may be exempted from any portion, or all, of the instruction if the school principal receives a signed statement from the student's parent or guardian stating that the program conflicts with the family's beliefs. Students may not be penalized or embarrassed as a result of their exemption.

Home Instruction

S.457, signed into law 6/1/88.

This law, effective July 1, 1988, spells out the standards that must be met if a parent or guardian wishes to instruct a child at home. Standards required under the new law include:

- Home instruction must be approved by the district school board in which the child resides.
- The parent or guardian instructing must have a high school diploma, a GED certificate, or hold a baccalaureate degree. Beginning in the 1989-90 school year, he or she must also earn a passing score on a basic skills exam developed by the State Department of Education for home schooling parents.
- The instructional days must be 4.5 hours and the instructional year 180 days. The curriculum must include the subject areas outlined in the law.
- The parent must maintain a record of instruction, a portfolio of the student's work, and a record of academic evaluation.
- Students must have access to library facilities.
- Students must also participate in the annual statewide testing program and the Basic Skills Assessment Program.
- If the parent is not meeting the standards outlined in this law, the school board will give the parent 30 days to correct the deficiency. If corrections are not made, the school board may withdraw its approval of home instruction for the child.
- Within the first 15 days of the school year, first graders receiving home instruction must undergo the state's first grade "readiness testing." If the child is found "not ready" due to testing results or emotional immaturity, the school district must advise the parent whether a first grade or kindergarten curriculum should be used for home instruction.
- If a student scores below the test requirements for promotion, the school board will decide whether the child should be placed in public school, special services as a handicapped student, or continue home instruction with a support system at the parent's expense.
- A parent denied permission to instruct at home or continue home instruction may appeal to the State Board of Education. Appeal of a decision by the State Board must be taken to the Family Court.

Separate College Boards

H.3771, signed into law 5/5/88.

Under this new law, three state institutions -- the College of Charleston, Lander College and Francis Marion College -- will have separate boards of trustees instead of all falling under the governance of the State College Board of Trustees. Each of these separate trustee boards three ex-officio members made up of the governor, the House Education and Public Works Committee chairman and the Senate Education Committee chairman, or their designees. In addition to the three ex-officio members, the board would have 16 trustees -- 15 elected by the General Assembly, one appointed at large by the governor. Of the legislatively elected trustees, two would be elected from each of the state's congressional districts and three at large. Elections were held June 1.

Scholastic Requirements for Interscholastic Activities

S.1191, signed into law 5/9/88.

This law makes changes in the scholastic requirements for participation in interscholastic activities for high school students under the Education Improvement Act. Under this act, students in grades 9 through 12 must achieve an overall passing average and either pass at least four academic courses, including any graduation requirement, or pass a total of five academic courses. The student must achieve these academic requirements in the semester prior to the academic year of participation, if the activity extends over two semesters. The law also gives local school boards the authority to require stricter standards than these for participation in interscholastic activities.

First Grade Entry

H.3428, signed into law 3/21/88.

This new law allows children to enter the first grade if they are 6 one or before Nov. 1, if they have substantially initiated first grade in another state with a different age requirement, or if they have attended a public school kindergarten program for one full school year.

Economic Development

Corporate Headquarters Tax Abatement

S.1240, enrolled for ratification 6/2/88.

New corporate headquarters, distribution centers and their expansions, worth \$50,000 or more and creating at least 75 new jobs, would qualify for a five year county property tax abatement under this new act. In addition, corporations establishing or expanding their headquarters, adding at least 75 new jobs, may qualify for a corporate income tax credit amounting to 20 percent of certain development or construction costs.

Palmetto Seed Capital Corporation

H.3701, signed into law 6/7/88.

This law establishes the "Palmetto Seed Capital Corporation" and the "Palmetto Seed Capital Limited Partnership." The purpose of both is to increase the rate of capital formation, stimulate new growth-oriented business formation, create new jobs, develop new technology, and supplement conventional business finance. The fund will raise money to be used to provide financing to South Carolina businesses. Seventy percent of the fund must be used as for seed capital for start-up or pre-start-up business; the other 30 percent may be used as the board of the fund determines. The law also authorizes the board of directors to sell stock to raise capital.

South Carolina Business Corporation Act

S.415, signed into law 4/22/88.

The 901-page Business Corporation Act of 1988 will substantially revise state laws regarding business and professional corporations. The act incorporates provisions of the 1984 Model Business Corporation Act, with amendments, into state laws. Because the state's Business Corporation Act, last amended in 1981, includes much of the original Model Business Corporation Act, the additional changes made this session do not make major changes in substantive law. Rather it will modernize, clarify and simplify South Carolina law in this area.

According to the report of the Corporation Code Revision Study Committee, the revisions enacted into law this session will give South Carolina "a statute that will place its corporate law in the mainstream of American corporate law." This will benefit new and existing industry here, create an attractive legal climate to attract new business and simplify the task of corporate and legal advisors.

Payment in Lieu of Taxes

H.3706, signed into law 5/2/88.

This law will allow industrial development projects, valued at \$85 million or more which are financed by industrial revenue bonds, to make payments in lieu of taxes. The effect of the new law was seen immediately when Union Camp announced it was considering a major expansion of its Eastover facility in light of the new law.

Under the law, businesses would be allowed to pay a predetermined annual payment for not more than 20 years for an amount not less than the property taxes due but using an assessment ratio of not less than 6 percent. The millage would be set at the rate at the time of the agreement, and the fair market value estimate using the original cost of the property less allowable depreciation. An alternate payment for 20 years may be used as long as it does not yield a fee any less than that calculated by the method above.

This law prohibits the gross school district revenues from being reduced by the payment in lieu of fees. The law states that as the result of the negotiations the gross revenues of a school district in which the project is located may not be less than the gross revenues of the district received prior to the first year the payment is made.

In order to change any of the formulas in this law, a "super vote" of the General Assembly would be necessary.

Corporate Tax Credit for Infrastructure Improvements

H.3405, signed into law 5/2/88.

Under this new law, businesses could claim a state corporate income tax credit for half the expense of infrastructure improvements that benefit the public. Infrastructure here means any water lines, sewer lines or roads dedicated to public use. Taxpayers who do the same could also claim the tax credit.

Uniform Commercial Code Revision

S.236, signed into law 5/9/88.

This new act amends Article 9 of the state's Uniform Commercial Code. This article of the UCC is designed to secure financing so that a creditor has rights in goods if a buyer misses a payment. Goods referred to here include consumer goods (autos, furniture, etc.), equipment and all other types of property except real property.

The new act primarily is based on the 1972 official amendments to the UCC, already adopted by over 40 states. Specifically, the new acts consists of clarifying amendments -- some designed to shed light on areas of litigation, some technical in nature.

Courts and Other Judicial Issues

Tort Reform

H.2610, signed into law 4/5/88.

Please Note: The summary of H.2610., tort reform, which appeared in the last Update was in error. The previous summary stated that contributory negligence was eliminated from the law in favor of comparative negligence. This is not correct. Although the House-passed version substituted comparative negligence for contributory negligence, this provision was eliminated by the Senate. Contributory negligence is still a provision of the law. The following is the corrected summary.

This new law will make major revisions in the way civil suits are handled in the state courts. Key provisions include:

- Reduction in the statute of limitation for most lawsuits from 6 to 3 years. The three-year period would bring South Carolina more in line with the rest of the states.
- Actions relating to childbirth injuries in medical malpractice cases must be taken by the time the child is 13. The old law allowed action to be taken until age 21.
- A provision that a plaintiff may not get punitive damages unless first awarded actual damages.
- Provisions discouraging frivolous law suits.

Revisions in Governmental Tort Claims Act

S.732, signed into law 3/14/88.

Generally, this act amends the Governmental Tort Claims Act passed in 1986. This 1986 law established limited liability for governmental agencies and political subdivisions for the negligence of their employees. The legislation passed this year provides a variety of revisions, including:

- Covering government-employed physicians and dentists in the act but at higher liability limits. Coverage only applies when the doctor or dentist renders services in his capacity as a government employee.
- Further limiting the government's liability for highway defects.
- Granting the S.C. State Guard the same exemption from liability as is granted to the National Guard.

Changes in Juror Qualifications

S.1140, ratified 5/12/88.

This bill would amend the state Constitution to change juror qualifications. This joint resolution deletes the requirement that jurors be registered voters. Instead, the resolution provides that jurors must be state residents and meet any other qualification the Legislature may prescribe. It must be approved by the voters on the November ballot.

Health and Public Safety

Highway Safety Bill

S.704, signed into law 5/18/88.

While the new Highway Safety law makes a number of changes affecting motorists, it is probably best known for its get-tough measures against the drunken driver. Some key provisions in the new law are:

- Increases the fines for driving without a driver's license.
- Allows the State Highway Department to revoke the license of a driver if a review of his driving record show him to be a habitual offender.
- Increases the fines for speeding.

- Increases substantially the fines and jail time for DUI offenses, beginning with the 2nd offense:
Second offense DUI carries a fine of \$2,000 to \$5,000 and imprisonment from 48 hours to one year. In addition, a 2nd offense DUI fine could not be suspended to less than \$1,000, with \$250 of it going to the Victim's Compensation Fund.
Third offense carries a fine of \$3,500 to \$6,000. Jail time is set at least 60 days but no more than 3 years.
For 4th offense DUI and all subsequent offenses, the law allows jail time only: imprisonment of 1 to 5 years.
- Those convicted of 5th offense DUI will be barred forever from getting a driver's license in South Carolina.
- For 4th offense DUI or DUS conviction during a 10 year period, the new law requires forfeiture of the vehicle driven during the offense, if the driver is the owner of the vehicle or a resident of his household.
- Requires motorist to turn on their headlights during bad weather any time when windshield wipers are in use.
- Prohibits certain types of tinted windshields and windows in vehicles. Any tint must be non-reflective. Front windshield could be tinted only to a certain point above the steering wheel. Driver windows tint cannot inhibit light transmission of more than 35 percent; Rear windows, more than 20 percent.
- Raises the age of children required to use safety belts or safety seats. Children up to age 6 must be in a seat belt in the front seat, or be in a safety seat or seat belt while riding in the back.

AIDS Legislation

H.2807, signed into law 5/2/88.

This legislation made changes in the current laws governing venereal disease to include references to AIDS. Among the changes are:

- Anyone knowingly infecting another with the HIV virus, which causes AIDS, without first informing the other person of the risk can be charged with a felony carrying a 10 year prison sentence.
- This same penalty can be brought if an HIV infected person sells or donate blood products or bodily fluids.
- If a health care worker is possibly exposed to HIV while working with a patient's blood, the physician can require the patient to be tested.

- Provides that if a child infected with AIDS or HIV attends school, the district superintendent and the school nurse must be notified.
- States that if a school prohibits or limits attendance due to any contagious or infectious disease, such a decision must be made on sound medical evidence. Also, if the school board acts in good faith, it cannot be held liable for damages resulting from its decision.
- Outlines the process which DHEC must follow to isolate persons with sexually transmitted diseases. DHEC must file a petition with the Probate Court, which can order isolation up to 90 days.
- Adds the recommendation of the Legislative Committee on AIDS that persons convicted of rape, prostitution, buggery or committing a lewd act on a child under 14-years-old must be tested for HIV upon conviction.

Government Operations and Fiscal Issues

Annexation

S.411, signed into law 6/7/88.

This act sets out new provisions for annexation into a municipality by petition. Under this bill, any area contiguous to a municipality may be annexed by the municipality if a petition is filed by 25 percent of the resident property owners within the area to be annexed. The legislation spells out the procedure the municipality and the county election commission are to follow when an annexation petition is received.

If a majority of the property owners vote to be annexed, the municipality may proceed unless 5 percent of the municipal property owners petition the city/town council requesting a vote within the municipality. If a majority of the municipality property owners vote against the annexation, the city/town council must table any annexation ordinance.

Any property owner who owns 25 percent or more of the total assessed value of the property to be annexed, and any owner of agriculture property within the area, must be given written notice of the annexation. If the owner objects in writing within 10 days of the election, his land must be excluded from the area to be annexed.

As to special purpose districts, the bill states that at the time of the annexation or thereafter, the municipality may elect at its sole option to provide the services formerly provided by the district within the annexed area. The district may be allowed to continue to provide service until it receives reasonable written notice from the municipality.

Annexation does not divest the district of any property. However, if the annexation does not include all of the district's area, the district's boundaries will be modified and it may retain ownership and control of any asset within the annexed area used by residents within the district's unannexed area. In no case can a resident be taxed by both the municipality and the district for the same service.

S.624, signed into law 5/18/88

This new law outlines the procedure to be followed when less than 50 acres owned by 10 or fewer property owners are to be annexed into another county. The law establishes how the owners are to be canvassed, how and when the governor is to order the elections, what percentage of the voters must approve the annexation and what must be completed before the General Assembly can be asked to ratify the change in county boundaries.

Constitutional Amendments

H.4072, enrolled for ratification 6/2/88.

This joint resolution will allow proposed revisions of entire constitutional articles or additions of new constitutional articles to be proposed as a single amendment and be submitted as a single ballot question to voters during the 1990 election. In essence, it extends the deadline for submitting or revising entire constitutional articles from 1988 to the 1990 election. Without this legislation, each change in proposed revisions, such as the Legislative Article, would have to be submitted to the voters as separate questions on the ballot, which would make for an awfully long time in the voting booth. This joint resolution itself must win the voters approval in November.

Compliance Review Act

S.1001, signed into law 4/22/88

The purpose of this law is to create a formal, structured process to determine whether a state agency is complying with the findings and recommendations of reports prepared by the Legislative Audit Council. This process, entitled the Compliance Review Act of 1988, would be the responsibility of the State Reorganization Commission, which would be charged with studying and reporting back to the General Assembly on agency compliance with LAC recommendations.

General Reserve and Capital Reserve Funds

H.3822, signed into law 3/10/88

The first of two bills dealing with the General Reserve and Capital Reserve funds, this legislation:

- Changes the name of the General Fund Reserve to the "General Reserve Fund."
- Reduces the accumulated total in the General Reserve Fund from 4 to 3 percent of the general fund revenue of the latest completed fiscal year.
- Requires that the General Reserve Fund be used to cover year-end operating deficits.
- Requires that funds from the General Reserve Fund are used, they must be restored within three fiscal years until the 3 percent General Reserve Fund is again fully funded. A minimum of one percent must be restored to the fund each year during the first three years following the deficit.
- Changes the name of the Capital Expenditure fund to the "Capital Reserve Fund."
- Caps the appropriation to the Capital Reserve Fund at 2 percent of the general fund revenue of the latest completed fiscal year.
- Provides that revenues in the Capital Reserve Fund only may be used for mid-year budget reductions. This would be determined prior to March 1. After March 1, the Capital Reserve Fund may be used to finance in cash previously authorized capital improvement bonds, retire the interest or principal on bonds already issued, or pay for capital improvements or other non-recurring purposes. This use must be approved in separate legislation. These projects must be ranked in priority order and not funded until 30 days after the end of the fiscal year. No project on the priority list may be partially funded. If there are insufficient monies to fully fund a project on the priority list, the funds for the project will be returned to the Capital Reserve Fund.

Constitutional Provisions for the General Reserve and Capital Reserve Funds

H.3823, ratified 3/9/88.

This joint resolution amends Section 36 of the State Constitution relating to the General Fund Reserve. It also adds Section 38, including the Capital Reserve Fund in the Constitution. Key provisions include:

- Changes the name of the General Fund Reserve to the "General Reserve Fund."
- Reduces the General Fund Reserve from 4 to 3 percent.
- Deletes the provision allowing the special vote (so-called "super vote") to adjust the amount going into the General Reserve Fund, thereby capping the fund at 3 percent.
- Deletes the provision requiring the General Assembly to review the General Fund Reserve every five years.
- Provides a mechanism to restore the General Reserve Fund if used for year-end deficits.
- Requires the maintenance of a 2 percent Capital Reserve Fund.
- Provides that before March 1, the fund must be used to offset mid-year budget reductions.
- Allow that after March 1, the Capital Reserve Fund could be used for the purposes outlined above.

This constitutional amendment must be approved by the voters during the November general election.

Insurance

Excessive Insurance Profits

H.3395, signed into law 4/18/88

This new law gives the chief insurance commissioner the authority to take action if he believes an insurance company has made excessive or unreasonable profits. The new law allows the chief commission to order a general reduction in the insurance rates of a company that is found to be making what the commissioner believes to be excessive profits. The commissioner may take this action in connection with property, casualty, surety, marine, title or allied lines of insurance. The decision must be based on the results of an investigation of the insurance companies profits over a three year period.

In addition to ordering a general reduction in rates, the commissioner can also order a pro rata refund of and excessive or unreasonable profits with interest. The commission can determine the rate of interest, which must be two points above the average prime rate for the three year period. The refund, which must be equitably divided among the policyholders, may be given in cash or as a credit toward future premiums.

Long Term Care Insurance

H.3573, signed into law 4/22/88.

Long term care insurance is an emerging private financing mechanism for the type of medical services required due to a chronic illness or conditions lasting over a long period of time.

This new law defines long term care insurance and the minimum insurance that must be provided. It includes provisions that will protect people seeking this kind of insurance from unfair or deceptive practices in sales or enrollment. With enactment of this law, South Carolina becomes one of the first states to enact long term care insurance legislation, a law that will benefit and protect the state's senior citizens.

Law Enforcement

Sheriff Qualifications

H.2862 (constitutional changes), ratified 3/22/88.

H.3175 (statutory changes), signed into law 6/7/88.

Joint resolution H.2862 would amend the State Constitution to allow the General Assembly to set minimum requirements for sheriff. The constitutional amendment now goes to the voters for approval during the November general election.

While H.2862 sets up the constitutional changes necessary to allow the General Assembly to set minimum requirements for sheriff candidates, H.3175 actually sets the statutory requirements. Under H.3175, all sheriffs must be U.S. citizens, a resident of the county in which they are sheriff, a registered voter, and be at least 21-years-old. In addition, sheriffs must have a high school diploma, its equivalent or have at least five years criminal justice experience. No sheriff can be convicted of a felony or have a DUI or DUS conviction.

H.3175 further establishes training requirements for new sheriffs and yearly in-service training for all sheriffs. None of the provisions in H.3175 will go into effect until the proposed constitutional amendment is approved by voters in November.

With the ratification of these two bills, South Carolina joins a few other states in establishing minimum qualifications for sheriffs. The South Carolina Sheriffs Association, as well as many others, argued that setting basic requirements for sheriff candidates would enhance the quality and prestige of the state's sheriffs.

Drug Trafficking Penalties

H.4114, signed into law 5/29/88.

This law will increase the penalties for trafficking in marijuana, cocaine, methaqualone and other illegal drugs. It also states that no part of the penalties may be suspended. In addition, any person convicted of a drug trafficking offense under these provisions and receives a sentence of a mandatory minimum term of 25 years or more is not eligible for parole, work release or supervised furlough. Any person convicted of conspiracy in connection in connection with these provisions must be sentenced to the full penalty provided under this act and not half of the sentence.

Forfeited Property

H.3937, signed into law 5/29/88.

This law will amend the percentage of proceeds law enforcement agencies get as the result of the sale of forfeited property or money-seized in connection with drug enforcement. The new law allows the law enforcement agency, which initiated the seizure, to received 90 percent of the proceeds. The old law allowed the law enforcement agency to keep only 25 percent. The proceeds must be used to further the agency's drug enforcement activities. The money could not be used for general operating expenses.

The law act says the remaining 10 percent of the proceeds must be transferred by the state treasurer to the state general fund.

Law Enforcement Officers Retirement

H.3356, signed into law 4/5/88.

This law will allow law enforcement officers to retire at any age with full benefits after 25 years of service. This bill also makes adjustments in the calculation of retirement allowances, thereby enhancing retirement benefits for the state's lawmen and women.

Bills That Didn't Make It

With the end of the 1988 session, the second year of the two-year 107th General Assembly, all pending bills die. Here is a brief list of some of the bills that didn't make it into law before the slate is wiped clean with the end of the 1988 sessions.

H.2368 Local Government Finance Act
H.3675 Revision of the Legislative Article of the Constitution
H.4139 Infectious Waste bill
H.2084 Freshwater Wetlands Act
H.2344 Hazardous Waste bill
H.3825 Child Education Savings Act
H.2013 Primary Elections Conducted by the State - Election Commission.
H.3249 Sale of the Public Service Authority (Santee Cooper)
H.3677 Midlands TEC Board
S.47 Marital Rape
S.1251 Airline Hub Incentive Act
S.1224 State Lottery bill

All "Snow Days" school attendance bills (H.3631, H.2372, S.309, S.1035, H.3593, H.3583, H.3559).

Budget Highlights

Last week, House Ways and Means Committee Chairman Robert McLellan outlined for the House some of the highlights of the 1988-89 budget bills. Here is a brief summary of some of those highlights.

School Bus Drivers

News about the state's 2,250 teenage school bus drivers dominated the headlines during recent months. Facing a U.S. Labor Department order to remove all school bus drivers 17-years-old and younger, state school officials are faced with the prospect of attracting more adults to its crew of 6,000 school bus drivers.

In response, \$5 million was appropriated in the budget bill to raise the salaries of bus drivers from \$3.47 per hour to \$4.75 an hour. An additional \$3.8 million was allocated to provide fringe benefits to an estimated 2,100 drivers matched 70/30 by local funds. Fringe benefits include health insurance and retirement. Also in the budget bill is \$1.7 million for the school bus safety program, \$3.6 million for bus maintenance and fuel, and \$600,000 for school bus related needs.

In addition, any excess funding above Part III (Supplemental Appropriations) of the budget and the Capital Reserve Fund budget will go toward the buy out of the bus lease/purchase agreement. \$21.3 million is needed for the buy/out agreement for 1,000 new school buses. If the surplus funds are not sufficient, any excess funds could be used to make advance lease payments and/or to buy up to 500 new buses. The amount of the available funding will be known by July 31.

State Employee Pay Raise

A 4 percent pay raise, effective July 1, for for all state employees was funded in the Budget Bill. In addition, all classified state employees will receive a one-time \$365 bonus in December.

Public Education

South Carolina's public elementary and secondary schools continue to be among the top funding priorities. This year the General Assembly once again demonstrated its commitment to quality public education by funding the Education Finance Act at \$33.3 million. Teacher salaries are funded at the \$25,239 Southeastern average. This represents a 3.4 percent increase over current salaries, which come from state, local and Education Improvement Act funding.

EIA money will also provide \$21.4 million for the Teacher-Incentive Pay program. And a combination of EIA and General Fund money will provide an additional \$4.3 million for School Building Aid. For the first time in several years the school textbook program was fully funded at \$5.5 million.

Higher Education

The state's public colleges and universities will see an increase in formula funding from 88.52 percent of full formula funding in the current budget to 93.5 percent in the 1988-89 budget.

Legislators also allocated \$5 million for the Commission on Higher Education's "Cutting Edge" plan -- a 27-point program to promote research and academic excellence among the state's higher education institutions.

For the state's technical colleges, the new Appropriations Bill also funds them at 93.5 percent of full formula funding -- up from 85.96 percent for the 1987-88 budget year.

Medicaid

As initially recommended by the House, an additional \$20 million was appropriated for the state Medicaid program. The state money will attract an additional \$61 million in federal funding into the program for the needy. The additional money will help maintain the current level of Medicaid services. It also will help cover the anticipated costs of AIDS patient care and the annual funding for the National Governor's Association program to assist poor pregnant women and children up to age 1. The NGA program, which serves eligible women and children up to 100 percent of the federal poverty level, is designed to combat South Carolina's high infant mortality rate.

New Prisons

Funding to open three new state prisons was included in the Budget Bills. The new Broad River Road Correctional Institute received a total of \$5 million for annual operating costs and the funding of 460.5 positions at the new prison. Money was also appropriated to open two new prisons next year. The Allendale Correctional Institute, near Allendale, and the Josiah J. Evans Correctional Institute in Bennettsville, both with 808-bed capacities, received \$5.2 million each, including operating money and funding for 343.5 position at each prison.

Once on line, these three new prisons will bring the total number of state prisons to 31. Since 1986, the state has added the 600-bed McCormick Correctional Institute in McCormick and the 696-bed Leiber Correctional Institute in Ridgeville, as well as two "shock probation" units, located in Columbia and at the Wateree River Correctional Institute.

In addition, \$1.4 million was appropriated in the 1988-89 budget to given all correctional officers a 4 percent pay raise January 1.

Department of Youth Services

Three new institutes, funded by the General Assembly in the new budget, will be a step forward in alleviating overcrowding among the 866 juveniles served in Department of Youth Services facilities. Included in the budget bills was money to construct three of the facilities and operating money for two. The new facilities funded included a marine institute located in the Georgetown-Horry counties area. Two more facilities -- a marine institute for the PeeDee area and a institute in the Piedmont for a Wilderness program -- also were included in the 1988-89 budget bills.

DYS already has three marine institutes in operation. These are the Beaufort Marine Institute, a residential program, and the Charleston Marine Institute and the Columbia Marine Institute, both day programs.

AIDS

The Department of Health and Environmental Control will receive \$2.7 million under the House budget recommendations to implement the 33 recommendations issued by the Joint Legislative Ad Hoc Committee on AIDS. Among the recommendations are funding for AIDS education, testing, counseling and contact tracing.

Other Items Include:

- Funding for the proposed Governor's School for Math and Science to be established at Coker College in Hartsville.
- \$1.1 million to pay for the costs of the November General Election.
- \$1 million to fund positions and operating expenses to open the new S.C. State Museum in October 1988.
- \$750,000 for the Rhizosphere Dynamics Center at Clemson. This biotechnology center -- a collaborative research and education effort with other universities -- is a joint venture with the Monsanto Corporation. It is expected to yield close to \$10 million in research grants and contracts during the next five years.
- \$180,000 for the John de la Howe School "Free Enterprise" program and \$200,000 for its "Wilderness camp."
- Increased funding for the State Development Board to enhance economic development efforts in the areas of advertising, research, film industry promotion and enhancement of the foreign offices.
- \$3.5 million Automatic Fingerprint ID System for SLED (in the Capital Reserve Fund budget).
- \$500,000 for the Clemson University "At Risk Drop Out" program.

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