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South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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Prison Overcrowding--What Happened in Michigan

Summary

Ten states have enacted prison emergency release legislation. South Carolina and Michigan have made the greatest use of these procedures. In the January, 1984 issue of Innovations, a publication of the Council of State Governments, Keon S. Chi reviews the experience of Michigan with its Prison Overcrowding Emergency Powers Act (EPA). Because of events concerning the correctional system in South Carolina, a capsule review of Mr. Chi's article is presented here.

The Michigan EPA--Why Was It Needed?

In 1974, Michigan correctional facilities held 8,000 prisoners. In 1980 they held 15,000 prisoners, or 2,000 more than the established capacity.

There were five reasons for this increase: 1) a rise in crime, caused apparently by Michigan's high unemployment; 2) tougher public attitudes toward criminals; 3) longer sentences; 4) approval of "Proposal B," which eliminated good-time consideration for many classes of offenders; 5) defeat of "Proposal E," which would have raised the state income tax to finance prison construction.

By 1980 the Michigan correctional system was in court, facing possible federal intervention. Legislative leaders and the governor united to support the Emergency Powers Act (EPA), which was passed in 1980 by overwhelming majorities--95-2 in the House and 30-4 in the Senate. Intense media attention and public concern on the problem helped passage of the act.

The Michigan EPA--How Does It Work?

Under the EPA a five-member Corrections Commission requests the governor declare an emergency when inmate population exceeds capacity for 30 consecutive days.

The minimum sentences of all prisoners with minimum prison terms are reduced by 90 days; if this fails to reduce the prison population to 95% of capacity, then minimum sentences of prisoners serving minimum sentences are reduced by an additional 90 days. Inmates serving time for serious or violent crimes or violators of Michigan's gun control law are not eligible for the program.

The process went into effect on May 20, 1981, following disturbances in state prisons. Within a month more than 400 inmates had been paroled; within 90 days 900 inmates were out on parole. The Act has been triggered six times since it was enacted: once in 1981, three times in 1982, twice in 1983. Inmates in the prison system since 1981 have had their terms reduced by one year and six months.

The Michigan EPA--What Happened?

Correctional officials in Michigan have noted six results from use of the EPA:

1. A gradual reduction in number of prisoners.
2. EPA releases have been small compared to regular paroles-- 2,000 compared to 10,000 from 1981 through 1983.
3. The EPA is progressively less effective: no dangerous offenders are released, and each time the Act is triggered there are fewer good prospects for release.
4. Correctional officials expect continued use of EPA until more prison space is acquired.
5. The Act applies to prisoners out on a writ prior to a court appearance, as well as those actually in prisons.
6. There appears to be a low recidivism rate among early release prisoners; of 1,500 early parolees during the first 18 months, only 117 committed serious felonies (two-tenths of 1 percent of all felonies reported).

It seems that the Michigan EPA has been a necessary tool in effective operation of the state correctional system. Correctional officials, however, see the EPA as only part of long-range and long-needed solutions.

States With Emergency Release Measures

<u>State</u>	<u>Year Passed</u>	<u>Sentence Reduction</u>	<u>Remarks</u>
Arizona	1983	180 days	
Georgia	1982	90 days	
Montana	1983	180 days	
New Jersey	1982	90 days	
South Carolina	1983	90 days	
Tennessee	1983	180 days	Effective 1984
Texas	1983	180 days	Effective 1984
Utah	1982	30 days	
Washington	1982	90 days	
Wisconsin	1981	90 days	

All states use parole as the type of release.

[This information is taken from the January, 1984 issue of Innovations, a publication of the Council of State Government's Innovations Transfer Project, which has the purpose of "sharing state experience through programs to transfer innovative ideas."]

Concern Over Education in Other States

Education is a concern nationwide, and states other than South Carolina are tackling the issue. The February 27, 1984, issue of State Policy Reports has a summary of some of these efforts.

State Policy Reports notes that the policies recommended are quite similar from state to state. "They include ways to put computers in the schools...higher requirements for high school graduation, higher college admission requirements, special scholarship programs for teachers of math and science, higher teacher salaries, some form of performance rewards such as merit pay or master teachers, statewide student testing, increased accreditation standards, training of administrators, and special programs for the gifted."

Across the nation, SPR notes, the themes of education are simple: quality and money. Higher standards are being proposed to ensure quality, and larger budgets are recommended to provide the funds. West Virginia has a proposal to increase spending on education by \$106 million. Pennsylvania's budget provides a 5.7% increase in state spending on education.

Teacher salaries are a nearly universal issue. Almost all governors "indicated a need for higher salaries. Governor Kerrey has an interesting moving target for Nebraska--getting Nebraska teachers in the top 10% of the nation as measured by both pay and quality. In return, he wants revision in state personnel laws to ensure that incompetence, which is a grounds for firing, include deficiencies in subject matter knowledge and teaching skill."

[Information cited from State Policy Reports, Volume 2, Issue 4 (February 27, 1984), published by State Policy Research, Inc., Arlington, Virginia.]

Water Use in South Carolina*

Summary

Water is South Carolina's most essential natural resource. Water of sufficient quantity and quality is of vital interest to every segment of the State's population. Water is necessary to:

1. Sustain life
2. Irrigate agricultural lands
3. Generate power and other industrial uses
4. Support fish and wildlife
5. Provide transportation routes
6. Provide recreational opportunities
7. Dilute municipal and industrial pollution.

Even though water is plentiful and is a renewable resource, increasing demands from a growing population may present future water-related problems. This report will provide some basic background information on the issue, explain existing laws on water use, summarize the U.S. Geological Survey reports on some other states, and discuss some proposals concerning water in the State of South Carolina.

Background

Ninety seven percent of the Earth's water supply rests in the oceans. The remaining 3% is fresh, of which 2/3 is locked up in glaciers and polar ice caps, leaving only 1% of our total water supply available for human use.

In South Carolina, 96% of the State's water comes from surface water, drawn from four major river basins: Pee Dee, Santee, Ashley-Combahee-Edisto, and Savannah; and over 1,400 ponds and lakes. Even though only 4% of the State's total water needs are met by ground water supplies, over 40% of the State's population depends on these underground sources for their domestic needs. The Piedmont and mountain areas rely primarily on surface water to fulfill needs, while the Coastal Plain and Midlands find ground water more plentiful. Increased pumpage in some coastal areas has caused reductions in the water table to the extent that some fresh water aquifers are suffering from salt-water intrusion.

Existing Laws Concerning Water Use

Water law in South Carolina is embodied in the riparian doctrine. This is a common law doctrine that doesn't reside in statue, but one that has been interpreted by the courts. The riparian (water-related) doctrine

* This Research Report was prepared by Patti Knoff, University of South Carolina. Ms. Knoff is an intern with the House Research Office.

provides that "owners of lands along the banks of a stream or water body have the right to reasonable and beneficial use of the waters and the (related) right of protection against unreasonable use by others that substantially diminishes the quantity or quality of water." (R.E. Clark, Water and Water Rights, 1967).

It has been said that the single greatest problem in South Carolina water law is the uncertainty of the law itself. There are no guarantees to specific amounts of water use. There are no standard measures of reasonable and beneficial use. Under the riparian doctrine, water use is a private concern and does not protect the public's interests. A civil action, which is costly, time-consuming, and ad hoc, is the sole mechanism for enforcing and maintaining a riparian right. In short, there are no efficient procedures for adjudicating water rights and managing water resources, especially in times of drought or other crises.

Surface water legislation was last considered in South Carolina in 1954 and 1955 in response to a serious drought. Nothing of substance was adopted at that time.

In 1967 the Legislature enacted the Water Resources Planning and Coordinating Act, which created the Water Resource Commission to "advise and assist the Governor and the General Assembly in formulating and establishing a comprehensive water resources policy for the State, including coordination of policies and activities among the State departments and agencies ... " (Title 49, Ch.3)

The Water Resource Commission's latest State Water Assessment states that the State lacks a coherent policy, with limited exceptions, in the treatment of water resources and development of statutory and administrative systems for water management and therefore supports corrective legislation.

The Groundwater Use Act of 1969 "declared that the general welfare and public interest require that the water resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation in order to conserve these resources ..." (Title 49, Ch.5) In effect this law enables the Water Resources Commission, upon request of a county, municipality, or other political subdivision of State government, to designate capacity use areas and require permits for and reporting of water use over 100,000 gallons per day in these areas.

An area of the State may be declared a capacity use area if it is determined that the aggregate uses of groundwater within the area meet one of the following two conditions: "1.) have developed or threaten to develop to a degree which requires coordination and regulation or 2.) exceed, threaten to exceed, or impair the renewal or replenishment of such waters or any part of them." (49-5-40)

The Water Resources Commission has declared two capacity use areas. The Waccamaw Capacity Use Area was established on June 22, 1979, and includes Horry and Georgetown Counties, and that portion of Marion County known as Britton's Neck. The Low Country Capacity Use Area was established July 24, 1981 and includes Beaufort, Colleton and Jasper Counties, and Edisto Island in Charleston County. Regulations are developed individually for each capacity use area.

The Water Use and Reporting Act of 1982 expanded the Water Resources Commission's ability to establish regulations to require any person, business, firm, corporation, governmental agency or political subdivision using over 100,000 gallons per day to submit water use information. Reports are to be filed annually by agricultural water users and quarterly by all other users. In essence, this law is an attempt to collect sufficient information on a statewide basis to aid in developing effective future plans for both private and public water use.

Other laws exist concerning dams, flooding, navigation, interbasin transfers, and drainage.

The following chart illustrates South Carolina's six largest water users in 1980 by category--agriculture, industry, etc.

Use refers to the total withdrawal of water from the water system; "used" water is not returned at all.

Consumption means the amount of water withdrawn that is not returned or is not suitable for use if returned.

South Carolina Water Use, 1980

	Use				Consumption		
	Ground Water mgd*	Surface Water mgd*	Total Use mgd*	% of State Use	Con- sumption mgd*	% sumed	% of State Consum.
Public Supply	82.2	298	380	6.6	102.6	27	23.5
Domestic Wells	57.3	---	57.3	1.0	48.7	85	11.1
Agric. Irrigation	14.8	41.3	56.1	1.0	56.1	100	12.8
Agric. Livestock	5.5	4.5	10.0	0.2	10.1	100	2.3
Industry	46.4	858	905	15.6	167.4	18.5	38.1
Thermoelec. Power	---	4,370	4,370	75.6	53.5	1.2	12.2
Total	206.2	5,571.8	5,780	100.0	438.4		100.0

* million gallons per day

Since 1954, water use has increased 500%. Agricultural irrigation, thermoelectric power generation and industry are three areas in which increased demands are expected. Although we "consume" less than 8% of the total water used, this consumption has doubled in the last 20 years and is expected to triple by 2020.

State Summaries

Florida: Surface and ground water levels have declined due to increased urbanization, agricultural, and industrial pumpage. Water use restrictions have been placed on coastal aquifers to prevent salt-water intrusion.

Georgia: Densely populated Piedmont areas suffer from small surface and ground water supplies. Along the coast, industrial and municipal pumping has severely lowered water tables, especially in Savannah. This is of some concern to South Carolina because Savannah's aquifer is shared with Beaufort County, including Hilton Head. Statutes govern the allocation of surface and ground water for municipal and industrial users of more than 100,000 gallons per day, but pumpage for agricultural irrigation, a major user, is explicitly exempt from the permitting process.

Mississippi: Competition for ground water has resulted in rapidly declining water levels. Ground water withdrawn for agriculture is excluded from the state's water controls. Baton Rouge, La., has asked the U.S. Environmental Protection Agency to designate its aquifer as a sole-source aquifer, which would restrict use in and above the aquifer and its recharge area. This area covers approximately the southern 1/3 of Mississippi.

North Carolina: The construction of new surface water reservoirs, interbasin transfer of water, and the development of ground water are some of the options being considered to meet the State's water needs. Ground water is a major source for municipal, rural, and industrial supply in the Coastal Plain and increased withdrawals threaten salt-water intrusion. Virginia has proposed an interbasin transfer from the Roanoke River in Virginia to Virginia Beach, Va. This withdrawal would likely affect water users downstream on the Roanoke River in North Carolina.

As illustrated, water rights are complicated issues, not only among users in a single state but also, among neighboring states.

Recommendations

The following recommendations have been proposed by the Governor's State Water Law Review Committee. The Committee is made up of individuals representing a variety of interests; agricultural, environmental, hydroelectric, industrial, judicial, legislative, local government, and recreational. The Water Resources Commission believes that the "adoption of the Committee's recommendations would undoubtedly go a long way toward meeting present and future water law concerns."

1.)The Committee recommends that the State's role in water resources be recognized so that water be viewed as subject to a public trust. To that end , a comprehensive state water policy is endorsed. The Farm Bureau believes that this bill (H.2624) would place all water rights in the hands of the State. The Farm Bureau recognizes public and private interests in water but wishes to delete the public trust from the bill. Stephen Spitz, a law professor at USC, believes there is no difference between public trust and public interest.

2.)To protect the public interest, the State, via the Attorney General, must be made aware of, and if appropriate, intervene in, actions affecting water rights. A Notice Intervenor statute is recommended.

3.)Withdrawals of surface water regardless of quantity, are not currently regulated. The impact of these withdrawals is and will be significant. The Committee recommends that the State analyze and review such withdrawals, and develop a State policy to regulate them.

4.)The Committee proposes that the State determine minimum in-stream flow levels for rivers, streams, and lakes, and consider those needs in reviewing present and future development.

5.)The Committee recommends that a more comprehensive effort be undertaken to investigate, inventory, sample, and map South Carolina's groundwater resources.

6.) The Committee commends The Ground Water Use Act of 1969 as a significant start in responding to potential as well as actual threats to ground water.

7.)Finally, the Committee recommends that a detailed drought response plan be developed to alleviate agricultural, economic, and social hardship caused by drought.

The Governor's Water Law Review Committee's Report and Recommendations is available from the Governor's Office, Division of Natural Resources, P.O. Box 11450, Cola., S.C., 29211, 758-8808.

Conclusion

To summarize, this report has provided some basic background information in water resources on Earth, in South Carolina, and in some other states. Existing laws concerning water use in South Carolina have been briefed and recommendations proposed by the Governor's Water Law Review Committee have been listed.

Around the House

New Assignments Announced for Budget and Control Board Staff Persons

The following announcement is printed as a service to House members who might need to contact persons on the staff of the Budget and Control Board.

Phyllis M. Mayes and T. Randall Halfacre have been named Assistant Directors of the State Personnel Division of the Budget and Control Board. The appointments were announced recently by Dr. Jack S. Mullins, Director of the State Personnel Division.

Mrs. Mayes, formerly the Director for Classification and Compensation, will be responsible for recruitment, merit examinations development and validation as well as classification and compensation. Mrs. Mayes has been with the Personnel Division since 1975, is a graduate of Furman University and holds a Master's degree from Western Carolina University.

Mr. Halfacre, formerly Personnel Director of Internal Operations of the Budget and Control Board, will oversee employee relations, training, the health, life and long term disability insurance programs, and data processing. Mr. Halfacre joined the staff of the Board's Division of General Services in 1971 and is a graduate of the University of South Carolina.

Campaign Costs in 81-82 House Elections

A Summary of the New Public Affairs Bulletin Report

The Bureau of Governmental Research and Services at the University of South Carolina has recently issued its Public Affairs Bulletin Number 23. The subject of the Bulletin is "Campaign Financing in South Carolina: The 1981-82 House Elections." Robert E. Botsch, Associate Professor of Political Science at USC at Aiken, is the author.

Drawing on materials filed with the State Ethics Commission, Dr. Botsch compiled a number of different lists of the major sources of campaign funds for House candidates. Three of those lists are cited here for your information.

Two notes on campaign expenses: in 1982, 262 candidates reported expenditures. "Total reported expenditures for all elections ... totaled \$1,221,992, an average of \$4,682 per candidate, or \$9,855 for each of the 124 seats in the House." (Bulletin, p. 3)

A second note: South Carolina does not prohibit direct campaign contributions from corporations. Such prohibitions are a frequent reasons corporations and associations form Political Action Committees (PACs) to help candidates. There are still a number of PACs in South Carolina because of tax benefits, additional flexibility for contributors, and other reasons.

Table 1
Major Sources of Campaign Funds for S.C. House Candidates, 1981-82

<u>Source</u>	<u>Amount</u>	<u>Percentage</u>
Personal funds, small contributions, and loans	\$ 657,269	53.8
Business oriented interest groups, corporations, PACs	271,553	22.2
Large contributions from individual citizens (more than \$100)	145,487	11.9
Health care interests and professions	63,400	5.2
Party organizations	31,071	2.5
Professional organizations (e.g. lawyers)	19,950	1.6
Large contributions from relatives of candidates (more than \$100)	17,080	1.4
Ideological interests and PACs	11,332	.9
Labor interests and PACs	4,150	.3
Agricultural interests	500	.04
Total	1,221,992	99.84%

(Percentage does not equal 100% because of rounding errors.)

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Table 2

Total Contributions of the Top 25 Interest Groups in 81-82 House Elections

<u>General Type</u>	<u>Amount</u>
Financial institutions	\$ 52,250
Utilities and energy	51,275
Real estate/construction	32,676
Textiles	28,900
Automotive	20,975
General business	20,322
Medical doctors	20,125
Lawyers	18,250
Insurance	17,150
Hospitals	17,100
Optometrists	13,600
Transportation	12,500
Food and beverage	9,448
Communications	8,333
Dentists	7,800
Retail sales	4,725
Manufacturers	4,075
Forest products	2,950
Teachers	2,700
Chiropractors	2,575
Miscellaneous (basically business)	1,774
Liberal groups	1,701
Professional engineers	1,600
Chemical	1,500
Conservative groups	1,450

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Table 3
Total Contributions of the Top 25 Contributors in S.C. House Elections
1981-82

<u>Name</u>	<u>Amount</u>
S.C. Realtors PAC	\$ 21,650
S.C. Auto and Truck Dealers Association PAC	20,350
SOC PAC (medical doctors)	19,625
S.C. Textile Manufacturers Association	18,950
S.C. Alliance for Legislative Education(lawyers)	14,850
S.C. Optometric Association	13,600
Citizens for Responsible Gov't (oil jobbers)	10,900
Democratic Legislative Campaign Fund	10,300
Citizens and Southern Corporation PAC	9,900
Savings and Loan Association PAC	9,900
SCE&G Employees PAC	9,600
Bankers Trust PAC	8,550
S.C. Health Care PAC (nursing homes)	8,275
S.C. Amoco PAC	8,000
S.C. Dental Association	7,800
Carolinas Effective Gov't Committee (Duke Power)	7,500
Electric Cooperative Help Organization	7,250
S.C. Beer Association	7,150
Trucking Industry Nonpartisan PAC	6,850
S.C. Bankers PAC	6,725
S.C. Contractors for Good Government	6,400
Southern Bank and Trust PAC	6,050
S.C. National Bank PAC	5,800
Greenville County Republican Party	5,694
S.C. Chamber of Commerce Good Gov't Committee	5,500

Information from Public Affairs Bulletin Number 23 (January, 1984), published by the Bureau of Governmental Research and Service, University of South Carolina, Columbia, S.C. 29208.