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South Carolina House of Representatives

# Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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# Legislative Update

## Legislation Introduced

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### Children & Families

Support Payment Enforcement (H.2558, H.2559, H.2560, H.2561, H.2562, H.2563). As reported in last week's *Legislative Update*, child support enforcement legislation has been ordered by federal mandates. These bills are designed to meet the federal requirements.

The proposed legislation includes wage withholding provisions. In cases where the payments are made to the family court, the clerk of court would initiate the withholding process. When payments are made directly to a spouse, the spouse must initiate the proceedings. Once withholding is started it cannot be terminated for three years.

Other items covered by the proposed legislation:

1. Interception of tax refunds to pay child support.
2. Interstate income withholding to cover parents in other states.
3. Automatic assignment of AFDC applicant's rights to child support to DSS when accepting public assistance.
4. Judgement liens on support arrearages.
5. Employers to provide information on employees to DSS for the sole purpose of locating an individual behind on support payments.
6. DSS to charge a fee to non-AFDC applicants for services in collecting support payments.
7. Courts can release information to credit bureaus regarding individuals who pay through family court and are in arrears on their support payments.

### Education & Public Works

One-Way Auto Glass (H.2582). Some autos have glass that is transparent from one side only, usually the driver's side. Police officers might be understandably cautious in approaching such a car. This bill would make it unlawful to sell materials to make glass one-way, install it in a car, or operate a vehicle so equipped.

Judiciary & Government Operations

Unicameral Legislature (H.2589). This proposes a constitutional amendment making the General Assembly into a single house legislature, with members elected to four-year terms.

At present the only state which has a unicameral, or one-house, legislature is Nebraska. The 49 members of that body are called Senators, and serve a four year term. There are four other territories of the United States which have single house legislative bodies: the District of Columbia (13 members); Guam (21 members); the Federates States of Micronesia (unknown number of members); and the Virgin Islands (15 members).

Special Tax District Creation (H.2590). This bill would reduce the percentage of property owners (freeholders) who must sign a petition in order to create a special tax district. The current number is presently 75%; this bill reduces it to 55%. This legislation fits in with recently-introduced annexation bills and addresses concerns that might face counties.

Regulation of Underground Storage Tanks

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In April, 1984, the Department of Health and Environmental control (DHEC) gave notice in the State Register of its intent to develop regulations for the control of underground storage tanks. After a public hearing and consideration of written comments the final regulations were promulgated by DHEC on January 2, 1985. H.2551 would approve these regulations.

These regulations set forth the specific requirements for preventing leaks and releases from underground storage tanks and piping and include provisions for: the notification and permitting of underground storage tanks; requirements for design, installation, operation and abandonment of underground storage tanks, ensuring that releases from underground storage tanks will be reported, monitored and that appropriate remedial action will be taken to prevent or confine the migration of contaminants in the subsurface or the ground water. These regulations apply to all persons owning, operating or proposing to operate any underground tank to store regulated substances.

The consequences of underground storage tank leaks are quite serious. These regulations are designed to prevent the damages which can occur if there is a malfunction in an underground tank. First, a leak as small as one-half drop per second (.05 gallons per hour) causes losses of 438 gallons a year; one gallon per hour will result in losses of 8,760 gallons a year. This, of course, adds up to a lot of money.

## *Legislative Update, March 19, 1985*

Second, half the population of the United States depends on groundwater from community or private wells for their water supplies. A leak in a tank can mean that this water is contaminated with motor fuels. Even in small amounts, long-term exposure to motor fuels may cause health problems. Leaks can also damage underground structures; present fire or explosion hazards; and damage crops, livestock, and wildlife.

Leaks that are not discovered for a long time can cause widespread damage. Early detection of leaks can help minimize damages and cleanup costs. The regulations developed by DHEC are designed to aid in the early detection of leaks. Regulations concerning testing, structure, and monitoring are designed to ensure that South Carolina underground storage tanks will operate efficiently and safely.

### Notification

By January 1, 1986 anyone owning an existing tank will be required to notify DHEC about its existence. These notices will include the type, location, storage capacity, age, and uses of the tank. Any leakages or corrective measures should also be reported.

Once these regulations go into effect, anyone owning a tank which stopped operating after January 1, 1974 has a year to contact DHEC, with information on the date the tank went out of operation; age when it went out of operation; capacity, type, and location; and the type and quantity of substances left in the tank.

### New Tanks--Permits Required

After January 1, 1986 all new tanks will have to have a DHEC permit before installation. These permits will be valid for ten years or for the operation of the tank, whichever is shorter.

### Design, Construction and Installation

There are numerous regulations regarding the design, construction, and installation of these tanks. Most of these regulations are quite technical and detailed. The major purpose of these specific restrictions is to ensure that the underground tanks will not in any way be a hazard to the environment or the community. Anyone who is planning on building an underground storage tank will be made aware of these regulations and will have to meet certain standards in order to obtain a permit.

### Tank Operating Requirements

Once these regulations go into effect on January 1, 1986, tank owners and operators will have several responsibilities. These include maintaining inventory requirements and records, providing a leak detection system, monitoring and maintaining the tank protection system, and reporting any tank failures (i.e., leaks) to DHEC. Owners will also be responsible for correcting any failures in the tank.

## *Legislative Update, March 19, 1985*

Starting in January, 1987, owners who have abandoned or taken a tank temporarily out of operation will be asked to file a report with DHEC during January of each year the tank is out of operation.

### Inventory and Record keeping

Operators of underground tanks will have to keep daily records for each tank. These records should include the amount of substance withdrawn and received along with the water level and amount of stored substance. These records will serve to help in detecting leaks; they are to be kept on hand for one year in case of inspection by the Department.

### Leak Detection Systems

After January 1, 1986 all new storage tanks will be required to have one of three detection systems: in the tank itself, within the well system, or for the secondary containment layer that surrounds the tank. If a leak is detected the owner must follow the steps laid out by the Department.

### Testing

Any new tanks will be extensively tested by the operator to make sure they are in perfect working order. The Department has designed a series of comprehensive tests in order to ensure each tank meets standards.

### Corrective Action

The owner of a tank in which leakage has occurred must empty it within five days. He then has the option of abandoning the tank within ninety days or repairing it. Both of these procedures would be done under the DHEC guidelines. Within 180 days DHEC may ask for additional testing of other tanks in the same location.

### Provisions for Tanks Temporarily Out of Operation or Abandoned

Provisions are made to keep temporarily out of operations tanks safe. For tanks that are abandoned the steps for closing it are more extensive. They include removing substances, disconnecting lines, filling the tank with solid material, and capping piping. If the tank is to be removed these steps still apply, plus the land must be filled in with clean material. The owner of the tank must notify DHEC.

State Legislative Resolutions To Washington

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H.2464, which has recently returned from the Senate, petitions Congress and the Administration not to drop funding for Amtrak. South Carolina is not alone in sending such resolutions to the nation's capital. According to NCSL state resolutions to Washington last year included the following topics:

Nuclear waste disposal (Arizona); Right-to-Life Amendment to Constitution (Arizona); a moratorium on commercial whaling (California); compensation for members of Congress (Colorado, Georgia); Presidential line item veto (Illinois); national drinking age of 21 (Illinois, Louisiana, Tennessee); import protection for textile and garment industry (Ohio, Pennsylvania); support of prayer in schools (Pennsylvania); opposition to vertical price fixing (Kansas, New York, Ohio, Tennessee, Virginia); limits on steel imports (Kentucky, Ohio, Washington); and support of a bilateral nuclear freeze (North Carolina, Ohio, Washington).

Ohio led with the most resolutions, 31; New York was in close contention with 30. Hawaii, Massachusetts, Pennsylvania and Tennessee were all in the high 'teens or twenties.

There were some unusual resolutions. Hawaii protested the discrimination against distant states through the use of mail-in deadlines. Both Illinois and Tennessee covet the newly-formed army light infantry division: Illinois wants it stationed at the Joliet Arsenal, while Tennessee thinks Fort Campbell would be better. Finally, the Washington state legislature wants Congress to declare the steelhead trout our national game fish.

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They are wrong who think that politics is like an ocean voyage, or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life....It is not simply office-holding, it is not just keeping your place, not just raising your voice from the floor, not just ranting on the rostrum with speeches and motions....Politics and Philosophy are alike. All your life, all your time, in everything you do, whatever you are doing, it is the time for philosophy. And so also it is of politics.

Plutarch, 2nd Century Greek philosopher and historian  
in *Moralia*.

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# Annexation Laws: Time for a Change?

## Background

Today, municipalities in the United States use annexation as their principal method of growth. By enlarging their territories and increasing their populations, towns and cities are obligated to provide more services, but they also acquire a broader tax base to pay for those services.

Annexation laws in South Carolina have been more conservative than those in other states, and the required procedures have tended to slow down the process. Movement is once again underway to change our annexation laws. This *Research Report* examines the annexation question.

## Annexation Methods in General

There are five general methods of annexation procedures:

1. Legislative determination: Municipal boundary changes are made by special acts of the state legislature.
2. Popular determination: The people use their political power to determine if a proposed municipal boundary change will take place.
3. Municipal determination: A unit of local government is authorized to extend its boundaries by unilateral action of its governing body.
4. Judicial determination: The court determines if a proposed boundary change shall take place.
5. Quasi-legislative determination: An independent non-judicial tribunal or board is empowered to determine if a proposed annexation shall take place.

Source: *The Challenge of Local Governmental Reorganization*, published by the Advisory Commission on Intergovernmental Relations (ACIR), 1974.

### Why Annexation?

Municipalities use annexation in order to expand their territory. This generally expands their tax base and brings in more revenue. Of course, the city or town must provide services to the annexed area--fire protection, sewers, roads, police protection--. Supporters of annexation say that annexation benefits private property owners, other residents, and businesses by providing these necessary services at a more economical cost. Growth is also more orderly and rational under liberal annexation procedures, according to some.

The basic purpose of municipalities is to provide services to its residents. However, the growth of suburbs outside the city limits means that many people take advantage of these services but are not taxed to support them. The growth of the tax base now takes place on the edges of urban areas--that's where the more affluent suburbs are being built, where the new plants and businesses are being built. This movement outside the corporate limits erodes the tax base of the cities at a time when they are being called upon to provide more and more services.

South Carolina's counties are growing more rapidly than its municipalities. In fact, several cities have actually declined in population over the past ten years, as Table One illustrates. There is concern among the municipalities that they will have to provide more and more services with fewer and fewer resources; this concern is the strongest motive for more flexible annexation procedures. Uniform service provision and government effectiveness and fairness are also points raised by the municipalities.

### Why Not Annexation?

Generally and historically speaking, there have been three major forces opposed to changing South Carolina's annexation laws: the electric cooperatives, special purpose districts, and "double tax" opponents.

### The Electric Co-Ops

Electric cooperatives came into existence primarily in the rural areas of the state to provide electricity and, in some cases, natural gas. As South Carolina has moved towards urbanization, many formerly rural areas are now in the suburban fringe of cities. The co-ops have had to face the possibility that if annexation takes place, they might lose their franchise--some municipalities provide electricity themselves, and others might decide to use a different provider than the utility.



This issue was acted upon last year by the General Assembly, which passed a law giving the Public Service Commission the authority to decide upon service territories, including those annexed into an incorporated area. The legislation makes it state policy "to maintain the assignment of electric service territories by the Public Service Commission ... even when the area becomes incorporated or annexed into an existing city or town." (Act 431)

The utilities seem confident that the PSC will not disrupt the existing franchises, and do not appear to be as opposed to changes in the annexation laws as they have been.

The issue is not resolved, however. A total of 88 cities have challenged the PSC/Territory law and have brought their case to the state Supreme Court, arguing that the PSC does not have the authority to regulate what a municipality can do within its boundaries. Twenty-two of these are "electric cities," that is, they have arrangements to provide their own electric power. At this point the electric cooperatives are not an active party in the suit.

TABLE ONE  
POPULATION SHIFT IN SELECTED INCORPORATED AREAS IN S.C.  
Areas in CAPITALS have lost population

<u>Incorporated Area</u>	<u>1970 Census</u>	<u>1980 Census</u>	<u>1982 Estimate</u>
Aiken	13,436	14,978	15,570
BEAUFORT	9,434	8,634	8,840
CAMDEN	8,532	7,462	7,375
Cayce	9,967	11,701	11,751
Charleston	66,945	69,510	70,776
COLUMBIA	113,542	101,229	101,457
Florence	25,997	29,842	30,465
GEORGETOWN	10,449	10,144	10,347
GREENVILLE	61,436	58,242	57,490
Greenwood	21,069	21,613	22,105
Greer	10,642	10,525	10,874
Laurens	10,298	10,587	10,554
Myrtle Beach	9,035	18,446	20,074
North Augusta	12,883	13,593	14,306
Orangeburg	13,252	14,933	15,276
Rock Hill	33,846	35,327	36,434
SPARTANBURG	44,546	43,826	43,522
Sumter	24,555	24,890	25,649
UNION	10,775	10,523	10,429
Walterboro	6,257	6,209	6,380
West Columbia	7,838	10,409	11,092

Source: U.S. Bureau of the Census; S.C. Statistical Abstract

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### Special Purpose Districts

Until the Home Rule Act of 1975 counties in South Carolina were prohibited from providing such services as fire protection, trash collection and sewer and water treatment. To fill this gap "special purpose districts" were created. The latest state *Statistical Abstract* numbers special purpose districts in the state at 242, of which 108 have property taxing power.

Many of these districts also have bonding authority. According to a study by the Bureau of Governmental Research and Service of the University of South Carolina, special purpose districts have some cause to resist annexation:

The special districts are not affected by the municipal franchise power under the State Constitution and no statutes treat the issue of municipalities taking control of special purpose districts. However, case law indicates that municipalities could buy out the assets and assume the bonded indebtedness of special purpose districts in newly annexed areas. This power derives from the legal jurisdiction of a municipality as a taxing authority and a provider of services. Such an action would, of course, erode the tax base of a special purpose district and even, in some cases, dissolve the district altogether.

--Richard Kearney, *Municipal Annexation in S.C.*

### "Double Tax" Opponents

Some persons are opposed to paying both county and municipal taxes. Others are fearful that municipal taxes would be higher than county taxes, without an offsetting increase in services and benefits. In the past, business and industry have sometimes opposed annexation because of concern over possible increased taxes. This fear should have abated for two reasons: the passage of a constitutional amendment last year which authorized municipalities to grant tax exemptions to business and industry; and the development in recent years of new tax capabilities for counties such as business license fees.

### Annexation in the Southeast

Annexation policies in the Southeast are generally more liberal than those currently in South Carolina. From 1970 through 1977 South Carolina cities annexed less territory than any state in the region with the exception of West Virginia. During that seven year period South Carolina municipalities added 116 square miles to their territories. By contrast, North Carolina municipalities added 226 square miles; Georgia added 233 miles; Tennessee cities expanded by 401 square miles, and Florida municipalites added 347 square miles.

In other states, municipalities have authority to initiate the annexation proceedings; South Carolina towns and cities lack this authority. This is the major difference between the various state laws. Other states generally include referendum elections, petitions, and special acts of the general assembly.

### Current Annexation Procedures in South Carolina

South Carolina has four methods of annexation.

1. Majority Petition and Elections. A majority of the landowners (known as "freeholders") in an area must petition a city council to hold an annexation election. The council certifies the petition and forwards it to the county election commission, which conducts the election. Voters in the area seeking to be annexed and the city must vote. A majority in both the area and the city must vote in favor of the annexation. If they do, the area can be incorporated into the city, pending approval by the U.S. Justice Department.

2. "Three Box Method"--Petition, Referendum, Election. This complicated method works as follows: In cities under 25,000, 25% of the landowners in the territory to be annexed petition the city council for annexation; in cities over 25,000 only 15% is required. The council certifies the petition and passes it along to the election commission, which gives public notices and holds the election. Three groups must vote: 1) citizens in the city, 2) citizens in the area to be annexed, and 3) freeholders in the area to be annexed. All three groups must approve the annexation.

3. Petition and Ordinance. This is the most commonly used method. Seventy-five percent of the property owners, owning at least 75% of the property in an unincorporated area petition city council for annexation. Council certifies the petition and passes an ordinance approving the annexation.

4. Special Situations. In certain limited situations a simple petition for annexation and approval by city council is sufficient. This, however, is limited to property owned totally by the annexing municipality, a corporation, church, school district or the federal or state government.

### Proposed Annexation Procedures

Three House bills are currently proposing changes in the annexation procedures.

H.2285 reduces the required percentage of freeholders (property owners) signing the petition. The old level of 75% of the property owners who own 75% of the property is reduced to 55% and 55% respectively. Once such a petition is presented to a city council, the council could annex the area by ordinance.

H.2286 provides for annexation elections if 1) a petition is signed by 25% of the property owners in the area; 2) the city council passes a resolution calling for the election. A majority of voters in the area would have to approve the annexation. Allowing the city council to call an election gives municipalities for the first time the power to initiate the annexation process.

The area in question must be "urban." As defined in the legislation, 'urban area' means any area which has at least fifty percent of its land used for non-agricultural purposes; land prepared for urban development; or land whose owner has asked that it be considered for the purposes of the current annexation.

The city council would also have to outline how it plans to serve the area to be annexed, and discuss these plans at public hearings.

The proposed bill was amended in committee to protect large landowners opposed to annexation--typically, industries who currently have all the services they require and wish to avoid additional taxes. If a single landowner has 25% or more of the assessed value of the land considered for annexation, that landowner has "veto power" over the election, by refusing to go on record allowing it to proceed.

H.2287 eliminates the requirement that municipal electors would have to vote in annexation elections.

### Conclusion

There is no doubt that South Carolina is shifting from a rural to an urban way of life. The trend, which began during the last part of the 19th century, has dramatically increased since the 1950's (see Table Two, below). The current state population is 3.1 million. By 1990 the population is projected to be 3.6 million; in 2000 there will be 3.9 million residents in the state.

How the state will cope with increased population and the service demands they bring, will depend largely on the organization, cooperation and communications of local and regional governments, and the powers they have available to them. Annexation is certainly a key consideration and a possible tool in responding to such growth pressures.

Table Two, below, gives the percentages of urban and rural inhabitants of South Carolina from 1790 to 1980. By U.S. Census definition, the urban population is composed of persons living in densely populated areas and in places of 2,500 or more outside urbanized areas. All persons living outside urbanized areas, or areas less than 2,500, or living in the open country-side are classified as rural.

TABLE TWO  
SOUTH CAROLINA'S POPULATION SHIFT FROM RURAL TO URBAN

<u>Year</u>	<u>Urban %</u>	<u>Rural %</u>	<u>Year</u>	<u>Urban %</u>	<u>Rural %</u>
1790	6.6	93.4	1890	10.1	89.9
1800	5.4	94.6	1900	12.8	87.2
1810	6.0	94.0	1910	14.8	85.2
1820	4.9	95.1	1920	17.5	82.5
1830	5.8	94.2	1930	21.3	78.7
1840	5.7	94.3	1940	24.5	75.5
1850	7.3	92.7	1950	36.7	63.3
1860	6.9	93.1	1960	41.2	58.8
1870	8.6	91.4	1970	48.3	51.7
1880	7.5	92.5	1980	54.1	45.9

Source: U.S. Bureau of the Census

Prepared by House Research Office, 3/85/5598

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