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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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STATE DOCUMENTS

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House Week in Review

The House of Representatives gave final approval to revisions of the Beachfront Management Act last week. Also, three significant bills were ratified. These were H.4807, which make changes to the State Underground Petroleum Environmental Response Bank; S.1137, the Adult Health Care Consent Act, and H.4427, which would allow special property tax assessments for "rehabilitated historic properties."

On Tuesday, the House gave third reading approval to amendments to S.391, which would revise the Beachfront Management Act. The legislation, which as amended would eliminate the so-called "dead zone" and strengthen sea wall provisions, now goes back to the Senate for consideration of the changes made by the House.

Child Custody Bill

The House also gave final approval to S.1511, involving changes to child placement proceedings, including when the parents are arrested or in emergency situations. The legislation, as amended, would allow a child to be temporarily placed by the local Department of Social Services with a parent, guardian, immediate family member or relative prior to a Family Court hearing in the event of an emergency. However, DSS would still retain legal custody of the child until the Family Court makes a decision. The law allows DSS to expedite the case where the facts and circumstances clearly indicate no abuse or neglect.

Under this legislation, when a child's parents have been arrested or if the child has become lost accidentally, the child would be taken into protective custody under certain circumstances. In the case of parental arrest, the child would be taken into custody if the parents do not consent in writing within 24 hours to another person taking custody of the child. If the child is lost, he would be taken into custody if law enforcement could not locate the parents within 24 hours. In either circumstance, law enforcement would not have to place the child with a parent or immediate family member or relative if there is indication the child would be harmed or if the adult will not take custody within 24 hours. During the 24 hour waiting period, the local DSS would provide temporary custody.

Superb Fund Bill

Revisions to the SUPERB Fund, as outlined in H.4807 ratified last week, would benefit the state environmentally and economically. The act, which makes changes to the State Underground Petroleum Environmental Response Bank, is of great interest to a number of businessmen around the state who own underground gas tanks and are faced with expensive liability insurance requirement.

The act also will benefit the state environmentally since federal officials have stated that leaking underground storage tanks represent a significant source of hazardous waste contamination and pose a serious threat to groundwater quality. According to the Congressional Research Service, of the 1.4 million underground gasoline tanks nationally, between 75,000 and 100,000 may be leaking now and perhaps up to 350,000 will begin leaking in the next five years.

Provisions of H.4807 include:

- An initial registration fee of \$100 per tank and an annual renewal fee of \$100 per tank until December 31, 1998 when the fee would be reduced to \$25 per tank.
- An additional one-half cent a gallon environmental impact fee with the proceeds going to the SUPERB account. In addition, a one-fourth cent a gallon inspection fee would be established. The environmental impact fee would be collected by the State Department of Agriculture but transferred to DHEC. The amount used for administration of the program may not be more than \$450,000 a year.
- The one-half cent environmental impact fee would be suspended any time the SUPERB account exceeds \$15 million. The fee suspension would continue until the account drops below \$5 million.
- The act would substantially decrease the amount of financial responsibility tank owners must carry. The bill states the owners must maintain financial liability in the lesser amount required by the federal government or in the amount of \$25,000 for corrective action or clean up of spills, \$25,000 for third party property damage, and \$25,000 for third party bodily injury per occurrence with an annual aggregate of \$25,000. Current financial responsibility requires the owner to carry coverage of \$100,000 for clean up or corrective action, \$300,000 for third party property damage an occurrence with a \$300,000 annual aggregate.

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- The financial responsibility required by the bill, along with the SUPERB account, may be used by tank owners to demonstrate their compliance with federal financial responsibility requirements.
- The bill spells out what the SUPERB account is to be used for, including to pay the costs of site rehabilitation by owners or operators who qualify for reimbursement or direct billing. DHEC also may use the fund to clean up a site which does not qualify for reimbursement, direct billing or any site which does not qualify but the owner is unwilling or unable to undertake the rehabilitation. The bill directs DHEC to "diligently pursue" recovery of any sum from the owner or operator or the federal government, unless the amount is too small or the likelihood of success too uncertain.
- The provisions of this section would not apply to any site where the owner of the underground gas tank has not paid the required registration fee.
- The bill also notes that if liability insurance or another financial responsibility mechanism providing coverage for sudden or nonsudden leaks has been executed for a underground tank site, then this coverage must be exhausted before funds from the SUPERB Account may be used.

Annual Fear of Crime Poll

For the past 10 years, the College of Criminal Justice at the University of South Carolina has conducted a statewide public opinion poll on crime issues. This year's polling results were released this month and cover a wide variety of criminal justice topics.

In addition to surveying on general concerns about crime, the poll also included questions about illegal drugs, gun control and sentencing options. The polling results were compiled and analyzed under the direction of Professor Gene Stephens of the USC College of Criminal Justice.

The statewide poll of 1,234 South Carolinians was conducted between March 22 and April 5, 1990 by the College of Criminal Justice. Selection of respondents was made by a computer-generated statewide random sample of telephone numbers. The poll has an error factor of plus or minus 3 percent. Funding for the poll was provided by the College of Criminal Justice and a grant from the Governor's Office Division of Public Safety. In its tenth year, this poll is believed to be the longest running statewide study of concern about crime in the nation.

Thanks go to the USC College of Criminal Justice and Professor Stephens for allowing this reprinting of poll results and his conclusions.

A number of crime related bills have been passed by the House this session. For a list of those bills, please see the May 1 Legislative Update.

Fear of Crime Poll Results 1981-1990

Respondents Answering Yes :	1990	1989	1988	1987	1986	1981
Do you think crime in your area has increased in the past year?	56.1%	57.1%	51.1%	53.3%	49.8%	62.7%

Source: USC College of Criminal Justice

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<u>Respondents Answering Yes :</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>	<u>1987</u>	<u>1986</u>	<u>1981</u>
Are you more concerned about your personal safety today than you were five years ago?	76.5%	77.8%	71.2%	68.8%	74.1%	83.0%
Are you more concerned about the safety of your personal property today than five years ago?	77.6%	79.2%	76.7%	74.4%	77.9%	86.6%
Do you think criminals are more violent today than they were five years ago?	80.0%	82.1%	74.5%	70.3%	76.4%	71.1%
Do you keep a gun for protection?	47.2%	42.7%	49.8%	45.0%	48.8%	44.2%
Do you keep a dog for protection?	37.4%	36.9%	36.3%	36.4%	41.3%	43.8%
Do you avoid certain areas?	73.8%	70.6%	70.1%	69.6%	71.6%	72.9%
Do you avoid being out along after dark?	60.0%	58.0%	54.8%	51.7%	51.1%	59.4%
Have you installed protective devices in your home?	42.4%	47.2%	49.3%	43.1%	50.7%	41.4%
Have you taken other special precautions against crime?	32.3%	30.4%	34.3%	37.5%	39.6%	47.0%

Concern About Drugs:

Would you describe your personal concern about illegal drug abuse as:

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Greatly concerned	72.0%	70.7%	66.7%
Concerned	24.6%	25.2%	27.6%
Not very concerned	2.4%	3.0%	4.1%
Unconcerned	1.0%	1.1%	1.6%

Source: USC College of Criminal Justice

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Do you believe there is a serious drug abuse problem in the community where you live?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Yes	56.7%	50.2%	47.1%
No	35.4%	40.6%	43.6%
No Opinion	7.9%	9.1%	9.3%

Do you believe illegal drug abuse has increased, decreased or remained the same in your community in the last year?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Increased	57.8%	59.9%	54.1%
Decreased	6.3%	6.5%	6.9%
Remained the Same	26.9%	33.5%	29.2%
No Opinion	9.0%	-----	-----

Does it appear to you that law enforcement efforts in your community against illegal drug use has increased, decreased or remained the same in the last year?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Increased	48.6%	47.1%	38.7%
Decreased	5.3%	6.3%	7.7%
Remained the Same	37.9%	46.6%	43.7%
No Opinion	8.2%	-----	-----

Do you think your local law enforcement agencies are doing enough to fight drug abuse?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Yes	52.5%	46.7%	49.5%
No	37.4%	42.7%	38.1%
No Opinion	10.0%	10.7%	12.4%

Source: USC College of Criminal Justice

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Would you support increased funding for law enforcement to fight drug abuse, even if it meant an increase in local taxes?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Yes	77.6%	76.0%	75.6%
No	16.0%	16.9%	17.5%
No Opinion	6.5%	7.1%	6.9%

Law enforcement is one approach to combat drug abuse; education and prevention is another. Which approach do you think is most effective?

	<u>1990</u>	<u>1989</u>	<u>1988</u>
Law enforcement	21.0%	22.3%	19.0%
Education/prevention	54.5%	55.1%	56.5%
Equal	18.8%	16.8%	18.8%
No Opinion	5.8%	5.7%	5.8%

Would you support increased funding for education and prevention to fight drug abuse, even if it meant an increase in local taxes?

	<u>1990</u>
Yes	81.8%
No	13.6%
No Opinion	4.6%

Concern About Guns

Do you think the increase of drug abuse is associated with an increase of people in your community acquiring guns?

	<u>1990</u>	<u>1989</u>
Yes	30.0%	37.3%
No	54.2%	40.9%
No Opinion	15.8%	21.8%

Source: USC College of Criminal Justice

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Do you think drug dealers in your community are arming themselves with guns?

	<u>1990</u>	<u>1989</u>
Yes	63.0%	66.3%
No	13.5%	10.6%
No Opinion	23.4%	23.1%

Do existing laws make it too easy for people to buy guns, too difficult, or are they about right? (*The national results are taken from a Time Magazine poll reported in its February 27, 1989 issue.)

	<u>1990</u> <u>S.C.</u>	<u>1989</u> <u>S.C.</u>	<u>1989</u> <u>National*</u>
Too easy	61.2%	62.7%	67.0%
Too difficult	5.6%	2.8%	5.0%
About right	33.3%	34.4%	23.0%

Do you favor or oppose requiring a two week waiting period before anyone can buy a gun, to allow time to check a buyer's background?

	<u>1990</u> <u>S.C.</u>	<u>1989</u> <u>S.C.</u>	<u>1989</u> <u>National*</u>
Favor	87.3%	87.8%	89.0%
Oppose	9.8%	10.8%	9.0%
No Opinion	2.9%	3.3%	2.0%

Do you think having stricter gun control laws would reduce the amount of violence in the country?

	<u>1990</u> <u>S.C.</u>	<u>1989</u> <u>S.C.</u>	<u>1989</u> <u>National*</u>
Yes, would reduce	50.2%	52.4%	47.0%
No, would not reduce	42.3%	39.2%	48.0
No Opinion	7.5%	8.4%	5.0%

Source: USC College of Criminal Justice

Do you belong to the National Rifle Association or any other group interested in firearms?

	<u>1990</u> Percent	<u>1989</u> Percent
NRA	6.5%	7.9%
Other group	4.4%	8.2%
NRA and other group	2.2%	1.5%
Neither NRA nor other group	83.5%	81.4%
No Opinion	3.3%	1.3%

Sentencing Options for Violent/Nonviolent Offenders

Do you think violent offenders should spend more time in prison than they currently do? (This question was last asked in 1987.)

	<u>1990</u>	<u>1987</u>
Yes	87.1%	85.1%
No	6.7%	8.2%
No Opinion	6.2%	7.3%

Do you think violent offenders should spend more time in prison if space and cost require nonviolent offenders to spend less time in prison?

	<u>1990</u>	<u>1987</u>
Yes	74.6%	76.9%
No	15.3%	15.7%
No Opinion	10.0%	7.3%

Which of the following do you think is the most acceptable way for dealing with nonviolent offenders: (1) restitution to the victim; (2) service to the community; (3) closely supervised probation; or (4) imprisonment?

	<u>1990</u>		<u>1987</u>	
Restitution to victim	35.5%	(1st)	28.6%	(2nd)
Service to community	28.7%	(2nd)	28.6%	(1st)
Probation	14.6%	(4th)	25.2%	(3rd)
Imprisonment	21.1%	(3rd)	17.6%	(4th)
No Opinion	----		----	

Source: USC College of Criminal Justice

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Which of the following do you think is the least acceptable way for dealing with nonviolent offenders (1) restitution to the victim; (2) service to the community; (3) closely supervised probation; or (4) imprisonment?

	<u>1990</u>	
Restitution to victim	13.3%	(4th)
Service to community	19.6%	(3rd)
Probation	29.3%	(2nd)
Imprisonment	37.9%	(1st)
No Opinion	----	----

"I would be willing to have a restitution center located in my community."

	<u>1990</u>
Strongly agree	10.6%
Agree	18.7%
Neutral	23.0%
Disagree	39.7%
Strongly disagree	7.9%

Do you think releasing nonviolent offenders early to make space for newly sentenced offenders is an acceptable method of relieving prison overcrowding?

	<u>1990</u>	<u>1987</u>
Yes	47.8%	55.0%
No	41.7%	35.3%
No Opinion	10.5%	9.7%

Do you think restricting a person to home and work by monitoring his whereabouts electronically is an acceptable alternative to imprisonment for nonviolent offenders?

	<u>1990</u>	<u>1987</u>
Yes	63.2%	54.5%
No	25.4%	36.0%
No Opinion	11.3%	9.5%

Source: USC College of Criminal Justice

Victimization Results

Of the 1,234 respondents, 163 or 13.3 percent said they had been a victim of crime in the past year, but of these 163 respondents, only 21 respondents said they were victims of violent crimes. This compared with 19 violent crime victims and 148 crime victims in the 1989 poll.

Among the crime victims responding to the 1990 poll, two-thirds or 166 respondents were victims of theft, 23 were vandalized and 11 were victims of unspecified crimes.

Asked if they had a friend, relative or neighbor who had been a crime victim in the past year, 452 or 36.6 percent responded "yes."

Poll Conclusions

After ten years, it appears that fear of crime fluctuates only slightly in South Carolina from year to year, and in general, remains at high levels, but considerably below the levels of a decade ago. The only exception is the belief that the criminal is more violent today, which is considerably greater than it was a decade ago.

It appears that just under half of the population keep a gun for protection in South Carolina, a figure considerably above the national level. Gun polls in South Carolina and in the nation are similar. They both indicate that people feel it is too easy to obtain a gun and that a waiting period and background check to obtain a gun is a reasonable and desirable policy.

Concern about drug abuse is almost universal, and the belief that attacking demand even harder than supply is indicated. Clearly, the public is willing to spend more money to increase both education/prevention (demand) and law enforcement (supply) efforts to alleviate the drug problem in South Carolina.

As for sentencing offenders, it appears the public is quite ready to pay the price for prisons for violent offenders, but feels there are better options for nonviolent lawbreakers -- with restitution, community service and electronic monitoring leading the way. The reluctance of citizens to put restitution centers in their own communities might signal a need to require restitution as a condition of probation rather than put the probationers in a community-based facility. Such a policy would be less costly, less intrusive, and less likely to cause discord in the community.