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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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CONTENTS

Possible Issues for the 1992 Session.....	2
Highlights of the New Ethics Law.....	14
1991 Bond Bill.....	17

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OFFICE OF RESEARCH

Room 324, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, November 1991

Possible Issues for the 1992 Session

During the past two weeks, the House staff was asked to come up with a list of possible issues that are likely to come before their respective committees in 1992. Here is that list, compiled to assist House members as they prepare speeches and answer constituent questions about the 1992 legislative session. This list represents only the "best guesses" of the House staff, and inclusion of an issue here does not ensure it will surface as a noteworthy topic during the session.

In addition, there may be a number of issues deemed important by individual representatives that do not appear here but will be proposed in January. To that end, House members may list these issues in the annual House survey to be conducted at the end of November. The December *Legislative Update* will carry the results of the survey, along with a brief background report on each of the top ten issues for 1992 as ranked by the members of the House of Representatives.

Thanks to the research staffs of the House standing committees for providing the issues and summaries that appear here. The following issues are presented in alphabetical order.

Appropriations Act

FY 92-93 appears to be another challenging year to write a state budget which adequately addresses the needs of the state of South Carolina. The Board of Economic Advisors has estimated \$141.9 million in new revenue beyond the appropriation base, while state agencies have requested more than \$777 million in General Fund increases. The challenge will be how to maintain, improve or prioritize services within existing state revenue estimates.

Legislative Update, November 1991

Automobile Insurance

A strong public outcry for automobile insurance reform began anew with the July 1 increase in the recoupment fee charged all drivers. The Property and Casualty subcommittee of the House Labor, Commerce and Industry Committee will hold public hearings in North Charleston, Myrtle Beach, Spartanburg and Rock Hill during the week of Nov. 18 to gather citizen proposals on the issue.

Barnwell Low-Level Nuclear Waste Facility

The Barnwell low-level nuclear waste facility is scheduled by law to cease operation on December 31, 1992. Under the provisions of the Southeastern Compact, North Carolina has been selected to host the next site but has made little progress in developing a facility. There will be strong pressure on the State of South Carolina by other states to keep the Barnwell facility open beyond its scheduled closure date. This closing also will result in the loss of revenue to the General Fund in the amount of approximately \$18 million, based on current volume.

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, H.3003 would extend the time period that low level radioactive waste could be accepted at the Barnwell Regional Disposal Facility from December 31, 1991 to December 31, 1994.

Breakfast Program in Every School

A joint resolution has been introduced requiring each public school district to implement a nutritional, well-balanced school breakfast program. Currently, all South Carolina public schools participate in the National School Lunch Program and receive federal reimbursement. A breakfast program, which is also a federal entitlement program, is available in only 663 of the 1,023 schools in the state (65 percent). If the resolution becomes law, the 360 schools without a breakfast program would be mandated to begin one.

The federal government reimburses schools for every free and discounted breakfast served. In schools where at least 40 percent of the students qualify for free or reduced meals, sufficient federal funds are provided to guarantee that breakfast programs break even. According to a fiscal impact statement provided by the Budget and Control Board, the federal government would reimburse school districts approximately \$9.3 million, as the program now exists, which would pay for the program. There would be no additional cost to the state General Fund.

Legislative Update, November 1991

Consolidation/Annexation

As a result of the media's recent focus on the state's "power failure," interest once again has been renewed in South Carolina's political subdivisions. Consolidation and annexation legislation are nothing new to the House Judiciary Committee. However, it is to be expected that there will be a reinforced impetus behind these issues this session.

H.3681, currently in the Constitutional Laws subcommittee of the House Judiciary Committee, would provide procedures for the consolidation of political subdivisions. It is intended to give political subdivisions the power to create consolidated governments to serve a county's needs while reducing duplication of effort. It calls for the creation of a consolidated government charter commission upon the request of the governing body of a county or upon the petition of not less than 10 percent of persons registered to vote in the county. The commission would then be responsible for establishing a single county-wide government to replace existing county, municipal and other political subdivision governments if approved by the voters of the county.

Legislation currently is being drafted to make annexation laws easier. Annexation laws in South Carolina are currently among the most restrictive in the country. South Carolina is one of only three states that prohibits municipalities from formally initiating annexation actions. Municipalities are being forced to provide services to many day-time commuters while residents who live within municipal boundaries must foot the bill. If annexation laws are made less restrictive, suburban residents will be required to share the costs of the city's services that everyone enjoys.

Chemicals Right to Know Act

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, this bill would require that any person who manufactures, processes, uses, stores or produces hazardous chemicals compile and maintain a hazardous substance list, containing the following information for each hazardous chemical normally used or stored in a facility in quantities of 55 gallons or 500 pounds, whichever is greater.

- 1) The chemical name or common name used on the material safety data sheet or the container name;
- 2) The approximate range of quantity of each chemical;
- 3) The area in the facility in which the chemical normally is stored and to what extent the chemical may be stored.

Legislative Update, November 1991

The legislation also provides that any person in this state may request, in writing, a hazardous substance list from a facility.

Eighth Grade Advisement About Post-Secondary Education Options

High school students are not always aware of the courses they need to take to prepare for entrance into college. For example, high school algebra and geometry courses are seen as "gatekeepers" to college -- those classes that are pretty strong indicators of college success. If students are not given timely information that certain courses are required for admission into college, they might miss the opportunity to take those courses.

The bill (H.4005) before the House Education and Public Works Committee directs the state Commission on Higher Education to develop information packets for eighth graders and their parents to include:

- Options of post-secondary education available;
- The high school courses required as prerequisites to attend colleges and universities;
- The financial requirements and assistance available for post secondary education;

After pilot testing the packets in some schools, the commission is to provide annual counseling sessions to eighth grade students and their parents. In the bill, businesses and industries are encouraged to give opportunities for employees, who have children in the eighth grade, to attend the counseling session at the work site.

A proviso in the 1991 Appropriations Act transferred \$100,000 of Education Improvement Act funds from the Gifted and Talented Program to the CHE for implementation of this advisement program.

Department of Social Services Reform

Several members of the General Assembly requested the Legislative Audit Council to conduct a limited-scope review of the South Carolina Department of Social Services. The review, released in May, focused on child protective services, foster home licensing, agency administration, and public accessibility. The final report included several findings that indicated problem areas within the agency. The State Reorganization Commission is now in the process of conducting a compliance review for the agency's response to the LAC report.

Legislative Update, November 1991

H.3624, currently pending in Subcommittee V of the Medical, Military, Public and Municipal Affairs Committee, would mandate the State Department of Social Services to establish written criteria for evaluating the quality of services provided by each county Department of Social Services. The bill requires that county directors, county advisory council chairmen, and other knowledgeable persons be involved in drafting the evaluation guidelines. An advisory committee would be established to assist in the design of the review procedure and to make recommendations to the State Board of Social Services.

Beginning in January 1994, the bill would require the state department to evaluate each county department annually. A county director would have to submit a corrective action plan to the state board if the county department does not meet the criteria set in this bill. The state board would review, and could amend, the county corrective action plan. A county director could be disciplined or terminated as a part of a corrective action. The state board also would have the option of holding the county department's funds in escrow during implementation of a corrective action plan. Funds could be released for particular programs as the county department comes into compliance with the corrective plan.

Health Care Insurance and Access

More than 400,000 South Carolinians are not covered by public or private health insurance. Many of these people are employees of small businesses, which have been priced out of the health insurance marketplace or have been forced to reduce such benefits to their employees. Medicaid covers only about 40 percent of those whose income is below the poverty level. At the same time, health care costs are rising more than 10 percent per year.

The lack of health insurance severely limits access to health care services for these people. Many citizens end up receiving services in hospital emergency rooms, and the costs are shifted to the hospitals' paying patients. Legislative attention may focus on attempting to provide affordable health coverage for these working uninsureds.

In the absence of any proposed national health care plan, some states are taking the initiative to develop their own programs. Hawaii, a front-runner in this area, set up an employer based health insurance program in 1974. Employers there are required to provide health care coverage or pay to fund an insurance pool. Massachusetts's 1988 Health Security Act is also based on the "pay-or-play" concept.

Legislative Update, November 1991

Some states are considering the establishment of a single-payer program rather than revamping the existing insurance system. Other states are looking for ways to reform the insurance industry to make coverage more affordable for the small group market. Connecticut has a new law that prohibits medical underwriting and creates a reinsurance facility to spread the cost of insuring high risk individuals.

Still other states are developing no-frills benefit plans that will provide basic coverage at a low cost. Advocates for this approach argue that a basic package, without mandated "extra" benefits, would make health insurance affordable for more small employers. Some of these states plan to offer small businesses tax breaks or other financial incentives to provide this type of coverage.

The S.C. Health and Human Services Finance Commission is using a \$7.2 million federal grant to develop and implement a demonstration project to provide a managed care Medicaid health insurance program for low-income employees and their dependents in our state. The three year project will be available to small employers in Horry and Marion counties. The program's objectives are to make health insurance more affordable for employers, improve access to health care, and to hold down costs through managed care.

Highway Department Reorganization

The fate of the South Carolina Department of Highways and Public Transportation will be a matter of debate by the General Assembly in 1992. The continuing controversy plaguing the department has made it a focal point in the call for government reorganization.

The two primary areas of concern are:

(1) SCDHPT's Organization and Structure:

All proposals for reorganizing the department call for a reduction in the size of the current 20-member commission. Several plans would have the director of the department chosen by the governor pursuant to a cabinet form of government.

Others recommend retaining the commission but reducing its size to 11 or seven. These proposals have the commission members elected by the General Assembly at-large from each congressional district or certain proposed highway districts. Examination also will be made of proposals for splitting the department into two separate entities.

Legislative Update, November 1991

(2) Fiscal Accountability:

Nearly all state agencies are funded by state General Fund monies. The department, however, receives the bulk of its revenue is from its own State Highway Fund, that totaled \$476.8 million for the 1989-90 budget year.

Some consider the department's budgetary autonomy and "lump sum" status to have resulted in unresponsiveness to the General Assembly and to have permitted a lack of accountability. These points will be addressed.

HIV/AIDS Testing for Health Care Professionals and Patients

The Center for Disease Control (CDC) issued guidelines in July concerning recommendations for preventing the transmission of the human immunodeficiency virus (HIV) and the hepatitis B virus (HBV). Congress enacted legislation in early October that requires the states to implement these guidelines by regulation or legislation.

The CDC guidelines do not call for mandatory or universal testing for health care workers. They do state that all health care workers performing invasive procedures should follow universal precautions against infection. These precautions include such actions as thorough sterilization of equipment; careful handling and disposal of needles and other sharp instruments; and wearing gloves. The guidelines further recommend that those workers who perform exposure-prone procedures should closely monitor their HIV and HBV status and should stop performing such procedures if they find they have either virus.

On October 16, the South Carolina Medical Association announced its new voluntary program to test health care workers for HIV and HBV. The testing network will be operated by the South Carolina Medical Care Foundation (SCMCF). Testing will be entirely voluntary and will be offered yearly to all physicians, dentists, nurses, medical students, and other appropriate health care professionals. Those who test positive and who refuse either to discontinue performing exposure-prone procedures or to meet with the SCMCF will be reported to the State Board of Medical Examiners or the State Dental Board.

It should be noted that there is a much higher risk of patient-to-provider transmission of HIV and HBV than for provider-to-patient. Transmission to patients has been shown only in one unusual cluster of five patients of a dentist in Florida. The Hepatitis B virus is up to 100 times as infectious as HIV. However, while HBV can kill, it is not always fatal.

Legislative Update, November 1991

South Carolina law states that a health care professional may require a patient to be tested for the Human Immunodeficiency Virus (HIV) if there is a possibility that a health care worker has been exposed to HIV while working with the patient or the patient's blood or bodily fluids. The test results must be given to the professional who is then required to report the results to the patient and the worker.

H.3179, currently in Subcommittee I of the Medical, Military, Public and Municipal Affairs Committee, would expand that concept to protect the patient as well as the worker from exposure to HIV or other blood borne infectious agents. The definition of worker would be expanded to include all medical personnel, law enforcement officers, coroners, morticians, dentists, volunteers, and home care providers whose duties may result in exposure to the blood or body fluids of other persons.

Judicial Selection

The issue of improving the method of selection of judges has been before the General Assembly in recent years. In Act 610 of 1990, the General Assembly created 10 additional circuit judges positions. Another section of that act prohibits a candidate from seeking pledges from any legislator until the qualifications of all candidates for that office have been determined by the judicial screening committee. Another section of the act provides for reopening of filing where an incumbent judges withdraws, dies or is found unqualified by the screening nomination.

Of interest in the 1992 session will be bills to alter the make up of the Judicial Screening Committee to include non-legislators. One bill filed last spring would revise the membership to be three House members, three senators and three members appointed by the governor to a total of nine members, with at least three of them being licensed attorneys. Another proposal would maintain the legislative membership at eight and add two gubernatorial appointees to the committee.

Prenatal Exposure to Controlled Substances

The State Council on Maternal, Infant and Child Health (MICH Council) recently issued the 1991 South Carolina Prevalence Study of Drug Use Among Women Giving Birth. According to the study, one in four South Carolina infants is born to a mother who uses alcohol, illicit drugs, or nonprescription drugs.

Legislative Update, November 1991

The results of the MICH Council study have serious implications for the health of these infants and their mothers and for spending priorities in our state. Drug and alcohol exposed babies are at a much higher risk for a variety of health problems, ranging from low birth weight to severe mental retardation and physical abnormalities. They also are more likely to require neonatal intensive care initially, and social services and special education services throughout childhood. According to the MICH Council study, many of these infants incur medical costs in excess of \$50,000 in just their first year of life.

Several states have created task forces or enacted legislation to try to deal with this problem. Since 1989, eight states (Florida, Illinois, Indiana, Massachusetts, Minnesota, Nevada, Oklahoma and Utah) have passed laws defining prenatal drug exposure as child abuse or neglect.

H.3858, currently pending in the House Medical, Military, Public and Municipal Affairs Subcommittee I, defines prenatal exposure to controlled substances as child abuse.

It would authorize any person to make a report to the Department of Social Services if that person knows or has reason to believe that a pregnant woman has used a controlled substance for a nonmedical purpose during her pregnancy. The department would then be required to investigate, develop a treatment plan, and offer appropriate services to the pregnant woman if needed.

The bill also provides for testing procedures, voluntary and involuntary alcohol and drug abuse commitment, confidentiality protections, and immunity from civil or criminal liability for those who make these reports or assessments. H.3858 specifies that no information obtained through these reports and tests may be used as evidence in a criminal proceeding regarding possession or use of a controlled substance.

Railway Revitalization (Rails-to-Trails)

Preservation of railroad rights-of-way for future mass transit needs will be a major item addressed. Pending legislation, in addition to attempting to preserve these rail corridors, encourages the interim recreational use of the corridor for hiking and biking trail purposes.

Legislative Update, November 1991

Reapportionment

The reapportionment of House and Senate districts and of the six Congressional districts based upon the 1990 Census is the most important task facing the legislature in 1992.

In late May of 1991, the House passed the House redistricting plan. It is presently pending in the Senate Judiciary Committee. The House plan for congressional redistricting has been dealt with by a subcommittee of the House Judiciary Committee. The Senate has passed a Senate redistricting plan and its plan for congressional redistricting. Congressional redistricting and the Senate redistricting plan will be taken up by the full Judiciary Committee early in the 1992 session.

Recodification of ABC Laws

The Alcoholic Beverage Control Commission is seeking a rewrite of the state's beer, wine and liquor licensing and regulatory laws in an effort to eliminate inconsistencies and to make the statutes easier to understand and to enforce.

Restructuring State Government

In March 1991, an executive order was issued establishing the Commission on Government Restructuring. The commission's purpose was to develop a long term plan to restructure the state's government to provide more efficiency, effectiveness and accountability in state services to the people. The commission found that South Carolina's current structure is full of fragmentation, duplication of effort, ineffective allocation of scarce resources, and a lack of administrative accountability to anyone. As a result, the commission has recommended a cabinet form of government in its restructuring plan presented to the governor. This would establish a system whereby the elected chief executive is responsible for the administration of government departments, and agencies and government departments and agencies are accountable to the chief executive. Such a comprehensive restructuring of state government can only be accomplished over a period of time. Therefore, the commission has proposed a restructuring implementation plan consisting of five stages over the next several years.

Legislative Update, November 1991

In order for restructuring to occur, legislation will need to be introduced to modify existing laws. In 1992 -- stage two of the plan -- the commission recommends a statewide referendum proposing a change in the State Constitution to provide for a maximum number of executive cabinets. In addition, the referendum would propose a state constitutional amendment to allow for the appointment, rather than the election, of the Adjutant General, the state Superintendent of Education, and the Commission of Agriculture.

School Nurse-Student Ratio

Public schools in South Carolina are not required to have nurses on staff. H.3498 changes that by establishing a nurse-student ratio to be phased in over four years. By school year 1995-96, the final ratio would be one nurse for every 750 students.

Presently, one in every four schools in South Carolina has access to a school nurse. All costs for nurses are paid by local school districts with no state funding support for these staff positions. To implement the bill, supplemental funding is to be sought from federal sources. The fiscal impact, regardless of funding source, is \$2.4 million the first year and \$18.4 million at full implementation. Of course, any federal funding would help defray the cost to the state.

A subcommittee amendment to the bill reinforces the position that school nurses must follow provisions in the Comprehensive Health Education Act.

Toxics Use Reduction Act

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, this legislation establishes a statewide goal of reducing toxic waste generated by 50 percent by the year 1999. The bill also mandates that in no event may DHEC authorize implementation of a plan, strategy or technology less protective of the environment than required by an applicable federal statute, regulation, permit, license or plan approval.

The legislation establishes strict guidelines for monitoring toxics uses by establishment of advisory boards and research institutes, as well as establishing a toxics uses reduction fund.

Legislative Update, November 1991

Wetlands Regulation

An environmental issue that has been pending before the Legislature for a number of years, the regulation of freshwater wetlands will again be before the General Assembly in 1992. The pending bill is H.3414, introduced last session and under consideration by the House Agriculture, Natural Resources and Environmental Affairs Committee. This legislation, aimed at protecting and conserving the state's freshwater wetlands, outlines the steps the state should take to achieve this goal. Under this bill, the General Assembly would declare it is the policy of the state to achieve a goal of no overall net loss of regulated wetlands, based on function and value. This would be accomplished through a program of wetland classification and mitigation.

The proposed revised federal Manual for Identifying and Delineating Jurisdictional Wetlands was published in the Federal Register on August 14 and is currently in the public comment period. Since wishes were expressed to develop a state wetlands program which closely parallels the federal program, it was necessary to carry over the work on the wetlands issue to the upcoming legislative year.

Workers Compensation Insurance

In spite of a rate increase granted by the state Department of Insurance in June, insurers say workers' compensation insurance is unprofitable business because rates are too low to cover the high costs involved. As a result, some companies are becoming more selective about which employers they write or are making the decision not to write workers' compensation coverage at all. Employers say it is becoming more and more difficult to find affordable coverage. The Legislature could see proposals aimed at cost reduction and increased availability.

Legislative Update, November 1991

Highlights of the Ethics Reform Law

At the end of September, the General Assembly returned for a special two day session to finish work on several important bills, foremost among them H.3743, the Ethics and Accountability in Government Act. Over the past six weeks, many House members have requested a summary of highlights of this lengthy, comprehensive legislation.

Here is a summary of Act 248, signed by Gov. Campbell on October 1. Thanks to Mary Margaret Mosrie, assistant staff counsel for the House Judiciary Committee, for providing this summary. For a copy of the act, please contact the Act Room in the Statehouse.

Twelve Highlights of the Ethics Bill

- 1) Prohibits lobbyists from providing anything of value to a public official or public employee, including campaign contributions. Strict "no cup of coffee rule."**
- 2) Prohibits lobbyist's principals from providing anything of value to a public official or employee unless the public official or employee is invited with a delineated group or if the activity is reasonably and directly related to state or local economic development efforts. There is an absolute cap of \$25/day and \$200/year per public official or employee. Furthermore, a public official must report anything received from a lobbyist's principal, regardless of value, on this statement of economic interest (full disclosure).**
- 3) The bill requires much fuller disclosure and reporting by lobbyists and lobbyist's principals. Both are required to file reports twice a year. Must disclose any direct business association with any state public official. Lobbyist's principals must disclose a complete and itemized account of any expenditures made on behalf of a public official, including campaign contributions.**
- 4) Prohibits a lobbyist or lobbyist's principal from paying retainers to public officials, to anyone in the official's immediate family, or a member of their firm.**

Legislative Update, November 1991

- 5) Prohibits a public official from voting on or participating in a matter in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated, has an economic interest.

Requires full disclosure by public officials of practice before boards and commissions, including a listing of fees earned, services rendered, names of persons represented, and the nature of contacts made with the governmental entities.

Prohibits a public official from voting on the budget of, or the election, appointment or confirmation of a member of, a board or commission before which the public official practices.

- 6) Requires public officials to fully disclose the value of anything received from a lobbyist's principal, and the value of anything received worth \$25/day or \$200/year from anyone if the gift is given due to the public official's office or position.
- 7) Revolving Door Provision -- prohibits legislators and statewide constitutional officers from serving as lobbyists for one year.
- 8) Prohibits a member of the General Assembly from serving on state boards or commissions with a few exceptions.
- 9) Requires public officials to disclose any conflicts of interest, any business interests with lobbyists or lobbyist's principals, and any business interests/dealings with any state agency/ governmental entity.
- 10) Requires any committee or candidate spending \$500 or more to further an election, or to influence an election or ballot measure, to file an initial campaign report and to report quarterly thereafter in any period in which contributions are received or expenditures are made.
- 11) A. Provides caps on campaign contributions of:
a) \$3,500 in the case of candidates for statewide office;
b) \$1,000 in the case of candidates for all other offices;
c) \$25 cash.
- B. From a political party:
a) \$50,000 in the case of candidates for statewide office;
b) \$5,000 in case of candidates for all other offices.
- C. Prohibits contributions from a registered lobbyist.

Legislative Update, November 1991

- D. Prohibits soliciting or accepting contributions for two elective offices simultaneously.**
- E. Prohibits a person from contributing more than \$3,500 to a political party or committee.**
- F. Prohibits anonymous contributions.**

12) Rollover and Transfers of Contributions:

Prohibits candidates from contributing to another candidate out of campaign funds.

Also prohibits the use of campaign funds to run for another office.

Legislative Update, November 1991

1991 Bond Bill

Included in the work of the two day special session in September was the passage of the 1991 Capital Improvements Bond Bill. The legislation emerged from the House Ways and Means Committee in March as a \$275 million bill. Here are the total bonds approved by the General Assembly in September. The legislation was ratified on September 23. The governor has not yet acted on the bill.

1991 Bond Bill (H.3651, House Ways and Means Committee). Here are the capital improvement bonds proposed in the Bond Bill, totaling \$333.3 million:

1.	SLED	\$ 853,700	
2.	Adjutant General	4,900,420	1/
3.	Budget and Control Board	3,050,000	2/
4.	The Citadel	7,691,040	
5.	Clemson	14,207,000	3/
6.	College of Charleston	5,978,000	
7.	Francis Marion College	9,000,000	
8.	Lander College	12,828,739	
9.	S.C. State College	6,000,000	
10.	USC (all branches)	40,060,130	4/
11.	Winthrop College	15,272,000	
12.	MUSC	11,366,040	
13.	State TEC Board (all campuses)	10,847,921	
14.	Wil Lou Gray Op School	410,000	
15.	School for the Deaf & Blind	1,564,405	
16.	Archives and History	2,500,000	
17.	State Library	250,000	
18.	DHEC	250,000	
19.	Dept. Of Mental Health		5/
20.	John de la Howe School	1,318,014	
21.	Dept. of Corrections	105,057,866	
22.	Dept. of Youth Services	10,697,032	

